

## **Chapter 27** **Aquatic Invasive Species Interdiction Act**

### **Part 1** **General Provisions**

#### **23-27-101 Title.**

This chapter is known as the "Aquatic Invasive Species Interdiction Act."

Enacted by Chapter 284, 2008 General Session

#### **23-27-102 Definitions.**

As used in this chapter:

- (1) "Board" means the Wildlife Board.
- (2)
  - (a) "Conveyance" means a terrestrial or aquatic vehicle or a vehicle part that may carry or contain a Dreissena mussel.
  - (b) "Conveyance" includes a motor vehicle, a vessel, a motorboat, a sailboat, a personal watercraft, a container, a trailer, a live well, or a bilge area.
- (3) "Decontaminate" means to:
  - (a) drain and dry all non-treated water; and
  - (b) chemically or thermally treat in accordance with rule.
- (4) "Director" means the director of the division.
- (5) "Division" means the Division of Wildlife Resources.
- (6) "Dreissena mussel" means a mussel of the genus Dreissena at any life stage, including a zebra mussel, a quagga mussel, and Conrad's false mussel.
- (7) "Equipment" means an article, tool, implement, or device capable of carrying or containing:
  - (a) water; or
  - (b) a Dreissena mussel.
- (8) "Executive director" means the executive director of the Department of Natural Resources.
- (9) "Facility" means a structure that is located within or adjacent to a water body.
- (10) "Infested water" means a geographic region, water body, facility, or water supply system within or outside the state that the board identifies in rule as carrying or containing a Dreissena mussel.
- (11) "Water body" means natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank, and fountain.
- (12)
  - (a) "Water supply system" means a system that treats, conveys, or distributes water for irrigation, industrial, waste water treatment, or culinary use.
  - (b) "Water supply system" includes a pump, canal, ditch, or pipeline.
  - (c) "Water supply system" does not include a water body.

Enacted by Chapter 284, 2008 General Session

### **Part 2** **Invasive Species Prohibited**

**23-27-201 Invasive species prohibited -- Administrative inspection authorized.**

- (1) Except as authorized in this title or a board rule or order, a person may not:
  - (a) possess, import, export, ship, or transport a Dreissena mussel;
  - (b) release, place, plant, or cause to be released, placed, or planted a Dreissena mussel in a water body, facility, or water supply system; or
  - (c) transport a conveyance or equipment that has been in an infested water within the previous 30 days without decontaminating the conveyance or equipment.
- (2) A person who violates Subsection (1):
  - (a) is strictly liable;
  - (b) is guilty of an infraction; and
  - (c) shall reimburse the state for all costs associated with detaining, quarantining, and decontaminating the conveyance or equipment.
- (3) A person who knowingly or intentionally violates Subsection (1) is guilty of a class A misdemeanor.
- (4) A person may not proceed past or travel through an inspection station or administrative checkpoint, as described in Section 23-27-301, while transporting a conveyance during an inspection station's or administrative checkpoint's hours of operations without presenting the conveyance for inspection.
- (5) A person who violates Subsection (4) is guilty of a class B misdemeanor.

Amended by Chapter 274, 2014 General Session

**23-27-202 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) A person who violates Subsection (1) is guilty of a class A misdemeanor.

Enacted by Chapter 284, 2008 General Session

**Part 3  
Enforcement**

**23-27-301 Division's power to prevent invasive species infestation.**

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

- (1)
  - (a) establish inspection stations located at or along:
    - (i) highways, as defined in Section 72-1-102;
    - (ii) ports of entry, if the Department of Transportation authorizes the division to use the port of entry; and
    - (iii) publicly accessible:
      - (A) boat ramps; and
      - (B) conveyance launch sites; and
  - (b) temporarily stop, detain, and inspect a conveyance or equipment that:
    - (i) the division reasonably believes is in violation of Section 23-27-201;

- (ii) is stopped at an inspection station; or
- (iii) is stopped at an administrative checkpoint;
- (2) conduct an administrative checkpoint in accordance with Section 77-23-104;
- (3) detain and quarantine a conveyance or equipment as provided in Section 23-27-302;
- (4) order a person to decontaminate a conveyance or equipment; and
- (5) inspect the following that may contain a Dreissena mussel:
  - (a) a water body;
  - (b) a facility; and
  - (c) a water supply system.

Amended by Chapter 274, 2014 General Session

**23-27-302 Conveyance or equipment detainment or quarantine.**

- (1) The division, a port-of-entry agent, or a peace officer may detain or quarantine a conveyance or equipment if:
  - (a) the division, agent, or peace officer:
    - (i) finds the conveyance or equipment contains a Dreissena mussel; or
    - (ii) reasonably believes that the person transporting the conveyance or equipment is in violation of Section 23-27-201; or
  - (b) the person transporting the conveyance or equipment refuses to submit to an inspection authorized by Section 23-27-301.
- (2) The detainment or quarantine authorized by Subsection (1) 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.

Enacted by Chapter 284, 2008 General Session

**23-27-303 Closing a water body, facility, or water supply system.**

- (1) Except as provided by Subsection (6), if the division detects or suspects a Dreissena mussel is present in a water body, a facility, or a water supply system, the director or the director's designee may, with the concurrence of the executive director, order:
  - (a) the water body, facility, or water supply system closed to a conveyance or equipment;
  - (b) restricted access by a conveyance or equipment to a water body, facility, or water supply system; or
  - (c) a conveyance or equipment that is removed from or introduced to the water body, facility, or water supply system to be inspected, quarantined, or decontaminated in a manner and for a duration necessary to detect and prevent the infestation of a Dreissena mussel.
- (2) If a closure authorized by Subsection (1) lasts longer than seven days, the division shall:
  - (a) provide a written update to the operator of the water body, facility, or water supply system every 10 days on the division's effort to address the Dreissena infestation; and
  - (b) post the update on the division's website.
- (3)
  - (a) The board shall develop procedures to ensure proper notification of a state, federal, or local agency that is affected by a Dreissena mussel infestation.
  - (b) The notification shall include:
    - (i) the reasons for the closure, quarantine, or restriction; and

- (ii) methods for providing updated information to the agency.
- (4) When deciding the scope, duration, level, and type of restriction or a quarantine or closure location, the director shall consult with the person with the jurisdiction, control, or management responsibility over the water body, facility, or water supply system to avoid or minimize disruption of economic and recreational activity.
- (5)
  - (a) A person that operates a water supply system shall cooperate with the division to implement a measure to:
    - (i) avoid infestation by a Dreissena mussel; and
    - (ii) control or eradicate a Dreissena mussel infestation that may occur in a water supply system.
  - (b)
    - (i) If a Dreissena mussel is detected, the water supply system's operator, in cooperation with the division, shall prepare and implement a plan to control or eradicate a Dreissena mussel within the water supply system.
    - (ii) A plan required by Subsection (5)(b)(i) shall include a:
      - (A) method for determining the scope and extent of the infestation;
      - (B) method to control or eradicate the Dreissena mussel;
      - (C) method to decontaminate the water supply system containing the Dreissena mussel;
      - (D) systematic monitoring program to determine a change in the infestation; and
      - (E) requirement to update or revise the plan in conformity with a scientific advance in the method of controlling or eradicating a Dreissena mussel.
- (6)
  - (a) The division may not close or quarantine a water supply system if the operator has prepared and implemented a plan to control or eradicate a Dreissena mussel in accordance with Subsection (5).
  - (b)
    - (i) The division may require the operator to update a plan.
    - (ii) If the operator fails to update or revise a plan, the division may close or quarantine the water supply system in accordance with this section.

Enacted by Chapter 284, 2008 General Session

## **Part 4 Administration**

### **23-27-401 Rulemaking authority.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules that:

- (1) establish the procedures and requirements for decontaminating a conveyance or equipment to prevent the introduction and infestation of a Dreissena mussel;
- (2) establish the requirements necessary to provide proof that a conveyance or equipment is decontaminated;
- (3) establish the notification procedures required in Section 23-27-303;
- (4) identify the geographic area, water body, facility, or water supply system that is infested by Dreissena mussels;

- (5) establish a procedure and protocol in cooperation with the Department of Transportation for stopping, inspecting, detaining, and decontaminating a conveyance or equipment at a port-of-entry in accordance with Section 23-27-301; and
- (6) are necessary to administer and enforce the provisions of this chapter.

Enacted by Chapter 284, 2008 General Session