

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS  
OF THE STATE OF MONTANA

In the matter of the adoption of                    ) NOTICE OF ADOPTION OF  
emergency rules closing portions of            ) EMERGENCY RULES  
the Flathead and Clark Fork Rivers in        )  
Sanders County                                        )

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of emergency rules:

(a) The River Road East Fire continues to grow near the Clark Fork and Flathead Rivers in Sanders County, Montana. Fire activity continues to be significant along the river corridor. On August 19, 2023, the department received a request from fire incident command to close portions of the Clark Fork and Flathead Rivers near the fire area. Aerial fire operations are occurring along the river corridor, and the fire is expected to continue to grow, presenting safety issues for fire personnel and the public in the river corridor.

(b) In order to protect the public and fire personnel from any injuries resulting from the River Road East Fire, the Flathead River from the Flathead Indian Reservation Boundary downstream to the confluence of the Clark Fork River is closed to all public occupation and recreation. For the same reasons, the Clark Fork River is closed to all public occupation and recreation from the Highway 135 Bridge at Ferry Landing downstream to the Clark Fork River Bridge in Plains, Montana.

(c) As this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rules. The emergency rules will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the partial closure will be posted at access points. The rules will be sent to interested parties and published as emergency rules in Issue No. 16 of the 2023 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on September 8, 2023, to advise us of the nature of the accommodation that you need. Please contact Christina Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-4594; or e-mail cbell@mt.gov.

3. The emergency rules are effective August 21, 2023, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rules provides as follows:

NEW RULE I PARTIAL CLOSURE OF THE FLATHEAD RIVER (1) The Flathead River runs, in part, through Sanders County.

(2) The Flathead River is closed to all public occupation and recreation from the Flathead Indian Reservation Boundary downstream to the confluence of the Clark Fork River.

(3) This rule will expire as soon as the department determines the fire conditions improve and no longer present a risk to public health and safety. This will depend on weather conditions and the extent of the fire damage. Signs partially closing the Flathead River will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

NEW RULE II PARTIAL CLOSURE OF THE CLARK FORK RIVER (1) The Clark Fork River runs, in part, through Sanders County.

(2) The Clark Fork River is closed to all public occupation and recreation from the Highway 135 Bridge at Ferry Landing downstream to the Clark Fork River Bridge in Plains, Montana.

(3) This rule will expire as soon as the department determines the fire conditions improve and no longer present a risk to public health and safety. This will depend on weather conditions and the extent of the fire damage. Signs partially closing the Clark Fork River will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rules is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Christina Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail cbell@mt.gov. Any comments must be received no later than September 25, 2023.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website (leg.mt.gov), were contacted by e-mail on August 21, 2023.

/s/ Dustin Temple

Dustin Temple

Director

Department of Fish, Wildlife and Parks

/s/ Kevin Rechhoff

Kevin Rechhoff

Rule Reviewer

Certified to the Secretary of State August 21, 2023.