

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

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 12.5.701 and 12.5.702, the)	PROPOSED AMENDMENT,
transfer and amendment of ARM)	TRANSFER AND AMENDMENT,
12.11.341, the adoption of New Rule)	ADOPTION, AND REPEAL
I, and the repeal of ARM 12.11.342)	
pertaining to aquatic invasive species)	

TO: All Concerned Persons

1. On March 14, 2017, at 6:00 p.m., the Department of Fish, Wildlife and Parks (department) will hold a public hearing at the Fish, Wildlife and Parks Headquarters, 1420 East 6th Avenue, Helena, Montana, to consider the proposed amendment, transfer and amendment, adoption, and repeal of the above-stated rules.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than March 3, 2017, to advise us of the nature of the accommodation that you need. Please contact Kaedy Gangstad, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; telephone (406) 444-4594; or e-mail kgangstad@mt.gov.

3. The rules proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

12.5.701 IDENTIFIED CONTAMINATED BODIES OF WATER FOR EURASIAN WATERMILFOIL (1) and (2) remain the same.

AUTH: 80-7-1007, 80-7-1008, MCA
IMP: 80-7-1008, 80-7-1010, MCA

12.5.702 RESTRICTIONS WITHIN IDENTIFIED CONTAMINATED BODIES OF WATER FOR EURASIAN WATERMILFOIL (1) and (2) remain the same.

AUTH: 80-7-1007, 80-7-1008, MCA
IMP: 80-7-1008, 80-7-1010, MCA

4. The rule proposed to be transferred and amended provides as follows, new matter underlined, deleted matter interlined:

12.11.341 (12.5.706) AQUATIC INVASIVE SPECIES STATIONS IDENTIFIED AREAS THREATENED WITH AQUATIC INVASIVE SPECIES AND APPLICABLE QUARANTINE MEASURES (1) Because of the known existence of

aquatic invasive mussels in the areas defined in [NEW RULE I], the department has identified all other areas of the State of Montana as threatened for infestation of aquatic invasive mussels.

(2) The department has determined the following quarantine measures are necessary to prevent the spread of aquatic invasive mussels:

(1)(a) vessels and equipment approaching a department-operated inspection station must stop as directed;:-

(2) Vessels intended for launching on any water in Montana are subject to inspection for aquatic invasive species.

(b) vessels and equipment entering the state that do not approach a department inspection station must be inspected for aquatic invasive species prior to launching in any Montana water body, unless previously approved by the department for local use only;

(c) vessels and equipment traveling across the Continental Divide into the Columbia River Basin must during operating hours report to a department inspection station prior to launch within the Columbia River Basin after use on waters outside of the Columbia River Basin. The department will post approved inspection stations and operating hours at fwp.mt.gov;

(d) upon removing a vessel from any surface waters and before leaving the associated boat launch or parking area, all aquatic vegetation must be removed from the vessel, trailer, and equipment;

(e) transport of surface water is prohibited and drain plugs must be removed during transport;

(f) live aquatic bait and fish must be transported in clean non-surface water where allowed in current public fishing regulations; and

(g) if the vessel does not have a drain plug, reasonable measures must be taken to dry or drain all compartments or spaces that hold water, including emptying bilges, applying absorbents, and ventilation.

(3) Areas subject to ~~the search~~ inspection include but are not limited to:

(a) the exterior of the vessel;

(b) livewells;

(c) bait buckets;

(d) ballast tanks;

(e) bilge areas; and

(f) trailer transporting vessel.

(4) Any vessel at an inspection station found with invasive species, or any vessel containing residual water and that has been in infested water in the last 30 days, will be decontaminated by AIS staff as arranged by the department. Infested waters that contain microscopic AIS species including zebra mussels, *Dreissena polymorpha*, and quagga mussels, *Dreissena bugensis*, and are identified on the map titled "Mussel-Infested States and Waterbodies" available at fwp.mt.gov. AIS staff shall refer to the map or to the most current known information.

(5) Decontamination methods on vessels subject to (4) may include hot water washing, hot water flushing, and drying time, including interior portions of complex engine systems and pumps. A decontamination order may be issued that requires a drying period as directed by the department. The drying time will depend on weather conditions. During the drying period, the department may lock the vessel to the

trailer to prevent launching. The department will be responsible for arranging the time and location to unlock the vessel when the drying time is complete. It is prohibited for anyone other than authorized department staff to remove the lock during the drying time. If a vessel requires a drying period as part of the decontamination process, then the vessel must pass a second inspection prior to launching in Montana waters in order to be considered decontaminated.

(6) Emergency response vehicles and equipment engaging in emergency response activities are exempt.

(7) Violation of this rule is subject to penalty under 80-7-1014, MCA.

AUTH: 80-7-1007, 80-7-1008, 80-7-1011, 80-7-1012, 87-1-201, MCA

IMP: 80-7-1007, 80-7-1008, 80-7-1010, 80-7-1011, MCA

5. The rule proposed to be adopted provides as follows:

NEW RULE I IDENTIFIED BODIES OF WATER CONFIRMED OR SUSPECTED FOR AQUATIC INVASIVE MUSSELS (1) The department has identified the following bodies of water as infested with confirmed or suspected aquatic invasive mussels:

(a) Canyon Ferry Reservoir; and

(b) Tiber Reservoir (Lake Elwell).

(2) The department has determined the following quarantine measures are necessary to prevent further spread of the species from these bodies of water:

(a) all vessels and equipment launched or having otherwise entered the water bodies listed in (1) must be inspected and, if directed by the department, decontaminated at a department decontamination station as required in ARM [12.11.341, proposed in this notice to be transferred to ARM 12.5.706] prior to leaving the water body. The following are exempt:

(i) vessels approved by the department for local travel only;

(ii) emergency response vehicles and equipment engaged in emergency response activities.

(b) when an approved or decontaminated vessel leaves the water bodies listed in (1), all aquatic bait must be transported without water.

(3) Any rules or regulations for boat ramps or boat launching on the water bodies listed in (1) operated by the Bureau of Reclamation are considered rules adopted pursuant to the authority of the department for enforcement of these sites.

(4) Violation of this rule is subject to penalty under 80-7-1014, MCA.

AUTH: 80-7-1007, 80-7-1008, 80-7-1010, 87-1-201, MCA

IMP: 80-7-1008, 80-7-1010, 80-7-1011, MCA

6. The department is proposing to repeal the following rule:

12.11.342 REMOVAL OF VEGETATION AND PLUGS

AUTH: 80-7-1007, 80-7-1012, 87-1-201, MCA

IMP: 80-7-1007, MCA

REASON: The department is proposing to amend the titles of ARM 12.5.701 and 12.5.702 to clarify that they pertain to Eurasian Watermilfoil. The department is proposing to transfer and amend ARM 12.11.341 to include the language of ARM 12.11.342 and repeal ARM 12.11.342 for organizational purposes.

The department is proposing to amend ARM 12.11.341 and propose a new rule in efforts to further prevent the spread of aquatic invasive mussels in Montana waters. In November 2016, larvae of aquatic mussels were confirmed in water samples from Tiber Reservoir, and suspected samples were found in Canyon Ferry Reservoir. The confirmed and suspected findings of invasive aquatic mussels comprise a grave threat to the waters and economic resources within the State of Montana. The department believes the quarantine measures proposed in the above-stated rules are necessary to prevent further spread of mussels into Montana waters.

7. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Fisheries Division, Attn: Beth Giddings, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana, 59620-0701; or e-mail fwpexotics@mt.gov, and must be received no later than March 17, 2017.

8. Kaedy Gangstad or another hearing officer appointed by the department has been designated to preside over and conduct this hearing.

9. 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, or may be made by completing the request form at any rules hearing held by the department.

10. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

12. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment, transfer and amendment, adoption, and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Rebecca Dockter
Rebecca Dockter
Rule Reviewer

/s/ Martha Williams
Martha Williams
Director
Department of Fish, Wildlife and Parks

Certified to the Secretary of State February 6, 2017.