

BEFORE THE DEPARTMENT OF AGRICULTURE  
OF THE STATE OF MONTANA

In the matter of the adoption of ARM )  
New Rule I relating to the Eurasian )  
Watermilfoil Management Area )

NOTICE OF PUBLIC HEARING ON  
PROPOSED ADOPTION

TO: All Concerned Persons

1. On June 3, 2010, at 3:00 p.m. the Montana Department of Agriculture will hold a public hearing in Room 225 of the Scott Hart Building, 303 N. Roberts at Helena, Montana, to consider the proposed adoption of the above-stated rule.

2. The Department of Agriculture will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact Department of Agriculture no later than 5:00 p.m. on May 27, 2010, to advise us of the nature of the accommodation that you need. Please contact Cort Jensen at the Montana Department of Agriculture, 303 North Roberts, P.O. Box 200201, Helena, MT 59620-0201; phone: (406) 444-3144; fax: (406) 444-5409; or e-mail: agr@mt.gov.

3. The rule as proposed to be adopted provides as follows, new matter underlined, deleted matter interlined:

NEW RULE I EURASIAN WATERMILFOIL MANAGEMENT AREA (1) The Eurasian Watermilfoil Management Area is created covering Noxon and Cabinet Gorge reservoirs, the lower Clark Fork River, and the mouths of tributaries including a 200-foot set back beyond full pool or high water mark beginning at Plains, Montana and extending to the Montana/Idaho border and the land beneath two check stations at the juncture of Highway 2 and 56 with an eighth of a mile extension along the highways in each direction and the juncture of Highway 200 and Highway 28 near Plains with an eighth of a mile extension along the highways in each direction in order to prevent the spread of Eurasian watermilfoil.

(2) The check stations will be mandatory for all water vessels, including live wells and trailers, and the check stations may mandate cleaning if the vessels appear to be potentially contaminated.

AUTH : 80-7-1007, MCA  
IMP: 80-7-1007, 80-7-1008, 80-7-1009, 80-7-1010, 80-7-1011, 80-7-1012, 80-7-1014, MCA

Reason: The purpose of the management area is to prevent the spread of Eurasian watermilfoil. Eurasian watermilfoil is a state listed noxious weed. The plant is an extremely aggressive, nonnative aquatic weed that poses a serious threat to Montana's rivers, lakes, and irrigation infrastructure. Eurasian watermilfoil's environmental effects include the reduction of water quality, displacement of native

plant communities, decreased sport fish populations through lower predation success and reduced spawning, and increased habitat for undesirable species such as mosquitoes that may spread diseases to humans and parasites that cause swimmer's itch. Its economic impacts include reduced recreational value through the loss of angling, boating, swimming, water skiing, and nearshore recreation; reduced profitability of agricultural production by clogging ditches, canals, farm ponds, and irrigation equipment; decreased property values; and increased costs for electrical generation and municipal water supplies.

Eurasian watermilfoil currently only infests a limited area in Noxon and Cabinet Gorge Reservoirs in Montana. This is the first established population of Eurasian watermilfoil in the state. The limited number of infested acres permits feasible and cost effective containment. The primary means by which Eurasian watermilfoil can be spread is through plant fragments entrained on watercraft and boat trailers. The high recreational use and movement of watercraft from these water bodies to the rest of Montana combined with the significant impacts of this noxious weed creates a significant risk to Montana. The management area will prevent the spread of Eurasian watermilfoil through the education of boaters and inspection of watercraft and trailers leaving the infested water bodies.

Financial Impact: An accurate estimate of the financial impact is not measurable, but is expected to be trivial to nonexistent as there is no charge for the check stations created by the management area and the most affected individuals will only have their boat cleaned for free.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Cort Jensen at the Montana Department of Agriculture, 303 North Roberts, P.O. Box 200201, Helena, MT 59620-0201; telephone (406) 444-3144; fax: (406) 444-5409; or e-mail: agr@mt.gov, and must be received no later than 5:00 p.m. on June 10, 2010.

5. Cort Jensen, Department of Agriculture, has been designated to preside over and conduct this hearing.

6. The Department of Agriculture maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name, e-mail, and mailing address of the person and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Montana Department of Agriculture, 303 North Roberts, P.O. Box 200201, Helena, MT 59620-0201; fax: (406) 444-5409; or e-mail: agr@mt.gov or may be made by completing a request form at any rules hearing held by the Department of Agriculture.

7. An electronic copy of this Notice of Proposed Adoption is available through the department's web site at [www.agr.mt.gov](http://www.agr.mt.gov), under the Administrative Rules section. The department 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 department strives 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.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted on May 3, 2010 by regular mail, e-mail, and phone. For previous rule projects involving the same bill, the primary sponsor was given appropriate notice.

DEPARTMENT OF AGRICULTURE

/s/ Ron de Yong  
Ron de Yong, Director

/s/ Cort Jensen  
Cort Jensen, Rule Reviewer

Certified to the Secretary of State, May 3, 2010.