

R657. Natural Resources, Wildlife Resources.
R657-60. Aquatic Invasive Species Interdiction.

R657-60-1. Purpose and Authority.

(1) The purpose of this rule is to define procedures and regulations designed to prevent and control the spread of aquatic invasive species within the State of Utah.

(2) This rule is promulgated pursuant to authority granted to the Wildlife Board in Sections 23-27-401, 23-14-18, and 23-14-19.

R657-60-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2 and 23-27-101.

(2) In addition:

(a) "Conveyance" means a terrestrial or aquatic vehicle, including a vessel, or a vehicle part that may carry or contain a Dreissena mussel.

(b) "Decontaminate" means to:

(i) Self-decontaminate equipment or a conveyance that has been in an infested water in the previous 30 days by:

(A) removing all plants, fish, mussels and mud from the equipment or conveyance;

(B) draining all water from the equipment or conveyance, including water held in ballast tanks, bilges, livewells, and motors; and

(C) drying the equipment or conveyance for no less than 7 days in June, July and August; 18 days in September, October, November, March, April and May; 30 days in December, January and February; or expose the equipment or conveyance to sub-freezing temperatures for 72 consecutive hours; or

(ii) Professionally decontaminate equipment or a conveyance that has been in an infested water in the previous 30 days by:

(A) Using a professional decontamination service approved by the division to apply scalding water (140 degrees Fahrenheit) to completely wash the equipment or conveyance and flush any areas where water is held, including ballast tanks, bilges, livewells, and motors.

(c) "Detects or suspects" means visually identifying:

(i) a veliger Dreissena mussel through microscopy and confirming the identity of the organism as a Dreissena mussel through two independent polymerase chain reaction (PCR) tests; or

(ii) a juvenile or adult Dreissena mussel.

(d) "Dreissena mussel" means a mussel of the genus Dreissena at any life stage, including a zebra mussel, a quagga mussel and a Conrad's false mussel.

(e) "Controlling entity" means the owner, operator, or manager of a water body, facility, or a water supply system.

(f) "Equipment" means an article, tool, implement, or device capable of carrying or containing water or Dreissena mussel.

(g) "Facility" means a structure that is located within or adjacent to a water body

(h) "Infested water" includes all the following:

(i) ~~[Grand Lake, Colorado;]~~
~~[(ii) Jumbo Reservoir, Colorado;]~~
~~[(iii) lower Colorado River between Lake Mead and the Gulf of]~~all coastal
and inland waters in:

(A) Colorado;
(B) California;

~~[(iv) Lake Granby, Colorado;]~~
~~[(v) Lake Mead in]~~(C) Nevada~~[-and];~~
(D) Arizona;

~~[(vi) Lake Mohave in Nevada and Arizona;]~~
~~[(vii) Lake Havasu in California and Arizona;]~~
~~[(viii) Lake Pueblo in Colorado;]~~
~~[(ix) Lake Pleasant in Arizona;]~~
~~[(x) San Justo Reservoir in California;]~~
~~[(xi) Southern California inland waters in Orange, Riverside, San Diego, Imperial, and San Bernardino counties;]~~
~~[(xii) Shadow Mountain Reservoir, Colorado;]~~
~~[(xiii) Tarryall Reservoir, Colorado;]~~
~~[(xiv) Willow Creek Reservoir, Colorado;]~~~~[(xv) coastal and inland waters east of the 100th Meridian in North America; and]~~(E) all states east of Montana, Wyoming, Colorado, and New Mexico;

(F) the provinces of Ontario and Quebec Canada; and
(G) Mexico; and

~~[(xvi)]~~(ii) other waters established by the Wildlife Board and published on the DWR website.

(i) “Juvenile or adult Dreissena mussel” means a macroscopic Dreissena mussel that is not a veliger.

(j) “Veliger” means a microscopic, planktonic larva of Dreissena mussel.

(k) “Vessel” means every type of watercraft used or capable of being used as a means of transportation on water.

(l) “Water body” means natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank, and fountain.

(m) “Water supply system” means a system that treats, conveys, or distributes water for irrigation, industrial, wastewater treatment, or culinary use, including a pump, canal, ditch or, pipeline.

(n) “Water supply system” does not included a water body.

R657-60-3. Possession of Dreissena Mussels.

(1) Except as provided in Subsections R657-60-3(2) and R657-60-5(2), a person may not possess, import, ship, or transport any Dreissena mussel.

(2) Dreissena mussels may be imported into and possessed within the state of Utah with prior written approval of the Director of the Division of Wildlife Resources or a designee.

R657-60-4. Reporting of invasive species required.

(1) A person who discovers a Dreissena mussel within this state or has reason to believe a Dreissena mussel may exist at a specific location shall immediately report the discovery to the division.

(2) The report shall include the following information:

- (a) location of the Dreissena mussels;
- (b) date of discovery;
- (c) identification of any conveyance or equipment in which mussels may be held or attached; and
- (d) identification of the reporting party with their contact information.

(3) The report shall be made in person or in writing:

- (a) at any division regional or headquarters office or;
- (b) to the division's toll free hotline at 1-800-662-3337; or
- (c) on the division's website at www.wildlife.utah.gov/law/hsp/pf.php.

R657-60-5. Transportation of equipment and conveyances that have been in infested waters.

(1) The owner, operator, or possessor of any equipment or conveyance that has been in an infested water or in any other water subject to a closure order under R657-60-8 or control plan under R657-60-9 that requires decontamination of conveyances and equipment upon leaving the water shall:

(a) immediately drain all water from the equipment or conveyance at the take out site, including water held in ballast tanks, bilges, livewells, motors, and other areas of containment; and

(b) immediately inspect the interior and exterior of the equipment or conveyance at the take out site for the presence of Dreissena mussels.

(2) If all water in the equipment or conveyance is drained and the inspection undertaken pursuant to Subsection (1)(b) reveals the equipment and conveyance are free from mussels or shelled organisms, fish, plants and mud, the equipment and conveyance may be transported in or through the state directly from the take out site to the location where it will be:

- (a) professionally decontaminated; or
- (b) stored and self-decontaminated.

(3) If all the water in the equipment or conveyance is not drained or the inspection undertaken pursuant to Subsection (1)(b) reveals the equipment or conveyance has attached mussels or shelled organisms, fish, plants, or mud, the equipment and conveyance shall not be moved from the take out site until the division is contacted and written or electronic authorization received to move the equipment or conveyance to a designated location for professional decontamination.

(4) A person shall not place any equipment or conveyance into a water body or water supply system in the state without first decontaminating the equipment and conveyance when the equipment or conveyance in the previous 30 days has been in:

- (a) an infested water; or

(b) other water body or water supply system subject to a closure order under R657-60-8 or control plan under R657-60-9 that requires decontamination of conveyances and equipment upon leaving the water.

R657-60-6. Certification of Decontamination

(1) The owner, operator or possessor of a vessel desiring to launch on a water body in Utah must:

(a) verify the vessel and any launching device, in the previous 30 days, have not been in an infested water or in any other water subject to closure order under R657-60-8 or control plan under R656-60-9 that requires decontamination of conveyances and equipment upon leaving the water; or

(b) certify the vessel and launching device have been decontaminated.

(2) Certification of decontamination is satisfied by:

(a) previously completing self-decontamination since the vessel and launching device were last in a water described in Subsection (1)(a) and completely filling out and dating a decontamination certification form which can be obtained from the division; or

(b) providing a signed and dated certificate by a division approved professional decontamination service verifying the vessel and launching device were professionally decontaminated since the vessel and launching device were last in a water described in Subsection (1)(a).

(3) Both the decontamination certification form and the professional decontamination certificate, where applicable, must be signed and placed in open view in the window of the launching vehicle prior to launching or placing the vessel in a body of water.

(4) It is unlawful under Section 76-8-504 to knowingly falsify a decontamination certification form.

R657-60-7. Wildlife Board designations of infested waters.

(1) The Wildlife Board may designate a geographic area, water body, facility, or water supply system as infested with Dreissena mussels pursuant to Section 23-27-102 and 23-27-401 without taking the proposal to or receiving recommendations from the regional advisory councils.

(a) The Wildlife Board may designate a particular water body, facility, or water supply system within the state as infested with Dreissena mussels when a juvenile or adult mussel from the subject water is visually identified as a Dreissena mussel and that identity is confirmed by two independent positive polymerase chain reaction (PCR) tests.

(b) The Wildlife Board may designate a particular water body, facility, or water supply system outside the state as infested with Dreissena mussels when a veliger, juvenile or adult Dreissena mussel is detected by the state having jurisdiction over the water or when the Wildlife Board has credible evidence suggesting the presence of a Dreissna mussel.

(c) Where the number of infested waters in a particular area is [~~pervasive or too~~]numerous [~~to individually list~~]or growing, or where surveillance activities or

infestation containment actions are deficient, the Wildlife Board may designate geographic areas as infested with Dreissena mussels.

R657-60-8. Closure Order for a Water Body, Facility, or Water Supply System.

(1)(a) If the division detects or suspects a Dreissena mussel is present in a water body, facility, or water supply system in the state, the division director or designee may, with the concurrence of the executive director, issue an order closing the water body, facility, or water supply system to the introduction or removal of conveyances or equipment.

(b) The director shall consult with the controlling entity of the water body, facility, or water supply system when determining the scope, duration, level and type of closure that will be imposed in order to avoid or minimize disruption of economic and recreational activities.

(c) A closure order may;

(i) close the water entirely to conveyances and equipment;

(ii) authorize the introduction and removal of conveyances and equipment subject to the decontamination requirements in R657-60-2(2)(b) and R657-60-5; or

(iii) impose any other condition or restriction necessary to prevent the movement of Dreissena mussels into or out of the subject water.

(iv) a closure order may not restrict the flow of water without the approval of the controlling entity.

(2)(a) A closure order issued pursuant to Subsection (1) shall be in writing and identify the:

(i) water body, facility, or water supply system subject to the closure order;

(ii) nature and scope of the closure or restrictions;

(iii) reasons for the closure or restrictions;

(iv) conditions upon which the order may be terminated or modified; and

(v) sources for receiving updated information on the status of infestation

and closure order.

(b) The closure order shall be mailed, electronically transmitted, or hand delivered to:

(i) the controlling entity of the water body, facility, or water supply system; and

(ii) any governmental agency or private entity known to have economic, political, or recreational interests significantly impacted by the closure order; and

(iii) any person or entity requesting a copy of the order.

(c) The closure order or its substance shall further be:

(i) posted on the division's web page; and

(ii) published in a newspaper of general circulation in the state of Utah or the affected area.

(3) If a closure order lasts longer than seven days, the division shall provide the controlling entity and post on its web page a written update every 10 days on its efforts to address the Dreissena mussel infestation.

(a) The 10 day update notice cycle will continue for the duration of the closure order.

(4)(a) Notwithstanding the closure authority in Subsection (1), the division may not unilaterally close or restrict a water supply system infested with *Dreissena* mussels where the controlling entity has prepared and implemented a control plan in cooperation with the division that effectively eradicates or controls the spread of *Dreissena* mussels from the water supply system.

(b) The control plan shall comply with the requirements in R657-60-9.

(5) Except as authorized by the Division in writing, a person may not violate any provision of a closure order.

R657-60-9. Control plan required

(1) The controlling entity of a water body, facility, or water supply system may develop and implement a control plan in cooperation with the division prior to infestation designed to:

(a) avoid the infestation of *Dreissena* mussels; and

(b) control or eradicate an infestation of *Dreissena* mussels that might occur in the future.

(2) A pre-infestation control plan developed consistent with the requirements in Subsection (3) and approved by the division will eliminate or minimize the duration and impact of a closure order issued pursuant to Section 23-27-303 and R657-60-8.

(3) If the division detects or suspects a *Dreissena* mussel is present in a water body, facility, or water supply system in the state that does not have an approved control plan and issues a closure order, the controlling entity shall cooperate with the division in developing and implementing a control plan to address the:

(a) scope and extent of the infestation;

(b) actions proposed to control the pathways of spread of the infestation;

(c) actions proposed to control or eradicate the infestation;

(d) methods to decontaminate the water body, facility, or water supply system, if possible;

(e) actions required to systematically monitor the level and extent of the infestation; and

(f) requirements and methods to update and revise the plan with scientific advances.

(4) Any post-infestation control plan prepared pursuant to Subsection (3) shall be approved by the Division before implementation.

(5) A control plan prepared pursuant to this Section may require that all conveyances and equipment entering or leaving the subject water to comply with the decontamination requirements in R657-60-2(2)(b) and R657-60-5.

(6) Except as authorized by the Division and the controlling entity in writing, a person may not violate any provision of a control plan.

R657-60-10. Procedure for Establishing a Memorandum of Understanding with the Utah Department of Transportation.

(1) The division director or designee shall negotiate an agreement with the Utah Department of Transportation for use of ports of entry for detection and interdiction of Dreissena Mussels illegally transported into and within the state. Both the Division of Wildlife Resources and the Department of Transportation must agree upon all aspects of Dreissena Mussel interdiction at ports of entry.

(2) The Memorandum shall include the following:

(a) methods and protocols for reimbursing the department for costs associated with Dreissena Mussel interdiction;

(b) identification of ports of entry suitable for interdiction operations;

(c) identification of locations at a specific port of entry suitable for interdiction operations;

(d) methods and protocols for disposing of wastewater associated with decontamination of equipment and conveyances;

(e) dates and time periods suitable for interdiction efforts at specific ports of entry;

(f) signage notifying motorists of the vehicles that must stop at the port of entry for inspection;

(g) priorities of use during congested periods between the department's port responsibilities and the division's interdiction activities;

(h) methods for determining the length, location and dates of interdiction;

(i) training responsibilities for personnel involved in interdiction activities;

and

(j) methods for division regional personnel to establish interdiction efforts at ports within each region.

R657-60-11. Conveyance or Equipment Detainment.

(1) To eradicate and prevent the infestation of a Dreissena mussel, the division may:

(a) temporary stop, detain, inspect, and impound a conveyance or equipment that the division reasonably believes is in violation of Section 23-27-201 or R657-60-5;

(b) order a person to decontaminate a conveyance or equipment that the division reasonably believes is in violation of Section 23-227-201 or R657-60-5'

(2) The division, a port-of-entry agent or a peace officer may detain or impound a conveyance or equipment if;

(a) the division, agent, or peace officer reasonably believes that the person transporting the conveyance or equipment is in violation of Section 23-27-201 or R657-60-5.

(3) The detainment or impoundment authorized by Subsection (2) may continue for;

(a) up to five days; or

(b) the period of time necessary to:

(i) decontaminate the conveyance or equipment; and

(ii) ensure that a Dreissena mussel is not living on or in the conveyance or equipment.

R657-60-12. Penalty for Violation.

(1) A violation of any provision of this rule is punishable as provided in Section 23-13-11.

(2) A violation of any provision of a closure order issued under R657-60-8 or a control plan created under R657-60-9 is punishable as a criminal infraction as provided in Section 23-13-11.

KEY: fish, wildlife, wildlife law

Date of Enactment or Last Substantive Amendment: July 27, 2009

Notice of Continuation: New Rule

Authorizing, and Implemented or Interpreted Law: 23-27-401; 23-14-18; 23-14-19

Proposal