

**COMPILATION OF AQUATIC INVASIVE SPECIES LAWS AND REGULATIONS IN THE  
WESTERN STATES RELEVANT TO WATERCRAFT INSPECTION AND  
DECONTAMINATION (WID) PROGRAMS**

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THE UNIVERSITY *of*  
**MISSISSIPPI**  
SCHOOL OF LAW

## Alaska AIS Statutes

*Compiled 10/12/15*

### Alaska Stat. Title 16, Ch. 5, Article 2 (Board of Fisheries and Game)

#### Alaska Stat. § 16.05.251. Regulations of the Board of Fisheries

*\* AIS-relevant provision: Alaska Stat. § 16.05.251(a)(9).*

(a) The Board of Fisheries may adopt regulations it considers advisable in accordance with AS 44.62 (Administrative Procedure Act) for

(1) setting apart fish reserve areas, refuges, and sanctuaries in the waters of the state over which it has jurisdiction, subject to the approval of the legislature;

(2) establishing open and closed seasons and areas for the taking of fish; if consistent with resource conservation and development goals, the board may adopt regulations establishing restricted seasons and areas necessary for

(A) persons 60 years of age and older to participate in sport, personal use, or subsistence fishing; or

(B) persons under 16 years of age to participate in sport fishing;

(3) setting quotas, bag limits, harvest levels, and sex and size limitations on the taking of fish;

(4) establishing the means and methods employed in the pursuit, capture, and transport of fish;

(5) establishing marking and identification requirements for means used in pursuit, capture, and transport of fish;

(6) classifying as commercial fish, sport fish, guided sport fish, personal use fish, subsistence fish, or predators or other categories essential for regulatory purposes;

(7) watershed and habitat improvement, and management, conservation, protection, use, disposal, propagation, and stocking of fish;

(8) investigating and determining the extent and effect of disease, predation, and competition among fish in the state, exercising control measures considered necessary to the resources of the state;

(9) prohibiting and regulating the live capture, possession, transport, or release of native or exotic fish or their eggs;

- (10) establishing seasons, areas, quotas, and methods of harvest for aquatic plants;
- (11) establishing the times and dates during which the issuance of fishing licenses, permits, and registrations and the transfer of permits and registrations between registration areas is allowed; however, this paragraph does not apply to permits issued or transferred under AS 16.43;
- (12) regulating commercial, sport, guided sport, subsistence, and personal use fishing as needed for the conservation, development, and utilization of fisheries;
- (13) requiring, in a fishery, observers on board fishing vessels, as defined in AS 16.05.475(d), that are registered under the laws of the state, as defined in AS 16.05.475(c), after making a written determination that an on-board observer program
  - (A) is the only practical data-gathering or enforcement mechanism for that fishery;
  - (B) will not unduly disrupt the fishery;
  - (C) can be conducted at a reasonable cost; and
  - (D) can be coordinated with observer programs of other agencies, including the National Marine Fisheries Service, North Pacific Fishery Management Council, and the International Pacific Halibut Commission;
- (14) establishing nonexclusive, exclusive, and superexclusive registration and use areas for regulating commercial fishing;
- (15) regulating resident or nonresident sport fishermen as needed for the conservation, development, and utilization of fishery resources;
- (16) requiring unlicensed fishing vessels present in or transiting the waters of the state to report to the department the quantity, species, and origin of fish on board; in this paragraph, “unlicensed fishing vessel” means a fishing vessel that is not licensed under AS 16.05.490--16.05.530;
- (17) promoting fishing and preserving the heritage of fishing in the state.

(b) Repealed.

(c) If the Board of Fisheries denies a petition or proposal to amend, adopt, or repeal a regulation, the board, upon receiving a written request from the sponsor of the petition or proposal, shall in addition to the requirements of AS 44.62.230 provide a written explanation for the denial to the sponsor not later than 30 days after the board has officially met and denied the sponsor's petition or proposal, or 30 days after receiving the request for an explanation, whichever is later.

(d) Regulations adopted under (a) of this section must, consistent with sustained yield and the provisions of AS 16.05.258, provide a fair and reasonable opportunity for the taking of fishery resources by personal use, sport, and commercial fishermen.

(e) The Board of Fisheries may allocate fishery resources among personal use, sport, guided sport, and commercial fisheries. The board shall adopt criteria for the allocation of fishery resources and shall use the criteria as appropriate to particular allocation decisions. The criteria may include factors such as

(1) the history of each personal use, sport, guided sport, and commercial fishery;

(2) the number of residents and nonresidents who have participated in each fishery in the past and the number of residents and nonresidents who can reasonably be expected to participate in the future;

(3) the importance of each fishery for providing residents the opportunity to obtain fish for personal and family consumption;

(4) the availability of alternative fisheries resources;

(5) the importance of each fishery to the economy of the state;

(6) the importance of each fishery to the economy of the region and local area in which the fishery is located;

(7) the importance of each fishery in providing recreational opportunities for residents and nonresidents.

(f) Except as expressly provided in AS 16.40.120(e) and 16.40.130, the Board of Fisheries may not adopt regulations or take action regarding the issuance, denial, or conditioning of a permit under AS 16.40.100 or 16.40.120, the construction or operation of a farm or hatchery required to have a permit under AS 16.40.100, or a harvest with a permit issued under AS 16.40.120.

(g) The Board of Fisheries shall consider a request of the commissioner for approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery under AS 16.43.225 at the board's next regular or special meeting that follows the receipt by the board of the request for approval of the petition and that allows time for the notice required under this subsection. The board may consider the request of the commissioner for approval of the petition only after 15 days' public notice of the board's intention to consider approval of the petition. The board shall consider whether the commissioner, in support of the request for approval of the petition, has adequately shown that the fishery meets requirements for a moratorium on new entrants under AS 16.05.050. The board by a majority vote of its members at the meeting when the petition must be considered shall approve or disapprove the petition.

(h) The Board of Fisheries shall adopt by regulation a policy for the management of mixed stock

fisheries. The policy shall provide for the management of mixed stock fisheries in a manner that is consistent with sustained yield of wild fish stocks.

(i) Notwithstanding AS 16.43.140(c)(5), the board may adopt, at a regularly scheduled meeting at which the board considers regulatory proposals for management of a specific salmon fishery, a regulation to allow a person who holds two entry permits for that salmon fishery an additional fishing opportunity appropriate for that particular fishery.

## **Alaska Stat. Title 16, Ch. 35 (Predatory Animals)**

### **Alaska Stat. § 16.35.210. Nonindigenous fish**

(a) A person may not knowingly release, or transport, possess, import, or export for the purpose of release, into the water of the state live nonindigenous fish or live fertilized eggs of nonindigenous fish, unless permitted by AS 16.05--AS 16.40 or by a regulation adopted under AS 16.05--AS 16.40. This subsection does not apply to

(1) a fisherman who catches and releases a fish into the water from which the fish was taken; or

(2) generally accepted conduct in relation to permitted salt water commercial or sport fishing.

(b) A person may not knowingly rear live ornamental fish in, or release live ornamental fish into, the water of the state.

(c) A person who violates this section is guilty of a class A misdemeanor.

(d) In addition to the penalty imposed under (c) of this section, a person who is convicted of violating this section may be ordered by the court to pay restitution to the state to cover the costs of damages to fishery resources of the state and of removing the introduced fish species from the water of the state.

(e) In this section,

(1) “knowingly” has the meaning given in AS 11.81.900;

(2) “nonindigenous fish” means a species of fish that is not native to the body of water in which the fish is released or is intended to be released;

(3) “ornamental fish” means an aquatic finfish, commonly referred to as tropical fish, aquarium fish, or goldfish, an aquatic invertebrate, or an amphibian that is imported, cultured, or sold in the state customarily for viewing in an aquarium or for raising in an artificial containment system and that is not customarily used for sport fishing in the state or used for human consumption;

(4) “water of the state” means any water of the state forming a river, stream, lake, pond, slough, creek, bay, sound, estuary, inlet, strait, passage, canal, sea, or ocean, or any other body of water or waterway within the territorial limits of the state.

## Alaska AIS Regulations

*Compiled 10/12/15*

### Alaska Admin. Code Title 5, Part 1, Ch. 1, Art. 1 (Statewide Provisions)

#### Alaska Admin. Code tit. 5, § 01.010. Methods, means, and general provisions.

*\* AIS-relevant provision: 5 Alaska Admin. Code tit. 5, § 01.010(n).*

(a) Unless otherwise provided in this chapter, the following are legal types of gear for subsistence fishing:

(1) gear specified in 5 AAC 39.105;

(2) jigging gear, which consists of a line or lines with lures or baited hooks that are operated during periods of ice cover from holes cut in the ice, or from shore ice referred to in 5 AAC 01.220(l), and which are drawn through the water by hand;

(3) a spear which is a shaft with a sharp point or fork-like implement attached to one end, used to thrust through the water to impale or retrieve fish and which is operated by hand;

(4) a lead which is a length of net employed for guiding fish into a seine or a length of net or fencing employed for guiding fish into a fish wheel, fyke net or dip net.

(b) Finfish may be taken for subsistence purposes only by Alaskan residents.

(c) Gillnets used for subsistence fishing for salmon may not exceed 50 fathoms in length, unless otherwise specified by the regulations in particular areas set forth in this chapter.

(d) Unless otherwise specified in this chapter, it is unlawful to buy or sell subsistence-taken fish, their parts, or their eggs, except that it is lawful to buy or sell a handicraft made out of the skin or nonedible by-products of fish taken for personal or family consumption.

(e) Fishing for, taking or molesting any fish by any means, or for any purpose, is prohibited within 300 feet of any dam, fish ladder, weir, culvert or other artificial obstruction.

(f) The use of explosives and chemicals is prohibited.

(g) Subsistence fishing by the use of a hook and line attached to a rod or pole is prohibited, unless otherwise provided in this chapter.

(h) Each subsistence fisherman shall plainly and legibly inscribe his first initial, last name, and address on his fish wheel, or on a keg or buoy attached to gillnets and other unattended subsistence fishing gear.

requirements in 5 AAC 39.145.

(j) Persons licensed under AS 43.75.011 to engage in a fisheries business may not receive for commercial purposes or barter or solicit to barter for subsistence taken salmon or their parts. Further restrictions on the bartering of subsistence taken salmon or their parts may be implemented by emergency order for a specific time or area if circumvention of management programs is occurring because of illegal bartering activities.

(k) The gillnet web in a gillnet used for subsistence fishing for salmon must contain

(1) at least 30 filaments, each of which must be of equal diameter; or

(2) at least six filaments, each of which must be at least 0.20 millimeters in diameter.

(l) Repealed 5/15/93.

(m) Salmon taken for subsistence use or under subsistence fishing regulations may not be subsequently used as bait for commercial fishing purposes.

**(n) The use of live nonindigenous fish as bait is prohibited.**

### **Alaska Admin. Code Title 5, Part 1, Ch. 41, Article 3 (General Provisions)**

#### **Alaska Admin. Code tit. 5, 41.070. Prohibitions on importation and release of live fish.**

(a) Except as provided in (b) - (d) of this section, no person may import any live fish into the state for purposes of stocking or rearing in the waters of the state.

(b) Live oysters native to and originating from the Pacific Coast of North America may be imported for aquaculture purposes, under a permit required by this chapter, and may be released into the waters of the state only if the

(1) broodstock is derived from oysters commercially cultured on the Pacific Coast of North America through three or more generations; and

(2) disease history or an inspection indicates no incidence of disease that is not indigenous to the state or is not considered to be a risk to indigenous stocks, and oyster health or marketability.

(c) Ornamental fish not raised for human consumption or sport fishing purposes may be imported into the state, but may not be reared in or released into the waters of the state. Fish wastes and waste water from ornamental fish may not be released directly into the waters of the state.

(d) Weathervane scallops originating from wild stocks or cultured stocks in the Southeastern Alaska and Yakutat Areas may be imported for aquaculture purposes and may be released only



into the waters of the Southeastern Alaska and Yakutat Areas under a permit required by this chapter only if the

- (1) broodstock was taken under the provisions of a permit issued by the department;
  - (2) broodstock was certified by the department's fish pathology section before transport out of the state;
  - (3) broodstock was held continuously in a department-approved isolation facility;
  - (4) weathervane scallops proposed for import have been held continuously in a department-approved isolation facility before import into the state;
  - (5) disease history, or an inspection, of the weathervane scallops proposed for import indicates no incidence of a disease of transport significance.
- (e) A person may not import, own, possess, breed, transport, distribute, release, purchase or sell within this state any species listed under 50 C.F.R. 16.13, as revised as of October 1, 2002, as an injurious live, or dead fish, mollusk, crustacean, or their eggs.

## Arizona AIS Statutes

*Compile 10/9/15*

### Ariz. Rev. Stat. Title 17, Ch. 2, Article 3.1 (Aquatic Invasive Species)

#### § 17-255. Definition of aquatic invasive species

In this article, unless the context otherwise requires, “aquatic invasive species”:

1. Means any aquatic species that is not native to the ecosystem under consideration and whose introduction or presence in this state may cause economic or environmental harm or harm to human health.

2. Does not include:

(a) Any nonindigenous species lawfully or historically introduced into this state for sport fishing recreation.

(b) Any species introduced into this state by the department, by other governmental entities or by any person pursuant to this title.

#### § 17-255.01. Aquatic invasive species program; powers

A. The director may establish and maintain an aquatic invasive species program.

B. The director may issue orders:

1. Establishing a list of aquatic invasive species for this state.

2. Establishing a list of waters or locations where aquatic invasive species are present and take steps that are necessary to eradicate, abate or prevent the spread of aquatic invasive species within or from those bodies of water.

3. Establishing mandatory conditions as provided in subsection C of this section on the movement of watercraft, vehicles, conveyances or other equipment from waters or locations where aquatic invasive species are present to other waters.

C. If the presence of an aquatic invasive species is suspected or documented in this state, the director or an authorized employee or agent of the department may take one or more of the following actions to abate or eliminate the species:

1. Authorize and establish lawful inspections of watercraft, vehicles, conveyances and other equipment to locate the aquatic invasive species.

2. Order any person with an aquatic invasive species in or on the person's watercraft, vehicle, conveyance or other equipment to decontaminate the watercraft, vehicle, conveyance or equipment in a manner prescribed by rule. Notwithstanding paragraph 3 of this subsection, mandatory on-site decontamination shall not be required at a location where an on-site cleaning station charges a fee.

3. Require any person with a watercraft, vehicle, conveyance or other equipment in waters or locations where an aquatic invasive species is present to decontaminate the property before moving it to any other waters in this state or any other location in this state where aquatic invasive species could thrive.

D. An order issued under subsection B or C of this section is exempt from title 41, chapter 6, article 3, except that the director shall promptly file a copy of the order with the secretary of state for publication in the Arizona administrative register pursuant to § 41-1013.

### **§ 17-255.02. Prohibitions**

Except as authorized by the commission, a person shall not:

1. Possess, import, ship or transport into or within this state, or cause to be imported, shipped or transported into or within this state, an aquatic invasive species.
2. Notwithstanding § 17-255.04, subsection A, paragraph 4, release, place or plant, or cause to be released, placed or planted, an aquatic invasive species into waters in this state or into any water treatment facility, water supply or water transportation facility, device or mechanism in this state.
3. Notwithstanding § 17-255.04, subsection A, paragraph 4, place in any waters of this state any equipment, watercraft, vessel, vehicle or conveyance that has been in any water or location where aquatic invasive species are present within the preceding thirty days without first decontaminating the equipment, watercraft, vessel, vehicle or conveyance.
4. Sell, purchase, barter or exchange in this state an aquatic invasive species.

### **§ 17-255.03. Violations; civil penalties; classification; cost recovery**

A. Except as otherwise provided by this section, a person who violates this article is subject to a civil penalty of not more than five hundred dollars.

B. A person who knowingly violates § 17-255.02, paragraph 2 or 4 is guilty of a class 2 misdemeanor. In addition, the commission, or any officer charged with enforcing this article if directed by the commission, may bring a civil action in the name of this state to recover damages and costs against a person who violates § 17-255.02, paragraph 2 or 4. Damages and costs recovered pursuant to this subsection shall be deposited in the game and fish fund.

C. The court shall order a person found in violation of § 17-255.01, subsection C, paragraph 2 to pay to this state all costs not exceeding fifty dollars incurred by this state to decontaminate any

watercraft, vehicle, conveyance or other equipment on which aquatic invasive species were present. Monies paid pursuant to this subsection shall be deposited in the game and fish fund.

D. This section applies regardless of whether the director establishes an aquatic invasive species program pursuant to § 17-255.01.

#### **§ 17-255.04. Applicability; no private right of action**

A. This article does not apply to the owner or operator of:

1. Any system of canals, laterals or pipes, any related or ancillary facilities, fixed equipment and structures related to the delivery of water and any discharges from the system.
2. Any water treatment or distribution facility system, any related or ancillary facilities, fixed equipment and structures and any discharges from the system.
3. Any drainage, wastewater collection, treatment or disposal facility system, any related or ancillary facilities, fixed equipment and structures and any discharges from the system.
4. A public or private aquarium and education or research institution holding a permit pursuant to § 17-238 or 17-306.
5. Any stock ponds or livestock water facilities or distribution facilities, including fixed equipment and structures related to the delivery of water and any discharges from the system.

B. The director may consult with the entities listed in subsection A of this section to assist in the implementation of this article.

C. This article does not create any express or implied private right of action and may be enforced only by this state.

#### **Ariz. Rev. Stat. Title 5, Ch. 3, Art. 3 (Registration and Taxation of Watercraft)**

##### **§ 5-323. Disposition of fees**

Each month monies received from the registration and infrastructure fees received under this chapter for the numbering of watercraft shall be deposited, pursuant to §§ 35-146 and 35-147, in the watercraft licensing fund. Each month, the department shall distribute the monies as follows:

1. All revenues collected pursuant to § 5-321, subsection A and § 5-326 shall be allocated as follows:

- (a) Sixty-five per cent shall be deposited in the watercraft licensing fund. The watercraft licensing fund is to be used by the department for administering and enforcing this chapter, providing an information and education program relating to boating and boating safety and

administering any aquatic invasive species program established under this title or title 17. These monies are subject to legislative appropriation.

(b) Thirty-five per cent of such revenues shall be further allocated as follows:

(i) Fifteen per cent to the state lake improvement fund to be used as prescribed by § 5-382.

(ii) Eighty-five per cent to the law enforcement and boating safety fund to be used as prescribed by § 5-383.

2. All revenues collected from any additional registration fees collected pursuant to § 5-321, subsection C shall be paid to an account designated by a multi-county water conservation district established under title 48, chapter 22 to be used solely for the lower Colorado river multispecies conservation program and for no other purpose.

## Arizona AIS Regulations

*Compiled 10/9/15*

### Ariz. Admin. Code Title 12, Ch. 4, Art. 11 (Aquatic Invasive Species)

#### **R12-4-1101. Definitions**

In addition to the definitions provided under A.R.S. §§ 5-301 and 17-255, the following definitions apply to this Article, unless otherwise specified:

“Aquatic invasive species” means those species listed in Director's Order 1.

“Certified agent” means a person who meets Department standards to conduct inspections authorized under A.R.S. § 17-255.01(C)(1).

“Conveyance” means a device designed to carry or transport water. Conveyance includes, but is not limited to, dip buckets, water hauling tanks, and water bladders.

“Equipment” means an item used either in or on water; or to carry water. Equipment includes, but is not limited to, trailers used to launch or retrieve watercraft, rafts, inner tubes, kick boards, anchors and anchor lines, docks, dock cables and floats, buoys, beacons, wading boots, fishing tackle, bait buckets, skin diving and scuba diving equipment, submersibles, pumps, sea planes, and heavy construction equipment used in aquatic environments.

“Operator” means a person who operates or is in actual physical control of a watercraft, vehicle, conveyance or equipment.

“Owner” means a person who claims lawful possession of a watercraft, vehicle, conveyance, or equipment.

“Person” has the same meaning as defined under A.R.S. § 1-215.

“Release” means to place, plant, or cause to be placed or planted in waters.

“Transporter” means a person responsible for the overland movement of a watercraft, vehicle, conveyance, or equipment.

“Waters” means surface water of all sources, whether perennial or intermittent, in streams, canyons, ravines, drainage systems, canals, springs, lakes, marshes, reservoirs, ponds, and other bodies or accumulations of natural, artificial, public or private waters situated wholly or partly in or bordering this state.

#### **R12-4-1102. Aquatic Invasive Species; Prohibitions; Inspection, Decontamination Protocols**

A. A person shall not, unless authorized under Article 4:

1. Possess, import, ship, or transport into or within this state an aquatic invasive species, unless authorized by the Director.
2. Sell, purchase, barter, or exchange in this state an aquatic invasive species.
3. Release an aquatic invasive species into waters or into any water treatment facility, water supply or water transportation facility, device or mechanism in this state.

B. Upon removing a watercraft, vehicle, conveyance, or equipment from any waters listed in Director's Order 2 and before leaving that location, a person shall:

1. Remove all clinging materials such as plants, animals, and mud.
2. Remove any plug or other barrier that prevents water drainage or, where none exists, take reasonable measures to drain or dry all compartments or spaces that hold water. Reasonable measures include, but are not limited to, emptying bilges, application of absorbents, or ventilation.

C. Before transporting a watercraft, vehicle, conveyance, or equipment to any waters located within or bordering this state from waters or locations where aquatic invasive species are suspected or known to be present, as listed in Director's Order 2, a person shall comply with the mandatory conditions and protocols identified in Director's Order 3 for decontamination of watercraft, vehicles, conveyances, and equipment.

D. Department employees, certified agents, and Arizona peace officers authorized under A.R.S. § 17-104 may inspect a watercraft, vehicle, conveyance, or equipment for the purposes of determining compliance with A.R.S. Title 17, Chapter 2, Article 3.1 and this Section.

E. If the presence of an aquatic invasive species is documented or suspected on or in a watercraft, vehicle, conveyance, or equipment, a Department employee or any Arizona peace officer may order the person to decontaminate or cause to be decontaminated such watercraft, vehicles, conveyances, and equipment using the mandatory protocols described in Director's Order 3.

F. The following Director's Orders are available at any Department office and online at [azgfd.gov](http://azgfd.gov):

1. Director's Order 1 - Listing of Aquatic Invasive Species for Arizona;
2. Director's Order 2 - Designation of Waters or Locations Where Listed Aquatic Invasive Species are Present; and
3. Director's Order 3 - Mandatory Conditions on the Movement of Watercraft, Vehicles, Conveyances, or Other Equipment from Listed Waters Where Aquatic Invasive Species are Present.

G. This Section does not apply to owners and operators exempt under A.R.S. § 17-255.04.



**NOTICE OF PUBLIC INFORMATION  
ARIZONA GAME AND FISH DEPARTMENT**

**DIRECTOR'S ORDER 1 – R05/16 – AQUATIC INVASIVE SPECIES  
LISTING OF AQUATIC INVASIVE SPECIES FOR ARIZONA  
EFFECTIVE - MAY 1, 2016**

Effective May 1, 2016, the Arizona Game and Fish Department, under the authority of A.R.S. 17-255.01(B), establishes this updated list of aquatic invasive species for the State of Arizona:

<b><u>Aquatic Invasive Species</u></b>	<b><u>Notes</u></b>
<b>quagga mussel</b> ( <i>Dreissena bugensis</i> )	<b>Detected and present in Arizona</b> – confirmed in 2007: Lake Havasu, Lake Mead, Lake Mohave, Lake Pleasant
<b>zebra mussel</b> ( <i>Dreissena polymorpha</i> )	Not yet detected in Arizona, but poses an imminent threat. Zebra mussels are nearly indistinguishable in appearance from the quagga mussel.
<b>rusty crayfish</b> ( <i>Orconectus rusticus</i> )	Not yet detected in Arizona, but constitutes an imminent threat. No positive identification noted among current Arizona crayfish populations.
<b>red claw crayfish</b> ( <i>Cherax quadricarinatus</i> )	Not yet detected in Arizona, but constitutes an imminent threat. No positive identification noted among current Arizona crayfish populations.
<b>New Zealand mudsnail</b> ( <i>Potamopyrgus antipodarum</i> )	<b>Detected in Arizona</b> – confirmed in 2002: lower Colorado River (Lees Ferry, Lake Mead)
<b>didymo, a.k.a. rock snot</b> ( <i>Didymosphenia geminata</i> )	<b>Detected in Arizona (blooms)</b> – confirmed in July 2009: below Davis Dam, Lake Havasu on the lower Colorado River
<b>giant salvinia</b> ( <i>Salvinia molesta</i> )	<b>Detected in Arizona</b> – confirmed in August 1999: on the Arizona/California border at Imperial National Wildlife Refuge near Blythe, CA
<b>Asian carp</b> <b>silver</b> ( <i>Hypophthalmichthys molotrix</i> ) <b>bighead</b> ( <i>Aristichthys nobilis</i> ) <b>black</b> ( <i>Mylopharyngodon piceus</i> )	Not yet detected in Arizona, but poses an imminent threat from illegal stocking. Another species of Asian carp, triploid grass carp/white amur ( <i>Ctenopharyngodon idella</i> ), is present and regulated through permits in Arizona.
<b>apple snail</b> (Genus: <i>Pomacea</i> )	<b>Detected in Arizona</b> – confirmed in August 2011: lower Verde River to confluence with the lower Salt River down to Granite Reef Dam

	Area, Maricopa County; also detected in the lower Colorado River at Yuma
<b>All snakehead spp</b> (Family: <i>Channidae</i> ) (Genus: <i>Channa</i> ; <i>Parachanna</i> )	Not yet detected in Arizona, but poses an imminent threat from illegal stocking.
<b>whirling disease</b> ( <i>Myxobolus cerebralis</i> )	<b>Detected in Arizona</b> – confirmed positive in 2007, re-confirmed in 2011 and 2012; Lees Ferry area of the lower Colorado River (Glen Canyon NRA)
<b>largemouth bass virus (LMBV)</b> (Family: <i>Iridoviridae</i> ) (Genus: <i>Iridovirus</i> ; <i>Chloriridovirus</i> ; <i>Ranavirus</i> ; <i>Lymphocystivirus</i> )	<b>Detected in Arizona</b> – confirmed positive in 2010 at Saguaro Lake; in 2011 at Bartlett Lake and Roosevelt Lake and; in 2012 at Lake Pleasant.

The name and address of agency personnel with whom persons may communicate regarding this Order:

Name: Tom McMahon, Aquatic Invasive Species Program Coordinator

Address: Arizona Game and Fish Department, WMAQ  
5000 W. Carefree Highway, Phoenix, AZ 85086-5000

Telephone: (623) 236-7271

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NOTICE OF PUBLIC INFORMATION  
ARIZONA GAME AND FISH DEPARTMENT

**DIRECTOR'S ORDER 2 – R05/16 – AQUATIC INVASIVE SPECIES  
DESIGNATION OF WATERS OR LOCATIONS WHERE LISTED  
AQUATIC INVASIVE SPECIES ARE PRESENT  
EFFECTIVE - MAY 1, 2016**

Effective May 1, 2016, the Arizona Game and Fish Department, under the authority of A.R.S. § 17-255.01(B), establishes this updated list of waters or locations where listed aquatic invasive species are suspected or known to be present. The listing of aquatic invasive species in Arizona is established under the Arizona Game and Fish Department – Director's Order 1 – R05/16, 22, A.A.R. *Register Editor insert page number, <month day>, 2016.*

<b>Waters in Arizona where quagga mussel (<i>Dreissena bugensis</i>) are documented and present:</b>
<ul style="list-style-type: none"><li>- <b>Lower Colorado River</b> from Pierce Ferry Rapid (RM277 on Lake Mead) through the southerly international boundary with Mexico including:<ul style="list-style-type: none"><li><b>Lake Mead</b> (Mohave County);</li><li><b>Lake Mohave</b> (Mohave County); <b>Topock Marsh</b> (Mohave County);</li><li><b>Lake Havasu</b> (Mohave County);</li><li><b>Martinez Lake</b> (Yuma County); <b>Imperial Reservoir</b> (Yuma County);</li><li><b>Mittry Lake</b> (Yuma County)</li></ul></li><li>- <b>Lake Pleasant</b> (Maricopa County)</li><li>- <b>Lake Powell</b> (Coconino County)</li><li>- <b>Lees Ferry</b> (Coconino County) - from directly below Glen Canyon Dam downstream to Grand Canyon NP boundary.</li><li>- <b>Apache Lake</b> (Maricopa County)</li><li>- <b>Canyon Lake</b> (Maricopa County)</li><li>- <b>Saguaro Lake and lower Salt River</b> directly below Saguaro Lake to Granite Reef Dam (Maricopa County)</li></ul>
<b>Water delivery systems in Arizona where quagga mussel (<i>Dreissena bugensis</i>) are documented and present:</b>
<ul style="list-style-type: none"><li>- <b>Central Arizona Project (CAP)</b> aqueduct from Lake Havasu (Mark Wilmer Pumping plant to CAP canal mile 200 in Apache Junction, AZ) and all endpoint waters (e.g. Red Mountain Park Lake, Mesa)</li><li>- <b>Salt River Project (SRP) Canal System</b> commencing at the CAP Interconnect below Granite Reef Dam (Maricopa County)</li></ul>
<b>Water delivery systems in Arizona where quagga mussel (<i>Dreissena bugensis</i>) are suspected:</b>
<ul style="list-style-type: none"><li>- <b>Central Arizona Project (CAP)</b> aqueduct from CAP canal mile 200 in Apache Junction to terminus at canal mile 337 south of Tucson, AZ</li></ul>

**U.S. States or Provinces of the Dominion of Canada where quagga mussel (*Dreissena bugensis*) or zebra mussel (*Dreissena polymorpha*) are documented and present:**

- Alabama, Arkansas, California, Colorado, Connecticut, Iowa, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Maryland, Michigan, Minnesota, Missouri, Mississippi, Nebraska, Nevada, New York, Ohio, Oklahoma, Pennsylvania, Texas, Utah, Virginia, Vermont, Wisconsin, West Virginia; and the Provinces of Ontario and Quebec

**Waters in Arizona where New Zealand mudsnail (*Potamopyrgus antipodarum*) are documented:**

- **Lower Colorado River** below the Glen Canyon Dam to Lees Ferry and at Lake Mohave Willow Beach area

**Waters in Arizona where didymo, a.k.a. rock snot (*Didymosphenia geminata*) are documented (bloom):**

- **Lower Colorado River** immediately downstream of Davis Dam (Lake Havasu)

**Waters in Arizona where giant salvinia (*Salvinia molesta*) are documented:**

- **Lower Colorado River** from Blythe, California (I-10 Bridge over Colorado River) through the southerly international boundary with Mexico (Morales Dam)

**Waters in Arizona where apple snail (*Pomacea*) are documented:**

- **Lower Colorado River** near Yuma (Yuma County); lower Verde River to the confluence with the lower Salt River Granite Reef Dam Area (Maricopa County)
- **Red Mountain Park Lake** Mesa (Maricopa County)
- **Lower portions of Indian Bend Wash** Scottsdale (Maricopa County)

**Waters in Arizona where whirling disease (*Myxobolus cerebralis*) are documented:**

- **Lower Colorado River** below Glen Canyon Dam Lees Ferry area near Page, AZ

**Waters in Arizona where largemouth bass virus (LMBV – Family: *Iridoviridae* ) are documented:**

- **Salt/Verde River:** Roosevelt Lake; Saguaro Lake; Bartlett Lake Tonto National Forest, AZ
- **Lake Pleasant** – Lake Pleasant Regional Park, Peoria, AZ (Maricopa County)

The name and address of agency personnel with whom persons may communicate regarding this Order:

Name: Tom McMahon, Aquatic Invasive Species Program Coordinator

Address: Arizona Game and Fish Department, WMAQ  
5000 W. Carefree Highway, Phoenix, AZ 85086-5000

Telephone: (623) 236-7271

Fax: (623) 236-7265

Email: [tmcmahon@azgfd.gov](mailto:tmcmahon@azgfd.gov)

**NOTICE OF PUBLIC INFORMATION  
ARIZONA GAME AND FISH DEPARTMENT**

**DIRECTOR'S ORDER 3 – R05/16 – AQUATIC INVASIVE SPECIES  
MANDATORY CONDITIONS ON THE MOVEMENT OF WATERCRAFT, VEHICLES,  
CONVEYANCES, OR OTHER EQUIPMENT FROM LISTED WATERS  
WHERE AQUATIC INVASIVE SPECIES ARE PRESENT  
EFFECTIVE – MAY 1, 2016**

Effective May 1, 2016, the Arizona Game and Fish Department, under the authority of A.R.S. § 17-255.01(B), establishes these updated mandatory conditions for movement of watercraft, vehicles, conveyances, or other equipment necessary to abate, eradicate, or prevent the spread of listed aquatic invasive species (AIS) within or from those waters or locations listed in Arizona Game and Fish Department - Director's Order 2 – R05/16, 22, A.A.R. Register Editor insert page number, <month day>, 2016.

<b>Mandatory Conditions and Protocols for Movement from AIS Listed Waters/Locations</b>	
<b>Day Use Boater</b>	<p><b>The following protocols shall be taken for watercraft, vehicles, conveyances, or other equipment (e.g., fishing gear, anchor, etc.) that have been in or on an AIS listed water/location for <u>5 days or less</u>:</b></p> <p><b><u>Upon removing a watercraft from any listed waters in Arizona and prior to transport:</u></b></p> <p><b>Remove any clinging material</b> such as plants, algae, animals, and mud from anchor, boat, motor, trailer, and all other equipment.</p> <p><b>Remove all drainage plug(s)</b> (when so equipped) <b>and drain the water</b> from the bilge, live-well and any other compartments that may hold water.</p> <p><b>Drain water</b> from engine, engine compartments, and engine cooling systems.</p> <p><b>Dry completely</b> - Allow watercraft, vehicles, conveyances, or other equipment to dry completely.</p> <p><b>Recommended precautionary protocol:</b> If using watercraft again in less than five days at any other Arizona waters, pour vinegar into all bilges and other water retention areas that cannot be completely drained and dried to kill any residual small, young AIS (e.g., quagga veligers).</p>
<b>Long Term Use Boater</b>	<p><b>The following protocols shall be taken for any watercraft, vehicles, conveyances, or other equipment that have been in or on an AIS listed water for <u>more than 5 days</u> and <u>prior to transport from that AIS listed water (unless otherwise authorized by the State)</u>:</b></p> <p><b>Remove any clinging material</b> such as plants, algae, animals, and mud from anchor, boat, motor, trailer, and all other equipment.</p> <p><b>Remove all drainage plug(s)</b> (when so equipped) <b>and drain the water</b> from the bilge, live-well, and any other compartments that may hold water.</p> <p><b>Drain water</b> from engine, engine compartments, and engine cooling systems.</p> <p><b>Remove all attached invasive species (e.g., adult quagga mussels, New Zealand mudsnails)</b> from</p>

boat surfaces, motors, impellers, outdrives, rudders, anchor(s), and through hull fittings.

**Dry completely**, keep the watercraft, vehicles, conveyances, or other equipment out of water and completely dry, including bilge, through hull fittings and engine for a minimum of:

- **Eighteen (18) consecutive days during the months of November through April**, and
- **Seven (7) consecutive days during the months of May through October**.

**Where watercraft decontamination facilities exist** (private or government), flush the engine, cooling systems, and any other through hull fittings for ten to thirty seconds with hot water exiting those areas at 140°F to kill any hidden invasive species (e.g., adult quagga mussels, New Zealand mudsnails).

**OWNER, OPERATOR, AND/OR TRANSPORTER OF LONG TERM USE BOAT:**

**PRIOR TO TRANSPORT** of watercraft to any other Arizona waters or out of state, the owner, operator, and/or transporter **SHALL**:

- **Complete and sign** an Aquatic Invasive Species Boat Inspection Report - AISBIR (AGFD Form 2137); and
- **Fax or email** the completed form to the Arizona Game and Fish Department's Aquatic Invasive Species Program at (623) 236-7265 or [AIScomments@azgfd.gov](mailto:AIScomments@azgfd.gov).

*Note:* The AISBIR form is located on the Department's website ([azgfd.gov/ais](http://azgfd.gov/ais))

**Mandatory Conditions and Protocols for Movement from the lower Colorado River, below the Glen Canyon Dam to Lees Ferry and at Lake Mohave - Willow Beach area.**

**The following protocols shall be taken for the prevention/control of New Zealand mudsnail (*Potamopyrgus antipodarum*):**

- **Dry completely** all equipment (including, but not limited to, felt-soled waders, boots, nets, tackle) which has been in contact with the listed water.
- **Before using equipment** in any other waters in Arizona, treat all fishing equipment with a minimum 10-minute exposure to a 5% solution of quaternary ammonia (e.g., Quat128<sup>®</sup>, Formula 409<sup>®</sup>, Sparquat<sup>®</sup>).

**Mandatory Conditions and Protocols for Movement from the lower Colorado River, immediately downstream of Davis Dam (Lake Havasu)**

**The following protocols shall be taken for the prevention/control of didymo, a.k.a. rock snot (*Didymosphenia geminata*):**

- **Dry completely** all equipment (including, but not limited to, felt-soled waders, boots, nets, tackle) which has been in contact with the listed water.
- **Before using equipment** in any other waters in Arizona, treat all fishing equipment with a minimum 10-minute exposure bleach or 5% solution of quaternary ammonia (e.g., Quat128<sup>®</sup>, Formula 409<sup>®</sup>, Sparquat<sup>®</sup>).

**Mandatory Conditions and Protocols for Movement from the lower Colorado River, Yuma County and the lower Verde River to the confluence with the lower Salt River – Granite Reef Area, Maricopa County**

<p><b>The following protocols shall be taken for the prevention/control of apple snail (Genus: <i>Pomacea</i>):</b></p> <ul style="list-style-type: none"> <li>- <b>Dry completely</b> all equipment which has been in contact with the listed water.</li> <li>- <b>Remove and properly discard</b> any adult snails or egg masses; do not re-inoculate water.</li> </ul>
<p><b>Mandatory Conditions and Protocols for Movement from the lower Colorado River, below the Glen Canyon Dam at Lees Ferry area near Page, Arizona</b></p>
<p><b>The following protocols shall be taken for the prevention/control of whirling disease (<i>Myxobolus cerebralis</i>):</b></p> <ul style="list-style-type: none"> <li>- <b><u>Do not transport</u></b> live fish from one water to another.</li> <li>- <b><u>Do not transport</u></b> fish body parts (fish head, skeleton, entrails) to any other water.</li> <li>- <b>Dry completely</b>, all equipment which has been in contact with the listed water.</li> <li>- <b>Before using</b> in any other waters in Arizona, treat all fishing equipment (including, but not limited to, felt-soled waders, boots, nets, tackle) with a minimum 10-minute exposure to a 5% solution of quaternary ammonia {e.g., Quat128®, Formula 409®, Sparquat®} or a 50% bleach solution.</li> </ul>
<p><b>Mandatory Conditions and Protocols for Movement from Roosevelt Lake (Tonto National Forest {TNF}-Gila County, AZ); Saguaro Lake (TNF-Maricopa County, AZ); Bartlett Lake (TNF-Maricopa County, AZ).</b></p>
<p><b><u>Before leaving the vicinity of these above-listed waters in Arizona (Roosevelt; Saguaro; Bartlett), the following protocols shall be taken for the prevention/control of largemouth bass virus (LMBV – Family: <i>Iridoviridae</i>):</u></b></p> <ul style="list-style-type: none"> <li>- <b>Clean the watercraft/equipment</b> by removing any clinging material.</li> <li>- <b>Remove all drainage plug(s)</b> (when so equipped) <b>and drain the water</b> from the bilge, live-well and any other compartments that may hold water.</li> <li>- <b>Drain water</b> from engine, engine compartments, and engine cooling systems.</li> <li>- <b>Dry completely</b>, all watercraft, vehicles, conveyances, or other equipment before using in any other waters in Arizona.</li> </ul>

A.R.S. 17-255.01(C)(1); Watercraft, vehicles, conveyances, or other equipment are subject to inspection upon entry into this state, during overland transport within this state, or upon departure from any water or location listed in Arizona Game and Fish Department- Director’s Order 2 – Effective May 1, 2016, 22, A.A.R. *Register Editor insert page number*, <month day>, 2016.

A.R.S. 17-255.01(C)(3); A person departing from any water or location listed in Director’s Order 2 – Effective May 1, 2016, may be required to decontaminate watercraft, vehicles, conveyances, or other equipment in the manner required by Order.

A.R.S. 17-255.02 (1); A person shall not possess, import, ship, or transport into or within the State of Arizona Aquatic Invasive Species listed under Arizona Game and Fish Department – Director’s Order 1 – Effective May 1, 2016, 22, A.A.R. *Register Editor insert page number*, <month day>, 2016.

A.R.S. 17-255.02 (2); A person shall not release, place or plant an aquatic invasive species identified in Arizona



Game and Fish Department – Director’s Order 1 – Effective May 1, 2016, into waters of this state or into any water treatment facility, water supply or water transportation facility, device or mechanism.

A.R.S. 17-255.02 (3); A person shall not place in any waters of this state any equipment, watercraft, vessel, vehicle or conveyance that has been in any water or location listed in Arizona Game and Fish Department- Director’s Order 2 – Effective May 1, 2016, without being first decontaminated in the manner required by this Order.

A. R. S. 17-255.02(4); A person shall not sell, purchase, barter or exchange an aquatic invasive species identified in Arizona Game and Fish Department – Director’s Order 1 – Effective May 1, 2016.

The name and address of agency personnel with whom persons may communicate regarding this Order:

Name: Tom McMahon, Aquatic Invasive Species Program Coordinator

Address: Arizona Game and Fish Department, WMAQ  
5000 W. Carefree Highway, Phoenix, AZ 85086-5000

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**11.7 Aquatic Invasive Species – Non-Target Species Hazard Analysis and Risk Assessments. (HACCP protocols)**

*Effective: 4/19/2011*

*Process Owner: Invasive Species Program Coordinator*

The Arizona Game and Fish Department and its employees will employ practices to minimize the probability that non-target aquatic species (e.g., aquatic invasive species) can be unintentionally introduced through activities of Department Programs. The Department's goal is to prevent the introduction or spread of non-target organisms (including: animals, plants, algae, fungi, bacteria, and viruses) while conducting work-related activities. To this end, each work unit with field activities in and around the state's waters, waterbodies, and wetlands must maintain and use formal protocols that ensure equipment and vehicles used in those activities are properly inspected, cleaned, and/or decontaminated to ensure that non-target organisms are not spread to other sites.

Inspection/cleaning protocols and checklists may be developed using Hazard Analysis and Critical Control Point (HACCP) risk assessment planning. HACCP and risk assessment training pertaining to aquatic invasive species shall be approved and coordinated through the Invasive Species Program Coordinator, with the lesson plans filed with the Department's Training and Development Unit. Work unit leaders (Branch Chief/Regional Supervisor) will be responsible for approving and documenting this employee training. Branch and Regional personnel must retain records of equipment inspection/cleaning checklists and should report those incidents where proper protocols were not followed or when contaminants or non-target organisms may have been accidentally spread to new locations. The Department's Loss Prevention Coordinator may audit each applicable work unit periodically to ensure that inspection/cleaning protocols are established, accessible to field staff, and are properly applied.

**California AIS Statutes**

**Cal. Fish and Game Code, Division 3, Ch. 2 (Restricted Live Wild Animals)**

**§ 2118. Importation, transportation, possession and release of specified wild animals; permit**

It is unlawful to import, transport, possess, or release alive into this state, except under a revocable, nontransferable permit as provided in this chapter and the regulations pertaining thereto, any wild animal of the following species:

(a) Class Aves: (birds)

Family Cuculidae (cuckoos)

All Species.

Family Alaudidae (larks)

Skylark, *Alauda arvensis*

Family Corvidae (crows, jays, magpies)

All species.

Family Turdidae (thrushes)

European blackbird, *Turdus merula*

Missel (or mistle), thrush, *Turdus viscivorus*

Family Sturnidae (starlings and mynas or mynahs)

All species of the family, except hill myna (or hill mynah),

*Gracula religiosa* (sometimes referred to as *Eulabes religiosa*)

Family Ploceidae (weavers)

The following species:

Spanish sparrow, *Passer hispaniolensis*

Italian sparrow, *Passer italiae*

European tree sparrow, *Passer montanus*

Cape sparrow, *Passer capensis*

Madagascar weaver, *Foudia madagascariensis*

Baya weaver, *Ploceus baya*

Hawaiian rice bird, *Munia nitoria*

Red-billed quelea, *Quelea quelea*

Red-headed quelea, *Quelea erythrogastra*

Family Fringillidae (sparrows, finches, buntings)

Yellowhammer, *Emberiza citrinella*

(b) Class Mammalia (mammals)

Order Primates

All species except those in family Hominidae

Order Edentata (sloths, anteaters, armadillos, etc.)

All species.

Marsupialia (marsupials or pouched mammals)

All species.

Order Insectivora (shrews, moles, hedgehogs, etc.)

- All species.
- Order Dermoptera (gliding lemurs)
  - All species.
- Order Chiroptera (bats)
  - All species.
- Order Monotremata (spiny anteaters, platypuses)
  - All species.
- Order Pholidota (pangolins, scaly anteaters)
  - All species.
- Order Lagomorpha (pikas, rabbits, hares)
  - All species, except domesticated races of rabbits.
- Order Rodentia (rodents)
  - All species, except domesticated golden hamsters, also known as Syrian hamster, *Mesocricetus auratus*; domesticated races of rats or mice ( white or albino; trained, dancing or spinning, laboratory-reared); and domestic strains of guinea pig (*Cavia porcellus*).
- Order Carnivora (carnivores)
  - All species, except domestic dogs (*Canis familiaris*) and domestic cats (*Felis catus*).
- Order Tubulidentata (aardvarks)
  - All species.
- Order Proboscidea (elephants)
  - All species.
- Order Hyracoidea (hyraxes)
  - All species.
- Order Sirenia (dugongs, manatees)
  - All species.
- Order Perissodactyla (horses, zebras, tapirs, rhinoceroses, etc.)
  - All species except those of the family Equidae.
- Order Artiodactyla (swine, peccaries, camels, deer, elk, except elk (genus *Cervus*) which are subject to Section 2118.2, moose, antelopes, cattle, goats, sheep, etc.)
  - All species except: domestic swine of the family Suidae; American bison, and domestic cattle, sheep and goats of the family Bovidae; races of big-horned sheep (*Ovis canadensis*) now or formerly indigenous to this state.

Mammals of the orders Primates, Edentata, Dermoptera, Monotremata, Pholidota, Tubulidentata, Proboscidea, Perissodactyla, Hyracoidea, Sirenia and Carnivora are restricted for the welfare of the animals, except animals of the families Viverridae and Mustelidae in the order Carnivora are restricted because such animals are undesirable and a menace to native wildlife, the agricultural interests of the state, or to the public health or safety.

- (c) Class amphibia (frogs, toads, salamanders)
  - Family Bufonidae (toads)
    - Giant toad or marine toad, *Bufo marinus*
- (d) Class Monorhina (lampreys)

All species.

(e) Class Osteichthyes (bony fishes)

Family Serranidae (bass)

White perch, *Morone* or *Roccus americana*

Family Clupeidae (herring)

Gizzard shad, *Dorosoma cepedianum*

Family Sciaenidae (croakers)

Freshwater sheepshead, *Aplodinotus grunniens*

Family Characidae (characins)

Banded tetra, *Astyanax fasciatus*

All species of piranhas

Family Lepisosteidae (gars)

All species.

Family Amiidae (bowfins)

All species.

(f) Class Reptilia (snakes, lizards, turtles, alligators)

Family Crocodylidae

All species.

(g) Class Crustacea (crustaceans)

Genus *Cambarus* (crayfishes)

All species.

Genus *Astacus* (crayfishes)

All species.

Genus *Astacopsis* (crayfishes)

All species.

(h) Class Gastropoda (slugs, snails, clams)

All species of slugs.

All species of land snails.

(i) Other classes, orders, families, genera, and species of wild animals which may be designated by the commission in cooperation with the Department of Food and Agriculture, (1) when the class, order, family, genus, or species is proven to be undesirable and a menace to native wildlife or the agricultural interests of the state, or (2) to provide for the welfare of wild animals.

(j) Except as expressly authorized in this code, any live nonindigenous Atlantic salmon or the roe thereof into the Smith River watershed.

(k) Classes, families, genera, and species in addition to those listed in this section may be added to or deleted from the above lists from time to time by commission regulations in cooperation with the Department of Food and Agriculture.

**§ 2120. Regulations relating to wild animals**

(a) The commission, in cooperation with the Department of Food and Agriculture, shall adopt regulations governing both (1) the entry, importation, possession, transportation, keeping, confinement, or release of any and all wild animals that will be or that have been imported into this state pursuant to this chapter, and (2) the possession of all other wild animals. The regulations shall be designed to prevent damage to the native wildlife or agricultural interests of this state resulting from the existence at large of these wild animals, and to provide for the welfare of wild animals and the safety of the public.

(b) The regulations shall also include criteria for all of the following:

(1) The receiving, processing, and issuing of a permit and conducting inspections.

(2) Contracting out inspection activities.

(3) Responding to public reports and complaints.

(4) The notification of the revocation, termination, or denial of permits, and related appeals.

(5) The method by which the department determines that the breeding of wild animals pursuant to a single event breeding permit for exhibitor or a breeding permit is necessary and will not result in unneeded or uncared for animals, and the means by which the criteria will be implemented and enforced.

(6) How a responding agency will respond to an escape of a wild animal. This shall include, but not be limited to, the establishment of guidelines for the safe recapture of the wild animal and procedures outlining when lethal force would be used to recapture the wild animal.

(c) These regulations shall be developed and adopted by the commission on or before January 1, 2007.

**Cal. Fish and Game Code, Division 3, Ch. 3.5 (Aquatic Invasive Species)**

**§ 2300. Salt water algae of *Caulerpa* species; restrictions and exceptions; violations**

(a) No person shall sell, possess, import, transport, transfer, release alive in the state, or give away without consideration the salt water algae of the *Caulerpa* species: *taxifolia*, *cupressoides*, *mexicana*, *sertularioides*, *floridana*, *ashmeadii*, *racemosa*, *verticillata*, and *scapelliformis*.

(b) Notwithstanding subdivision (a), a person may possess, for bona fide scientific research, as determined by the department, upon authorization by the department, the salt water algae of the *Caulerpa* species: *taxifolia*, *cupressoides*, *mexicana*, *sertularioides*, *floridana*, *ashmeadii*, *racemosa*, *verticillata*, and *scapelliformis*.

(c) In addition to any other penalty provided by law, any person who violates this section is

subject to a civil penalty of not less than five hundred dollars (\$500) and not more than ten thousand dollars (\$10,000) for each violation.

**§ 2301. Dreissenid mussels; prohibited activities; duties of director; cooperation of agency operating water supply system; report of infestation; penalties; regulations; immunity from liability**

(a)(1) Except as authorized by the department, a person shall not possess, import, ship, or transport in the state, or place, plant, or cause to be placed or planted in any water within the state, dreissenid mussels.

(2) The director or his or her designee may do all of the following:

(A) Conduct inspections of conveyances, which include vehicles, boats and other watercraft, containers, and trailers, that may carry or contain adult or larval dreissenid mussels. Included as part of this authority to conduct inspections is the authority to temporarily stop conveyances that may carry or contain adult or larval dreissenid mussels on any roadway or waterway in order to conduct inspections.

(B) Order that areas in a conveyance that contain water be drained, dried, or decontaminated pursuant to procedures approved by the department.

(C) Impound or quarantine conveyances in locations designated by the department for up to five days or the period of time necessary to ensure that dreissenid mussels can no longer live on or in the conveyance.

(D)(i) Conduct inspections of waters of the state and facilities located within waters of the state that may contain dreissenid mussels. If dreissenid mussels are detected or may be present, the director or his or her designee may order the affected waters or facilities closed to conveyances or otherwise restrict access to the affected waters or facilities, and shall order that conveyances removed from, or introduced to, the affected waters or facilities be inspected, quarantined, or disinfected in a manner and for a duration necessary to detect and prevent the spread of dreissenid mussels within the state.

(ii) For the purpose of implementing clause (i), the director or his or her designee shall order the closure or quarantine of, or restrict access to, these waters, areas, or facilities in a manner and duration necessary to detect and prevent the spread of dreissenid mussels within the state. No closure, quarantine, or restriction shall be authorized by the director or his or her designee without the concurrence of the Secretary of the Natural Resources Agency. If a closure lasts longer than seven days, the department shall update the operator of the affected facility every 10 days on efforts to address the dreissenid infestation. The department shall provide these updates in writing and also post these updates on the department's Internet Web site in an easily accessible manner.

(iii) The department shall develop procedures to ensure proper notification of

affected local and federal agencies, and, as appropriate, the Department of Water Resources, the Department of Parks and Recreation, and the State Lands Commission in the event of a decision to close, quarantine, or restrict a facility pursuant to this paragraph. These procedures shall include the reasons for the closure, quarantine, or restriction, and methods for providing updated information to those affected. These procedures shall also include protocols for the posting of the notifications on the department's Internet Web site required by clause (ii).

(iv) When deciding the scope, duration, level, and type of restrictions, and specific location of a closure or quarantine, the director shall consult with the agency, entity, owner, or operator with jurisdiction, control, or management responsibility over the marina, boat launch facility, or other facility, in order to focus the closure or quarantine to specific areas and facilities so as to avoid or minimize disruption of economic or recreational activity in the vicinity.

(b)(1) Upon a determination by the director that it would further the purposes of this section, other state agencies, including, but not limited to, the Department of Parks and Recreation, the Department of Water Resources, the Department of Food and Agriculture, and the State Lands Commission, may exercise the authority granted to the department in subdivision (a).

(2) A determination made pursuant to paragraph (1) shall be in writing and shall remain in effect until withdrawn, in writing, by the director.

(c)(1) Except as provided in paragraph (2), Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the implementation of this section.

(2) An action undertaken pursuant to subparagraph (B) of paragraph (2) of subdivision (a) involving the use of chemicals other than salt or hot water to decontaminate a conveyance or a facility is subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

(d)(1) A public or private agency that operates a water supply system shall cooperate with the department to implement measures to avoid infestation by dreissenid mussels and to control or eradicate any infestation that may occur in a water supply system. If dreissenid mussels are detected, the operator of the water supply system, in cooperation with the department, shall prepare and implement a plan to control or eradicate dreissenid mussels within the system. The approved plan shall contain the following minimum elements:

(A) Methods for delineation of infestation, including both adult mussels and veligers.

(B) Methods for control or eradication of adult mussels and decontamination of water containing larval mussels.

(C) A systematic monitoring program to determine any changes in conditions.

(D) The requirement that the operator of the water supply system permit inspections by



the department as well as cooperate with the department to update or revise control or eradication measures in the approved plan to address scientific advances in the methods of controlling or eradicating mussels and veligers.

(2) If the operator of water delivery and storage facilities for public water supply purposes has prepared, initiated, and is in compliance with all the elements of an approved plan to control or eradicate dreissenid mussels in accordance with paragraph (1), the requirements of subdivision (a) do not apply to the operation of those water delivery and storage facilities, and the operator is not subject to any civil or criminal liability for the introduction of dreissenid mussel species as a result of those operations. The department may require the operator of a facility to update its plan, and if the plan is not updated or revised as described in subparagraph (D) of paragraph (1), subdivision (a) shall apply to the operation of the water delivery and storage facilities covered by the plan until the operator updates or revises the plan and initiates and complies with all of the elements of the updated or revised plan.

(e) Any entity that discovers dreissenid mussels within this state shall immediately report the discovery to the department.

(f)(1) In addition to any other penalty provided by law, any person who violates this section, violates any verbal or written order or regulation adopted pursuant to this section, or who resists, delays, obstructs, or interferes with the implementation of this section, is subject to a penalty, in an amount not to exceed one thousand dollars (\$1,000), that is imposed administratively by the department.

(2) A penalty shall not be imposed pursuant to paragraph (1) unless the department has adopted regulations specifying the amount of the penalty and the procedure for imposing and appealing the penalty.

(g) The department may adopt regulations to carry out this section.

(h) Pursuant to Section 818.4 of the Government Code, the department and any other state agency exercising authority under this section shall not be liable with regard to any determination or authorization made pursuant to this section.

(i) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

**§ 2302. Reservoirs; preventing introduction of nonnative dreissenid mussels; penalty; exception**

(a) Any person, or federal, state, or local agency, district, or authority that owns or manages a reservoir, as defined in Section 6004.5 of the Water Code, where recreational, boating, or fishing activities are permitted, except a privately owned reservoir that is not open to the public, shall do both of the following:

(1) Assess the vulnerability of the reservoir for the introduction of nonnative dreissenid

mussel species.

(2) Develop and implement a program designed to prevent the introduction of nonnative dreissenid mussel species.

(b) The program shall include, at a minimum, all of the following:

(1) Public education.

(2) Monitoring.

(3) Management of those recreational, boating, or fishing activities that are permitted.

(c) Any person, or federal, state, or local agency, district, or authority, that owns or manages a reservoir, as defined in Section 6004.5 of the Water Code, where recreational, boating, or fishing activities of any kind are not permitted, except a privately owned reservoir that is not open to the public, shall, based on its available resources and staffing, include visual monitoring for the presence of mussels as part of its routine field activities.

(d) Any entity that owns or manages a reservoir, as defined in Section 6004.5 of the Water Code, except a privately owned reservoir that is not open to the public for recreational, boating, or fishing activities, may refuse the planting of fish in that reservoir by the department unless the department can demonstrate that the fish are not known to be infected with nonnative dreissenid mussels.

(e) Except as specifically set forth in this section, this section applies both to reservoirs that are owned or managed by governmental entities and reservoirs that are owned or managed by private persons or entities.

(f) Violation of this section is not subject to the sanctions set forth in Section 12000. In lieu of any other penalty provided by law, a person who violates this section shall, instead, be subject to a civil penalty, in an amount not to exceed one thousand dollars (\$1,000) per violation, that is imposed administratively by the department. To the extent that sufficient funds and personnel are available to do so, the department may adopt regulations establishing procedures to implement this subdivision and enforce this section.

(g) This section shall not apply to a reservoir in which nonnative dreissenid mussels have been detected.

**Cal. Harb. & Hav. Code, Division 3, Ch. 5, Article 1.3. (Quagga and Zebra Mussel Infestation Prevention Fee)**

**§ 675. Imposition of additional prevention fee; determination of amount; regulations; deposit and expenditure of revenues; application**

(a) In addition to the fees imposed pursuant to paragraphs (1) and (2) of subdivision (b) of

Section 9853 or Section 9860 of the Vehicle Code, there shall also be imposed an additional quagga and zebra mussel infestation prevention fee in an amount to be determined by the department as follows:

(1) The additional prevention fee imposed with the registration fee collected pursuant to paragraph (1) of subdivision (b) of Section 9853 of the Vehicle Code shall be not more than ten dollars (\$10).

(2) The additional prevention fee imposed with the registration fee collected pursuant to paragraph (2) of subdivision (b) of Section 9853 of the Vehicle Code shall be not more than twenty dollars (\$20).

(3) The additional prevention fee imposed with the registration fee collected pursuant to Section 9860 of the Vehicle Code shall be not more than twenty dollars (\$20).

(b) In determining the amount of the fee imposed pursuant to this subdivision, the department shall establish, and consult with, a technical advisory group consisting of interested persons, including, but not limited to, recreational boating and reservoir operation representatives. The members of the advisory group shall be appointed by the director.

(c) The department shall adopt an emergency regulation to prescribe procedures for the collection and use of the quagga and zebra mussel infestation prevention fee for the purposes of this article. The emergency regulations shall include rules for administering the grants awarded pursuant to Section 676.

(d) All revenues collected from the fee shall be deposited into the Harbors and Watercraft Revolving Fund, and shall be expended solely for the purposes set forth in Section 676.

(e) The fee established by this section shall not apply to vessels that are used exclusively in marine waters.

**§ 676. Use of funds; awarding of grants; reasonable regulatory costs**

(a) All moneys deposited in the Harbors and Watercraft Revolving Fund pursuant to Section 675 shall be available, upon appropriation by the Legislature, for the following purposes:

(1) For reasonable costs incurred by the department associated with determining the prevention fee and adoption of regulations pursuant to Section 675, and with administering the grants pursuant to subdivision (b).

(2)(A) For reasonable costs, not to exceed 15 percent of the remaining revenues deposited into the fund, of the Department of Fish and Game for implementation of subparagraph (A) or (C) of paragraph (2) of, or paragraph (1) of, subdivision (a) of Section 2301 or Section 2302 of the Fish and Game Code in those areas of the state where a dreissenid mussel infestation prevention plan has not been implemented.

(B) The amount specified in subparagraph (A) is in addition to moneys available pursuant to subdivision (d) of Section 85.2.

(3) An amount not less than 85 percent of the remaining revenues deposited into the fund shall be made available for grants to entities subject to subdivision (a) of Section 2302 of the Fish and Game Code for the reasonable regulatory costs incident to the implementation of a dreissenid mussel infestation prevention plan implemented either before or after January 1, 2013, that is consistent with the requirements of Section 2302 of the Fish and Game Code.

(b) For the purposes of awarding grants pursuant to paragraph (3) of subdivision (a), the department shall do all of the following:

(1) Give priority to dreissenid mussel infestation prevention plans that are consistent with Section 2302 of the Fish and Game Code and that also include visual and manual inspection standards and other infestation prevention procedures consistent with either the Department of Fish and Game's Invasive Mussel Guidebook for Recreational Water Managers and Users, dated September 2010, or the Natural Resource Agency's Aquatic Invasive Species Management Plan, dated January 2008, or subsequently adopted guidebooks and management plans.

(2) Take into consideration the benefits of regional-scale dreissenid mussel infestation prevention plans.

(3) Take into consideration the unique economic, ecological, and recreational impacts to rural and urban reservoirs from dreissenid mussel infestation.

(c) For purposes of this article, reasonable regulatory costs include costs associated with the investigation and inspection of a conveyance for the presence of dreissenid mussels prior to contact with a reservoir, as defined in Section 6004.5 of the Water Code. None of the revenues collected pursuant to subdivision (a) of Section 675 shall be used for any purpose other than those explicitly authorized by this section.

(d) For the purposes of this section, conveyances include boats and other watercraft, and associated vehicles, containers, and trailers that may carry or contain adult or larval dreissenid mussels.

(e) As a condition of receiving grant funding pursuant to this section, an entity shall report to the department data, as deemed appropriate by the department, regarding dreissenid mussel prevention and inspection programs implemented with the funding.

### **§ 677. Local regulations or ordinances**

This article does not preempt a special district, city, county, or joint powers authority from adopting local regulations or ordinances related to the prevention and eradication of invasive aquatic species.

## California AIS Regulations

### Cal. Code of Regs Tit. 14, Division 1, Subdivision 3, Chapter 3. (Miscellaneous)

#### § 671. Importation, Transportation and Possession of Live Restricted Animals.

(a) It shall be unlawful to import, transport, or possess live animals restricted in subsection (c) below except under permit issued by the department. Permits may be issued by the department as specified herein and for purposes designated in Section 671.1 subject to the conditions and restrictions designated by the department. Except for mammals listed in Fish and Game Code Section 3950 or live aquatic animals requiring a permit pursuant to Fish and Game Code Section 2271, no permit is required by this section for any animal being imported, transported, or possessed pursuant to any other permit issued by the department. Cities and counties may also prohibit possession or require a permit for these and other species not requiring a state permit.

(b) The commission has determined the below listed animals are not normally domesticated in this state. Mammals listed to prevent the depletion of wild populations and to provide for animal welfare are termed “welfare animals”, and are designated by the letter “W”. Those species listed because they pose a threat to native wildlife, the agriculture interests of the state or to public health or safety are termed “detrimental animals” and are designated by the letter “D”. The department shall include the list of welfare and detrimental wild animals as part of DFG MANUAL NO. 671 (2/25/92) IMPORTATION, TRANSPORTATION AND POSSESSION OF RESTRICTED SPECIES, to be made available to all permittees and other interested individuals.

(c) Restricted species include:

(1) Class Aves-Birds

(A) Family Alaudidae-Larks

*Alauda arvensis* (Skylark) (D).

(B) Family Cuculidae-Cuckoos

All species (D).

(C) Family Corvidae-Crows, Ravens, Rooks, Jackdaws

All species (D).

(D) Family Turdidae-Thrushes, Blackbirds, Fieldfare

1. *Turdus merula* (European blackbird) (D).

2. *Turdus viscivorus* (Missel thrush) (D).

3. *Turdus pilaris* (Fieldfare) (D).

4. *Turdus musicus* (Song thrush) (D).

(E) Family Sturnidae-Starlings, Mynahs

All species (D), except *Sturnus vulgaris* (Starling), *Gracula religiosa* or *Eulabes religiosa* (Hill mynahs), and *Leucopsar rothschildi* (Rothchild's mynah) are not restricted.

(F) Family Ploceidae-Sparrows, Weavers, Queleas

1. Genus *Passer* (Sparrow)

All species (D), except *Passer domesticus* (English house sparrow) is not restricted.

2. *Foudia madagascariensis* (Madagascar weaver) (D).

3. *Ploceus baya* (Baya weaver) (D).

4. Genus *Quelea* (Queleas)-All species (D).

(G) Family Estrildidae-Waxbills, Munias, Ricebirds

1. *Padda oryzivora* (Java sparrow) (D).

(H) Family Emberizidae-Yellowhammer

*Emberiza citrinella* (Yellowhammer) (D).

(I) Order Falconiformes-Falcons, Eagles, Hawks, Vultures

All species (D)

(J) Order Strigiformes-Owls

All species (D)

(K) Family Pyconotidae-Bulbuls or Fruit Thrushes

*Pycnonotus jocosus* (Red-whiskered bulbul) (D).

(L) Family Zosteropidae-Whiteeyes

Genus *Zosterops* (Whiteeyes) (D).

(M) Family Psittacidae-Parrots, Parakeets

*Myiopsitta monachus* (Monk or Quaker parakeet) (D).

(N) Family Anatidae-Duck, Geese, Swans

1. *Cygnus olor* (Mute Swan) (D)

(2) Class Mammalia-Mammals

(A) Order Primates-Monkeys, Apes

All species (W), except humans in the Family Hominidae are not restricted.

(B) Order Xenarthra-Sloths, Anteaters, Armadillos, etc.

All species:

1. Family Dasypodidae-Armadillos-All Species (D).

2. Family Bradypodidae-Sloths-(W).

3. Family Myrmecophagidae-Anteaters-(W).

(C) Order Marsupialia-Marsupials or Pouched Animals

All species (W).

(D) Order Insectivora-Shrews, Moles, Hedgehogs, etc.  
All species (D).

(E) Order Dermoptera-Gliding Lemurs  
All species (D).

(F) Order Chiroptera-Bats  
All species (D).

(G) Order Monotremata-Spiny Anteaters, Platypuses  
All Species (W).

(H) Order Pholidota-Pangolins or Scaly Anteaters  
All species (W).

(I) Order Lagomorpha-Pikas, Rabbits, and Hares  
All species, (D), except domesticated races of rabbits and hares of the Family  
Leporidae are not restricted.

(J) Order Rodentia-Hamsters, Field Mice, Voles, Muskrats, Gerbils, Squirrels,  
Chipmunks, Woodchucks, and Prairie Dogs

1. All species (D), except:

a. *Ondatra zibethica* (Muskrats) are not restricted under conditions set forth in  
Fish and Game Code Section 2250;

b. Domesticated races of golden hamsters of the species *Mesocricetus auratus* and  
domesticated races of dwarf hamsters of the Genus *Phodopus* are not restricted;

c. Domesticated races of rats or mice (white or albino; trained, dancing or  
spinning, laboratory-reared) are not restricted;

d. Domesticated races of guinea pigs of the species *Cavia porcellus* are not  
restricted; and

e. Domesticated races of chinchillas of the species *Chinchilla laniger* are not r  
estricted.

(K) Order Carnivora-Raccoons, Ringtailed Cats, Kinkajous, Coatis, Cacomistles,  
Weasels, Ferrets, Skunks, Polecats, Stoats, Mongoose, Civets, Wolves, Foxes, Coyotes,  
Lions, Tigers, Ocelots, Bobcats, Servals, Leopards, Jaguars, Cheetahs, Bears, etc.

1. Family Felidae-All species (W) except:

- a. *Acinonyx jubatus* (cheetahs)-(D).
  - b. Domestic cats and hybrids of domestic cats are not restricted.
2. Family Canidae-All species (W).
- a. Wolf hybrids *Canis familiaris* (domestic dog) x *Canis lupus* (wolf) are considered F1 generation wolf hybrids and are restricted (W).
    - i. No state permit is required to possess the progeny of F1 generation wolf hybrids, but cities and counties may prohibit possession or require a permit.
  - b. Domesticated dogs are not restricted.
3. Family Viverridae-All species (D).
4. Family Procyonidae-All species-(D), except:
- a. *Ailuris fulgens* (Lesser panda)-(W).
  - b. *Ailuropoda melanoleuca* (Giant panda)-(W).
  - c. *Bassariscus astutus* (Ringtail or Ringtailed cat)-(W).
  - d. *Jentinkia sumichrasti* (Mexican and Central American cacomistle)-(W).
5. Family Mustelidae-All species (D), except:
- a. *Ambloynx cinerea* (Oriental small-clawed otter)-(W).
  - b. *Aonyx capensis* (African clawless otter)-(W).
  - c. *Pteronura brasiliensis* (Giant otter)-(W).
  - d. *GenusLutra* (River otters)-(W).
6. All other Families-(W).
- (L) Order Tubulidentata-Aardvarks  
All species-(W).
- (M) Order Proboscidae-Elephants  
All species-(W).
- (N) Order Hyracoidae-Hyraxes  
All species-(W).
- (O) Order Sirenia-Dugongs, Manatees  
All species-(W).
- (P) Order Perissodactyla-Horses, Zebras, Tapirs, Rhinoceroses, etc.  
All species (W), except Family Equidae are not restricted.
- (Q) Order Artiodactyla-Swine, Peccaries, Camels, Deer, Elk, Moose, Antelopes, Cattle, Goats, Sheep, etc.  
All species (D) except:



1. *Bos taurus* and *Bos indicus* (Domestic cattle); *Bos grunniens* (Yak); *Bubalus bulalis* (Asian water buffalo); *Ovis aries* (Domestic sheep); *Capra hircus* (Domestic goat); *Sus scrofa domestica* (Domestic swine); *Llama glama* (Llama); *Llama pacos* (Alpaca); *Llama guanicoe* (Guanaco); Hybrids of llama, alpaca and guanacos; *Camelus bactrianus* and *Camelus dromedarius* (Camels); and *Bison bison* (American bison), are not restricted.

2. Permits may be issued for species of Elk (Genus *Cervus*) which are already maintained within California; and

3. Permits may be issued pursuant to Section 676 for importing, breeding, slaughter and sale of the meat and other parts of fallow deer (*Dama dama*) for commercial purposes.

(3) Class Amphibia-Frogs, Toads, Salamanders

(A) Family Bufonidae-Toads

*Bufo marinus*, *Bufo paracnemis*, *Bufo horribilis* (Giant toad or marine toad group) and all other large toads from Mexico and Central and South America-(D).

(B) Family Pipidae-Tongueless Toads

1. Genus *Xenopus* (Clawed frog)-(D).

(C) Family Ambystomatidae-Mole Salamanders

1. Genus *Ambystoma* (tiger salamanders)-(D)

(D) Family Leptodactylidae-Neotropical Frogs

1. *Eleutherodactylus coqui*-Common Coqui or Coqui frog (D).

(4) Class Agnatha-Jawless Fishes

(A) Family Petromyzontidae-Lampreys

All nonnative species (D).

(5) Class Osteichthyes-Bony Fishes

(A) Family Percichthyidae-Temperate Basses

1. *Morone americana* (White perch) (D).

2. *Morone chrysops* (White bass) (D).

(B) Family Clupeidae-Herrings

*Dorosoma cepedianum* (Gizzard shad) (D).

(C) Family Sciaenidae-Drums

*Aplodinotus grunniens*(freshwater drum) (D).

- (D) Family Characidae-Characins
1. *Astyanax fasciatus* (Banded tetra) (D).
  2. All species of the genera *Serrasalmus*, *Serrasalmo*, *Pygocentrus*, *Taddyyella*, *Rooseveltiella*, and *Pygopristis* (Piranhas) (D).
  3. *Hoplias malabaricus* (Tiger fish) (D).
- (E) Family Salmonidae-Trouts
- Salmo salar* (Atlantic salmon)-Restricted in the Smith River watershed (D).
- (F) Family Lepisosteidae-Gars
- All species (D).
- (G) Family Amiidae-Bowfins
- All species (D).
- (H) Family Poeciliidae-Livebearers
- Belonesox belizanus* (Pike killifish) (D).
- (I) Family Channidae-Snakeheads
- All species (D).
- (J) Family Cyprinidae-Carps and Minnows
1. *Leuciscus idus* (ide)(D).
  2. *Ctenopharyngodon idella* (Grass carp) (D), except that permits may be issued to a person, organization or agency for possession of triploid grass carp, under conditions set forth in Section 238.6.
  3. *Hypophthalmichthys molitrix* (Silver carp) (D).
  4. *Aristichthys nobilis* (Bighead carp) (D).
  5. *Hypophthalmichthys harmandi* (Largescale Silver carp) (D).
  6. *Mylopharyngodon piceus* (Black carp) (D).
- (K) Family Trichomycteridae (*Pygidiidae*)-Parasitic Catfishes.
- All species (D).
- (L) Family Cetopsidae-Whalelike Catfishes.
- All species (D).
- (M) Family Clariidae-Labyrinth Catfishes
- All species of the genera *Clarias*, *Dinotopterus*, and *Heterobranchus* (D).
- (N) Family Heteropneustidae (*Saccobranchidae*)-Airsac Catfishes
- All species (D).
- (O) Family Cichlidae-Cichlids
1. *Tilapia sparrmani* (Banded Tilapia) (D).

2. *Tilapia zillii* (Redbelly tilapia) (D), except permits may be issued to a person or agency for importation, transportation, or possession in the counties of San Bernardino, Los Angeles, Orange, Riverside, San Diego, and Imperial.
3. *Oreochromis aureus* (Blue tilapia) (D).
4. *Oreochromis niloticus* (Nile tilapia) (D).

(P) Family Anguillidae-Freshwater Eels.  
All species of genus *Anguilla* (D).

(Q) Family Esocidae-Pikes all species (D).

(R) Family Percidae-Perches  
1. *Perca flavescens* (Yellow perch) (D).  
2. *Sander vitreus* (Walleye) (D).

(S) Family Catostomidae-Suckers  
All members of the genus *Ictiobus* (Buffalos) (D).

(T) Family Cyprinodontidae-Killifishes  
*Cyprinodon variegatus* (Sheepshead minnow) (D).

(U) Family Latidae-Lates perches  
*Lates calcarifer* (Barramundi also known as Barramundi perch or Silver barramundi) (D), except permits may be issued to a person or organization for importation, transportation, possession, or sales of barramundi under the following conditions:

1. All live importation, possession, transportation and sales must also adhere to the conditions set forth in Section 671.7.
2. Live retail sales for human consumption are allowed for barramundi that range from one to three pounds in weight or 300 mm (11.8 inches) to 500 mm (19.6 inches) in total length.

(6) Class Elasmobranchiomorphi-Cartilaginous Fishes

(A) Family Carcharhinidae-Requiem Sharks  
All species of genus *Carcharhinus* (Freshwater sharks) (D).

(B) Family Potamotrygonidae-River stingrays  
All species (D).

(7) Class Reptilia-Reptiles

(A) Order Crocodylia-Crocodiles, Caimans, Alligators and Gavials  
All species (D).

(B) Family Chelyridae-Snapping Turtles  
All species (D).

(C) Family Elapidae-Cobras, Coral Snakes, Mambas, Kraits, etc.  
All species (D).

(D) Family Viperidae-Adders and Vipers  
All species (D).

(E) Family Crotalidae-Pit Vipers  
All species (D), except *Crotalus viridis* (Western rattlesnake), *Crotalus atrox* (Western diamondback rattlesnake), *Crotalus ruber* (red diamondback rattlesnake), *Crotalus scutulatus* (Mojave rattlesnake), *Crotalus mitchelli* (speckled rattlesnake) and *Crotalus cerastes* (Sidewinder) not restricted.

(F) Family Colubridae-Colubrids  
1. *Dispholidus typus* (Boomslang) (D).  
2. *Theoltornis kitlandii* (Bird or vine snake) (D).  
3. All species of genus *Nerodia* (watersnakes) (D).

(G) Family Helodermatidae  
1. *Heloderma suspectum suspectum*(reticulate Gila monster) (D).

(8) Class Crustacea-Crustaceans

(A) All species of Family Cambaridae-Crayfish, etc. (D), except *Procambarus clarkii* and *Orconectes virilis* not restricted.

(B) All species of genus *Eriocheir* (D).

(9) Class Gastropoda-Slugs, Snails

(A) *Potamopyrgus antipodarum* (New Zealand mudsnail)(D).

(B) All nonnative species of slugs and land snails (D), except:

1. *Rumina decollata* (decollate snail) in the counties of San Bernardino, Riverside, Imperial, Orange, San Diego, Los Angeles, Ventura, Kern, Fresno, Madera, Tulare and Santa Barbara not restricted with the concurrence of the appropriate county agricultural commissioners.

2. *Helix aspersa* (brown garden snail) not prohibited.

(C) *Pomacea canaliculata* (Channel Apple Snail) (D).

(D) All species of genus *Haliotis* (Abalone) (D), except *Haliotis rufescens* (Red abalone),

*Haliotis sorenseni* (White abalone), *Haliotis corrugata* (Pink abalone), *Haliotis fulgens* (Green abalone), *Haliotis cracherodii* (Black abalone), *Haliotis kamtschatkana* (Pinto abalone), *Haliotis walallensis* (Flat abalone) and *Haliotis assimilis* (Threaded abalone) are not restricted.

1. Note: Unpermitted nonnative abalone are determined to be detrimental to native populations, therefore the exemptions provided in Fish and Game Code subsection 2271(b) and subsection 236(b) of these regulations are not applicable.

(10) Class Bivalvia-Bivalves

All members of the genus *Dreissena* (zebra and quagga mussels)-(D).

(11) Transgenic Aquatic Animals.

Includes freshwater and marine fishes, invertebrates, amphibians, and reptiles (D).

**§ 672. Possession, Importation, and Transportation of Dreissenid Mussels**

(a) Definitions. For the purposes of sections 672, 672.1 and 672.2 of these regulations, the following definitions apply:

- (1) “Control” is any activity intended to eradicate or prevent the movement of adult or veliger dreissenid mussels from a waterbody by any means.
- (2) “Control Plan” is a written document that describes the actions to be implemented to control dreissenid mussels.
- (3) “Conveyance” is any item that may contain or carry adult or veliger dreissenid mussels including, but not limited to, vehicles, watercraft, containers, and trailers. Conveyance does not include water supply systems, facilities and infrastructure.
- (4) “Detected” means:
  - (A) There has been an observed presence of one or more adult dreissenid mussels, or;
  - (B) There has been an observed presence of one or more veliger dreissenid mussels that has been verified by the best available laboratory methodologies.
- (5) “Dreissenid mussel” is collectively all species in the taxonomic family Dreissenidae, including quagga mussels (*Dreissena rostriformis bugensis*) and zebra mussels (*Dreissena polymorpha*).
- (6) “Introduction” means the intentional or unintentional placement of adult or veliger dreissenid mussels into a reservoir.
- (7) “Prevention Program” is a written document that describes the actions to be implemented at a reservoir to keep dreissenid mussels from being introduced and keep them from being moved from the reservoir should they be present.

- (8) “Quarantine” means to restrict the movement and/or use of a conveyance.
- (9) “Veliger” is the microscopic larva of dreissenid mussels.
- (10) “Waterbody” is any water of the state that includes, but is not limited to lakes, rivers, streams, canals, ponds, flooded areas, reservoirs, sloughs, and springs.
- (11) “Water Supply System” is any natural or man-made means for distributing or holding water, operated by a public or private agency.

(b) General Permit Provisions.

- (1) Any person, scientific or educational institution, federal, state, or local agency, private or public district or authority may apply for a Dreissenid Mussel Permit, which, according to its terms, may authorize that entity to possess, import, ship or transport dead dreissenid mussels.
- (2) Permits to possess dead dreissenid mussels will be issued only for the purpose(s) of outreach, education, species verification, training, or other purposes deemed by the department to be in the best interest of the State.
- (3) This permit does not authorize the collection of live or dead dreissenid mussels.
- (4) A permit issued pursuant to this section does not supersede any federal, state, or local law regulating or prohibiting possession or transportation of dreissenid mussels.
- (5) The department may enter any holding facility, vehicle, vessel, or other place where dreissenid mussels are permitted to be kept or may be kept to inspect mussels, facilities or equipment.

(c) Permit Application. An applicant for a new permit, renewal of an existing permit, or amendment to an existing permit, must submit a completed application on Dreissenid Mussel Permit Application, DFW 1014 (NEW 04/10/15), incorporated by reference herein. Application forms are available on the department’s website.

- (1) Review and Approval. After receiving a complete application, the department shall review the application within 30 business days. If approved, the department shall notify the applicant via an approval letter and signed permit. The permit shall be presented upon request by any individual in possession of dreissenid mussels, to any department employee or person with delegated authority under Fish and Game Code section 2301.
- (2) Denial. The department may deny the issuance, renewal or amendment of a permit if any of the following occurs:
  - (A) The department determines that the application or other documents submitted do not support the applicant's stated purpose or use for the dreissenid mussels.

- (B) The department determines that the possession, importation, shipment or transportation of dead dreissenid mussels as proposed is not in the best interest of the State.
- (C) The permittee has failed to comply with terms and conditions of a permit or any provision of the Fish and Game Code or regulations adopted pursuant thereto.
- (d) Revocation. The department may revoke at any time any permit issued pursuant to these regulations for failure to comply with the terms and conditions of the permit or failure to comply with any provision of the Fish and Game Code or regulations adopted pursuant thereto. In the event of a permit revocation, the permittee shall immediately surrender any dreissenid mussels in its possession to the department.
- (e) Request for reconsideration. Any applicant or permittee who is denied a permit or renewal or amendment to an existing permit, or whose permit is revoked by the department pursuant to these regulations, may request reconsideration of that denial or revocation by filing a written request with the Invasive Species Program, 1416 Ninth Street, Sacramento, California 95814, postmarked no later than 30 business days after the date of the notification letter from the department. The letter shall set forth the reason(s) for the reconsideration, including any new information or facts pertinent to the issue(s) raised by the request for reconsideration. The department shall notify the applicant or permittee, in writing, of its decision within 45 business days of its receipt of the request for reconsideration.

**§ 672.1. Dreissenid Mussel Control and Prevention.**

- (a) Control Plan. If a public or private agency that operates a water supply system detects dreissenid mussels, the agency shall immediately begin developing a dreissenid mussel control plan and implement measures to prevent further spread.
  - (1) A control plan shall be submitted to the department either:
    - (A) Within 60 business days of the date the department requests a control plan from the operator of a water supply system that has previously reported dreissenid mussel detections; or,
    - (B) Within 60 business days of dreissenid mussels being detected; or,
    - (C) Within 60 business days of changes to the approved control plan.
  - (2) Control plans shall be revised within 60 business days of receipt of comments from the department.
  - (3) Control plans that have been approved prior to the effective date of these regulations are not required to be resubmitted for review by the department. The authorization contained in such control plans is deemed to be in effect as of the date it was approved.
  - (4) The department shall maintain a list of waterbodies where dreissenid mussels have been detected.

- (5) Control plans shall consist of a written document describing the status of the dreissenid mussel population at the time the plan is developed, control activities, and monitoring to determine changes in the population. A control plan may also include a description of maintenance activities to maintain functionality of the water supply facility.
  - (6) Monitoring activities associated with an approved control plan per Fish and Game Code section 2301 do not require a separate permit for collection, transport to laboratories, or analysis, unless activities are associated with scientific research.
  - (7) Plan implementation shall be demonstrated through submission of annual reports (January 1-December 31) to the department by March 31 of each year, that summarize changes in dreissenid mussel populations, control activities implemented, and monitoring results.
  - (8) Any public or private agency that violates this section by failing to submit a control plan, revision, or annual report is subject to a maximum penalty of \$1,000 that shall be imposed administratively by the department. The administrative penalty and appeal process are described in section 672.2.
- (b) Prevention Program. It is unlawful for any person, or federal, state, or local agency, district or authority that owns or manages a reservoir, as defined in section 6004.5 of the Water Code, where recreational, boating, or fishing activities are permitted, to operate without developing and implementing a dreissenid mussel prevention program that meets the requirements of this subsection.
- (1) Dreissenid mussel prevention programs shall include, at a minimum, a report summarizing the following:
    - (A) An assessment of the vulnerability of the reservoir for the introduction of both adult and veliger dreissenid mussels.
    - (B) A monitoring program to detect the presence of adult and/or veliger dreissenid mussels.
    - (C) Management of recreational activities to prevent the introduction of mussels and to keep them from being moved from the waterbody if present, that includes public education and outreach.
  - (2) Possession of dreissenid mussels as a result of early detection monitoring is not a violation of Fish and Game Code section 2301, subdivision (a) provided that monitoring is conducted under a prevention program being implemented consistent with Fish and Game Code section 2302.
  - (3) A written document describing the prevention program shall be submitted to the department within 90 business days of the date the department requests documentation of the prevention program.



- (4) Prevention programs shall be revised within 60 business days of receipt of comments from the department.
  - (5) Program implementation shall be demonstrated through submission of an annual report (January 1 - December 31) to the department by March 31 of each year that summarizes any changes in the reservoir's vulnerability, monitoring results, and management activities.
  - (6) Any person, or federal, state, or local agency, district or authority that violates this section by failing to submit a prevention program, revision, annual report, or fails to report a new discovery of dreissenid mussels as required by Fish and Game Code section 2301, subdivision (e) is subject to a maximum penalty of \$1,000 that shall be imposed administratively by the department. The administrative penalty and appeal process are described in section 672.2.
- (c) Inspection of Conveyances. It is unlawful for any person to fail to fully comply with any verbal or written order, or to resist, obstruct, delay or interfere with any department employee or any other state agency representative who has been delegated the authority to enforce Fish and Game Code section 2301. Full compliance with an order shall include, but is not limited to, the order being followed in the manner, time frame, and to the degree directed by an agency representative authorized to implement Fish and Game Code section 2301.
- (1) Any department employee or any other state agency representative, to whom the department has delegated the authority to implement Fish and Game Code section 2301, may impound or quarantine any conveyance known or suspected to contain dreissenid mussels for the period of time necessary to ensure the removal or death of any such mussels. Impounded or quarantined conveyances shall be stored at a location determined by the enforcing authority, and all costs associated with the impounding or quarantine are the responsibility of the owner of the conveyance or the person in possession of the conveyance. The department is not responsible for any costs that are in any way, whether directly or indirectly, related to or resulting from quarantine or storage.
  - (2) State agencies delegated authority to implement Fish and Game Code section 2301 are not obligated to impound or quarantine conveyances.
  - (3) Tags, stickers or other methods used to identify a conveyance as quarantined shall not be tampered with or destroyed prior to the conveyance being released from quarantine by the department.
  - (4) When a conveyance is quarantined by the department, the owner or person in possession of the conveyance will receive a copy of Quarantine Notice, DFW 1015 (NEW 09/25/14), incorporated by reference herein. If the owner is not present at time of the department-issued quarantine, the department shall provide a copy of the Quarantine Notice electronically or by mail to the owner. The conveyance will remain under quarantine until the department has re-inspected the conveyance, determined it has been properly treated to remove or kill all dreissenid mussels, and/or has released it from

quarantine. The owner of the conveyance is responsible for contacting the department for re-inspection of the conveyance.

- (5) In addition to any other penalty provided by law, any person who violates this section, section 2301 of the Fish and Game Code, or any verbal or written order issued pursuant to these sections, or who resists, delays, obstructs, or interferes with the implementation of these sections, is subject to a penalty of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000), that shall be imposed administratively by the department. Any such person shall be issued an Administrative Penalty Citation Form DFW 1016 (NEW 04/10/15), incorporated by reference herein. The owner of any conveyance involved in the violation or quarantine may be held responsible for the violation, impoundment, or quarantine. In determining the amount of the penalty, the department may consider the willfulness of the action or failure to act, the nature and gravity of the action or failure to act, including the potential impacts on public safety, recreation, or natural resources of the state, the history of past acts or failures to act, and any other relevant factors as justice may require. The administrative penalty and appeal process is described in section 672.2 of these regulations.

#### **§ 672.2. Dreissenid Mussel Penalty and Appeal Procedures.**

(a) Penalties. This section applies to violations of section 672.1 of these regulations.

- (1) The department will send a written notification of penalty assessment to persons against whom an administrative penalty has been imposed. The penalty amount shall be based on a review of all relevant circumstances. The department may provide notification together with its notice that a person or entity has violated section 672.1, or may provide the notification of penalty assessment by writing within 30 business days after a person has been issued a citation pursuant to subsection 672.1(c)(5). The department may provide written notification by mail or email. The notification will at a minimum include a brief description of the reason the administrative penalty has been imposed, the amount of the administrative penalty, and the time and method for providing payment. The notification shall also include a statement of a person's right to appeal an administrative penalty and directions explaining how to initiate an appeal.
- (2) Requests for an appeal must be postmarked no later than 30 calendar days after issuance of the notification of penalty assessment and shall include an advance deposit of the full amount of the administrative penalty. Any administrative penalty that has been deposited shall be refunded if it is determined, after an appeal hearing, that the penalty is reduced or excused. No request for an appeal to an administrative penalty shall be considered unless both a request for an appeal hearing and a deposit in the full amount of the penalty is received in a timely manner by the department.
- (3) Anyone who is issued a citation or notice of violation pursuant to section 672.1, but does not receive a notification of penalty assessment shall contact the department within 30 calendar days of being issued a citation or notice of violation and provide the department

with a current address to send the notification of penalty assessment. The department is to be reached by calling (866) 440-9530 or sending an email to [invasives@wildlife.ca.gov](mailto:invasives@wildlife.ca.gov).

- (4) The department shall deposit administrative penalties into the Fish and Game Preservation Fund.
  - (5) In the event a person fails to pay the administrative penalty when due, the department may take any actions permitted by law to collect the unpaid penalty, which shall accrue interest at a rate of ten percent per year, commencing 30 calendar days after the administrative penalty becomes due and continuing until paid. In the event a civil action is commenced to collect the administrative penalty, the department shall be entitled to recover all costs associated with the enforcement, investigation, establishment and collection of the penalty. Costs include, but are not limited to, staff time and costs incurred in the investigation, establishment and the collection or processing of the penalty. The penalty and any late payment charges and costs shall be deposited into the Fish and Game Preservation Fund.
- (b) Appeal Procedure. This subsection shall govern appeals when a person requests an appeal of the imposition of administrative penalties.
- (1) A person wishing to appeal a decision of the department shall file a written request for an appeal with the department's Office of the General Counsel and the request shall be postmarked no later than 30 calendar days after the department's issuance of the notification of penalty assessment. The time limit for filing a request for an appeal shall be deemed jurisdictional and may not be waived. A request for an appeal shall specifically set forth the decision being appealed and the legal and factual grounds for the appeal. The request for an appeal may include a request for an oral hearing. The request for an appeal and any subsequent written submittals shall be signed by the appellant under penalty of perjury.
  - (2) Administrative penalties imposed by the department shall be presumed to be correct, and the appellant shall have the burden of proof.
  - (3) Appeals shall be considered by an unbiased hearing officer designated by the director, who has not served as an investigator, prosecutor or advocate regarding the department decision. The hearing officer shall control the nature and order of the proceedings. Appeals may be informal and may, at the hearing officer's discretion, be based on written submittals only.
  - (4) The hearing officer shall notify the appellant if the appeal will be limited to written submittals and shall notify the appellant of the date by which the appellant must provide any additional submittals or documentary evidence to the department. No later than 30 business days after receipt of the appellant's additional submittals or evidence, the department may submit a response to the hearing officer, with a copy sent to the appellant, along with any supporting documentary evidence and/or declarations under penalty of perjury. No later than 15 business days after receipt of the department's

response, the appellant may submit a reply to the hearing officer, with a copy sent to the department that addresses arguments and evidence raised in the department's response. The appellant's reply shall not contain any new evidence or new factual or legal grounds for challenging the department's action.

- (5) The hearing officer shall only consider evidence that is relevant to whether the action or failure to act identified in the notification of penalty assessment in fact occurred and whether the recipient of the administrative penalty has caused or allowed the action or failure to act to occur.
- (6) If determined necessary by the hearing officer, oral hearings shall be held at such times and locations as determined by the hearing officer. The hearing officer may engage in ex parte communications with the parties for the purpose of settling a time and place of hearing. The parties shall be notified of the time and place set for hearing at least 10 calendar days prior to the date of the hearing. The hearing officer may continue the hearing as he deems necessary.
- (7) The failure of an appellant who has requested an oral hearing to appear at the hearing, after receiving notice of the hearing, shall constitute abandonment of the appeal unless the appellant has submitted a written request for a continuance at least two days prior to the oral hearing.
- (8) Any appeal conducted pursuant to this section need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. However, the hearing officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will cause undue consumption of time. The hearing officer may examine any party or witness.
- (9) Within 45 calendar days of the conclusion of any oral hearing, or the day by which the department receives all written submittals if the appeal is based on written submittals only, the hearing officer shall provide the parties with a written decision containing the hearing officer's findings of fact and conclusions. The decision of the hearing officer shall be the final administrative decision of the department.

**Cal. Code of Regs. Tit. 14, Division 4, Ch.1, Article 1.5 (Quagga and Zebra Mussel Infestation Prevention Fee Regulations)**

**§ 5200. Short Title.**

This article shall be known and may be cited as the Quagga and Zebra Mussel Infestation Prevention Fee Regulations under which the Department of Motor Vehicles may collect and the Department of Parks and Recreation, Division of Boating and Waterways may administer the Quagga and Zebra Mussel Infestation and Prevention Fee, hereafter referred to as "mussel fee,"

in accordance with the provisions of Section 675 of the Harbors and Navigation Code. References to “department” shall refer to Department of Parks and Recreation, Division of Boating and Waterways.

**§ 5200.5. Definitions.**

The following definitions shall be used in article 1.5 and 1.6:

- (a) “Biennial Period” occurs every two years.
- (b) “Dreissenid” are a family of small fresh water mussels specifically the non-native quagga and zebra mussel for the purpose of this article.
- (c) “Mussel Fee Exemption” means no fee is due for the Quagga and Zebra Mussel Infestation Prevention Fee.
- (d) “Mussel Fee” is the Quagga and Zebra Mussel Infestation Prevention Fee which shall be paid along with vessel registration pursuant to section 5201.
- (e) “Prevention Plan” is an organized approach to prevent the spread of dreissenid mussels into a defined reservoir and shall include public education, monitoring and inspecting for infestation.
- (f) “Quagga Mussel” (*Dreissena rostriformis bugensis*) is a non-native dreissenid mussel.
- (g) “Regional-Scale Prevention Plan” This plan shall include the impact such as an economic, ecological, recreational and/or other regional impact from a dreissenid mussel infestation in a regional area which involves multiple agencies within that region.
- (h) “Reservoir” means a body of water which contains or will contain the water impounded by a dam as defined in Section 6004.5 of the Water Code.
- (i) “Stickers” are an indication of a paid mussel fee and are issued by the Department of Motor Vehicles to be displayed on a registered vessel.
- (j) “Undocumented Vessel” is a vessel required to be registered through the California Department of Motor Vehicles and not through the federal vessel documenting system.
- (k) “Zebra Mussel” (*Dreissena polymorpha*) is a non-native dreissenid mussel.

**§ 5201. Mussel Fee Amount.**

Upon application for a new vessel number or registering a newly acquired vessel with an existing vessel number, on a biennial basis, the cost of the mussel fee will be \$16. Whenever the original registration of the vessel becomes due between January 1 and December 31 of any even-number year the mussel fee amount shall be \$8 and \$16 when payable during an odd-numbered year. The

mussel fee amount shall be \$16 thereafter on a biennial basis and shall be payable upon vessel registration renewal on December 31 of every odd-numbered year.

**§ 5202. Mussel Fee Due Dates.**

The mussel fee shall become payable under any one of the following conditions:

- (a) Upon application for a new vessel number; or
- (b) Upon renewal of any California vessel registration; or
- (c) At any such time that a marine water exemption, as defined in section 5207, is no longer applicable and the vessel remains registered in California, or
- (d) Upon registering a newly acquired vessel with an existing vessel number.

**§ 5203. Late Payment of Mussel Fee.**

When vessel registration fees are past due, up to two prior years of mussel fees shall also be payable if they were due with registration fees.

**§ 5204. Adjustment of Mussel Fee.**

There shall be no adjustment or pro-ration of the mussel fee.

**§ 5205. Refund of Mussel Fee.**

A refund of the paid mussel fee shall be subject to established Department of Motor Vehicle business rules and processing procedures after an application for refund is made to that department.

**§ 5206. Evidence of Payment of Mussel Fee.**

- (a) Upon payment of the mussel fee, the Department of Motor Vehicles shall provide the vessel owner with two stickers indicating “Mussel Fee Paid” and the year through which the stickers are valid.
- (b) The color of the “Mussel Fee Paid” stickers shall be the same as the color of the vessel registration stickers for the same biennial period.
- (c) The stickers shall be placed on the sides of the vessel, next to, and in line with the CF number and vessel registration stickers for purposes of law enforcement identification.
- (d) Proper display of the “Mussel Fee Paid” sticker shall be evidence of payment and subject to verification and enforcement by a peace officer.

(1) Marine law enforcement shall utilize a wide variety of enforcement strategies that include education, warning, and citations for violation of this regulation.

(e) The “Mussel Fee Paid” sticker is required for all vessels registered in California unless an exemption applies.

**§ 5207. Marine Water Exemption.**

(a) For purposes of this section, marine water (salt water) is defined as California coastal and bay waters, which includes Suisun Bay up to and west of Chipps Island. Marine waters shall not include inland waterways, rivers, lakes, reservoirs, wetlands or the Sacramento-San Joaquin Delta.

(b) Vessels used exclusively in marine waters shall be exempt from payment of the mussel fee.

(c) The vessel owner shall indicate that his or her vessel is entitled to the marine water exemption by one of the following:

(1) Placing a mark in the designated portion of the Application for Registration Number Certificate of Ownership and Certificate of Number for Undocumented Vessel (DMV Form BOAT 101); or

(2) Placing a mark in the designated portion of the Renewal Notice for Vessel Registration (DMV Form ISD 83VR); or

(3) Placing a mark in the appropriate field in the Vessel Registration Internet Renewal webpage; or

(4) Notifying the DMV through its Interactive Voice Response system.

(d) The marine water mussel fee exemption applies only during the current vessel registration cycle. The vessel owner must re-apply for the marine water exemption on each Renewal Notice for Vessel Registration received.

(e) The DMV shall include in a quarterly report to the department the number of vessels claiming the marine water exemption and the number of vessels paying the additional mussel fee.

**§ 5208. Substitute Mussel Fee Paid Sticker.**

In the event that the “Mussel Fee Paid” sticker is either lost or stolen, a \$16 fee for a substitute “Mussel Fee Paid” sticker shall be imposed and generated by the Department of Motor Vehicles when the owner of a currently registered vessel requests a substitute sticker.

**§ 5209. Payment of Mussel Fee with Marine Water Exemption Status Change.**

When the marine water exemption no longer applies, a \$16 fee for a “Mussel Fee Paid” sticker shall be imposed and generated by the Department of Motor Vehicles.

**§ 5210. Deposit of Revenues.**

All revenues from mussel fees collected by the Department of Motor Vehicles pursuant to this article shall be deposited into the Harbors and Watercraft Revolving Fund.

**§ 5211. Fee Exempt Vessels.**

Vessels exempt from payment of the mussel fee imposed under this article shall be limited to the following:

- (a) Vessels used exclusively in marine waters as defined by Section 5207 (a) of this article.
- (b) As defined in Title 13, California Code of Regulations, Section 190.16 a vessel shall be exempt from payment of a registration fee, irrespective of whether the vessel is operated in fresh or marine waters.

**Cal. Code of Regs Tit. 14, Division 4, Ch.1, Article 1.6 (Quagga and Zebra Mussel Infestation Prevention Grant Regulations)**

**§ 5300. Short Title.**

This article shall be known and may be cited as the Quagga and Zebra Mussel Infestation Prevention Grant Regulations under which the Department of Parks and Recreation, Division of Boating and Waterways may make grants to eligible applicants in accordance with the provisions of Section 676 of the Harbors and Navigation Code. References to department shall refer to Department of Parks and Recreation, Division of Boating and Waterways.

**§ 5301. Purpose.**

The purpose of the Quagga and Zebra Mussel Infestation Prevention Grant Program is to provide for reasonable regulatory costs incident to the implementation of a dreissenid mussel infestation prevention plan to entities subject to Section 2302 of the Fish and Game Code for the purposes of:

- (a) Assessing the vulnerability of a reservoir to the introduction of nonnative dreissenid mussel species.
- (b) Developing and implementing a program designed to prevent the introduction of nonnative dreissenid mussel species that includes, at a minimum, all of the following:
  - (1) Public education.
  - (2) Monitoring water bodies and/or vessels for quagga or zebra mussel infestation.
  - (3) Management of those recreational, boating, or fishing activities that are permitted.



**§ 5302. Eligibility.**

Applicants for a Quagga and Zebra Mussel Infestation Prevention Grant are eligible if they are subject to Section 2302 of the Fish and Game Code, and provided that the following conditions are also satisfied:

(a) The applicant attaches to the application an official copy of a Resolution or Order from the governing board or a Letter of Approval from an executive officer of the local entity authorizing the application for a grant.

(1) In the case of a local government agency within a county, an official copy of the Resolution or Order shall accompany the application for a grant from that local government entity, as well as an official copy of the Resolution or Order from its county board of supervisors, authorizing the local government agency to participate in the program.

(2) In the case of a local government agency without a governing board, a Letter of Approval from an executive officer shall accompany the application for a grant.

(3) The Resolution or Order referred to in subdivision (a)(1) shall authorize the designated representative(s) to sign the application, contract, and any claims for payment or reimbursement. The Letter of Approval referred to in subsection (a)(2) shall authorize the designated representative(s) to sign the application, contract, and any claims for payment or reimbursement.

(4) The department may deny the application if an applicant agency fails to provide the required Resolution(s), Order(s), or Letter of Approval with its grant application.

(b) An applicant agency submits a completed application that complies with the requirements of Section 5303.

**§ 5303. Grant Application.**

(a) An application for a grant award under this article shall be submitted on the Quagga and Zebra Mussel Infestation Prevention Grant Program 2014 Application for Grant Funding, dated 8/7/14, hereby incorporated by reference and shall comply with 2014/15 Quagga and Zebra Mussel Infestation Prevention Fee Grant Application Guidelines, dated 8/15/2014, hereby incorporated by reference.

(b) Applications for grants shall conform to procedures established within this article, which include a prevention plan and a measurable performance goal report consistent with Section 2302 of the Fish and Game Code. If the applicant is applying for vulnerability assessment to initiate the development of the Prevention Plan, submission of the Prevention Plan is not required with the application

(c) If an application is incomplete, it shall be returned to the applicant to be completed. The applicant shall have until the filing deadline to resubmit a completed application. If an

application is still not complete the application will be rejected.

(d) Applications for grants shall not be considered for funding if submitted after the filing deadline set by the department.

(e) Applications will not be accepted for reservoirs in which nonnative dreissenid mussels have been detected.

**§ 5304. Grant Award Factors.**

When awarding grants, the department shall:

(a) Give priority to applicants whose program provides a dreissenid mussel infestation prevention plan that is consistent with Section 2302 of the Fish and Game Code and that also includes visual and manual inspection standards and other infestation prevention procedures consistent with either the Department of Fish and Game's Invasive Mussel Guidebook for Recreational Water Managers and Users, dated September 2010, or the Natural Resources Agency's Aquatic Invasive Species Management Plan, dated January 2008, or subsequently adopted updated version of the Guidebook or Management Plan.

(b) Give preference to regional-scale dreissenid mussel infestation prevention plans.

(c) Take into consideration the unique economic, ecological, and recreational impacts to rural and urban reservoirs by dreissenid mussel infestation.

**§ 5304.5. Grant Agreement.**

Upon awarding of a grant to an applicant the applicant shall entered into a grant agreement with the state, the terms and conditions of which shall be determined by the department.

**§ 5305. Allowable and Non-Allowable Costs.**

Grant funds awarded pursuant to this article may be used only for reasonable regulatory costs that include:

(a) Costs directly connected with the implementation of a local or regional dreissenid mussel infestation prevention plan that meets the requirements of Section 2302 of the Fish and Game Code.

(b) Costs directly connected with the investigation and inspection of a conveyance for the presence of dreissenid mussels prior to contact with a reservoir, as defined in Section 6004.5 of the Water Code.

(1) For the purposes of this Section, conveyances includes vessels and other watercraft, and associated vehicles, containers, and trailers that may also carry or contain adult or larval dreissenid mussels.

**§ 5306. Grant Reporting and Reimbursement.**

(a) As a condition of receiving a Quagga and Zebra Mussel Infestation Prevention grant pursuant to this Section, the grantee shall report the following data on a quarterly basis to the department regarding dreissenid mussel prevention and inspection programs implemented with the grant:

(1) The grantee shall report measurable performance and goals during the grant term as stated in its dreissenid mussel infestation prevention plan and inspection program.

(b) The grantee shall receive state reimbursement under this grant program only when invoices for expenditures for the grantee's dreissenid mussel prevention and inspection program activities have been approved by the department and submitted according to the grant terms and conditions. Reimbursement claims shall be submitted on a quarterly basis. All final claims for reimbursement shall be received by the department no later than 30 days after the grant end date. All reimbursements shall be submitted on the Reimbursement Claim Form, dated September 15, 2014, which is hereby incorporated by reference.

(c) The department shall not reimburse expenses not contained in the approved budget unless the grantee notifies the department in advance of the changes and provides justification of the changes and resulting budget revisions within the total grant award. Reimbursements shall not be made on unapproved changes or costs above the grant award.

**§ 5307. Audits and Appeals.**

(a) The department shall maintain adequate controls to ensure responsibility and accountability for the expenditure of the Quagga and Zebra Mussel Infestation Prevention Grant program funds. The department or its delegated representatives may conduct periodic audits of a grantee to determine whether a grantee is in compliance with state and federal law, and whether the requests for reimbursement submitted by a grantee accurately represent the amount due to the grantee.

(b) The department shall notify a grantee in writing at least one week in advance of all scheduled audits.

(c) A grantee shall make all records available for review to the department or its designated representatives. A grantee shall maintain records in accordance with the requirements specified in the grant terms and conditions developed by the department. Such records shall include, but not be limited to, all receipts and invoices for expenditures made using grant funds.

(d) If the department or its representatives conduct an audit of a grantee, the department shall issue an audit report to the grantee. The audit report shall include a description of how the audit was performed and a listing of findings, including any reimbursement to which the grantee was not entitled.

(e) When an audit report indicates that a grantee has requested and received payments from the

department under this grant program to which it is not entitled, the grantee shall refund to the department that portion of the reimbursement to which it was not entitled, according to the audit report, within 90 days of notification by the department of such finding unless the grantee submits an appeal pursuant to subdivision (g) of this section.

(f) When it is established that a grantee improperly requested and received payments under this program, the grantee shall refund to the department all reimbursements requested from the department under this program within 90 days of notification by the department of such findings, unless the grantee submits an appeal pursuant to subdivision (g) of this section.

(g) A grantee has the right to appeal the findings of any audit of its reimbursements to the Deputy Director of the Department of Parks and Recreation, Division of Boating and Waterways within 90 days of notification by the department of the audit findings. The appeal shall be in writing, and the grantee shall include in the written appeal a complete description of the issues in question, the grantee's reason for the appeal, and all written evidence supporting grantee's appeal. The appeal process shall commence with a conference between a representative of the department and the grantee to review the issues and evidence. If the appeal is not resolved to the grantee's satisfaction at this level of review, the grantee may request that the matter be reviewed through a formal hearing conducted in accordance with Government Code Section 11500 et seq.

## Colorado AIS Statutes

*Compiled 10/12/15*

### **Colo. Rev. Stat. Tit. 33, Art. 10.5 (Aquatic Nuisance Species)**

#### **§ 33-10.5-101. Legislative declaration**

The general assembly hereby recognizes the devastating economic, environmental, and social impacts of aquatic nuisance species on the aquatic resources and water infrastructure of the state. The general assembly further recognizes the potential of recreational vessels to be a significant source of the spread of aquatic nuisance species in Colorado. Therefore, the general assembly finds, determines, and declares that the purposes of enacting this article are to implement actions to detect, prevent, contain, control, monitor, and, whenever possible, eradicate aquatic nuisance species from the waters of the state and to protect human health, safety, and welfare from aquatic nuisance species. It is the intent of the general assembly to foster and encourage, to the greatest extent possible, voluntary compliance with this article. It is the intent of the general assembly that prevention, containment, and eradication of aquatic nuisance species in waters of the state in which such species have been detected or are likely to be introduced shall be the division's highest priorities.

#### **§ 33-10.5-102. Definitions**

As used in this article, unless the context otherwise requires:

- (1) "Aquatic nuisance species" means exotic or nonnative aquatic wildlife or any plant species that have been determined by the commission to pose a significant threat to the aquatic resources or water infrastructure of the state.
- (2) "Authorized agent" means any person, employee, or representative of local, state, or federal government or any subdivision of the government that is authorized by the government or governmental subdivision to temporarily stop, detain, and inspect a conveyance for aquatic nuisance species.
- (3) Repealed by Laws 2012, Ch. 248, § 39, eff. June 4, 2012.
- (4) "Conveyance" means a motor vehicle, vessel, trailer, or any associated equipment or containers, including, but not limited to, live wells, ballast tanks, and bilge areas that may contain or carry an aquatic nuisance species.
- (5) "Decontaminate" means to wash, drain, dry, or chemically or thermally treat a conveyance in accordance with rules promulgated by the commission in order to remove or destroy an aquatic nuisance species.
- (6) "Division" means the division of parks and wildlife created in section 33-9-104.

(7) “Equipment” means an article, tool, implement, or device capable of containing or transporting water.

(8) “Inspect” means to examine a conveyance pursuant to procedures established by the commission by rule in order to determine whether an aquatic nuisance species is present, and includes examining, draining, or chemically treating water in the conveyance.

(9) “Qualified peace officer” means a Colorado wildlife officer, special parks officer, or special wildlife officer; a parks and recreation officer; a peace officer in the department of public safety; and a peace officer with jurisdiction over any waters of the state.

**§ 33-10.5-103. Powers and duties of the division--annual report**

(1) In order to prevent, control, contain, monitor, and, whenever possible, eradicate aquatic nuisance species from the waters of the state, the division is authorized to establish, operate, and maintain aquatic nuisance species check stations in order to inspect conveyances pursuant to section 33-10.5-104.

(2) Upon a reasonable belief that an aquatic nuisance species may be present, the division may:

(a) Require the owner of a conveyance to decontaminate the conveyance; or

(b) Decontaminate or impound and quarantine the conveyance pursuant to section 33-10.5-104.

(3) The division may monitor the waters of the state for the presence of aquatic nuisance species, but only if the division has received permission to monitor from the persons controlling access to such waters.

(4) The division shall, in cooperation with the department of public safety, the Colorado office of economic development, the Colorado tourism office, the water conservation board created in section 37-60-102, C.R.S., and the department of agriculture, develop a strategic statewide plan to prevent, control, monitor, educate persons about, and, whenever possible, eradicate aquatic nuisance species.

(5) Beginning on January 15, 2009, and on or before January 15 of each year thereafter, the division and the water conservation board created in section 37-60-102, C.R.S., shall make an annual report of the efforts in addressing aquatic nuisance species in Colorado for the preceding calendar year to the joint house agriculture, livestock, and natural resources committee and the senate agriculture, natural resources, and energy committee, or its successor committee. Each such report shall set forth a complete operating and financial statement covering the aquatic nuisance species operations of the division during the year.

**§ 33-10.5-104. Inspection of conveyances--impoundment and quarantine**

(1)(a) Every qualified peace officer is authorized to enforce this article; except that such officer shall have a reasonable belief that a conveyance may contain an aquatic nuisance species before the officer orders the conveyance decontaminated or impounded and quarantined.

(b) Every qualified peace officer is authorized to stop and inspect for the presence of aquatic nuisance species a conveyance:

- (I) Prior to a vessel being launched onto waters of the state;
- (II) Prior to departing from the waters of the state or a vessel staging area;
- (III) That is visibly transporting any aquatic plant material; and
- (IV) Upon a reasonable belief that an aquatic nuisance species may be present.

(2) Except as provided in subsection (4) of this section, a qualified peace officer may impound and quarantine a conveyance if:

- (a) The qualified peace officer finds or reasonably believes that an aquatic nuisance species may be present after conducting an inspection authorized by this article;
- (b) The person transporting the conveyance refuses to submit to an inspection authorized by this article for the presence of an aquatic nuisance species; or
- (c) The person transporting the conveyance refuses to comply with an order authorized by this article to decontaminate the conveyance.

(3) The impoundment and quarantine of a conveyance may continue for the reasonable period necessary to inspect and decontaminate the conveyance and ensure that the aquatic nuisance species has been completely eradicated from the conveyance and is no longer living.

(4) Notwithstanding any provision to the contrary, no motor vehicle that is drawing a conveyance shall be impounded or quarantined pursuant to this article; however, the conveyance being drawn is still subject to impoundment and quarantine under this section.

(5) An authorized agent shall have the authority to stop, detain, and inspect a conveyance for the presence of an aquatic nuisance species; however, unless the authorized agent is a qualified peace officer, the authorized agent has no authority to impound and quarantine or order a conveyance decontaminated.

### **§ 33-10.5-105. Prohibition of aquatic nuisance species--penalties**

(1) No person shall:

- (a) Possess, import, export, ship, or transport an aquatic nuisance species;
- (b) Release, place, plant, or cause to be released, placed, or planted into the waters of the state an aquatic nuisance species; or
- (c) Refuse to comply with a proper order issued under this article.

(2) A person who knowingly or willfully violates subsection (1) of this section:

(a) For a first offense, is guilty of a class 2 petty offense, as defined by section 18-1.3-503, C.R.S., and, upon conviction, shall be subject to a fine of one hundred fifty dollars and shall be issued a warning of the increased penalties for subsequent violations from the division;

(b) For a second offense, is guilty of a misdemeanor and, upon conviction, shall be fined one thousand dollars; and

(c) For a third and any subsequent offense, commits a class 2 misdemeanor and, upon conviction, shall be punished as provided in section 18-1.3-501, C.R.S.

**§ 33-10.5-106. Duty to report**

A person who knows that an aquatic nuisance species is present at a specific location shall immediately report such knowledge and all pertinent information to the division.

**§ 33-10.5-107. Commission to promulgate rules**

(1) The commission is authorized to promulgate rules pursuant to article 4 of title 24, C.R.S., as necessary to prevent, control, contain, monitor, and, whenever possible, eradicate aquatic nuisance species. In promulgating such rules, the commission shall consult with any affected state, federal, and tribal governmental entities and subdivisions thereof, including special districts, water conservancy districts, and water supply agencies.

(2) The commission shall promulgate rules to administer and enforce this article. Such rules shall include:

(a) Procedures for the inspection of conveyances for the presence of aquatic nuisance species;

(b) Procedures for the impoundment and quarantine of conveyances pursuant to section 33-10.5-104, including notification of the location and contact information to owners of impounded conveyances;

(c) Procedures for the decontamination of conveyances and destruction of aquatic nuisance species removed from conveyances;

(d) Methods to establish proof that a conveyance has been decontaminated;

(e) Processes for the facilitation of the reporting required by section 33-10.5-106; and

(f) Policies for the monitoring and identification of the waters of the state or geographic areas that are or may be infested with aquatic nuisance species.



**§ 33-10.5-108. Division of parks and outdoor recreation aquatic nuisance species fund--creation--division of wildlife aquatic nuisance species fund--creation**

(1)(a) There is hereby created in the state treasury the division of parks and outdoor recreation aquatic nuisance species fund, which shall be administered by the division of parks and wildlife in the department of natural resources and shall consist of all moneys transferred by the treasurer as specified in section 39-29-109.3(2)(m), C.R.S. All moneys in the fund are continuously appropriated to the division of parks and wildlife for the purpose of implementing the provisions of this article. All moneys in the fund at the end of each fiscal year shall remain in the fund and shall not revert to the general fund or any other fund.

(b) In the use of such moneys, priority shall be given to containment and eradication of aquatic nuisance species in the waters of the state in which such species have been detected and prevention of the introduction of nuisance species in areas determined to be most vulnerable to such an introduction.

(2)(a) There is hereby created in the state treasury the division of wildlife aquatic nuisance species fund, which shall be administered by the division of parks and wildlife in the department of natural resources and shall consist of all moneys transferred by the treasurer as specified in sections 33-1-112 and 39-29-109.3(2)(m), C.R.S. All moneys in the fund are continuously appropriated to the division of parks and wildlife for the purpose of implementing the provisions of this article. All moneys in the fund at the end of each fiscal year shall remain in the fund and shall not revert to the general fund or any other fund.

(b) In the use of such moneys, priority shall be given to containment and eradication of aquatic nuisance species in the waters of the state in which such species have been detected and prevention of the introduction of nuisance species in areas determined to be most vulnerable to such an introduction.

## Colorado AIS Regulations

### 2 Colo. Code Regs. 405-1 Chapter P-1, Art. II. Water Restrictions: Use of Boats and Other Floating Devices and Other Uses on Parks and Outdoor Recreational Waters

\* Article adopted July 1, 2016

#### § 405-1:105

- a. No boats, rafts or other floating devices of any kind shall be permitted on lakes within:
  1. Golden Gate Canyon State Park, except as part of an organized class in canoeing sponsored by the Division.
  2. The State Forest, except that wakeless boating shall be allowed on North Michigan Reservoir.
  3. Mueller State Park and Wildlife Area.
  4. James M. Robb - Colorado River State Park - Pear Park Section between 30 Road and 29 Road
  5. James M. Robb - Colorado River State Park - Colorado River Wildlife Area
  6. Staunton State Park.
- b. No motorboats shall be permitted on the Arkansas River from the confluence of the East Fork/Lake Fork of the Arkansas to the west end of Pueblo Reservoir.
- c. Only hand-propelled craft, sailboats and boats with electric motors shall be permitted on the following lakes and reservoirs:
  1. All waters within James M. Robb - Colorado River State Park - Island Acres section except Swimmin' Hole
  2. Mack Mesa Reservoir - Highline Lake State Recreation Area
  3. St. Vrain State Recreation Area, except Blue Heron Reservoir
  4. Sylvan Lake State Recreation Area
  5. All waters within James M. Robb - Colorado River State Park - Connected Lakes section
  6. All waters within James M. Robb - Colorado River State Park - Fruita section
  7. Lake Hasty at John Martin Reservoir State Recreation Area
  8. James M. Robb - Colorado River State Park - Corn Lake section.
- d. Only hand-propelled craft, sailboats and boats with electric trolling motors or gasoline motors of 10 horsepower or less shall be permitted on Barr Lake.
- e. Only hand or trailer launched vessels with electric or gasoline motors of 10 horsepower or less, operated at a wakeless speed shall be permitted on Blue Heron Reservoir at St. Vrain State Park.
- f. Only hand-propelled craft, sailboats, boats with electric trolling motors and boats with gasoline motors operated at a wakeless speed shall be permitted on the following lakes and reservoirs:
  1. North Michigan Reservoir

2. Mancos Reservoir
  3. Pearl Lake
- g. Only hand-propelled craft, sailboats and boats with electric trolling motors or gasoline motors of 20 horsepower or less shall be permitted on the following lakes and reservoirs:
1. Harvey Gap Reservoir
- h. No unauthorized boats, rafts, or other floating devices of any kind shall be permitted on any waters:
1. Within the Pa-Co-Chu-Puk Recreation Site at Ridgway State Park
  2. On the waters below John Martin Dam to the Arkansas River bridge at John Martin Reservoir State Recreation Area
- i. All Parks and Outdoor recreation waters are open to boating during migratory waterfowl seasons, except as follows:
1. Boating closures during migratory waterfowl season - Specific exceptions:  
  
Boats shall be prohibited on the following lakes, reservoirs and ponds from the first Monday in November through the last day of migratory waterfowl seasons, except as posted and except that hand-propelled craft may be used to set out and pick up decoys and retrieve downed waterfowl on the areas of such lakes open to hunting of migratory waterfowl:
    - (a) Horseshoe Reservoir within Lathrop State Park
    - (b) Jackson Reservoir
    - (c) North Sterling Reservoir
  2. Boats shall be prohibited on Highline Lake from the first day in October through the last day in February, except that hand-propelled craft may be used to set out and pick up decoys and retrieve downed waterfowl in the area open to hunting.
  3. No public access shall be permitted at John Martin Reservoir State Recreation Area east of the waterfowl closure line to the dam from the first day of November through March 15 of every year or as posted except to retrieve downed waterfowl.

## **VESSELS**

- j. It shall be unlawful:

### **UNATTENDED**

1. To anchor or beach boats and leave them unattended overnight within Parks and Outdoor Recreation Lands in areas other than those designated or posted.

### **LAUNCHING**

2. To launch or load within Parks and Outdoor Recreation Lands any boat from a trailer, car, truck or other conveyance, except at an established launch area if the same is provided.

### **WATER SKIING RESTRICTIONS**

- k. Water skiing shall not be permitted on the following lakes or reservoirs:
  1. Eleven Mile Reservoir
  2. Spinney Mountain Reservoir
  3. Pearl Lake
  4. Horseshoe Lake within Lathrop State Park
  5. Harvey Gap Reservoir
  6. Mancos Reservoir
  7. Sylvan Lake
  8. North Michigan Reservoir

### **TAKE-OFF/DROP OFF**

- l. No person, while operating any vessel, shall park, moor, anchor, stop or operate said vessel so as to be considered a hazard in any area marked as a water ski take-off or drop zone.
- m. Use of air-inflated floating devices:
  1. It shall be unlawful to use any air-inflated floating device on waters located on Parks and Outdoor Recreation Lands, except as follows:
    - a) Innertubes, air mattresses and similar devices may be used in designated swimming areas only, except as follows:
      - 1) Innertubes, air mattresses and similar devices are permitted, below the dam on that part of the Arkansas River within the boundaries of Pueblo State Recreation Area. All occupants of these devices must wear a U.S. Coast Guard approved wearable personal flotation device.
      - 2) Inflatable fishing waders may be used as an aid to fishing.
      - 3) Innertubes, air mattresses, and similar devices are permitted on the Arkansas River from the confluence of the East Fork/Lake Fork of the Arkansas within the boundaries of the Arkansas Headwaters Recreation Area. All occupants of these devices must wear a U.S. Coast Guard approved wearable personal flotation device.
    - b) All other air-inflated devices capable of being used as a means of transportation on the water shall be of separate multi-compartment construction so as to prohibit air from escaping from one compartment to another. Such devices with a motor attached shall have a rigid motor mount.

### **LIVING ABOARD VESSELS**

- n. It shall be unlawful to live aboard any vessel on Parks and Outdoor Recreation lands or waters. For the purpose of this regulation, a “live aboard” is defined as any vessel located within State Parks boundaries used for overnight accommodations between the hours of 10:00 p.m. and 5:00 a.m. for more than fourteen (14) days within a forty-five day (45) period. Upon written request from any marina concessionaire, the Director may allow one, or more, “live aboard(s)” occupied by the marina's managerial or supervisory staff, if the Director determines it would be advantageous for the safety and security of the marina's operations.

#### **AQUATIC NUISANCE SPECIES (ANS)**

- o.
  - 1. All vessels and other floating devices of any kind, including their contents, motors, trailers and other associated equipment are subject to inspection in accordance with inspection procedures established by the Division prior to launch onto, operation on or departure from any Parks and Outdoor Recreation waters or vessel staging areas.
  - 2. Any nonnative or exotic plant material and any aquatic wildlife species listed in wildlife regulation # W012-C, 2 CCR 406-0 (collectively referred to herein as “aquatic nuisance species”) found during an inspection shall be removed and properly disposed of in accordance with removal and disposal procedures established by the Division before said vessel or other floating device will be allowed to launch onto, operate on or depart from any Parks and Outdoor Recreation waters or vessel staging areas.
  - 3. Compliance with the above aquatic nuisance species inspection and removal and disposal requirements is an express condition of operation of any vessel or other floating device on Parks and Outdoor Recreation waters. Any person who refuses to permit inspection of their vessel or other floating device, including their contents, motor, trailer, and other associated equipment or to complete any required removal and disposal of aquatic nuisance species shall be prohibited from launching onto or operating the vessel or other floating device on any Parks and Outdoor Recreation water. Further, the vessel or other floating device of any person that refuses to allow inspection or to complete any required removal and disposal of aquatic nuisance species prior to departure from any Parks and Outdoor Recreation water or vessel staging area is subject to quarantine until compliance with said aquatic nuisance species inspection and removal and disposal requirements is completed.
  - 4. Any person operating a vessel or other floating device may be ordered to remove the vessel or device from any Parks and Outdoor recreation water by any authorized agent of the Division if the agent reasonably believes the vessel or other floating device was not properly inspected prior to launch or may otherwise contain aquatic nuisance species. Once removed from the water, the vessel or other floating device, including its contents, motor, trailer and associated equipment shall be subject to inspection for, and the removal and disposal of aquatic nuisance species.

5. It is unlawful for any person to, or to attempt to, launch onto, operate on or remove from any Parks and Outdoor Recreation water or vessel staging area any vessel or other floating device without first submitting the same, including their contents, motors, trailers and other associated equipment to an inspection for aquatic nuisance species, and completing said inspection, if such an inspection is requested by any authorized agent of the Division or required by any sign posted by the Division. Further, it is unlawful for any person to fail to complete the removal and disposal of aquatic nuisance species if such removal and disposal is requested by an authorized agent of the division or required by any sign posted by the Division.
6. It is unlawful for any person to, or to attempt to, launch onto, operate on or remove from any Parks and Outdoor Recreation water or vessel staging area any vessel or other floating device if they know the vessel or other floating device, including their contents, motors, trailers, or other associated equipment contain any aquatic nuisance species.

## 2 Colo. Code Regs. 405-8 Chapter P-8 Aquatic Nuisance Species

\* Chapter last amended on 3/2/17.

### § 405-8:800. Definitions

Also see 33-10.5-102, C.R.S, for other applicable definitions.

#### A. Aquatic Nuisance Species (ANS)

1. Aquatic nuisance species means exotic or nonnative aquatic wildlife or any plant species that have been determined by the Commission to pose a significant threat to the aquatic resources or water infrastructure of the state, including, but not limited to the following:

##### **Animals:**

<b>Common Name</b>	<b>Scientific Name</b>
Crayfish, rusty	Orconectes rusticus
Mussel, quagga	Dreissena bugensis
Mussel, zebra	Dreissena polymorpha
New Zealand mudsnail	Potamopyrgus antipodarum
Waterflea, fishhook	Cercopagis pengoi
Waterflea, spiny	Bythotrephes longimanus (also known as Bythotrephes cederstroemi)

##### **Plants:**

<b>Common Name</b>	<b>Scientific Name</b>
African elodea	Lagarosiphon major
Brazilian elodea	Egeria densa
Eurasian watermilfoil	Myriophyllum spicatum

Giant salvinia	Salvinia molesta
Hyacinth, water	Eichornia crassipes
Hydrilla	Hydrilla verticillata
Parrotfeather	Myriophyllum aquaticum
Yellow floating heart	Nymphoides peltata

2. In addition to these species, the Director may jointly and temporarily designate a species as an aquatic nuisance species for a period not to exceed nine months when they determine that a species not listed herein poses a significant threat to Colorado's aquatic resources. Whenever such species are so designated, public notice shall be given, including posting at all watercraft inspection and decontamination facilities and the posting of any lands or waters where the designated species is known by the Divisions to be present.
- B. "Aquatic Plant" means a vascular plant (floating leafed, floating, submerged, or emergent vegetation) that naturally grows in water or saturated soils.
  - C. "Authorized Agent" means a person that has passed the Division's watercraft inspection and decontamination training course and is otherwise authorized by statute and regulation to perform inspections and decontaminations at authorized locations in Colorado, and is employed by or, as evidenced by written authorization, is otherwise acting on behalf and at the direction of a local, state or federal government or subdivision of government.
  - D. "Authorized location" means a location or an address where watercraft inspection and decontamination (WID) procedures are authorized and certified by the Division, and inspections are mandatory prior to launching or exiting, including, but not limited to, Division offices, government field stations, or non-governmental facilities as designated by the Division.
  - E. "Clean" means a vessel or other floating device that does not show visible ANS or attached vegetation, debris or surface deposits. This includes mussel shells or residue on the watercraft, trailer, outdrive, or equipment that could mask the presence of attached mussels or other ANS.
  - F. "Detected water" means a water body in which an aquatic nuisance species has been detected per #806D.
  - G. "Director" means the Director of the Division of Parks and Wildlife.
  - H. "Drain" means to the extent practical, all water is drained from all water holding compartments including live-well, bait-well, storage compartment, equipment lockers, bilge area, engine compartment, deck, ballast tanks or bags, water storage and delivery system, cooler or any other water storage area on the vessel or other floating device.

- I. “Dry” means no visible sign of standing water, or wetness on or in the vessel or other floating device. Watercraft that has been out of the water long enough for attached mussels to desiccate.
- J. “Private inspector and/or decontaminator” means a person employed by a business who is certified by the Division to provide services in the form of inspections only or both inspections and decontaminations, at sites other than authorized locations.
- K. “Vessels or other floating device” means watercraft of any and all kinds including their motors or engines, trailers, compartments, and any other associated equipment or containers that routinely or reasonably could be expected to contain or have come into contact with water. The term does not include hand-launched rafts, kayaks, belly boats, float tubes, canoes, windsurfer boards, sail-boards, paddle boards or inner tubes.
- L. “Water Drain Plug” means a valve or device on or in a vessel or other floating device which is used to control the drainage of water from a compartment designed to hold water, including but not limited to, a bilge, well, compartment, locker, or ballast system.
- M. “WID procedures” means Watercraft Inspection and Decontamination procedures, as set forth in these chapter 8 regulations and documented in the State Watercraft Inspection and Decontamination Training Curriculum.
- N. “WID seals” means Watercraft Inspection and Decontamination tamper proof devices or markers that temporarily lock the vessel or other floating device to the trailer to indicate the vessel or other floating device has not launched since the last inspection or decontamination as documented on the accompanying WID seal receipt.
- O. “WID Seal Receipt” means the written or electronic documentation required to verify a WID seal is valid.

**§ 405-8:801. Possession of Aquatic Nuisance Species**

- A. Except as provided in these regulations or authorized by the Division or under Title 33 or Title 35 C.R.S., it shall be unlawful for any person to possess, import, export, ship, transport, release, place, plant, or cause to be released, placed, or planted into the waters of the state any aquatic nuisance species.
- B. The Division’s authorized personnel, authorized agents, qualified peace officers, private inspectors, and private decontaminators are permitted to possess and transport live or dead aquatic nuisance species samples for the purposes set forth in Article 10.5 of Title 33, C.R.S. and in these regulations.
- C. It is unlawful for any person to, or to attempt to, launch onto, operate on or remove from any water of the state or vessel staging area any vessel or other floating device without first submitting the same to an inspection for aquatic nuisance species, and completing said inspection, if such an inspection is requested by any qualified peace officer or authorized



agent. Further, it is unlawful for any person to fail to complete the removal and disposal of aquatic nuisance species if such removal and disposal is requested by any qualified peace officer.

- D. It is unlawful for any person to, or to attempt to, launch onto, operate on or remove from any water of the state or vessel staging area any vessel or other floating device if they know the vessel or other floating device contains any aquatic nuisance species.

**§ 405-8:802. Private Inspectors, Authorized Agents, Training, Certification, And Quality Assurance**

- A. The Division may certify private inspectors and/or decontaminators. Such persons shall not be authorized to stop, detain, or impound a vessel or other floating device, or order a vessel or other floating device to be decontaminated, impounded or quarantined. Such persons, once certified, are only authorized to provide inspections and/or decontaminations in accordance with WID procedures to persons transporting vessel or other floating device who voluntarily request their services.
- B. Authorized agents shall be certified by the Division prior to providing any inspection or decontamination services. A description of training and certification requirements is available from the Division. After receiving proper training and written certification from the Division, authorized agents may stop, detain, inspect and decontaminate a vessel or other floating device. Authorized agents shall be authorized to perform decontaminations with the permission of the vessel owner, at the direction of a qualified peace officer, or at the voluntary request of any person transporting a vessel or other floating device. Authorized agents do not have any authority to order vessel or other floating device to be decontaminated, nor do they have the authority to impound or order the quarantine of any vessel or other floating device.
- C. Prior to providing any inspection and/or decontamination services, authorized agents and private inspectors and/or decontaminators must successfully complete the Division's training course, must maintain active certification and must comply with all quality assurance requirements as listed herein.
- D. Any authorized agent or private inspector and/or decontaminator may be certified by the Division to perform inspections and/or decontaminations based on the person's training and the equipment available at the authorized location.
- E. The Division shall conduct quality assurance checks at all authorized locations, including but not limited to, inspection of facilities and records, and interviewing authorized location personnel to verify proper procedures are being utilized.
  - 1. If the Division documents quality assurance violations, including, but not limited to, improper facilities, maintenance, equipment, records or failures to use proper WID procedures, then the Division may, at their discretion, issue a written warning notice, disallow aquatic nuisance species inspections, decontaminations, and/or training at the

specific location or by the applicable agent or private inspector/decontaminator until the Division has documented compliance with all quality assurance checks, or decertify the applicable agent(s), private inspector(s)/decontaminator(s), location(s) or trainer(s) until they have been recertified in accordance with these regulations.

**§ 405-8:803. Inspections**

- A. Inspections may be conducted by:
  - 1. Any qualified peace officer;
  - 2. Any authorized agent or private inspector and/or decontaminator who has been properly trained as required by the Division, who holds a valid, active certification and who is in good standing with the Division's quality assurance checks.
- B. All persons transporting a vessel or other floating device from a detected water of the state, as determined in regulation #806 D, must be inspected prior to leaving the detected water, or if state authorized inspection facilities are not open or otherwise available, must be inspected prior to launch in any other water of the state. All detected waters shall be posted and a list of detected waters will also be available from the Division.
- C. All persons transporting a vessel or other floating device must go to a state authorized inspection location and submit to and receive documentation of an inspection prior to launching in any water of the state if the vessel or other floating device has been in another state's waters in the last 30 days, or if the vessel or other floating device is not registered in Colorado.
- D. All persons transporting a vessel or other floating device must submit to an inspection prior to launching and/or exiting at an Authorized Location.
- E. Inspectors will determine if there is a reasonable belief that aquatic nuisance species are present by interviewing the person transporting the vessel or other floating device and using visual and/or tactile inspection methods and using appropriate forms supplied by the Division.
- F. All vessels or other floating devices of any kind, are subject to inspection in accordance with WID procedures prior to launch onto, operation on or departure from any waters of the state or vessel staging areas. All compartments, equipment and containers that may hold water, including, but not limited to, live wells and ballast and bilge areas shall be drained as part of all inspections.
- G. It is the responsibility of the vessel or other floating device operator to clean, drain water from all compartments and motors/engines in between launches and dry the vessel or other floating device in between launches.

- H. Upon removal of a vessel or other floating device from waters of the state, and before leaving the boat launch or parking area, the operator is required to remove aquatic plants and water drain plug(s). It is prohibited to transport a vessel or other floating device over land with aquatic plants or water drain plugs in place.
- I. Any vessel or other floating device found or reasonably believed to contain aquatic nuisance species shall be decontaminated by an authorized agent using WID procedures before said vessel or other floating device will be allowed to launch onto, operate on or depart from any waters of the state or vessel staging areas.
- J. Compliance with the above aquatic nuisance species inspection and removal and disposal requirements is an express condition of operation of any vessel or other floating device on waters of the state. Any person who refuses to permit inspection of their vessel or other floating device or to complete any required removal and disposal of aquatic nuisance species shall be prohibited from launching onto or operating the vessel or other floating device on any water of the state. Further, the vessel or other floating device of any person that refuses to allow inspection or to complete any required removal and disposal of aquatic nuisance species prior to departure from any water of the state or vessel staging area where any aquatic nuisance species is known to be present is subject to impoundment until said aquatic nuisance species inspection and/or decontamination is completed.
- K. Any person operating a vessel or other floating device may be ordered to remove the vessel or device from any water of the state by any qualified peace officer or authorized agent if they reasonably believe the vessel or other floating device was not properly inspected prior to launch or may otherwise contain aquatic nuisance species. Once removed from the water, the vessel or other floating device shall be subject to inspection for, and the removal and disposal of aquatic nuisance species.
- L. Any authorized agent or private inspector or private decontaminator who, through the course of an inspection, determines there is a reasonable belief that aquatic nuisance species are present shall document the inspection, including but not limited to, type and number of aquatic nuisance species suspected and/or detected and identification of the vessel or other floating device, including license plate numbers and hull and/or vehicle identification numbers, if available. Further, the authorized agent or private inspector/decontaminator shall advise the operator that the vessel or other floating device is suspected of possessing aquatic nuisance species and that it must be decontaminated according to WID procedures as soon as possible. Only qualified peace officers have the authority to order decontamination, impound or quarantine of a vessel or other floating device.
- M. Once a vessel or other floating device is inspected and/or decontaminated, a WID seal will be attached to the vessel or other floating device by a qualified peace officer, authorized agent, or private inspector/decontaminator. A receipt using the Division's form shall accompany all WID seals. WID seals shall be attached to a vessel or other floating device as specified by the Division. A WID seal, once properly attached to a vessel or other floating device by a qualified peace officer, authorized agent, or a private inspector/decontaminator, and when accompanied by the proper receipt, documents an inspection or decontamination procedure.

N. If a vessel or other floating device contains live aquatic organisms in water as bait, then the owner or operator will be required to produce a receipt for the bait from a Colorado bait dealer with a purchase date clearly printed on the receipt per regulation 8 CCR 1201-21, VI. E and the purchase date is no more than 7 days previous. If the owner or operator does not have such a receipt, and the bait is allowed for use at the water body per regulation 2 CCR 406-1 #104.H.2, then they will be required to submit the bait for transfer into water from a known source and the bait container to decontamination as per the State ANS Watercraft Decontamination Manual available from the Division.

**§ 405-8:804. Decontamination**

- A. The Division will only recognize the decontamination methods listed herein that are recognized as proper WID procedures. All decontaminations will be employed following all applicable laws, disposal methods, recommended safety precautions, and safety equipment and procedures.
- B. To decontaminate water compartments, equipment or containers in a vessel or other floating device to address potential presence of larvae or waterborne aquatic nuisance species, the only acceptable methods will be rinsing and flushing with water of 120-140 degrees F.
- C. To decontaminate the exterior of a vessel or other floating device, remove or destroy attached aquatic nuisance species, all visible mud, plants, and organisms. The entire exterior of the vessel or other floating device, including the trailer and all intakes will be thoroughly decontaminated with hot water (140 degrees F) and as necessary use high pressure water (between 2500-3000psi).
- D. All interior vessel or other floating device compartments, equipment and containers that may hold water including, but not limited to live wells, ballast and bilge areas, will be flushed with hot water (up to, but no more than 120 degrees F) at low pressure. If a bilge pump is present, then it will be run until the bilge appears to be empty.
- E. The lower unit of the motor or engine will be thoroughly flushed with hot water (140 degrees F).
- F. After decontamination, authorized agents, private decontaminators, or qualified peace officers must re-inspect the vessel or other floating device to ensure complete decontamination prior to the release of the vessel or other floating device.
- G. Proof for all decontaminations consists of a WID Seal and WID Seal Receipt. Proof of decontamination for an infested mussel boat consists of a WID seal and WID Seal Receipt, in addition to the form "ANS Documentation and Vessel Decontamination Form" provided by the Division. Such forms shall document the reasons for the decontamination, any aquatic nuisance species found, the date and location of the decontamination, and the type of decontamination performed. Authorized agents, private decontaminators, or qualified peace officers will also apply a WID seal to document decontamination procedures.

**§ 405-8:805. IMPOUNDMENT**

- A. All vessels or other floating devices are subject to impoundment if:
  - 1. The person in possession of the vessel or other floating device refuses to allow an inspection of the vessel or other floating device to be conducted by an authorized agent or qualified peace officer.
  - 2. The person in possession of the vessel or other floating device refuses to allow a decontamination of the vessel or other floating device when decontamination is ordered by a qualified peace officer.
  - 3. The vessel is unable to be fully decontaminated or the ANS are unable to be completely removed for any reason.
- B. If the person in charge of the vessel or other floating device is not the registered owner then the registered owner shall be notified by mail, return receipt requested, within ten days of the location of the impounded vessel or other floating device. Such notification must also include contact information for the qualified peace officer ordering the impoundment. If the registered owner is present when the vessel or other floating device is ordered impounded, then the same information shall be provided to the registered owner at the time the order is issued.
- C. All vessels or other floating devices will be held in impound at the risk and expense of the owner. A vessel or other floating device under impound for non-compliance with aquatic nuisance species laws may be released only after a qualified peace officer is satisfied by inspection or quarantine that the vessel or other floating device is no longer a threat to the aquatic resources and water infrastructure of the state. Only a qualified peace officer may authorize the release of the vessel or other floating device.
- D. No vessel or other floating device impounded may be moved or released until an impound release form is signed and executed by a qualified peace officer. The Division will provide impound release forms.

**§ 405-8:806. Monitoring and Identification**

- A. All aquatic nuisance species sampling and monitoring will be coordinated with the Division.
- B. Aquatic nuisance species sampling equipment, vessels or other floating devices, and gear will be decontaminated at the conclusion of each sampling event in compliance with WID procedures prior to launching on another water of the state.
- C. Aquatic nuisance species sampling and specimen collection for plankton tows, substrate sampling, or shoreline surveys will be conducted using standards and procedures approved in writing by the Division in advance of sampling occurring.

- D. To initially identify detected waters, the following standards will be applied before notifying the public of the existence of these aquatic nuisance species:
1. Zebra and quagga mussel veligers. A multi-phase testing process involving both visual and molecular identification methods on the same sample will be completed in accordance with the State ANS Sampling and Monitoring Manual available from the Division.
  2. Zebra and quagga mussel adults or New Zealand mudsnails. Concurring identification by two or more mollusk identification experts.
  3. Non-native crayfish and other crustaceans.. Concurring identification by two or more crustacean identification experts.
  4. Aquatic nuisance species plants. Concurring identification by two or more aquatic botanical experts.

**§ 405-8:807. Reporting ANS Findings**

- A. Identification of an aquatic nuisance species through sampling and monitoring procedures at a location where that species has not been known to exist will be reported immediately to the Division.
- B. If an aquatic nuisance species is suspected, but the identity is not known, for example a plant of unknown identity or organic material resembling juvenile mollusks, then the Division shall be contacted within 48 hours and collected samples will be submitted as stated in regulation # 806C.
- C. Any person that becomes aware that an aquatic nuisance species is present at a specific location shall report the aquatic nuisance species presence to an authorized agent or a qualified peace officer of the Division's Invasive Species Program. Office. Aquatic nuisance species reports should include the date and time of the detection of the aquatic nuisance species, the exact location of sighting (water body and specific location on the water body), the suspected species, and the name and contact information of the reporter.
- D. Aquatic nuisance species or suspected aquatic nuisance species may be reported by:
1. Telephone: 1-303-291-7295
  2. Website: <http://www.cpw.state.co.us>

## Hawaii AIS Statutes

*Compiled 10/12/15*

### Haw. Rev. Stat. Tit. 12, Ch. 194 (Invasive Species Council)

#### § 194-1. Definitions

As used in this [chapter], unless the context requires otherwise:

“Council” means the [invasive species council].

“Department” means any entity that is a member of the [invasive species council] established under section [194-2(a)].

#### § 194-2. Establishment of council; duties

(a) There is established the invasive species council for the special purpose of providing policy level direction, coordination, and planning among state departments, federal agencies, and international and local initiatives for the control and eradication of harmful invasive species infestations throughout the State and for preventing the introduction of other invasive species that may be potentially harmful. The council shall:

- (1) Maintain a broad overview of the invasive species problem in the State;
- (2) Advise, consult, and coordinate invasive species-related efforts with and between the departments of agriculture, land and natural resources, health, and transportation, as well as state, federal, international, and privately organized programs and policies;
- (3) Identify and prioritize each lead agency's organizational and resource shortfalls with respect to invasive species;
- (4) After consulting with appropriate state agencies, create and implement a plan that includes the prevention, early detection, rapid response, control, enforcement, and education of the public with respect to invasive species, as well as fashion a mission statement articulating the State's position against invasive species; provided that the appropriate state agencies shall collaborate with the counties and communities to develop and implement a systematic approach to reduce and control coqui frog infestations on public lands that are near or adjacent to communities, and shall provide annual reports on the progress made in achieving this objective;
- (5) Coordinate and promote the State's position with respect to federal issues, including:
  - (A) Quarantine preemption;
  - (B) International trade agreements that ignore the problem of invasive species in Hawaii;

(C) First class mail inspection prohibition;

(D) Whether quarantine of domestic pests arriving from the mainland should be provided by the federal government;

(E) Coordinating efforts with federal agencies to maximize resources and reduce or eliminate system gaps and leaks, including deputizing the United States Department of Agriculture's plant protection and quarantine inspectors to enforce Hawaii's laws;

(F) Promoting the amendment of federal laws as necessary, including the Lacey Act Amendments of 1981, Title 16 United States Code sections 3371-3378; Public Law 97-79, and laws related to inspection of domestic airline passengers, baggage, and cargo; and

(G) Coordinating efforts and issues with the federal Invasive Species Council and its National Invasive Species Management Plan;

(6) Identify and record all invasive species present in the State;

(7) Designate the department of agriculture, health, or land and natural resources as the lead agency for each function of invasive species control, including prevention, rapid response, eradication, enforcement, and education;

(8) Identify all state, federal, and other moneys expended for the purposes of the invasive species problem in the State;

(9) Identify all federal and private funds available to the State to fight invasive species and advise and assist state departments to acquire these funds;

(10) Advise the governor and legislature on budgetary and other issues regarding invasive species;

(11) Provide annual reports on budgetary and other related issues to the legislature twenty days prior to each regular session;

(12) Include and coordinate with the counties in the fight against invasive species to increase resources and funding and to address county-sponsored activities that involve invasive species;

(13) Review state agency mandates and commercial interests that sometimes call for the maintenance of potentially destructive alien species as resources for sport hunting, aesthetic resources, or other values;

(14) Review the structure of fines and penalties to ensure maximum deterrence for invasive species-related crimes;



(15) Suggest appropriate legislation to improve the State's administration of invasive species programs and policies;

(16) Incorporate and expand upon the department of agriculture's weed risk assessment protocol to the extent appropriate for the council's invasive species control and eradication efforts; and

(17) Perform any other function necessary to effectuate the purposes of this chapter.

(b) The council shall be placed within the department of land and natural resources for administrative purposes only and shall be composed of:

(1) The president of the University of Hawaii, or the president's designated representative;

(2) The director, or the director's designated representative, of each of the following departments:

(A) Business, economic development, and tourism;

(B) Health; and

(C) Transportation; and

(3) The chairperson, or the chairperson's designated representative, of each of the following departments:

(A) Agriculture; and

(B) Land and natural resources.

(c) Representatives of federal agencies, the legislature, and members of the private sector shall be asked to participate or consulted for advice and assistance. Representatives of the legislature shall consist of eight members, as follows:

(1) Four senators, one from each county, to be selected by the senate president; and

(2) Four representatives, one from each county, to be selected by the speaker of the house of representatives.

(d) The council shall meet no less than twice annually to discuss and assess progress and recommend changes to the invasive species programs based on results of current risk assessments, performance standards, and other relevant data. Notwithstanding any law to the contrary:

(1) A simple majority of voting members of the council shall constitute a quorum to do business; and

(2) Any action taken by the council shall be by a simple majority of the voting members.

(e) The council shall submit a report of its activities to the governor and legislature annually.

### **§ 194-3. Lead agencies; accountability**

A state department that is designated as a lead agency under section [194-2(a)(7)], with respect to a particular function of invasive species control, shall have sole administrative responsibility and accountability for that designated function of invasive species control. The lead agency shall:

- (1) Coordinate all efforts between other departments and federal and private agencies to control or eradicate the designated invasive species;
- (2) Prepare a biennial multidepartmental budget proposal for the legislature forty days before the convening of the regular session of the legislature in each odd-numbered year, showing the budget requirements of each of the lead agency's assigned invasive species function that includes the budget requirements of all departments that it leads for that species, as well as other federal and private funding for that invasive species;
- (3) Prepare and distribute an annual progress report forty days prior to the convening of each regular session of the legislature to the governor and the legislature that includes the status of each assigned function; and
- (4) Any other function of a lead agency necessary to effectuate the purposes of this [chapter].

### **§ 194-4. Relation of chapter to other laws**

Notwithstanding any other law to the contrary, and in addition to any other authority provided by law that is not inconsistent with the purposes of this [chapter], a department is authorized to examine, control, and eradicate all instances of invasive species identified by the council for control or eradication and found on any public or private premises or in any aircraft or vessel landed or docked in waters of the State.

### **§ 194-5. Entry; private property**

- (a) Whenever any invasive species identified by the council for control or eradication is found on private property, a department may enter such premises to control or eradicate the invasive species after reasonable notice is given to the owner of the property and, if entry is refused, pursuant to the court order in subsection (d).
- (b) If applicable, a duplicate of the notice so given shall be left with one or more of the tenants or occupants of the premises. If the premises are unoccupied, notice shall be mailed to the last known place of residence of the owner, if residing in the State. If the owner resides out of the State or cannot be expeditiously provided with notice, notice left at the house or posted on the premises shall be sufficient.
- (c) The department may instead cause notice to be given, and order the owner to control or eradicate the invasive species, if such species was intentionally and knowingly established by the owner on the owner's property and not naturally dispersed from neighboring properties, at the

owner's expense within such reasonable time as the department may deem proper, pursuant to the notice requirements of this section.

(d) If the owner thus notified fails to comply with the order of the department, or its agent, within the time specified by the department, or if entry is refused after notice is given pursuant to subsection (a) and, if applicable subsection (b), the department or its agent may apply to the district court of the circuit in which the property is situated for a warrant, directed to any police officer of the circuit, commanding the police officer to take sufficient aid and to assist the department member or its agent in gaining entry onto the premises, and executing measures to control or eradicate the invasive species.

(e) The department may recover by appropriate proceedings the expenses incurred by its order from any owner who, after proper notice, has failed to comply with the department's order.

(f) In no case shall the department or any officer or agent thereof be liable for costs in any action or proceeding that may be commenced pursuant to this [chapter].

#### **§ 194-6. Entry; public property**

(a) Whenever any invasive species is found on state or county property or on a public highway, street, lane, alley, or other public place controlled by the State or county, notice shall be given by the department or its agent, as the case may be, to the person officially in charge thereof, and the person shall be reasonably notified and ordered by the department to control or eradicate the invasive species.

(b) In case of a failure to comply with the order, the mode of procedure shall be the same as provided in case of private persons in section [194-5].

#### **§ 194-7. Rules**

The invasive species council may adopt rules pursuant to chapter 91, to effectuate this [chapter].

## **Hawaii AIS Regulations**

*Compiled 10/12/15*

### **Haw. Admin. Code Tit. 13, Chapter 76 (Non-Indigenous Aquatic Species)**

#### **Subchapter 1. General Provisions**

##### **§ 13-76-1. Purpose.**

This chapter governs rules aimed at preventing, to the extent practical, the introduction and spread of non-indigenous aquatic species into State waters. Such non-indigenous aquatic species are potentially harmful to the environment and economy of Hawaii because they may replace or destroy native species and alter their habitats.

##### **§ 13-76-2. Definitions.**

As used in this chapter unless otherwise provided:

“Board” means the board of land and natural resources.

“Department” means the department of land and natural resources.

“Master” means the person authorized by the vessel operator to be the captain of the vessel.

“Non-indigenous aquatic species” means any marine, brackish water, or freshwater species or other viable biological material, including, but not limited to, eggs, spores, or seeds, that enters or exists in an ecosystem where it was not known to have existed before, is outside its natural or historic range, or may have come to Hawaii by human introduction.

“Person” means any individual, corporation, partnership, trust, association, or other private entity, or any officer, employee, agent, department, or instrumentality of the federal government, of any state or political subdivision thereof, or of any foreign government.

“State” means the State of Hawaii.

“State marine waters” means all waters of the State, including the water column and the water surface, extending from the upper reaches of the wash of the waves on shore seaward to the limit of the State's police power and management authority, including the United States territorial sea, notwithstanding any law to the contrary.

“USCG” means the United States Coast Guard.

“Vessel operator” means a company that owns, operates or has chartered a vessel.

##### **§ 13-76-3. General Permit Conditions.**

- (a) The general permit provisions of this section shall be in addition to the more specific provisions of section 13-76-15, and as otherwise provided in this chapter.
- (b) The department may require persons to submit an application for a permit issued pursuant to this chapter.
- (c) The submission of an application to the department shall not obligate the department to issue a permit or constitute a right or interest on the part of the applicant to have a permit issued.
- (d) A permit shall have a limited duration subject to the provisions of this chapter, but such duration shall not exceed one year from the date of issuance. The issuance of a permit shall not constitute a vested right or property interest to receive future or additional permits.
- (e) Permits are non-transferable, so that whenever a permittee parts with possession or transfers, in whole or in part, the title to or interest in the vessel identified in the permit to another person by any arrangement, the permit shall immediately expire. The permittee must notify the department prior to and immediately after such transfer has occurred.
- (f) The department may impose terms and conditions it deems necessary to carry out the purposes of this chapter, including requiring a report or reports of any activity conducted that may potentially introduce a non-indigenous species to state marine waters by the applicant or permit holder within the state.
- (g) It is unlawful for any person to violate any provision of any permit issued pursuant to this chapter. Failure to comply with any provision of this chapter, or any provision of any permit issued hereunder, shall be cause for termination of said permit.
- (h) If the department determines that the protection and conservation of aquatic life in the area requires the cessation of all or certain activities allowed under the permits, upon notification to the permit holders of this determination by any reasonable means, the permits shall automatically expire on a date provided in the notification.
- (i) There is no right to a renewal or re-issuance of a permit. When reviewing an application for a permit, the department shall consider whether the applicant has previously violated or not complied with any term or condition of a permit and may deny the application on this basis.
- (j) The permittee shall have the permit on board the vessel and be able to show the permit upon the demand of any employee, agent, or officer authorized to enforce this chapter. Failure or refusal to show the permit shall be a violation of this chapter and sufficient cause to immediately but temporarily suspend the permit until such time that the board may take action to revoke the permit.
- (k) The board may revoke any permit for any violation of the terms and conditions of the permit and a person whose permit was revoked shall not be eligible to apply for another permit until one year from the date of revocation.

#### **§ 13-76-4. Penalties.**

A person violating the provisions of this chapter shall be guilty of a petty misdemeanor, as provided under section 187A-13, HRS, subject to administrative penalties as provided under section 187A-12.5, HRS, and punished as provided by law.

#### **§ 13-76-5. Severability.**

The provisions of these rules are declared to be severable, and if any portion or the application thereof to any person or property is held invalid for any reason, the validity or application of the remainder of these rules to other persons or property shall not be affected.

### **Subchapter 2. Ballast Water Management**

#### **§ 13-76-11. Purpose.**

(a) This subchapter addresses the management and disposition of vessel ballast water as a medium or means for the introduction of aquatic invasive species into state marine waters, such as but not limited to any ocean, estuary, bay, harbor, beach, or coastal area. These rules are intended to act in coordination with federal regulations on ballast water management by 1) establishing state laws that will correspond to and complement federal regulations on ballast water to ensure consistency, 2) providing best practices guidelines to improve vessel ballast water management prior to entering state marine waters, 3) adopting a ballast water management program, including a ballast water exchange reporting system, and 4) monitoring compliance with program requirements.

(b) This subchapter identifies: 1) prohibited activities; 2) vessels exempted from ballast water management plan requirements, ballast water reporting requirements, ballast water exchange requirements, and ballast water discharge requirements; 3) which permits are available to qualifying vessels; 4) requirements that incoming vessels are subject to regarding ballast water; and 5) State verification of compliance with this subchapter.

#### **§ 13-76-12. Definitions.**

As used in this subchapter, unless otherwise provided:

“Aquatic invasive species” means a non-indigenous aquatic species, which, if introduced into an ecosystem, may cause harm to Hawaii’s economy, environment, human health, or public safety and welfare.

“Ballast operations” means the transfer, uptake, and/or discharge of ballast water.

“Ballast tank” means any tank, hold, or part of a vessel used to carry ballast water, whether or not the tank or hold was designed for that purpose.

“Ballast water” means any water, associated sediments, and suspended matter taken on board a vessel to manipulate, control, or maintain trim, draft, stability, or stresses of the vessel, without regard to the manner in which it is carried.

“BWM” means ballast water management as required by federal law 33 CFR Part 151 Subpart D, Mandatory Ballast Water Management Program for U.S. Waters, dated July 28, 2004.

“Coastwise trade” includes the transportation of passengers or merchandise between points embraced within the coastwise laws of the United States.

“Discharge” means to drain or remove part or all of the ballast water off the vessel.

“EEZ” means the United States exclusive economic zone established by Presidential Proclamation No. 5030, dated March 10, 1983, which extends from the baseline of the territorial sea of the United States seaward 200 nautical miles, substantially as defined in federal law 33 CFR 151.2025, dated July 1, 2005.

“Empty/refill exchange” means to pump the ballast tank or tanks out, until empty or as close to empty as the master determines is safe to do so, then refilling the tank with mid-ocean waters.

“Exchange” means to replace water in ballast tanks by using flow through exchange, empty/refill exchange, or other exchange methodology recommended or required by the United States Coast Guard.

“Flow through exchange” means to flush out ballast tanks by pumping in mid-ocean water at the bottom of the tank and continuously overflowing the tank from the top until three full volumes of the ballast water tank capacity have been changed.

“MHI EEZ” means the main Hawaiian islands exclusive economic zone identified as those waters of the EEZ surrounding the main Hawaiian islands east of 161° West longitude.

“Mid-ocean waters” means waters at least 200 nautical miles from any coast.

“Permanent ballast” means a weight or heavy material added to a vessel to enhance the vessel's stability that is always left on the vessel and not normally removed either between or during voyages.

“Transfer” means the on-board movement of ballast water from one part of the vessel to another.

“Qualifying vessels” means all vessels, United States or foreign flagged, carrying ballast water into state marine waters after operating outside the EEZ.

“Sediments” means any material that settles out of ballast water within a vessel.

“Uptake” means to fill part or all of the vessel's ballast tanks with water from outside the vessel.

“Vessel in innocent passage” means a ship engaged in continuous and expeditious surface passage through the territorial sea and archipelagic waters of foreign coastal states in a manner not prejudicial to its peace, good order, or security. Passage includes stopping and anchoring, but only if incidental to ordinary navigation or necessary by rough weather or distress, or for the purpose of rendering assistance to persons, ships, or aircraft in danger or distress.

“Voyage” means any transit by a vessel that originates from a port or place outside of the EEZ surrounding the State of Hawaii and destined for a port or place in Hawaii.

### **§ 13-76-13. Prohibited Activities.**

(a) Unless exempted under the provisions of section 13-76-14, by permit issued pursuant to section 13-76-15, or as may be otherwise provided by law, it is unlawful for the master of a qualifying vessel:

- (1) To fail to have or fail to follow a ballast water management plan, as required under section 13-76-16;
- (2) To exchange ballast water contrary to the provisions of section 13-76-17;
- (3) To discharge, or allow the discharge of, ballast water in state marine waters in violation of section 13-76-18;
- (4) To fail to submit a ballast water report form, as required in section 13-76-19; and
- (5) To violate any provision in this subchapter.

(b) It is unlawful for the master to prevent, hinder, or otherwise interfere with the department's or USCG's evaluation of the vessel's compliance with the provisions of this subchapter. The evaluation may be conducted in accordance with section 13-76-20 and as may be otherwise provided in this subchapter.

### **§ 13-76-14. Applicability.**

(a) The ballast water management plan requirements of section 13-76-16 shall apply to qualifying vessels.

(b) The ballast water reporting requirements of section 13-76-19 shall apply to qualifying vessels, except for the following:

- (1) Crude oil tankers engaged in coastwise trade. This exemption applies only to vessels carrying unrefined crude oil product from one U.S. place to another, including Hawaii;
- (2) Any vessel of the United States Department of Defense or USCG, subject to the requirements of Section 1103 of the National Invasive Species Act of 1996, or any vessel of the armed forces, as defined in Section 1322(a)(14) of Title 33 of the United States Code that



is subject to the “Uniform National Discharge Standards for Vessels of the Armed Forces” pursuant to Section 1322(n) of Title 33 of the United States Code;

(3) Any vessel that operates exclusively within the MHI EEZ;

(4) Any vessel that operates outside of the EEZ, but conducts all ballast operations exclusively in the MHI EEZ, regardless of the number of voyages the vessel makes; and

(5) Any vessel in innocent passage or having entered state marine waters due to circumstances beyond its control; provided that the vessel does not discharge ballast water into state marine waters, or into waters that may impact state marine waters, unless the vessel meets the requirements of section 13-76-18;

(c) The ballast water exchange requirements of section 13-76-17 shall apply to qualifying vessels that conduct ballast water exchanges; except for vessels exempted under subsection 13-76-14(b) (1), (2), (3), (5) and the following:

(1) Any vessel equipped with a functioning treatment system designed to kill all living aquatic organisms in the ballast water; provided that USCG or other approving authority has determined that the system is designed to be at least as effective as ballast water exchange at reducing the risk of transfer of aquatic invasive species in ballast water and the treatment system is properly functioning as designed; and

(2) Any vessel, to the extent that it is equipped with permanent, freshwater, or treated ballast, as specified in section 13-76-14 (c)(1) above or will not discharge ballast water in state marine waters.

(d) The ballast water discharge requirements of section 13-76-18 shall apply to qualifying vessels that either will discharge or have discharged ballast water into state marine waters; except for vessels exempted under subsections 13-76-14(b)(2) and (3), and 13-76-14 (c) (1) and (2).

(e) The master, or vessel operator when there is no master, shall be responsible for complying with the provisions of this subchapter, unless otherwise provided. Nothing in this subchapter shall relieve the master of the responsibility to ensure the safety and stability of the vessel or the safety of the crew and passengers, or any other responsibility.

#### **§ 13-76-15. Permits.**

(a) The department may issue permits to vessel operators, exempting qualifying vessels from the provisions of this subchapter, subject to the provisions of section 13-76-3 and the following conditions:

(1) Receipt of a completed application, on a form provided by the department, and any other information the department may require; and

(2) Approval by the department, after an assessment of the appropriateness of the application based on:

(A) Safety of the crew or its passengers, USCG approved ballast water treatment system, protection of property, vessel integrity or other factors the department considers relevant to the intent and purpose of this subchapter; and

(B) All applicable state and federal law.

(b) The permit exemptions are limited to the provisions of this subchapter and do not exempt the master from other state laws or any federal laws.

**§ 13-76-16. Ballast Water Management Plan Requirements.**

Vessels in compliance with BWM requirements for a ballast water management plan, shall be deemed to also be in compliance with this section. It is unlawful for any master to violate BWM requirements for a ballast water management plan.

**§ 13-76-17. Ballast Water Exchange Requirements.**

(a) Qualifying vessels that require ballast water exchanges shall conduct such exchanges in mid-ocean waters. Unless exempted by section 13-76-14(c), or as may be otherwise provided by law, it is unlawful for a master to conduct a ballast water exchange within state marine waters while holding ballast water obtained from an area less than 200 nautical miles from any coast.

(b) All such exchanges shall be by flow through exchange, empty/refill exchange, or other exchange methodology recommended or required by the USCG or other approving authority.

(c) The master is responsible for the safety of the vessel, its crew, and its passengers and is not required to conduct a ballast water management practice, including exchange, if the master determines that the practice would threaten the safety of the vessel, its crew, or its passengers because of adverse weather, vessel design limitations, equipment failure, or any other extraordinary conditions. Should the master make such a determination, the master shall take all feasible measures, based on the best available technologies economically achievable, that do not compromise the safety of the vessel, its crew, and its passengers, to minimize the discharge of ballast water containing non-indigenous aquatic species into state marine waters or waters that may impact state marine waters. Such discharge shall be subject to the provisions of section 13-76-18.

(d) Nothing in this subchapter relieves the master of the responsibility for ensuring the safety and stability of the vessel or the safety of the crew and passengers, or any other responsibility.

**§ 13-76-18. Ballast Water Discharge Requirements.**

(a) To the extent practical, the master of any qualifying vessel that has not conducted a mid-ocean waters ballast water exchange, and is subject to the provisions of subsection 13-76-14(d), shall not discharge ballast water into state marine waters.

(b) The master shall report to the department, pursuant to section 13-76-19, when a mid-ocean waters ballast water exchange was not done and a ballast water discharge into state marine waters is necessary.

(c) Unless exempted by subsections 13-76-14(c) or 13-76-14(e) of this section, prior to any ballast water discharge into the EEZ or state marine waters, the master shall obtain approval from the department to discharge ballast water. Upon approval, the master shall then implement all feasible measures to minimize the discharge of ballast water.

(d) This subchapter does not authorize the discharge of oil, noxious liquid substances, or any other pollutant in a manner prohibited by state, federal or international laws or regulations. Ballast water carried in any tank containing a residue of oil, noxious liquid substances, or any other pollutant shall be discharged in accordance with the applicable requirements.

(e) The master shall be exempted from the provisions of subsections 13-76-18(a) and 13-76-18(c), if the master determines that such ballast water discharge is necessary to ensure the safety and stability of the vessel or the safety of the crew and passengers, because of adverse weather, vessel design limitations, equipment failure, or any other extraordinary conditions.

#### **§ 13-76-19. Ballast Water Reporting Requirements.**

(a) Unless exempted in subsection 13-76-14(b), for all qualifying vessels, the master shall:

(1) Fully and accurately fill out the USCG ballast water report form;

(2) Submit the form by fax, electronic mail, or as otherwise provided to the department no later than twenty-four (24) hours prior to vessel arrival into state marine waters;

(3) Submit an amended form to the department before the vessel departs state marine waters, should there be a change in any of the information submitted in accordance with this section; and

(4) Maintain on board the vessel records that include all of the information provided on the form for at least two years.

(b) Submission of this form or an amended form to the department does not relieve the master of the responsibility to report to the USCG, if the USCG requires such report or amended form.

#### **§ 13-76-20. Evaluation and Compliance.**

(a) In order to evaluate the compliance rate of qualifying vessels with the provisions of this subchapter, the department, in coordination with the USCG, may:

(1) Take samples of ballast water and sediment, examine documents, and make other appropriate inquiries;

(2) Compile the information obtained from submitted reports and use the information in conjunction with existing information relating to the number of vessel arrivals; and

(3) Take other actions necessary for the purposes of this subchapter.

(b) The master shall make available to the department, upon the department's request, the records required by section 13-76-19 and other relevant information.

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**IDAPA 02  
TITLE 06  
CHAPTER 09**

**02.06.09 - RULES GOVERNING INVASIVE SPECIES**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Title 22, Chapter 19, Idaho Code, the “Idaho Invasive Species Act of 2008” and Title 22, Chapter 20, Idaho Code, the “Idaho Plant Pest Control Act of 2002.” (3-29-10)

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 02.06.09, “Rules Governing Invasive Species.” (3-29-10)

**02. Scope.** These rules govern the designation of invasive species, inspection, permitting, decontamination, recordkeeping and enforcement of regulated Invasive Species. It is anticipated that this rule will be promulgated in phases with the first phase addressing aquatic invertebrate invasive species. Subsequent phases of this rule will establish inspection, permitting, decontamination, recordkeeping and enforcement for all invasive species listed below. These rules are in addition to other existing laws and rules regulating non-native organisms harmful to Idaho agriculture or the environment. These rules do not supersede, replace, or otherwise diminish other existing federal, state or local laws and rules. The official citation of this chapter is IDAPA 02.06.09, et seq. For example, this citation for this section is IDAPA 02.06.09.001. (3-29-10)

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (3-29-10)

**003. ADMINISTRATIVE APPEAL.**

There is no provision for administrative appeal before the Idaho State Department of Agriculture under this chapter. Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (3-29-10)

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference in this chapter. (3-29-10)

**005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.**

**01. Physical Address.** The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. (3-29-10)

**02. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (3-29-10)

**03. Mailing Address.** The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (3-29-10)

**04. Telephone Number.** The telephone number for the Division of Plant Industries at the central office is (208) 332-8620. (3-29-10)

**05. Fax Number.** The fax number for the Division of Plant Industries at the central office is (208) 334-2283. (3-29-10)

**006. IDAHO PUBLIC RECORDS ACT.**

These rules are public records available for inspection and copying at the Department. (3-29-10)

**007. -- 009. (RESERVED)**

**010. DEFINITIONS.**

The following definitions shall apply in the interpretation and enforcement of this rule. (3-29-10)

- 01. Acts.** Title 22, Chapter 19, Idaho Code, the “Idaho Invasive Species Act of 2008” and Title 22, Chapter 20, the “Idaho Plant Pest Act of 2002.” (3-29-10)
- 02. Aquatic Invertebrate Invasive Species.** Those species listed in Section 800. (3-29-10)
- 03. Control.** The abatement, suppression, or containment of an invasive species or pest population. (3-29-10)
- 04. Conveyance.** A terrestrial or aquatic vehicle or a vehicle part that may carry or contain an invasive species or plant pest. A conveyance includes a motor vehicle, a vessel, a motorboat, a sailboat, a personal watercraft, a container, a trailer, or any other means or method of transportation. “Conveyance” also includes a live well or a bilge area. (3-29-10)
- 05. Department.** The Idaho State Department of Agriculture. (3-29-10)
- 06. Director.** The director of the Idaho State Department of Agriculture or his designee. (3-29-10)
- 07. Dreissenia Infested Waterbody.** Body of water designated by the United States Geological Survey, <http://nas.er.usgs.gov/taxgroup/mollusks/zebramussel/>, or the Director as having a population of any life stage of Dreissenia mussels. (3-29-10)
- 08. Early Detection/Rapid Response.** Finding invasive species during the initial stages of colonization and then responding within ten (10) days. (3-29-10)
- 09. Energy Crop Invasive Species.** An Energy Crop Invasive Species is a non-native plant grown to harvest for use in making biofuels, such as bioethanol, or combusted for its energy content to generate electricity or heat. Energy Crop Invasive Species are non-native plants that are cultivated for the purpose of producing (non-food) energy. (3-20-14)
- 10. Equipment.** An article, tool, implement, or device capable of carrying or containing: (3-29-10)
- a.** Water; or (3-29-10)
  - b.** An invasive species. (3-29-10)
- 11. Facility.** Any place, site or location or part thereof where a species listed as invasive pursuant to this rule are found, handled, housed, held, planted, or otherwise maintained for purposes governed by a possession, production, or transport permit issued pursuant to these rules and includes, but is not limited to all fields, plots, buildings, lots, structures, and other appurtenances and improvements on the land. (3-20-14)
- 12. Invasive Species.** Species not native to Idaho, including their seeds, eggs, spores, larvae or other biological material capable of propagation, that cause economic or environmental harm and are capable of spreading in the state. “Invasive species” does not include crops, improved forage grasses, domestic livestock, or other beneficial nonnative organisms. (3-29-10)
- 13. Invasive Species Act.** The Idaho Invasive Species Act of 2008. (3-29-10)
- 14. Plant Pest Act.** The Idaho Plant Pest Act of 2002. (3-29-10)
- 15. Possession.** The act of cultivating, importing, exporting, shipping or transporting a listed invasive species in Idaho. Possession does not include the act of having, releasing or transporting a listed invasive species through circumstances beyond individual control, including but not limited to infestations in a water supply system, infestations resulting from natural spread of the species or some other acts of nature. (3-29-10)
- 16. State.** The state of Idaho. (3-29-10)

**17. Transportation.** Any and all modes of personal and commercial Conveyance, including but not limited to automobiles, trucks, buses, boats, airplanes, helicopters, and trains. (3-29-10)

**18. Trap Crop Invasive Species.** A Trap Crop Invasive Species is a non-native plant species planted for purposes of controlling or eradicating a Plant Pest, as defined in the Idaho Plant Pest Act of 2002. (3-20-14)

**19. Water Body.** Natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank and fountain. (3-29-10)

**20. Water Supply System.** A system used to treat, store, convey, or distribute water for irrigation, industrial, waste water treatment, residential, or culinary use. A Water Supply System includes a pump, canal, ditch, regulating impoundment, in-canal forebay, pipeline, or associated wetland and water quality improvement project, but does not include a Water Body as defined in Subsection 010.19. (3-29-10)

**011. APPLICABILITY.**

These rules apply to the possession, importation, shipping, Transportation, eradication, and Control of invasive species in Idaho. (3-29-10)

**012. ABBREVIATIONS.**

**01. AHS.** Aquatic Invertebrate Invasive Species. (3-29-10)

**02. EDRR.** Early Detection/Rapid Response. (3-29-10)

**03. HACCP.** Hazard Analysis and Critical Control Points. (3-29-10)

**013. – 100. (RESERVED)**

**101. PROHIBITION ON POSSESSION, IMPORTATION, SHIPPING OR TRANSPORTATION OF INVASIVE SPECIES.**

No person may possess, cultivate, import, ship, or transport any invasive species, including but not limited to an Energy Crop Invasive Species or Trap Crop Invasive Species, into or through the state of Idaho following the effective date of this rule, unless the person possessing, importing, shipping or transporting has obtained a permit under Section 103, or unless otherwise exempt by this rule, as set forth in Section 104. Prohibited acts include but are not limited to: (3-20-14)

**01. Possession or Transportation.** Possessing, cultivating, importing, exporting, shipping, or transporting an invasive species into or through the state of Idaho. (3-29-10)

**02. Releasing.** Releasing, placing, planting, or causing to be released, an invasive species in a water body, facility, water supply system, field, garden, planted area, ecosystem, or otherwise into the environment within the state of Idaho. (3-29-10)

**03. Transporting From an Infested Environment.** Transporting a conveyance or equipment into or through the state of Idaho that has been in an infested environment without obtaining a Department-approved decontamination of the conveyance or equipment. (3-29-10)

**04. Transporting an Infested Article.** Transporting, importing or shipping any plant, animal, mode of transportation, conveyance, or article that is infested with an invasive species into or through the state of Idaho without obtaining a Department-approved decontamination of the object. (3-29-10)

**102. INTRODUCTION OF NEW SPECIES TO THE STATE.**

Following the effective date of this rule, no person may introduce or import a species not previously present in Idaho without first receiving a determination from the Department that the species is not an invasive species. (3-29-10)

**103. POSSESSION PERMITS.**

Possession of invasive species is authorized only if the person possessing the species obtains a possession permit.



(3-20-14)

**01. Application for Possession Permits.** Persons seeking a possession permit must make application on a form prescribed by the Director. A separate application must be submitted for each facility where invasive species will be possessed. The application must include: (3-29-10)

- a. The applicant's name, address (residence and mailing), and Employer or Tax Identification Number. (3-29-10)
- b. Description of the proposed facility, including: (3-29-10)
  - i. A map identifying the location of the proposed facility; (3-29-10)
  - ii. The legal description of the real property for the proposed facility; (3-29-10)
  - iii. The approximate total area of the proposed facility; (3-29-10)
  - iv. A detailed diagram of proposed facility, (3-29-10)
  - v. A detailed confinement or HACCP Plan if applicable. (3-29-10)
- c. Name and address of the owner(s) and/or operator(s) of the proposed facility, if different than the applicant. If the proposed facility will be leased, a written and notarized authorization by the property owner must be included. (3-29-10)
- d. A copy of local zoning authority approval, if approval is required by the local zoning authority. (3-29-10)
- e. Description of the invasive species to be possessed at the facility, including, to the extent possible, the genus, species, sex, life state, age, identification, and purpose for possessing each species. (3-29-10)
- f. The date upon which the proposed facility will be available for inspection by the Department, which must be not less than seven (7) days prior to the time the invasive species are possessed at the proposed facility. (3-29-10)

**02. Application Process.** The Director will consider all information in the application and issue a written decision granting or denying the application. In reviewing the application, the Director will consider factors including but not limited to: (3-29-10)

- a. Proximity of the facility to agricultural operations, and environmentally sensitive lands and waters. (3-29-10)
- b. Potential for access to the facility by unauthorized persons. (3-29-10)
- c. Potential for vandalism, adverse weather, or other events that compromise the security of the facility. (3-29-10)
- d. Potential for the invasive species to escape or be released from the facility. (3-29-10)
- e. Whether, based on the applicant's certification and any other evidence received by the Director in connection with the application or proposed facility, all federal, state, county and city laws applicable to the facility have been met. (3-29-10)
- f. Whether the applicant has adequate knowledge, experience and training to ensure that the invasive species will not harm agriculture, the natural resources and environment of the state of Idaho. Such experience may be documented by a log book, employment records, education records or other means by which experience may be authenticated. (3-29-10)

**g.** Whether the facility is or will be adequately designed, constructed, and managed to protect agriculture, the natural resources and environment of the state of Idaho from escape of the invasive species.(3-29-10)

**h.** Prior to issuing a possession permit, the Director or his designee may perform an inspection of the facility to determine if its design, construction and proposed operation is consistent with the applicable provisions of Idaho law. (3-29-10)

**03. Grant or Denial of the Permit.** Following review of the application and any other relevant information, the Director will either issue the possession permit or deny the application and notify the applicant. If the Director issues the permit, he may include any necessary conditions to prevent release or escape of the invasive species, and to prevent harm to Idaho's agriculture, natural resources, and the environment. (3-29-10)

**04. Duration of Possession Permit.** A possession permit is valid until the permitted person no longer possesses the invasive species, or until the invasive species leaves the state. (3-29-10)

**05. Permit Revocation.** Permits issued pursuant to this chapter may be revoked at any time if the director or his designee finds that the permit holder has violated any of the provisions of this chapter, the Invasive Species Act, the Plant Pest Act, or any of the conditions included in the permit. (3-29-10)

**06. Disposition of Non-Permitted Invasive Species.** The Director may order non-permitted or illegally imported invasive species to be removed from the state or destroyed. (3-29-10)

**07. Annual Report.** All permit holders shall submit a report no later than January 1 of each calendar year, on forms provided by the Department. (3-29-10)

**104. EXEMPT SPECIES.**

The following species were present in portions of the state of Idaho prior to adoption of these Rules. However, they are not present throughout the state, and in accordance with the policy of the state of Idaho, as expressed in Idaho Code, Section 22-1902, the spread of these species should be prevented to the greatest extent possible. Therefore, the species listed below are exempt from the permit requirements of Sections 102 and 103, above. However, those seeking to transport the species listed in Section 104.01 outside the known established distribution area must obtain a transport permit in accordance with Section 104.03. (3-29-10)

**01. Exempt Species List:** (3-29-10)

**a.** New Zealand Mud Snail, *Potamopyrgus antipodarum*; (3-29-10)

**b.** Bullfrog, *Lithobates catesbeianus*; (3-20-14)

**c.** Asian Clam, *Corbicula fluminea*. (3-29-10)

**02. Location of Known Established Populations.** Known established distributions of the New Zealand Mud Snail, Bullfrog, and Asian Clam are identified and mapped online at <http://nas.er.usgs.gov/queries>. (3-20-14)

**03. Transport Permits.** Any person seeking to transport one of the species listed in Subsection 104.01 above outside of the known established distribution boundaries delineated in Subsection 104.02, above, must obtain a transport permit that will be valid for five (5) years. For the purposes of this rule, transport of these exempt species is assumed when biological organisms and associated water from aquaculture facilities and hatcheries is moved from known infested areas in the state. (3-20-14)

**04. Application for Transport Permits.** Persons seeking a transport permit must make application on a form prescribed by the Director. A separate application must be submitted for each facility from which invasive species will be transported. The application must include: (3-29-10)

**a.** The applicant's name, address (residence and mailing), and Employer or Tax Identification

- Number. (3-29-10)
- b.** Description of the facility of origin, including: (3-29-10)
    - i. A map identifying the location of the facility; (3-29-10)
    - ii. The legal description of the real property for the facility; (3-29-10)
    - iii. The approximate total area of the facility; (3-29-10)
    - iv. A detailed diagram of facility, (3-29-10)
    - v. A detailed HACCP Plan if applicable. (3-29-10)
  - c.** Name and address of the owner(s) and/or operator(s) of the facility, if different than the applicant. If the proposed facility will be leased, a written and notarized authorization by the property owner must be included. (3-29-10)
  - d.** Description of the invasive species to be transported from the facility, including the genus, species, sex, life state, age, and purpose for transporting the species. (3-29-10)
  - e.** Description of self-contained areas needing draining or discharges of water during or after the transport of invasive species. (3-29-10)
  - f.** Description of procedures to drain self contained areas after transport is complete, including: (3-29-10)
    - i. Into a municipal water treatment facility; or (3-29-10)
    - ii. Into an on-site waste treatment facility incorporating sand filtration and chlorination; or (3-29-10)
    - iii. As approved by the Department. (3-29-10)

**105. ENERGY CROP POSSESSION/PRODUCTION PERMITS.**

Possession and/or production of Energy Crop Invasive Species is authorized only if the person possessing the species obtains an Energy Crop Invasive Species Possession/Production Permit (“Energy Crop Invasive Species Permit”). (3-20-14)

**01. Application for Energy Crop Invasive Species Permits.** Persons seeking an Energy Crop Invasive Species Permit must make application on a form prescribed by the Director. A separate application must be submitted for each facility or field where the Energy Crop Invasive Species will be possessed and/or produced. The application must include: (3-20-14)

- Number. (3-20-14)
- a.** The applicant’s name, address (residence and mailing), and Employer or Tax Identification (3-20-14)
  - b.** Description of the proposed facility, including: (3-20-14)
    - i. A map identifying the location of the proposed facility or field; (3-20-14)
    - ii. The legal description of the real property for the proposed facility or field; (3-20-14)
    - iii. The approximate total area of the proposed facility or field; (3-20-14)
    - iv. A detailed diagram of proposed facility or field; (3-20-14)
    - v. A detailed confinement plan if applicable; and (3-20-14)

vi. A detailed plan outlining survey and reconnaissance for escaped Energy Crop Invasive Species and a detailed plan for their control or elimination. (3-20-14)

c. Name and address of the owner(s) and/or operator(s) of the proposed facility or field, if different than the applicant. If the proposed facility or field will be leased, a written and notarized authorization by the property owner must be included. (3-20-14)

d. A copy of local zoning authority approval, if approval is required by the local zoning authority. (3-20-14)

e. Description of the Energy Crop Invasive Species to be possessed at the facility or field, including, to the extent possible, the genus, species, sex, life state, age, identification, and purpose for possessing each species. (3-20-14)

f. The date upon which the proposed facility or field will be available for inspection by the Department, which must be not less than seven (7) days prior to the time the Energy Crop Invasive Species are possessed at the proposed facility. (3-20-14)

**02. Application Process.** The Director will consider all information in the application and issue a written decision granting or denying the application. In reviewing the application, the Director will consider factors including but not limited to: (3-20-14)

a. Proximity of the facility to other agricultural operations, and environmentally sensitive lands and waters. (3-20-14)

b. Potential for access to the facility or field by unauthorized persons. (3-20-14)

c. Potential for vandalism, adverse weather, or other events that compromise the security of the facility or field. (3-20-14)

d. Potential for the Energy Crop Invasive Species to escape or be released from the facility or field. (3-20-14)

e. Whether, based on the applicant's certification and any other evidence received by the Director in connection with the application or proposed facility, all federal, state, county and city laws applicable to the facility or field have been met. (3-20-14)

f. Whether the applicant has adequate knowledge, experience and training to ensure that the Energy Crop Invasive Species will not harm agriculture, the natural resources and environment of the state of Idaho. Such experience may be documented by a log book, employment records, education records or other means by which experience may be authenticated. (3-20-14)

g. Whether the facility or field is or will be adequately designed, constructed, and managed to protect agriculture, the natural resources and environment of the state of Idaho from release or escape of the Energy Crop Invasive Species. (3-20-14)

h. Prior to issuing an Energy Crop Invasive Species Permit, the Director or his designee may perform an inspection of the facility or field to determine if its design, construction and proposed operation is consistent with the applicable provisions of Idaho law. (3-20-14)

**03. Grant or Denial of the Permit.** Following review of the application and any other relevant information, the Director will either issue the permit or deny the application and notify the applicant. If the Director issues the permit, he may include any necessary conditions to prevent release or escape of the Energy Crop Invasive Species, and to prevent harm to Idaho's agriculture, natural resources, and the environment. (3-20-14)

**04. Duration of Possession Permit.** An Energy Crop Invasive Species Permit is valid for one (1) year.

(3-20-14)

**05. Permit Revocation.** Permits issued pursuant to this section may be revoked at any time if the Director or his designee finds that the permit holder has violated any of the provisions of this chapter, the Invasive Species Act, the Plant Pest Act, or any of the conditions included in the permit. (3-20-14)

**06. Disposition of Non-Permitted Invasive Species.** The Director may order non-permitted or illegally imported Energy Crop Invasive Species to be removed from the state or destroyed. (3-20-14)

**07. Annual Report.** All permit holders shall submit a report no later than January 1 of each calendar year, on forms provided by the Department. (3-20-14)

**106. TRAP CROP INVASIVE SPECIES PERMITS.**

Production/research of Trap Crop Invasive Species is authorized only if the person possessing the species obtains a Trap Crop Production/Research Permit ("Trap Crop Invasive Species Permit"). (3-20-14)

**01. Application for Trap Crop Invasive Species Permits.** Persons seeking a Trap Crop Invasive Species Permit must make application on a form prescribed by the Director. A separate application must be submitted for each facility where Trap Crop Invasive Species will be researched or produced. The application must include: (3-20-14)

**a.** The applicant's name, address (residence and mailing), and Employer or Tax Identification Number. (3-20-14)

**b.** Description of the proposed facility, including: (3-20-14)

**i.** A map identifying the location of the proposed facility; (3-20-14)

**ii.** The legal description of the real property for the proposed facility; (3-20-14)

**iii.** The approximate total area of the proposed facility; (3-20-14)

**iv.** A detailed diagram of proposed facility; (3-20-14)

**v.** A detailed confinement plan if applicable; and (3-20-14)

**vi.** A detailed plan outlining survey and reconnaissance for escaped plants and a detailed plan for their control or elimination. (3-20-14)

**c.** Name and address of the owner(s) and/or operator(s) of the proposed facility, if different than the applicant. If the proposed facility will be leased, a written and notarized authorization by the property owner must be included. (3-20-14)

**d.** A copy of local zoning authority approval, if approval is required by the local zoning authority. (3-20-14)

**e.** Description of the Trap Crop Invasive Species to be possessed at the facility, including, to the extent possible, the genus, species, sex, life state, age, identification, and purpose for possessing each species. (3-20-14)

**f.** The date upon which the proposed facility will be available for inspection by the Department, which must be not less than seven (7) days prior to the time the Trap Crop Invasive Species is possessed at the proposed facility. (3-20-14)

**02. Application Process.** The Director will consider all information in the application and issue a written decision granting or denying the application. In reviewing the application, the Director will consider factors including but not limited to: (3-20-14)

- a. Proximity of the facility to agricultural operations, and environmentally sensitive lands and waters. (3-20-14)
- b. Potential for access to the facility by unauthorized persons. (3-20-14)
- c. Potential for vandalism, adverse weather, or other events that compromise the security of the facility. (3-20-14)
- d. Potential for the Trap Crop Invasive Species to escape or be released from the facility. (3-20-14)
- e. Whether, based on the applicant's certification and any other evidence received by the Director in connection with the application or proposed facility, all federal, state, county and city laws applicable to the facility have been met. (3-20-14)
- f. Whether the applicant has adequate knowledge, experience and training to ensure that the Trap Crop Invasive Species will not harm agriculture, the natural resources and environment of the state of Idaho. Such experience may be documented by a log book, employment records, education records or other means by which experience may be authenticated. (3-20-14)
- g. Whether the facility is or will be adequately designed, constructed, and managed to protect agriculture, the natural resources and environment of the state of Idaho from escape of the Trap Crop Invasive Species. (3-20-14)
- h. Prior to issuing a Trap Crop Invasive Species Permit, the Director or his designee may perform an inspection of the facility to determine if its design, construction and proposed operation is consistent with the applicable provisions of Idaho law. (3-20-14)

**03. Grant or Denial of the Trap Crop Invasive Species Permit.** Following review of the application and any other relevant information, the Director will either issue the Trap Crop Invasive Species Permit or deny the application and notify the applicant. If the Director issues the Trap Crop Invasive Species Permit, he may include any necessary conditions to prevent release or escape of the Trap Crop Invasive Species, and to prevent harm to Idaho's agriculture, natural resources, and the environment. (3-20-14)

**04. Duration of Trap Crop Invasive Species Permit.** A Trap Crop Invasive Species Permit is valid for one (1) year. (3-20-14)

**05. Permit Revocation.** Permits issued pursuant to this section may be revoked at any time if the Director or his designee finds that the permit holder has violated any of the provisions of this chapter, the Invasive Species Act, the Plant Pest Act, or any of the conditions included in the permit. (3-20-14)

**06. Disposition of Non-Permitted Invasive Species.** The Director may order non-permitted or illegally imported Trap Crop Invasive Species to be removed from the state or destroyed. (3-20-14)

**07. Annual Report.** All permit holders shall submit a report no later than January 1 of each calendar year, on forms provided by the Department. (3-20-14)

**107. -- 199. (RESERVED)**

**200. EARLY DETECTION AND RAPID RESPONSE AQUATIC INVERTEBRATE INVASIVE SPECIES.**

**01. Statewide EDRR AIIS List.** If any of the species listed in the following table are found to occur in Idaho, they shall be reported to the Department immediately. Positive identification shall be made by the Department or other qualified authority as approved by the Director. Subsections 200.02 through 200.05 are applicable to EDRR AIIS only and not to other invasive species listed in Sections 800 through 808.

Early Detection Rapid Response Aquatic Invertebrate Invasive Species (EDRR AIIS) List	
Common Name	Scientific Name
Quagga Mussel	<i>Dreissenia bugensis</i>
Zebra Mussel	<i>Dreissenia polymorpha</i>

(3-29-10)

**02. Transporting EDRR AIIS Over Public Roads.** No person may transport Equipment or any Conveyance containing EDRR AIIS over public roads within the state of Idaho without first being decontaminated. (3-29-10)

**03. Contaminated Conveyances in Idaho Waters.** A person shall not place any EDRR AIIS contaminated Equipment or Conveyance into any Water Body or Water Supply System in the state of Idaho. (3-29-10)

**04. Firefighting Equipment.** Precautions should be taken to prevent the introduction and spread of EDRR AIIS through firefighting activities. All firefighting agencies moving equipment into the state of Idaho shall follow protocols similar to the United States Forest Service decontamination protocols set forth in "Preventing Spread of Aquatic Invasive Organisms Common to the Intermountain Region." Those protocols can be viewed online at [http://www.fs.usda.gov/detail/r4/landmanagement/resourcemanagement/?cid=fsbdev3\\_016113](http://www.fs.usda.gov/detail/r4/landmanagement/resourcemanagement/?cid=fsbdev3_016113). (3-29-10)

**05. Construction and Road Building and Maintenance Equipment.** Construction and equipment used for road building and maintenance must be free of EDRR AIIS. If equipment that is being transported into the state of Idaho has been in an infested water body or water supply system within the preceding thirty (30) days, the equipment must be inspected in accordance with Section 201. The Department may require decontamination. (3-29-10)

## 201. REPORTING REQUIREMENTS.

**01. Discovery.** Any person who discovers an EDRR AIIS within the state or who has reason to believe that an invasive species may exist at a specific location shall immediately report the discovery to the Department. (3-29-10)

**02. Contents.** The report shall, to the best of the reporter's ability, contain the following information: (3-29-10)

**a.** Location of the invasive species; (3-29-10)

**b.** Date of discovery; and (3-29-10)

**c.** Identification of any conveyance, equipment, water body, or host in or upon which the invasive species may be found. (3-29-10)

**03. Methods of Reporting.** The report shall be made in person or in writing (which may include electronic mail) as follows: (3-29-10)

**a.** At any Department office or headquarters; (3-29-10)

**b.** To the Department's toll free hotline at 1-877-336-8687;or (3-29-10)

**c.** Via the Department's website at ([www.agri.idaho.gov](http://www.agri.idaho.gov)). (3-29-10)

**04. Hold Harmless.** Reporting parties will be held harmless from violations pursuant to this chapter

regarding possession of EDRR AIS. (3-29-10)

**202. INSPECTIONS.**

**01. Qualified Inspectors.** Inspections to detect the presence of EDRR AIIS may be conducted by any authorized agent, private inspector or peace officer qualified and trained in accordance with the Department's requirements. (3-29-10)

**02. Conveyances That Have Been in Infested Waters.** All persons transporting a conveyance must receive documentation of an inspection prior to launching in any water of the state if the vessel has been in infested water within the last thirty (30) days. (3-29-10)

**03. All Other Conveyances.** All conveyances are subject to inspection. All compartments, equipment and containers that may hold water, including, but not limited to live wells and ballast and bilge areas shall be drained as part of all inspections. (3-29-10)

**04. Inspection Methods.** Inspectors will determine if EDRR AIIS are present by interviewing the person transporting the conveyance and using visual and/or tactile inspection methods, or such other methods as may be appropriate and using forms supplied by the Department. (3-29-10)

**05. Inspection Results.** Any authorized agent or private inspector or private decontaminator who, through the course of an inspection, determines that AIIS are present shall advise the operator that the conveyance is suspected of possessing EDRR AIIS and that it must be decontaminated according to Departmental procedures. (3-29-10)

**06. Decontamination.** Any conveyance found or reasonably believed to contain EDRR AIIS shall be decontaminated in accordance with Section 204. (3-29-10)

**203. HOLD ORDERS.**

**01. Hold Order.** If any person refuses to permit inspection or decontamination of his or her conveyance, that conveyance is subject to a hold order until the inspection and/or decontamination is complete. (3-29-10)

**02. Notification to Owner.** If the person in charge of the conveyance is not the registered owner, the registered owner shall be notified by mail, return receipt requested, within five (5) days of the Hold Order. Such notification must also include Department contact information. If the registered owner is present when the Hold Order is issued, then the same information shall be provided to the registered owner at the time the order is issued. (3-29-10)

**03. Release of Hold Order.** Decontamination and proof of decontamination, in accordance with Section 204, is necessary in order for the Hold Order to be released. The Hold Order must be released in writing, and may be released only by the Director or his designee. (3-29-10)

**204. EDRR AIIS DECONTAMINATION.**

**01. Decontamination Protocol.** All decontamination must be accomplished by Department-approved service providers, using Department protocol. All decontamination methods must be in accordance with all applicable laws, disposal methods, recommended safety precautions, and safety equipment and procedures. (3-29-10)

**02. Reinspection.** After decontamination, the Department or its authorized agent must re-inspect the conveyance to ensure complete decontamination prior to releasing the conveyance and any associated Hold Order. (3-29-10)

**03. Proof of Decontamination.** Proof of decontamination will consist of a completed post-decontamination inspection form and application of a tamper-proof seal to the conveyance. (3-29-10)



205. -- 799. (RESERVED)

800. INVASIVE SPECIES - AQUATIC - INVERTEBRATES.

01. Zebra Mussel, *Dreissenia polymorpha*. (3-29-10)
02. Quagga Mussel, *Dreissenia bugensis*. (3-29-10)
03. New Zealand Mud Snail, *Potamopyrgus antipodarum*. (3-29-10)
04. Red Claw Crayfish, *Cherax quadricarinatus*. (3-29-10)
05. Yabby Crayfish, *Cherax albidus/C. destructor*. (3-29-10)
06. Marone Crayfish, *Cherax tenuimanus*. (3-29-10)
07. Marbled crayfish, (*Procambarus marmorkrebs*). (3-29-10)
08. Rusty Crayfish, *Orconectes rusticus*. (3-29-10)
09. Asian Clam, *Corbicula fluminea*. (3-29-10)
10. Spiny Waterflea, *Bythotrephes cederstroemi*. (3-29-10)
11. Fishhook Waterflea, *Cercopagis pengoi*. (3-29-10)
12. Marmorkrebs, *Procambarus* sp. (3-29-10)

801. INVASIVE SPECIES - FISH.

01. Green Sturgeon, *Acipenser medirostris*. (3-29-10)
02. Walking Catfish, *Clariidae*. (3-29-10)
03. Bowfin, *Ania Calva*. (3-29-10)
04. Gar, *Lepiostidae*. (3-29-10)
05. Piranhas, *Serrasalmus* spp., *Rosseveltiella* spp., *Pygocentrus* spp. (3-29-10)
06. Rudd, *Scardinius erythrophthalmus*. (3-29-10)
07. Ide, *Leuciscus idus*. (3-29-10)
08. Diploid Grass Carp, *Ctenopharyngoden idella*. (3-29-10)
09. Bighead Carp, *Hypophthalmichthys nobilis*. (3-29-10)
10. Silver Carp, *Hypophthalmichthys molitrix*. (3-29-10)
11. Black Carp, *Mylopharyngodeon piceus*. (3-29-10)
12. Snakeheads, *Channa* spp., *Parachanna* spp. (3-29-10)
13. Round Goby, *Neogobius melanostomas*. (3-29-10)
14. Ruffe, *Gymnocephalus cernuus*. (3-29-10)

802. INVASIVE SPECIES - AMPHIBIANS.
- 01. Rough-skinned Newt, *Taricha granulose*. (3-29-10)
  - 02. Bullfrog, *Lithobates catesbeianus*. (3-29-10)
803. INVASIVE SPECIES - REPTILES.
- 01. Red-eared Slider, *Trachemys scripta elegans*. (3-29-10)
  - 02. Mediterranean Gecko, *Hemidactylus turcicus*. (3-29-10)
  - 03. Common Wall Lizard, *Podarcis muralis*. (3-29-10)
  - 04. Italian Wall Lizard, *Podarcis sicula*. (3-29-10)
  - 05. Brahminy blindsnake, *Ramphotyphlops braminus*. (3-29-10)
  - 06. Snapping Turtle, *Chelydra serpentina*. (3-29-10)
804. INVASIVE SPECIES - BIRDS.
- 01. Monk Parakeet, *Myiopsitta monachus*. (3-29-10)
805. INVASIVE SPECIES - MAMMALS.
- 01. Nutria, *Myocastor coypus*. (3-29-10)
806. INVASIVE SPECIES - INSECTS.
- 01. Asian Longhorned Beetle, *Anoplophora glabripennis*. (3-29-10)
  - 02. Citrus Longhorned Beetle, *Anoplophora chinensis*. (3-29-10)
  - 03. Emerald Ash Borer, *Agrilus planipennis*. (3-29-10)
  - 04. Marmorated Stink Bug, *Halyomorpha halys*. (3-29-10)
  - 05. European Woodwasp, *Sirex noctilio*. (3-29-10)
  - 06. European Gypsy Moth, *Lymantria dispar*. (3-29-10)
  - 07. Asian Gypsy Moth, *Lymantria dispar*. (3-29-10)
  - 08. Soybean Aphid, *Aphis glycines*. (3-29-10)
  - 09. Potato Tuber Moth, *Tecia solanivora*. (3-29-10)
  - 10. Japanese Beetle, *Popillia japonica*. (3-20-14)
  - 11. Mexican Bean Beetle, *Epilachna varivestis*. (3-29-10)
  - 12. Kaphra beetle, *Trogoderma granarium*. (3-29-10)
  - 13. Red Imported Fire Ant, *Solenopsis invicta*. (3-29-10)

14. Glassy-winged Sharpshooter, *Homalodisca vitripennis*. (3-20-14)
15. Grape Phylloxera, *Daktulosphaira vitifoliae*. (3-29-10)
16. Vine Mealybug, *Planococcus ficus*. (3-29-10)
17. Summer Fruit Tortix, *Adoxophyes orana*. (3-29-10)
18. Silver Y Moth, *Autographa gamma*. (3-20-14)
19. False Codling Moth, *Cryptophlebia leucotreta*. (3-20-14)
20. Light Brown Apple Moth, *Epiphyas postvittana*. (3-29-10)
21. Apple Tortrix, *Archips fuscocupreanus*. (3-29-10)
22. Pine Shoot Beetle, *Tomicus piniperda*. (3-29-10)
23. Cherry Bark Tortrix, *Enarmonia formosana*. (3-29-10)
24. Apple Ermine Moth, *Yponomeuta malinellus*. (3-20-14)
25. Cherry Ermine Moth, *Enarmonia formosana*. (3-29-10)
26. European Grape Vine Moth, *Lobesia botrana*. (3-29-10)
27. European Grape Berry Moth, *Eupoecilia ambiguella*. (3-29-10)
28. Plum Fruit Moth, *Cydia funebrana*. (3-29-10)
29. Plum Curculio, *Conotrachelus nenuphar*. (3-29-10)
30. Leek Moth, *Acrolepiopsis assectella*. (3-29-10)
31. Bee Mite, *Tropilaelaps clareae*. (3-20-14)
32. Small Hive Beetle, *Aethina tumida*. (3-29-10)
33. Africanized Honey Bee, *Apis mellifera*. (3-29-10)
34. Black Currant Gall Mite, *Cecidophyopsis ribis*. (3-29-10)
35. Exotic Bark Beetles, (Scolytidae): (3-29-10)
  - a. *Scolytus mali*. (3-29-10)
  - b. *Xylosandrus crassiusculus*. (3-29-10)
  - c. *Xylosandrus germanus*. (3-29-10)
  - d. *Xyleborus californicus*. (3-29-10)
36. Sunni Bug, *Eurygaster integriceps*. (3-20-14)
37. German Yellowjacket, *Vespula germanica*. (3-29-10)
38. European Paper Wasp, *Polistes dominulus*. (3-29-10)

39. European Elm Bark Beetle, *Scolytus multistriatus*. (3-29-10)
40. Banded Elm Bark Beetle, *Scolytus schevyrewi*. (3-29-10)
41. Wheat Blossom Midge, *Sitodiplosis mosellana*. (3-29-10)
42. Potato Tuberworm, *Phthorimeaea operculella*. (3-29-10)
43. Pink Hibiscus Mealybug, *Maconellicoccus hirsutus*. (3-20-14)
44. Bean Plataspid (Kudzu Bug), *Megacopta cribraria*. (3-20-14)
807. INVASIVE SPECIES - PLANT PATHOGENS AND PARASITIC NEMATODES.
01. Phytophthora blight (nursery stock), *Phytophthora ramorum*, *Phytophthora kernoviae*. (3-20-14)
02. Karnal Bunt, *Tilletia indica*. (3-29-10)
03. Bean Common Mosaic Necrosis Virus (strain NL-3 and NL-5). (3-29-10)
04. Potato Wart, *Synchytrium endobioticum*. (3-29-10)
05. Golden Nematode, *Globodera rostochiensis*. (3-29-10)
06. Soybean Cyst Nematode, *Heterodera glycines*. (3-29-10)
07. Bacterial Wilt of Alfalfa, *Clavibacter michiganensis* spp. *insidiosus*. (3-29-10)
08. Wheat Seed Gall Nematode, *Anguina tritici*. (3-29-10)
09. Pine Wilt Nematode, *Bursaphelenchus xylophilus*. (3-29-10)
10. Brown Rot of Potatoes, *Ralstonia solanacearum*, race 3, biovar 2 (alternate hosts include tomato, pepper, eggplant, and some greenhouse plants including geranium). (3-29-10)
11. Java Downy Mildew of Corn, *Peronosclerospora maydis*. (3-29-10)
12. Philippine Downy Mildew of Corn, *Peronosclerospora philipeninsis*. (3-29-10)
13. Asian Soybean Rust, *Phakopsora pachyrhizi*. (3-29-10)
14. Plum Pox Potyvirus. (3-29-10)
15. Cherry Leaf Roll Virus. (3-29-10)
16. Stewart's Wilt of Corn, *Pantoea stewartii*. (3-29-10)
17. Brown Stripe Downy Mildew of Corn, *Sclerophthora rayssiae* var. *zeae*. (3-29-10)
18. Potato Spindle Tuber Viroid. (3-29-10)
19. Pierce's Disease of Grapes, *Xylella fastidiosa*. (3-29-10)
20. Black Currant Reversion Disease. (3-29-10)

21. Powdery Mildew of Hops, *Sphaerotheca macularis* (*s. humuli*). (3-29-10)
  22. Wheat Smut, *Tilletia tritici*. (3-29-10)
  23. Wheat Scab, *Fusarium graminearum*. (3-20-14)
  24. Potato Ring Rot, *Clavibacter michiganensis* subsp. *sepidonicus*. (3-20-14)
  25. Potato Late Blight, *Phytophthora infestans*. (3-29-10)
  26. Onion White Rot, *Sclerotium cepivorum*. (3-20-14)
  27. White Pine Blister Rust, *Cronartium ribicola*. (3-29-10)
  28. Potato Mop Top Virus, PMTV. (3-29-10)
  29. Black Stem Rust, *Puccinia graminis* f.sp. *tritici* Race UG99. (3-20-14)
  30. Apple proliferation phytoplasma, *Candidatus Phytoplasma mali*. (3-20-14)
808. INVASIVE SPECIES - INVASIVE MOLLUSKS (TERRESTRIAL SNAILS AND SLUGS).
01. Green or Burrowing Snail, *Cantareus apertus*. (3-29-10)
  02. Pulmonate Snail, *Helix pomatia*. (3-29-10)
  03. White Garden Snail, *Theba pisana*. (3-29-10)
  04. Giant African Snail, *Achatha fulica*. (3-29-10)
  05. Lactea Snail, *Otala lacteal*. (3-29-10)
  06. Maritime Garden Snail, *Cerutuella virgata*. (3-29-10)
  07. Brown Garden Snail, *Cryptomphalus aspersa*. (3-29-10)
  08. Wrinkled Snail, *Candidula intersecta*. (3-29-10)
  09. Chinese Mysterysnail, *Bellamyia chinensis*. (3-29-10)
  10. Japanese Mysterysnail, *Bellamyia japonica*. (3-29-10)
  11. Applesnail, *Pomacea* spp. (3-29-10)
  12. Marisa, *Marisa cornuarietis*. (3-29-10)
  13. Red-lipped Melania, *Melanoides tuberculata*. (3-29-10)
  14. Quilted Melania, *Tarebia granifera*. (3-29-10)
  15. Decollate Snail, *Rumina decollate*. (3-29-10)
  16. Faucet Snail, *Bithynia tentaculata*. (3-29-10)
809. INVASIVE SPECIES: INVASIVE PLANTS: ENERGY CROPS.
01. Giant Reed. *Arundo donax* (and hybrids). (3-20-14)

- 02.     **Switch Grass.** *Panicum virgatum* (and hybrids). (3-20-14)
- 03.     **Kudzu.** *Pueraria montana* (and hybrids). (3-20-14)
- 04.     **Chinese Silver Grass.** *Miscanthus giganteus* (and hybrids). (3-20-14)
- 05.     **Purging Nut.** *Jatropha curcus* (and hybrids). (3-20-14)
- 06.     **Cold Tolerant Eucalyptis (and hybrids).** (3-20-14)
- 810.    INVASIVE SPECIES: INVASIVE PLANTS: TRAP CROPS.**
- 01.     **Litchi Tomato.** *Solanum sisymbriifolium* (and hybrids) otherwise known as Sticky nightshade or  
Fire and Ice. (3-20-14)
- 02.     **Black nightshade.** *Solanum nigrus* (and hybrids). (3-20-14)
- 811. -- 999.    (RESERVED)**

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## **Idaho AIS Statutes**

### **Idaho Code Tit. 22, Ch. 9 (The Idaho Invasive Species Act of 2008)**

#### **§ 22-1901. Title**

This chapter shall be known as “The Idaho Invasive Species Act of 2008.”

#### **§ 22-1902. Legislative findings**

The legislature finds that:

- (1) The purpose of this chapter is to address the concerns about the increasing threat of invasive species by providing policy direction, planning and authority to combat invasive species infestations throughout the state and to prevent the introduction of new species that may be harmful;
- (2) The land, water and other resources of Idaho are being severely affected by invasions of an increasing number of harmful, invasive species;
- (3) These invasions are damaging Idaho's environment and causing economic hardships;
- (4) Idaho is a national leader in the control of invasive species, particularly noxious weeds and agricultural pests, and has a strong network of local, state, federal, tribal and private entities actively and cooperatively combating the threat;
- (5) Prevention, early detection, rapid response and eradication are the most effective and least costly strategies against invasive species because they combat new invasions before they expand beyond feasible control;
- (6) Implementing these strategies requires the state of Idaho to enhance its capacity to prioritize risks, prevent new invasions, employ early detection and rapid response techniques, apply state of the art control and management strategies, coordinate multiple public and private efforts and involve the public;
- (7) An effective invasive species program must foster and support local initiatives; and
- (8) The multitude of public and private entities with an interest in controlling and preventing the spread of harmful invasive species in Idaho need a mechanism for cooperation and collaboration to meet the threat of invasive species.

#### **§ 22-1903. Administration**

This chapter shall be administered by the Idaho state department of agriculture.

#### **§ 22-1904. Definitions**

Unless otherwise noted in this chapter the definitions as set forth in section 22-2005, Idaho Code, are adopted by reference.

(1) “Conveyance” means a terrestrial or aquatic vehicle or a vehicle part that may carry or contain an invasive species or plant pest. A conveyance includes a motor vehicle, a vessel, a motorboat, a sailboat, a personal watercraft, a trailer or any other means or method of transportation. “Conveyance” also includes a live well or a bilge area of a watercraft.

(2) “Environmental harm” means to cause significant adverse effects on uses of natural resources or on plants or animals.

(3) “Invasive species” means species not native to Idaho, including their seeds, eggs, spores, larvae or other biological material capable of propagation, that cause economic or environmental harm and are capable of spreading in the state. “Invasive species” does not include crops, improved forage grasses, domestic livestock, or other beneficial nonnative organisms.

#### **§ 22-1905. Prohibited actions**

No person may import, export, purchase, sell, barter, distribute, propagate, transport or introduce an invasive species into or within the state of Idaho and no person may possess an invasive species, except:

(1) Under a permit issued by the director;

(2) When being transported to an appropriate state authority, or another destination as such authority may direct, in a sealed container for purposes of identifying the species or reporting the presence of the species;

(3) When being transported for disposal as part of an approved control activity under a permit issued pursuant to section 22-1906, Idaho Code;

(4) When the specimen has been lawfully acquired dead and, in the case of plant species, all seeds are removed or are otherwise rendered nonviable;

(5) In the form of herbaria or other preserved specimens, so long as such specimens are rendered nonviable; or

(6) As the director may otherwise prescribe by rule.

#### **§ 22-1906. Duties of the department and director**

The department may prevent and control, by such means as shall be prescribed and provided by law, rule or by order of the department, all invasive species that may cause economic or environmental harm to the state. The director shall:

(1) After due investigation, report the detection of new invasive species within the state to the appropriate state and federal officials;

(2) Issue permits for the transport or possession of an invasive species into, within or through the state of Idaho. Permits shall include requirements to ensure the containment of that species, as may be prescribed in rule. These duties shall not usurp existing provisions of the Idaho Code, programs that deal with invasive species issues, or the individual missions of any state agency or duplicate efforts existing upon passage of this act.

#### **§ 22-1907. Rules and orders**

The director is hereby authorized to promulgate rules necessary for the efficient enforcement of the provisions of this chapter. Rulemaking authority shall include, but not be limited to, the determination of which species are invasive and the establishment of procedures for testing, sampling, inspection, certification, permitting, compliance verification and recordkeeping. The director may by written order designate a species as invasive until such time as it may be added to the official rules of the department.

#### **§ 22-1908. Authority to conduct inspections**

(1) In order to accomplish the purposes of this chapter, the director may enter upon and inspect any public or private premises, lands, bodies of water, or means of conveyance, or article of any person within this state, for the purpose of inspecting, surveying, treating, controlling, collecting samples, or destroying any invasive species.

(2) The director may establish check stations at points of entry to the state, or other facilities and sites throughout the state, as necessary to carry out the provisions of this chapter.

(3) No person shall proceed past or travel through an established inspection station during its hours of operation while towing, carrying or transporting any conveyance without presenting such conveyance for inspection.

#### **§ 22-1909. Disposition of invasive species**

The director is authorized to seize, decontaminate or destroy any invasive species found in this state from public or private ownership or control as necessary to carry out the provisions of this chapter.

#### **§ 22-1910. Hold order**

The director may issue hold orders to take prompt regulatory action in invasive species emergencies on any article, commodity, conveyance, vehicle or other means of transportation entering this state when it is reasonably believed that the article, commodity, conveyance, vehicle or other means of transportation is in violation of this chapter or rules promulgated hereunder. The hold order shall contain contact information for the owner of the article,

commodity, conveyance, vehicle or other means of transportation, the reason for the hold order, and the conditions for release.

**§ 22-1910A. Law enforcement**

(1) It shall be the duty of all peace officers within the state of Idaho, as defined by section 19-5101(d), Idaho Code, to enforce the provisions of this chapter by making a complaint or citation as described in section 19-3901, Idaho Code.

(2) Peace officers within the state of Idaho, upon reasonable suspicion that a conveyance is infested with quagga mussels or zebra mussels, may require a driver of a vehicle to stop and submit to an inspection of the exterior of any conveyance(s) in plain view.

(3) If the peace officer has probable cause to believe that the conveyance(s) are contaminated with quagga mussels or zebra mussels, or when a conveyance is found to be contaminated or otherwise carrying quagga mussels or zebra mussels, the peace officer shall detain the vehicle and conveyance(s) and immediately summon a tow truck to transport the conveyance(s) to the nearest available impound yard.

(4) Upon impoundment, the director shall issue a hold order as provided in this chapter specifying the conditions for release.

**§ 22-1911. Invasive species fund**

There is hereby established in the state treasury an invasive species fund.

(1) The fund shall receive such appropriations as deemed necessary by the governor and the legislature to accomplish the goals of this chapter. The fund shall also receive moneys from the collection of reasonable fees for permits or as otherwise required by this chapter or rules promulgated hereunder. The fund may also receive, at the discretion of the director, moneys from any other lawful source including, without limitation, fees, penalties, fines, gifts, grants, legacies of money, property, securities or other assets, or any other source, public or private.

(2) Moneys in the invasive species fund are subject to appropriation for the purposes of this chapter. The fund shall be used to support activities related to the prevention, detection, control and management of invasive species in Idaho.

(3) All interest or other income accruing from moneys deposited to the fund shall be redeposited and accrue to the fund. Any unexpended balance left in the fund at the end of any fiscal year shall carry forward without reduction to the following fiscal year.

**§ 22-1912. Control and eradication costs--Deficiency warrants--Cooperation with other entities and citizens**

Whenever the director determines that there exists the threat of an infestation of an invasive species on state-owned land or water, private, forested, range or agricultural land or water, and

that the infestation is of such a character as to be a menace to state, private, range, forest or agricultural land or water, the director shall cause the infestation to be controlled and eradicated, using such moneys as have been appropriated or may hereafter be made available for such purposes. Provided however, that whenever the cost of control and eradication exceeds the moneys appropriated or otherwise available for that purpose, the state board of examiners may authorize the issuance of deficiency warrants against the general fund for up to five million dollars (\$5,000,000) in any one (1) year for such control and eradication. Control and eradication costs may include, but are not limited to, costs for survey, detection, inspection, enforcement, diagnosis, treatment and disposal of infected or infested materials, cleaning and disinfecting of infected premises or vessels and indemnity paid to owners for infected or infested materials destroyed by order of the director. The director, in executing the provisions of this chapter insofar as it relates to control and eradication, shall have the authority to cooperate with federal, state, county and municipal agencies and private citizens in control and eradication efforts; provided, that in the case of joint federal/state programs, state moneys shall only be used to pay the state's share of the cost of the control and eradication efforts. Such moneys for which the state shall thus become liable shall be paid as a part of the expenses of the Idaho state department of agriculture out of appropriations that shall be made by the legislature for that purpose from the general fund of the state. In all appropriations hereafter made for expenses of the department, account shall be taken of and provision made for this item of expense.

### **§ 22-1913. Penalties for violations**

(1) Any person who knowingly violates any provision of this chapter, or of the rules promulgated hereunder for carrying out the provisions of this chapter, or who fails or refuses to comply with any requirements herein specified, or who interferes with the department, its agents, designees or employees, in the execution, or on account of the execution of its or their duties under this chapter or rules promulgated hereunder, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than three thousand dollars (\$3,000) or be imprisoned in a county jail for not more than twelve (12) months or be subject to both such fine and imprisonment.

(2) Any person who violates or fails to comply with any of the provisions of this chapter or any rules promulgated hereunder may be assessed a civil penalty by the department or its duly authorized agent of not more than ten thousand dollars (\$10,000) for each offense and shall be liable for reasonable attorney's fees.

(a) Assessment of a civil penalty may be made in conjunction with any other department administrative action.

(b) No civil penalty may be assessed unless the person charged was given notice and opportunity for a hearing pursuant to the Idaho administrative procedure act.

(c) If the department is unable to collect such penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the department, it may recover such amount by action in the appropriate district court.

(d) Any person against whom the department has assessed a civil penalty under the provisions of this section may, within twenty-eight (28) days of the final action by the agency making the assessment, appeal the assessment to the district court of the county in which the violation is alleged by the department to have occurred.

(e) All civil penalties collected pursuant to this section shall be remitted to the invasive species fund as authorized under section 22-1911, Idaho Code.

(3) Nothing in this chapter shall be construed as requiring the director to report minor violations for prosecution when he believes that the public interest will be best served by suitable warnings or other administrative action.

#### **§ 22-1914. Cooperative agreements**

(1) The department may enter into cooperative agreements with persons and entities including, but not limited to, civic groups and governmental agencies, to adopt and execute plans to detect and control areas infested with invasive species. Such cooperative agreements may include provisions for funding to implement agreements.

(2) If an invasive species occurs and cannot be adequately controlled by individual persons, owners, tenants or local units of government, the department may conduct the necessary control measures independently or on a cooperative basis with federal or other units of government.

(3) The department shall have the authority to delegate selected and clearly identified elements of its authorities and duties to another agency of the state with appropriate expertise or administrative capacity upon mutual agreement with that agency. The department is authorized to enter into memoranda of agreement with other state agencies to implement the delegations authorized in this subsection. Such delegation may include provisions of funding for implementation of the delegations. The department shall retain primary authority and responsibility for all requirements of this chapter unless otherwise directed herein.

#### **§ 22-1915. No effect on existing liability**

The enactment of this chapter does not terminate or modify any civil or criminal liability relating to plant pests which exists prior to the effective date of this chapter.

#### **§ 22-1916. Hold harmless**

Any state or federal agency or contractor, its officers, agents and employees implementing or enforcing the provisions of this chapter shall be held harmless against all claims arising from the good faith enforcement and implementation of the provisions of this chapter and rules promulgated hereunder, in accordance with the Idaho tort claims act, chapter 9, title 6, Idaho Code.

#### **§ 22-1917. Severability**

The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

**Idaho Code Tit. 67, Ch. 70 (Idaho Safe Boating Act)**

**§ 67-7008A. Additional fees--Deposit into invasive species fund**

(1) In addition to any other moneys or fees collected pursuant to the provisions of section 67-7008, Idaho Code, or any other provision of chapter 70, title 67, Idaho Code, all vessels shall pay an additional fee each calendar year as follows:

(a) Motorized vessels and sailboats:

(i) Ten dollars (\$10.00) per vessel numbered in the state of Idaho prior to launch into the public waters of the state;

(ii) Thirty dollars (\$30.00) per vessel documented through the United States coast guard or registered or numbered outside the state of Idaho prior to launch into the public waters of the state.

(b) Nonmotorized vessels: Seven dollars (\$7.00) per vessel prior to launch into the public waters of the state.

(c) Licensed outfitters, as defined in section 36-2102(b), Idaho Code, with nonmotorized fleets exceeding five (5) vessels shall be afforded a prorated group rate of thirty-two dollars (\$32.00) for six (6) to ten (10) vessels; fifty-seven dollars (\$57.00) for eleven (11) to twenty (20) vessels; and one hundred two dollars (\$102) for twenty-one (21) or more vessels up to a maximum of one hundred (100) vessels. The fee for any additional vessels shall be one dollar (\$1.00) per vessel. The licensed outfitter group rates shall also be available for groups exempt from licensing pursuant to section 36-2103, Idaho Code.

(2) Upon payment of the fee as provided in this section, the payor shall be issued a protection against invasive species sticker that shall be displayed on the vessel in a manner as prescribed by the rules of the department. Stickers shall be considered in full force and effect through December 31 of the year of issue.

(3) Fees shall be collected by the department or authorized vendor.

(a) Vendors may retain one dollar and fifty cents (\$1.50) of fees collected pursuant to this section except those collected pursuant to subsection (1)(a)(i) of this section.

(b) The department shall retain up to twenty percent (20%) of the fees for the actual costs of administering the sticker program.

(c) All remaining fees collected pursuant to this section shall be deposited in the invasive species fund established in section 22-1911, Idaho Code.

(d) For the purpose of this section, “vessel” is defined in section 67-7003(22), Idaho Code. All vessels are subject to the provisions of this section, with the exception of small rafts and other inflatable vessels less than ten (10) feet in length.

(4) If the protection against invasive species sticker is lost, stolen or destroyed, any sticker remnants shall be returned to the department along with a three dollar (\$3.00) fee for a duplicate sticker.

(5) A person engaged in the manufacture or sale of vessels may obtain a sticker to be used in the testing or demonstration only of vessels by temporary placement of the protection against invasive species sticker on the vessel tested or demonstrated.



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**IDAPA 26  
TITLE 01  
CHAPTER 34**

**26.01.34 - IDAHO PROTECTION AGAINST INVASIVE SPECIES STICKER RULES**

**000. LEGAL AUTHORITY.**

The Idaho Park and Recreation Board is authorized under Section 67-7002, Idaho Code to promulgate rules to aid in the administration of the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code; and is authorized under Section 67-7008A, Idaho Code, to promulgate rules prescribing the display of protection against invasive species stickers. (3-29-10)

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.34, "Idaho Protection Against Invasive Species Sticker Rules." (3-29-10)

**02. Scope.** This chapter establishes rules to aid in the administration and enforcement of the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code. (3-29-10)

**002. WRITTEN INTERPRETATIONS.**

This agency has written interpretations of these rules, in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules, or documentation of compliance with IDAPA 26.01.01, "Rules of Administrative Procedure of the Idaho Park and Recreation Board," Section 150. (3-29-10)

**003. APPEALS.**

Any person who may be adversely affected by a final decision, ruling, or direction of the director may appeal the decision, ruling, or direction as outlined under IDAPA 26.01.01.250, "Rules of Administrative Procedure of the Idaho Park and Recreation Board." (3-29-10)

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference in this chapter. (3-29-10)

**005. OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

The state office of the Department of Parks and Recreation is located at 5657 Warm Springs Avenue, Boise, Idaho 83706-0065, (208) 334-4199, Department Website at [www.parksandrecreation.idaho.gov](http://www.parksandrecreation.idaho.gov). The office hours are 8 a.m. to 5 p.m. Monday through Friday. (3-29-10)

**006. IDAHO PUBLIC RECORDS ACT.**

The Department will comply with Title 74, Chapter 1, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (3-29-10)

**007. CITATION.**

The official citation of this chapter is IDAPA 26.01.34.000 et seq. For example, the citation for this section is IDAPA 26.01.34.007. (3-29-10)

**008. -- 009. (RESERVED)**

**010. DEFINITIONS.**

As used in this chapter: (3-29-10)

**01. Commercial Outfitters.** As defined in Section 36-2102(b), Idaho Code. (3-29-10)

**02. Department.** The Idaho Department of Parks and Recreation. (3-29-10)

**03. Fund.** Invasive Species Fund as defined in Section 22-1911, Idaho Code. (3-29-10)

**04. Idaho Invasive Species Act.** The Idaho Invasive Species Act of 2008 as established in Title 22, Chapter 19, Idaho Code. (3-29-10)

**05. Motorized Vessel.** Any watercraft requiring certificate of number under Section 67-7008, Idaho Code, or any comparable U.S. vessel certificate of number program. (4-11-15)

**06. Non-Motorized Vessel.** Any watercraft used or capable of being used as a means of transportation on water that is propelled by human effort. For the purpose of this chapter this term does not include small inflatable rafts or other inflatable vessels less than ten (10) feet in length. (3-29-10)

**07. Protection Against Invasive Species Sticker.** Any sticker issued by the Department in accordance with the provisions of Section 67-7008(A), Idaho Code. (3-29-10)

**08. Validation Sticker.** Any sticker issued by the Department in accordance with the provisions of Section 67-7008, Idaho Code. (4-11-15)

**011. ABBREVIATIONS.**  
There are no abbreviations defined in this chapter. (3-29-10)

**012. -- 049. (RESERVED)**

**050. COLLECTION OF FEES AND DISTRIBUTION OF REVENUES INTO FUND.**

In addition to any other moneys or fees collected pursuant to Section 67-7008 or any other provision of Title 67, Chapter 70, Idaho Code, all vessels are required to pay an additional fee as established in Section 67-7008A, Idaho Code. (3-29-10)

**01. Operator Responsibilities.** The operator of any watercraft required to display a Protection Against Invasive Species Sticker pursuant to this chapter will ensure that fees are paid and that a Protection Against Invasive Species Sticker is displayed on the vessel, except as provided in Subsection 075.01 of this chapter, prior to launch into the public waters of Idaho. (3-29-10)

**02. Prorated Group Rates for Commercial Outfitters.** (4-7-11)

**a.** Group rates for commercial outfitters with nonmotorized fleets exceeding five (5) vessels will be determined using the number of vessels within the fleet at the time of purchase of the stickers, as provided in Section 67-7008A(1)(c). Previous or future sticker purchases will be prorated separately. (4-7-11)

**b.** Protection Against Invasive Species Stickers purchased by outfitters or guides who are duly licensed in accordance with Title 36, Chapter 21, Idaho Code, shall be accompanied by an affidavit which shall be signed by the outfitter or guide. The signed affidavit shall verify the number of vessels within the covered fleet and that the appropriate number of Protection Against Invasive Species Stickers has been purchased. The Protection Against Invasive Species Stickers and affidavit shall be kept on file at the outfitter or guide's physical address and shall be made available for inspection upon request of the Department or upon request by law enforcement. Non-motorized commercial outfitters and guides are not required to place a Protection Against Invasive Species Sticker on their vessels. Identification of commercial outfitted and guided boats shall be in compliance with IDAPA 25.01.01, "Rules of the Outfitters and Guides Licensing Board," Subsection 054.03.a. (4-7-11)

**03. Transfer of Funds.** Fees collected will be transferred and deposited into the Fund no less than quarterly during any fiscal year. (3-29-10)

**051. -- 074. (RESERVED)**

**075. PROTECTION AGAINST INVASIVE SPECIES STICKER.**

**01. Motorized Vessels.** Beginning with the 2010 boating season, upon payment of the fees required by Section 050 of these rules, the validation sticker as identified in IDAPA 26.01.30, "Idaho Safe Boating Rules," will also serve as the Protection Against Invasive Species Sticker for those vessels numbered pursuant to Section 67-7008,

Idaho Code. (4-11-15)

**02. All Other Watercraft.** A separate Protection Against Invasive Species Sticker will be issued for all other watercraft upon payment of the fees required under Section 050 of these rules. (3-29-10)

**076. PLACEMENT OF PROTECTION AGAINST INVASIVE SPECIES STICKER.**

**01. Location.** (3-29-10)

**a.** Motorized vessel. Except as provided in Subsection 075.01 of this chapter, the Protection Against Invasive Species Sticker should be affixed next to the current year validation sticker on the port (left) side of the vessel. (4-11-15)

**b.** Non-motorized. Except as provided in Subsection 050.02.a. of this chapter, the Protection Against Invasive Species Sticker should be affixed in the following manner. (4-7-11)

**i.** For canoes, kayaks, and other small rigid vessels, the Protection Against Invasive Species Sticker should be affixed near the bow above the waterline on the port (left) side, or on top of the vessel if there is little or no waterline distinction. (3-29-10)

**ii.** For inflatable (non-rigid) vessels, the Protection Against Invasive Species Sticker can be modified to allow attachment of a zip tie, plastic attachment, or other similar mechanism, or be laminated into a hang tag. (3-29-10)

**02. Removal.** Protection Against Invasive Species Stickers issued in accordance with Section 67-7008A, Idaho Code, which have become invalid, shall be removed from the vessel. (3-29-10)

**077. ENFORCEMENT.**

All operators of vessels as defined in this chapter must ensure their vessel is in compliance with the provisions of this chapter when launched upon the public waters of the state of Idaho. Non-compliance with the provisions of this chapter will result in possible assessment of penalties as described in Sec. 67-7033, Idaho Code, the Idaho Safe Boating Act. (3-29-10)

**078. -- 999. (RESERVED)**

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## Kansas AIS Statutes

*Compiled 10/13/15*

### **Kansas Stat. Ch. 32, Art. 8 (Department of Wildlife, Parks, and Tourism)**

#### **§ 32-807. Powers of secretary**

*\*AIS-relevant provisions: § 32-807(h) and (s)*

The secretary shall have the power to:

(a) Adopt, in accordance with K.S.A. 32-805, and amendments thereto, such rules and regulations as necessary to implement, administer and enforce the provisions of the wildlife, parks and tourism laws of this state;

(b) enter into such contracts and agreements as necessary or incidental to the performance of the powers and duties of the secretary;

(c) employ or contract for, and fix the compensation of, consulting engineers, attorneys, accountants and construction and financial experts, all of whom shall be in the unclassified service under the Kansas civil service act;

(d) designate an official seal and alter it at the secretary's pleasure;

(e) sue, be sued, plead and be impleaded in the name of the department;

(f) purchase, lease, accept gifts or grants of or otherwise acquire in the name of the state such water, water rights, easements, facilities, equipment, moneys and other real and personal property, and interests therein, including any property abandoned on department lands and waters, and maintain, improve, extend, consolidate, exchange and dispose of such property, as the secretary deems appropriate to carry out the intent and purposes of the wildlife, parks and tourism laws of this state;

(g) acquire, establish, develop, construct, maintain and improve state parks, state lakes, recreational grounds, wildlife areas and sanctuaries, fish hatcheries, natural areas, physical structures, dams, lakes, reservoirs, embankments for impounding water, roads, landscaping, habitats, vegetation and other property, improvements and facilities for the purposes of wildlife management, preservation of natural areas and historic sites and providing recreational or cultural opportunities and facilities to the public and for such other purposes as suitable to carry out the intent and purposes of wildlife, parks and tourism laws of this state;

(h) operate and regulate the use of state parks, state lakes, recreational grounds, wildlife areas and sanctuaries, fish hatcheries, natural areas, historic sites and other lands, waters and facilities under the jurisdiction and control of the secretary, so as to promote the public health, safety and

decency and the purposes for which such lands, waters and facilities are maintained and operated and to protect and safeguard such lands, waters and facilities, including but not limited to:

(1) Regulating the demeanor, actions and activities of persons using or within such lands, waters and facilities;

(2) providing for the inspection of boats, the issuance of permits for operation of watercraft of all kinds and the charging and collection of fees for the inspection and operation of such craft;

(3) prescribing the type, style, location and equipment of all wharves, docks, anchorages, pavilions, restaurants and other structures or buildings which may be constructed along the shores or upon the water of any body of water or land controlled by the department, and providing for the licensing, inspection and supervision of such structures or buildings;

(4) granting and imposing charges for permits and for all commercial uses or purposes for which any of the properties of the department may be used;

(5) charging fees to use special facilities provided for the public or giving written authorization to lessees of the department to charge such fees; and

(6) operating, renting or leasing any such lands, waters and facilities which in the judgment of the secretary are necessary or desirable for the use and pleasure of visitors or for management of such lands, waters and facilities and fixing and collecting reasonable fees, tolls, rentals and charges for the use or operation thereof. All contracts or leases for the exercise of any concession shall be entered into only upon the basis of sealed proposals which shall be made and let by the secretary except that: (A) Where a concessionaire has an existing lease with the secretary or any agency of the federal government which the secretary desires to renew, renegotiate or acquire and sublease, such lease or sublease may be negotiated directly in accordance with rules and regulations of the secretary and without compliance with the requirements hereinbefore specified; (B) any such contract or lease for a term of 30 days or less may be made by the secretary directly in accordance with rules and regulations of the secretary; and (C) the secretary shall have authority to reject any or all proposals;

(i) have exclusive administrative control over state parks, state lakes, recreational areas, wildlife areas and sanctuaries, fish hatcheries, natural areas and other lands, waters and facilities under the jurisdiction of the secretary;

(j) provide for protection against fire and storm damage to the lands, waters and facilities under the jurisdiction of the secretary;

(k) contract with the federal government pursuant to public law 89-72 in order to acquire land by purchase, lease, agreement or otherwise on El Dorado and Hillsdale reservoir project lands;

(l) apply for, receive and accept from any federal agency any federal grants available for the purposes of the wildlife, parks and tourism laws of this state;

(m) have authority, control and jurisdiction over all matters relating to the development and conservation of wildlife and recreation resources of the state insofar as it pertains to forests, woodlands, public lands, submarginal lands, prevention of soil erosion, habitats and the control and utilization of waters, including all lakes, streams, reservoirs and dams, except that this subsection shall not prohibit any political subdivision of the state or private corporation from having full control of any lake now constructed and owned by it;

(n) conduct research in matters relating to the purposes of the wildlife, parks and tourism laws of this state and disseminate information relating thereto for the public use and benefit;

(o) publicize to the citizens of this and other states the natural resources and facilities existing in Kansas and encourage people to visit Kansas by disseminating available information as to the natural resources and recreational advantages of the state;

(p) develop public recreation as related to natural resources and implement a state recreational plan which may include, but shall not be limited to, the general location, character and extent of state lands, waters and facilities for public recreational purposes and methods for better use of lands, waters and facilities which are within the scope of the plan or the purpose of the wildlife, parks and tourism laws of this state but, before implementation of such plan or any part thereof, the secretary shall submit it to any state agency affected thereby for such agency's advice and recommendations;

(q) provide for the preservation, protection, introduction, distribution, restocking and restoration of wildlife, and the public use thereof, in this state, including, but not limited to:

(1) Establishing, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, open seasons when wildlife may be taken or transported in the state of Kansas, or in any part or area of the state designated by counties, major streams, federal impoundments or federal, state or county highways, or by other recognizable boundaries, which open seasons may be established for a specified time in one year only or for a specified time in an indefinite number of years and which open seasons on migratory birds shall not extend beyond or exceed those in effect under federal laws and regulations;

(2) establishing, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, the number of wildlife which may be taken by a person, as the legal limit for any one calendar day and for the open season, which limit on migratory fowl shall not extend beyond or exceed those limits in effect under federal laws and regulations;

(3) establishing, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, the legal size limits of fish or frogs which may be taken;



(4) establishing, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, the conditions, procedure and rules under which any person may sell, purchase, buy, deal or trade in wildlife in the state of Kansas; and

(5) capturing, propagating, transporting, selling, exchanging, giving or distributing any species of wildlife, by any means or manner, needed for stocking or restocking any lands or waters in this state, except that the power to capture any species of wildlife for any purpose shall not apply to private property except by permission of the owners of the property or in the case of an emergency threatening the public health or welfare;

(r) establish, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, the period of time that a license, permit, stamp or other issue of the department shall be in effect, unless such period is otherwise established by law, and provisions for acceptance of any issue of the department before its effective date as a valid issue if the secretary determines such acceptance best serves the public good; and

(s) do such other acts and things as necessary and proper to carry out the intent and purpose of the wildlife, parks and tourism laws of this state and to better protect, conserve, control, use, increase, develop and provide for the enjoyment of the natural resources of this state.

## **Kansas Stat. Ch. 32, Art. 9 (Licenses, Permits, Stamps, and Other Issues)**

### **§ 32-956. Wildlife importation permits**

(a) The secretary shall adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations concerning the prohibition of certain wildlife from the waters and lands in this state. Such rules and regulations:

(1) Shall contain a list consisting of wildlife prohibited;

(2) shall provide for certain exemptions concerning the use of such wildlife for an experimental, scientific or display purpose and for the issuance of wildlife importation permits therefor; and

(3) may provide for certain exemptions concerning the use of such wildlife for such other purposes as authorized by the secretary under such conditions and restrictions as the secretary deems necessary and for the issuance of wildlife importation permits therefor.

(b) A fee may be prescribed for wildlife importation permits pursuant to K.S.A. 32-988, and amendments thereto.

## Kansas AIS Regulations

*Compiled 10/13/15*

### Kansas Admin. Reg. Agency 115, Art. 7 (Fish and Frogs)

#### 115-7-9 Weigh-in black bass fishing tournaments.

*\* AIS-relevant provision: 115-7-9(c)*

(a) Each individual or organization conducting a weigh-in black bass fishing tournament shall ensure that all of the following minimum requirements are met when conducting weigh-in procedures:

- (1) One individual shall provide work crew support for each 10 registered anglers.
- (2) One weigh-in tank filled with an electrolyte chemical-water solution and fitted with recirculation and aeration accessories shall be maintained for each 25 registered anglers.
- (3) If the water temperature at the tournament location is 75 degrees Fahrenheit or cooler, the water contained in the weigh-in tank shall be maintained at the same temperature as that of the tournament location water.
- (4) If the water temperature at the tournament location is warmer than 75 degrees Fahrenheit, the water in the weigh-in tank shall be maintained at a temperature that is between five and 10 degrees Fahrenheit cooler than the tournament location water but shall not exceed 85 degrees Fahrenheit at any time.
- (5) Not more than four anglers shall be in the weigh-in line at any one time.
- (6) Each weigh-in bag containing water from the well of the vessel shall be reinforced, reusable, and capable of holding up to 15 pounds of live fish and two gallons of water.
- (7) The weigh-in site shall meet the following requirements:
  - (A) Be located near the vessel mooring site and the release site, vehicle, or vessel; and
  - (B) be located at all times under a portable awning, in an event tent, or in the shade.
- (8) Only fish that meet the special length limit for the specific body of water where the weigh-in tournament is being conducted shall be weighed within the period beginning June 16 and ending August 31.

(b) Each individual or organization conducting the tournament shall ensure that all of the following minimum requirements are met when conducting the release procedures:

(1) The direct release of fish into the tournament location water after the weigh-in shall not be permitted.

(2) If the tournament is conducted with release tubes, vehicles, or vessels, the holding tanks shall contain a one-half percent noniodized salt solution.

(3) If the tournament is conducted without release tubes, vehicles, or vessels, the fish shall be dipped, for a period ranging from 10 seconds to 15 seconds before release, in a three percent noniodized salt solution having the same temperature as that of the water in the weigh-in tank.

(4) The release site shall meet the following conditions:

(A) Be located in water reaching at least three feet in depth with good circulation and a hard bottom; and

(B) be located away from vessel traffic and public-use vessel ramps.

(c) Each tournament participant shall meet the following requirements:

(1) Ensure that each well in the participant's vessel used in the tournament is properly working and contains an electrolyte chemical-water solution; and

(2) ensure that the participant's vessel used in the tournament is cleaned before and after the tournament in compliance with department guidelines regarding the prevention of aquatic nuisance species.

(d) The provisions of paragraph (a)(7)(A) may be waived by the secretary within the period beginning September 1 and extending through June 15 if the proximity proposed to the release site does not pose an inordinate risk to the wildlife resource and all other requirements of this regulation are met.

#### **115-7-10. Fishing; special provisions.**

(a) A person who takes any fish from a body of water shall not tag, mark, brand, clip any fin of, mutilate, or otherwise dis-figure any fish in a manner that would prevent species identification, examination of fins, recovery of tags, or determination of sex, age, or length of the fish before releasing the fish back into the body of water, unless a permit authorizing this activity has been issued to that person by the department.

(b) No person may possess any live fish upon departure from any designated aquatic nuisance body of water, except during a department-permitted fishing tournament. During a department-permitted fishing tournament, any individual may possess live fish upon departure from designated aquatic nuisance waters along the most direct route to the weigh-in site if the individual possesses a department authorization certificate as a participant in the tournament. Designated aquatic nuisance waters shall be those specified in the department's "Kansas

designated aquatic nuisance waters tables,” dated July 24, 2014, which is hereby adopted by reference.

(c) Each person who purchases live baitfish from a commercial bait dealer shall possess the receipt while fishing with the live baitfish.

(d) No person may fish or collect bait within a fish passage, fish ladder, fish steps, or fishway. “Fish passage, fish ladder, fish steps, or fishway” shall mean a structure that facilitates the natural migration of fish upstream on, through, or around an artificial barrier or dam.

### **Kansas Admin. Reg. Agency 115, Art. 18 (Special Permits)**

#### **115-18-10 Importation and possession of certain wildlife; prohibition, permit requirement, and restrictions.**

(a) The importation, possession, or release in the state of Kansas of the following live wildlife species shall be prohibited, except as authorized by terms of a wildlife importation permit issued by the secretary:

- (1) Walking catfish (*Clarias batrachus*);
- (2) silver carp (*Hypophthalmichthys molitrix*);
- (3) bighead carp (*Hypophthalmichthys nobilis*);
- (4) black carp (*Mylopharyngodon piceus*);
- (5) snakehead fish (all members of the family Channidae);
- (6) round goby (*Neogobius melanostomus*);
- (7) white perch (*Morone americana*);
- (8) zebra mussel (*Dreissena polymorpha*);
- (9) quagga mussel (*Dreissena bugensis*);
- (10) New Zealand mudsnail (*Potamopyrgus antipodarum*);
- (11) diploid grass carp (*Ctenopharyngodon idella*);
- (12) monk parakeet (*Myiopsitta monachus*); and
- (13) Asian raccoon dog (*Nyctereutes procyonoides*).

(b) Any live member of a wildlife species listed in subsection (a) and possessed before the following dates may be retained in possession, in closed confinement, by making application to the secretary that provides information detailing the circumstances, including the location, by which the animal came into the applicant's possession:

- (1) February 1, 1978 for fish and bird species other than black carp, snakehead fish, round goby, white perch, zebra mussel, quagga mussel, New Zealand mudsnail, and diploid grass carp;
- (2) February 1, 1986 for mammal species;
- (3) October 1, 2000 for black carp;
- (4) May 1, 2003 for snakehead fish;
- (5) August 1, 2004 for round goby, quagga mussel, and zebra mussel;
- (6) May 15, 2005 for New Zealand mudsnail;

- (7) February 15, 2007 for white perch; and
- (8) January 1, 2008 for diploid grass carp.

The manner in which the animal is to be used shall be identified in the application.

(c) Wildlife importation permits for the importation or possession of live members of the wildlife species listed in subsection (a) may be issued by the secretary for experimental, scientific, display, or other purposes subject to any conditions and restrictions contained or referenced in a wildlife importation permit.

(d) Each individual desiring to import or possess live members of the wildlife species listed in subsection (a) shall apply to the secretary for a wildlife importation permit. The application shall be submitted on forms provided by the department and shall contain the following information:

- (1) The name, address, and telephone number of applicant;
- (2) the wildlife species to be imported or possessed and the number of wildlife involved;
- (3) the purpose or purposes for importation or possession;
- (4) a description of the facilities for holding and using the wildlife species;
- (5) a description of plans to prevent the release of the wildlife species; and
- (6) other relevant information as requested by the secretary.

(e) Each wildlife importation permit, once issued, shall be valid during the time period specified on the permit.

(f) In addition to other penalties prescribed by law, any wildlife importation permit may be refused issuance or revoked by the secretary if any of the following conditions is met:

- (1) The application is incomplete or contains false information.
- (2) Issuance of a permit would not be in the best interest of the public or of the natural resources of Kansas.
- (3) The permittee fails to meet permit requirements or violates permit conditions.

### **Kansas Admin. Reg. Agency 115, Art. 30 (Boating)**

#### **115-30-13 Removal of vessels from waters of the state.**

The livewells and bilges shall be drained and the drain plugs removed from all vessels being removed from the waters of the state before transport on any public highway of the state.

This regulation shall be effective on and after January 1, 2012.

## Montana AIS Statutes

*Compiled 10/13/15*

### Mont. Code Ann. Tit. 80, Ch. 7, Part 10 (Aquatic Invasive Species)

#### § 80-7-1001. Short title.

This part may be cited as the “Montana Aquatic Invasive Species Act”.

#### § 80-7-1002. Legislative findings and purpose.

(1) The legislature finds that:

- (a) invasive species can wreak damage on the economy, environment, recreational opportunities, and human health in Montana;
- (b) there is reason to be concerned about the further introduction, importation, and infestation of Eurasian watermilfoil (*Myriophyllum spicatum*) and the introduction, importation, and infestation of additional invasive species in Montana, such as the zebra mussel (*Dreissena polymorpha*) and the quagga mussel (*Dreissena bugensis*), that could cause catastrophic damage to not only our waterways, rivers, and lakes, our water storage, delivery, and irrigation systems, our hydroelectric power structures and systems, and our aquatic ecosystems, but also to the entire state economy;
- (c) as infestations of threatening invasive species move ever closer to Montana's borders, protecting Montana against these species is of utmost importance to the state economy, environment, recreational opportunities, and human health for the benefit of all Montanans;
- (d) preventing the introduction, importation, and infestation of invasive species is the most effective and least costly strategy for combating invasive species that, once established, are often difficult to control or eradicate;
- (e) the use of check stations, at which vessels and equipment may be inspected for the presence of invasive species and cleaned if an invasive species is detected, is an effective way to prevent the introduction, importation, and infestation of invasive species that are easily transferred from infested areas to uninfested areas when proper precautions are not taken; and
- (f) preventing the introduction, importation, and infestation of invasive species is best accomplished through coordinated educational and management activities.

(2) The purpose of this part is to establish a mechanism for Montana to take concerted action to detect, control, and manage invasive species, including preventing further introduction, importation, and infestation, by educating the public about the threat of these species, coordinating public and private efforts and expertise to combat these species, and authorizing the

use of check stations to prevent the movement of invasive species from infested areas to uninfested areas to protect the state's economy, environment, recreational opportunities, and human health for the benefit of all Montanans.

**§ 80-7-1003. Definitions.**

As used in this part, the following definitions apply:

(1) “Departments” means the department of agriculture, the department of fish, wildlife, and parks, the department of natural resources and conservation, and the department of transportation.

(2) “Equipment” means an implement or machinery that has been wholly or partially immersed in surface waters, including but not limited to boat lifts, trailers transporting vessels, floating docks, pilings, dredge pipes, and buoys.

(3) “Invasive species” means, upon the mutual agreement of the directors of the departments, a nonnative, aquatic species that has caused, is causing, or is likely to cause harm to the economy, environment, recreational opportunities, or human health.

(4) “Invasive species management area” means a designation made by a department under 80-7-1008 for a specific area or for a body or bodies of water for a specific or indeterminate amount of time that regulates invasive species or potential carriers of invasive species within the boundaries of that area.

(5) “Person” means an individual, partnership, corporation, association, limited partnership, limited liability company, governmental subdivision, agency, or public or private organization of any character.

(6) “Vessel” has the meaning provided in 61-1-101.

**§ 80-7-1004. Invasive species account.**

(1) There is an invasive species account in the state special revenue fund. The account is administered by the department of fish, wildlife, and parks.

(2) Money transferred from the general fund or received from any other lawful source, including but not limited to gifts, grants, donations, securities, or other assets, public or private, may be deposited in the account.

(3) Subject to subsection (4), money deposited in the account must be used for projects that prevent or control any nonnative, aquatic invasive species pursuant to this part.

(4) Any private contribution deposited in the account for a particular purpose, as stated by the donor, must be used exclusively for that purpose.

(5) Any interest and earnings on the account must be retained in the account.

**§ 80-7-1005. Cooperative agreement for invasive species detection and control.**

(1) In order to implement, administer, and accomplish the purposes of this part, the departments, collectively or individually, shall enter into a cooperative agreement with each other or may enter into an agreement with any person with the appropriate expertise and administrative capacity to perform the obligations of the agreement.

(2) Prior to entering an agreement with a person other than a department, the departments shall work in collaboration with each other to coordinate their respective responsibilities in order to further the purposes of this part.

(3) A cooperative agreement may include provisions for funding to implement the agreement.

**§ 80-7-1006. Departmental responsibilities.**

(1) The departments shall prepare a list of invasive species and identify those departments and other public agencies with jurisdiction over each species on the list. The jurisdiction of each department for the prevention and control of invasive species is according to the department's powers and duties as established by law.

(2) For those invasive species under the jurisdiction of more than one department, the departments with jurisdiction, through cooperative agreement, shall seek to clarify and coordinate their respective responsibilities.

(3) Working in collaboration with each other, the departments, individually or collectively, shall develop and adopt an invasive species strategic plan or plans to accomplish the purposes of this part. The plan or plans shall identify and prioritize threats and determine appropriate actions, in the following order of priority, related to:

(a) public awareness and education;

(b) prevention and detection of invasive species, including the use of invasive species management areas authorized under 80-7-1008 and the statewide invasive species management area established in 80-7-1015;

(c) management, control, and restoration of infested areas; and

(d) emergency response.

(4) The departments shall enforce quarantine regulations and measures imposed by law or rule in an invasive species management area established under 80-7-1008 and in the statewide invasive species management area established in 80-7-1015, including the mandatory inspection of any interior portion of a vessel or equipment that may contain water for the presence of an invasive species.



(5) The departments may designate employees to carry out the provisions of this part.

(6) The department of fish, wildlife, and parks shall authorize a request by another entity to operate a check station pursuant to this part if the entity agrees to the conditions of an agreement established by all parties, any cooperative funding requirements, and rules adopted under this part. The department of fish, wildlife, and parks retains oversight authority over the operation of a check station pursuant to this subsection.

(7) The departments shall implement education and outreach programs that increase public knowledge and understanding of prevention, early detection, and control of invasive species.

**§ 80-7-1007. Rulemaking authority.**

(1) Unless otherwise provided in Title 81, chapters 2 and 7, or this chapter, each of the departments may adopt rules for the prevention, early detection, and control of invasive species under the departments' jurisdiction, including rules for the:

(a) implementation of the invasive species strategic plan adopted pursuant to 80-7-1006;

(b) transportation of an invasive species or any agent likely to be a carrier of an invasive species;

(c) designation, regulation, and treatment of an invasive species management area under 80-7-1008, including rules pertaining to:

(i) the use of quarantine regulations and measures;

(ii) the movement of vessels and equipment within, to, or from the area; and

(iii) the inspection and cleaning of vessels and equipment moving within, to, or from the area; and

(d) manner in which vessels and equipment, including bilges, livewells, bait containers, and other boating-related equipment, traveling in the state must be cleaned to ensure that they are free from the presence of an invasive species.

(2) The departments shall adopt rules for the administration of the statewide species management area established in 80-7-1015, including rules specifying the method or methods for preventing the introduction or further introduction of invasive species into the state, and shall adopt rules for:

(a) the use of quarantine measures;

(b) the movement of vessels and equipment into the state; and

(c) the manner in which check stations will be used to inspect, clean, and decontaminate vessels and equipment moving into the state.

**§ 80-7-1008. Invasive species management area -- authorization.**

(1) Except as provided in 80-7-1015, when an invasive species is identified as infesting or threatening an area, the department with jurisdiction over that invasive species may designate and administer an invasive species management area for a specific area of land or for a body or bodies of water for a specific or indeterminate amount of time to prevent and control the infestation or spread of that invasive species.

(2) To the extent practicable, prior to the designation of an invasive species management area, the department making the designation shall coordinate with all of the departments in order to further the purposes of this part.

(3) The designation of an invasive species management area must specify:

(a) the invasive species present or considered threatening; and

(b) the method or methods for preventing the introduction of the species or controlling or eradicating the species, including regulations pertaining to:

(i) the use of quarantine measures;

(ii) the movement of vessels and equipment within, to, and from the area; and

(iii) whether check stations will be used to inspect and clean vessels and equipment moving within, to, or from the area. A department may conduct mandatory inspections of any interior portion of a vessel or equipment that may contain water only if the department has included the use of mandatory inspections as part of quarantine measures established pursuant to subsection (3)(b)(i).

(4) As far as practical, signs indicating that an invasive species management area is in place must be posted in an effective manner at access points to the designated area and along the boundaries and within the area. The signs must include information about the specific regulations that apply to the area. The signs must be paid for with funds from the invasive species account established in 80-7-1004. The departments may coordinate with any other governmental entity for the posting of signs.

**§ 80-7-1009. Arrangements with landowners.**

(1) The department designating an invasive species management area pursuant to 80-7-1008 shall work cooperatively with any affected land managers and landowners within the boundaries of the designated area to establish prevention, treatment, control, and eradication methods best suited for the invasive species infesting or threatening the area.

(2) If negotiations with a land manager or landowner fail, the designating department may arrange for the prevention, treatment, control, and eradication of the designated species as it relates to water infrastructure, including but not limited to hydroelectric, municipal, recreational, and irrigation equipment, without the consent of the land manager or landowner. To the extent possible, the arrangements by the department must be made in a manner best suited to preventing, treating, controlling, and eradicating the invasive species, while minimizing disturbances and adverse impacts to the landowner.

**§ 80-7-1010. Invasive species management area -- regulation.**

(1) The owner, operator, or person in possession of any vessel or equipment authorized for use in an invasive species management area shall comply with any regulations imposed pursuant to 80-7-1008(3)(b).

(2) After use in a body of water within an invasive species management area, all vessels, equipment, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary systems, must be drained in a way that does not impact any state waters before being transported on land or a public highway, as defined in 61-1-101, except where allowed by the department of fish, wildlife, and parks.

**§ 80-7-1011. Check stations.**

(1) The departments shall establish a check station within or adjacent to an invasive species management area to prevent the introduction, importation, infestation, and spread of the invasive species for which the designation was issued.

(2) At a check station established under subsection (1), the departments may examine vessels and equipment for the presence of an invasive species and compliance with regulations imposed under 80-7-1008(3)(b) and with this section. A department may examine any interior portion of a vessel or equipment that may contain water, including bilges, livewells, and bait containers, for compliance only if inspection of interior portions is included as part of quarantine measures established pursuant to 80-7-1008(3)(b)(i).

(3) The owner, operator, or person in possession of a vessel or equipment shall stop at any check station unless a medical emergency makes stopping likely to result in death or serious bodily injury.

(4) If during an inspection of a vessel or equipment the presence of an invasive species is detected, that vessel or equipment may not leave the check station without authorization until it is cleaned and decontaminated in a manner established in accordance with 80-7-1008(3)(b). The department shall make every effort to ensure decontamination of the vessel or equipment as expeditiously as possible.

**§ 80-7-1012. Invasive species possession and transfer prohibited -- exceptions.**

(1) Except as provided in subsection (2), a person may not import, purchase, sell, barter, distribute, propagate, transport, introduce, or possess an invasive species except:

- (a) when transporting a specimen to any of the departments or another destination as directed by any of the departments in a sealed container for the purpose of containing, identifying, or reporting the presence of the species or for an approved educational purpose;
- (b) when done by a government agency for an approved purpose;
- (c) with a proper permit issued by the state or federal government; or
- (d) as allowed by rule.

(2) A person who learns of the presence of an invasive species on that person's vessel or property shall notify the department with primary jurisdiction of the species immediately. If the person complies with department requirements for the treatment, control, and eradication of the invasive species, the person must be considered to be in compliance with this section and is not subject to penalties under 80-7-1014. This subsection does not apply to a person who purposely or knowingly introduces or attempts to introduce an invasive species in Montana.

**§ 80-7-1013. Emergency response.**

(1) The governor may declare an invasive species emergency if:

- (a) the introduction or spread of an invasive species has occurred or is imminent;
- (b) a new and potentially harmful invasive species is discovered in the state and is verified by the departments; or
- (c) the state is facing a potential influx of invasive species as the result of a natural disaster.

(2) If an emergency is declared pursuant to subsection (1), the governor may authorize the expenditure of funds pursuant to 10-3-312.

(3) In the absence of necessary funding from other sources, the principal of the invasive species trust fund established in 80-7-1016 may be appropriated by a vote of three-fourths of the members of each house of the legislature to government agencies for emergency relief to eradicate or confine the new invasive species or to protect the state from an influx of invasive species due to a natural disaster.

**§ 80-7-1014. Penalty.**

(1) Except as provided in subsection (2), the following penalties apply:

- (a) The offense of negligently violating the provisions of 80-7-1010 through 80-7-1012 and 80-7-1015 or rules adopted under 80-7-1010 through 80-7-1012 and 80-7-1015 pertaining to

an invasive species management area or the statewide invasive species management area is a misdemeanor punishable by a fine not to exceed \$500.

(b) The offense of purposely or knowingly violating the provisions of 80-7-1010 through 80-7-1012 and 80-7-1015 or rules adopted under 80-7-1010 through 80-7-1012 and 80-7-1015 pertaining to an invasive species management area or the statewide invasive species management area is a misdemeanor punishable by a fine not to exceed \$1,000.

(c) Purposely or knowingly attempting to introduce an invasive species in Montana is a felony. Any person found guilty under this subsection (1)(c) is subject to a criminal penalty of up to 2 years in prison, a fine not to exceed \$5,000, or both. A person convicted of violating this subsection (1)(c) may also be required to pay restitution for any cost incurred to mitigate the effect of the violation.

(d) A civil penalty not to exceed \$250 may be imposed on any person who violates any other provision of 80-7-1010 through 80-7-1012 and 80-7-1015 or rules adopted under 80-7-1010 through 80-7-1012 and 80-7-1015 not enumerated in subsections (1)(a) through (1)(c).

(2) A warning without penalty may be issued to any person violating the provisions of 80-7-1010 through 80-7-1012 and 80-7-1015 or rules adopted under 80-7-1010 through 80-7-1012 and 80-7-1015 if it is determined that a warning best serves the public interest.

(3) Civil penalties collected under this section must be deposited in the general fund.

**§ 80-7-1015. Statewide invasive species management area.**

(1) There is established a statewide invasive species management area for the purpose of preventing the introduction, importation, and infestation of invasive species through the mandatory inspection of vessels and equipment at key entry points to the state on a seasonal basis and the mandatory decontamination of any vessel or equipment on or in which an invasive species is detected.

(2) To the greatest extent possible, the department of transportation shall cooperate with the department of fish, wildlife, and parks to utilize ports of entry or adjacent department of transportation facilities as locations for check stations established pursuant to this section.

(3) As far as practical, signs indicating that the statewide invasive species management area is in place must be posted in an effective manner along the boundaries of and within the state. The signs must include information about the specific regulations that apply to the area. The signs must be paid for with funds from the invasive species account established in 80-7-1004. The departments may coordinate with any other governmental entity for the posting of signs.

(4) At a check station established pursuant to this section, the departments may examine vessels and equipment for the presence of an invasive species and compliance with this section and rules adopted pursuant to 80-7-1007. A department may examine any interior portion of a vessel or equipment that may contain water, including bilges, livewells, and bait containers, for

compliance only if inspection of interior portions is included as part of quarantine measures established pursuant to rules adopted under 80-7-1007.

(5) The owner, operator, or person in possession of a vessel or equipment shall:

(a) comply with this section and rules imposed under 80-7-1007; and

(b) stop at any check station established pursuant to this section unless a medical emergency makes stopping likely to result in death or serious bodily injury.

(6) If during an inspection of a vessel or equipment the presence of an invasive species is detected, that vessel or equipment may not leave the check station without authorization until it is cleaned and decontaminated in a manner established in accordance with rules adopted pursuant to 80-7-1007. The department shall make every effort to ensure decontamination of the vessel or equipment as expeditiously as possible.

(7) After use in a body of water within the statewide invasive species management area, all vessels, equipment, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary systems, must be drained in a way that does not impact any state waters before being transported on land or on a public highway, as defined in 61-1-101, except when allowed by the department of fish, wildlife, and parks.

#### **§ 80-7-1016. Invasive species trust fund.**

(1) There is an invasive species trust fund. The board of investments shall invest the money of the fund, and the investment income must be deposited in the fund.

(2) The principal of the invasive species trust fund shall forever remain inviolate in an amount of \$10 million unless appropriated by a vote of three-fourths of the members of each house of the legislature.

(3) Except as provided in 80-7-1013 and subsections (2) and (4) of this section, money deposited in the invasive species trust fund may not be appropriated until the principal reaches \$10 million.

(4) On July 1 of each fiscal year, the principal of the invasive species trust fund in excess of \$10 million and the interest and income generated from the trust fund, excluding unrealized gains and losses, must be deposited in the invasive species grant account established in 80-7-1017.

(5) Deposits to the principal of the trust fund may include but are not limited to grants, gifts, transfers, bequests, or donations from any source.

(6) If the invasive species trust fund is terminated, the money in the fund must be divided between all counties according to rules adopted by the department of natural resources and conservation for that purpose.

#### **§ 80-7-1017. Invasive species grant account.**

(1) There is an invasive species grant account in the state special revenue fund established in 17-2-102. Subject to appropriation by the legislature, money deposited in the account must be used pursuant to 80-7-1018 and this section.

(2) Deposits to the account may include but are not limited to grants, gifts, transfers, bequests, donations, appropriations from any source, and deposits made pursuant to 80-7-1016.

(3) Interest and income earned on the account and any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account.

(4) Money deposited in the account may be used for costs incurred by the department of natural resources and conservation to administer the provisions of 80-7-1016 through 80-7-1018. Except for startup costs incurred in the first year of the program, the administrative costs in any fiscal year, including but not limited to personal services and operations, may not exceed 10% of the total amount of grants and contracts awarded pursuant to 80-7-1018 in the previous fiscal year.

**§ 80-7-1018. Invasive species grant program -- criteria -- rulemaking.**

(1) Money deposited in the invasive species grant account established in 80-7-1017 may be expended by the department of natural resources and conservation through grants to or contracts with communities or local, state, tribal, or other entities for invasive species management.

(2) For the purposes of this section, the term "invasive species management" includes public education and planning, development, implementation, or continuation of a program or project to prevent, research, detect, control, or, where possible, eradicate invasive species.

(3) A grant or contract may be awarded under this section for demonstration of and research and public education on new and innovative invasive species management.

(4) In making grant and contract awards under this section, the department of natural resources and conservation shall give preference to local governments, collaborative stakeholders, and community groups that it determines can most effectively implement programs on the ground.

(5) If the governor appoints an advisory council on invasive species, the department of natural resources and conservation shall consider recommendations by the advisory council for awards made under this section.

(6) The department of natural resources and conservation is not eligible to receive grants and contracts under this section.

(7) The department of natural resources and conservation may accept federal funds for use pursuant to this section.

(8) Any funds awarded under this section, regardless of when they were awarded, that are not fully expended upon termination of a contract or an extension of a contract, not to exceed 1 year,

must revert to the department of natural resources and conservation and be deposited in the invasive species grant account established in 80-7-1017. The department of natural resources and conservation shall use any reverted funds to make future awards pursuant to this section.

(9) The department of natural resources and conservation may adopt rules to administer the provisions of 80-7-1016 through 80-7-1018.

**§ 80-7-1019. Enforcement.**

A peace officer, as defined in 45-2-101, may:

(1) stop the driver of a vehicle transporting a vessel or equipment on receiving a complaint or observing that the driver failed to stop at a check station as required under this part;

(2) upon particularized suspicion that a vessel or equipment is infested with an invasive species, require the driver of a vehicle transporting a vessel or equipment to submit the vessel or equipment to an inspection. The peace officer may conduct mandatory inspections of any interior portion of a vessel or equipment that may contain water for compliance with this part and rules adopted under this part only if:

(a) the peace officer obtains a search warrant, as defined in 46-1-202; or

(b) the vessel or equipment is physically located within the boundaries of an invasive species management area established under 80-7-1008 or the statewide invasive species management area established in 80-7-1015 and use of mandatory inspections has been included in quarantine measures established pursuant to 80-7-1008(3)(b)(i) or rules adopted under 80-7-1007.

(3) cite a person for a violation of this part.



## **Montana AIS Regulations**

### **Mont. Admin. R. Tit. 12, Ch. 5, Subch. 7 (Aquatic Invasive Species Management Area Restrictions)**

#### **R. 12.5.701 Identified Contaminated Bodies of Water for Eurasian Watermilfoil**

(1) The department will identify bodies of water within any Department of Agriculture designated Eurasian watermilfoil management area as contaminated with Eurasian watermilfoil.

(2) The department has identified the following bodies of water as contaminated with Eurasian watermilfoil:

- (a) Fort Peck Reservoir;
- (b) Fort Peck Dredge Cut Ponds;
- (c) Jefferson River;
- (d) Missouri River:
  - (i) from Fort Peck Dam to the mouth of the Milk River;
  - (ii) from the confluence of the three forks of the Missouri River to the headwaters of Canyon Ferry Reservoir; and
- (e) Toston Reservoir.

#### **R. 12.5.702 Restrictions within Identified Contaminated Bodies of Water for Eurasian Watermilfoil**

(1) The prohibitions of 80-7-1010, MCA apply to the bodies of water identified as contaminated in ARM 12.5.701 except:

- (a) possession of bait animals, dead or alive, is approved when allowed per fishing regulations;
- (b) transportation of aquatic bait animals is approved from contaminated bodies of water in water from a noncontaminated source when allowed per fishing regulations; and
- (c) transportation of live fish is approved from contaminated bodies of water in water from a noncontaminated source, when allowed per fishing regulations.

(2) Upon departure of a contaminated body of water all vessels and equipment, including bait buckets, must be free of Eurasian watermilfoil.

#### **R. 12.5.703 Bodies of Water not Identified as Contaminated within an Eurasian Watermilfoil Management Area**

- (1) Any body of water not identified as contaminated within the boundaries of a Department of Agriculture designated Eurasian watermilfoil management area are subject to the regulations outlined in the current published fishing regulations.

**R. 12.5.706 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 ARM 12.5.707, the department has identified all other areas of the State of Montana as an invasive species management area because of the threat of infestation of aquatic invasive mussels.
- (2) The department has determined the following quarantine measures are necessary to prevent the spread of aquatic invasive mussels:
  - (a) vessels and equipment approaching a department inspection station must stop for inspection as directed;
  - (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 that have been used on waters outside of the Columbia River Basin must be inspected at a department inspection station prior to launching within the Columbia River Basin. The department will post approved inspection stations and operating hours at [fwp.mt.gov](http://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 unless authorized by the department;
  - (f) live aquatic bait and fish must be transported in clean non-surface water where allowed in current public fishing regulations;
  - (g) reasonable measures must be taken to dry or drain all compartments or spaces that hold water, including emptying bilges, applying absorbents, and ventilation; and
  - (h) areas subject to inspection include but are not limited to:
    - (i) the exterior of the vessel;
    - (ii) livewells;
    - (iii) bait buckets;
    - (iv) ballast tanks;
    - (v) bilge areas; and

- (vi) trailer transporting vessel.
- (3) Any vessel at an inspection station found with invasive species, or any vessel containing residual water 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 are identified on the map titled “Mussel-Infested States and Waterbodies” available at [fwp.mt.gov](http://fwp.mt.gov). AIS staff shall refer to the map or to the most current known information.
- (4) Decontamination methods on vessels subject to (3) 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.
- (5) Upon inspection and/or decontamination, proof of compliance on any requirements will be provided and must be shown upon request.
- (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.

**R. 12.5.707 Identified Bodies of Water Confirmed or Suspected for Aquatic Invasive Mussels**

- (1) The department has identified the following bodies of water as invasive species management areas because they are 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 12.5.706 prior to leaving the water body. The following are exempt:
    - (i) vessels approved by the department for local travel only (vessels approaching a department inspection station must still stop as directed pursuant to ARM 12.5.706);

- (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 and fish 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) Upon inspection and/or decontamination, proof of compliance on any requirements will be provided and must be shown upon request.
- (5) Violation of this rule is subject to penalty under 80-7-1014, MCA.

**Mont. Admin. R. Tit. 12. Ch. 6, Subch. 22 (Exotic Wildlife)**

**R. 12.6.2215 List of Prohibited Species**

- (1) The following amphibians are classified as prohibited species:
  - (a) African clawed frog - *Xenopus laevis*; and
  - (b) North American bullfrog - *Rana catesbeiana*.
- (2) The following crustaceans are classified as prohibited species:
  - (a) Rusty crayfish - *Orconectes rusticus*.
- (3) The following fish are classified as prohibited species:
  - (a) Bighead carp - *Hypophthalmichthys nobilis*;
  - (b) Black carp - *Mylopharyngodon piceus*;
  - (c) Eurasian Ruffe - *Gymnocephalus cernuus*;
  - (d) Grass carp - *Ctenopharyngodon idella*;
  - (e) Round goby - *Neogobius melanostomus*;
  - (f) Silver carp - *Hypophthalmichthys molitrix*;
  - (g) Snakehead fish - genera *Channa* and *Parachanna* (29 species);
  - (h) Walking catfish - *Clarias batrachus*;
  - (i) White perch - *Morone americana*; and
  - (j) Zander (European pikeperch) - *Sander lucioperca*.
- (4) The following mammals are classified as prohibited species:
  - (a) African Soft Fur Rat/Natal Rat - *Mastomys natalensis*/*Natal multimammate mouse*;
  - (b) Argali Sheep - *Ovis ammon*;
  - (c) Brush-tailed possum - *Trichosurus vulpecula*;
  - (d) Nutria - *Myocastor coypus*;
  - (e) Cebidae family (new world primates);
  - (f) Cercopithecidae family (old world monkeys);

- (g) Hyaenidae family (hyenas);
  - (h) Hylobatidae family (gibbons);
  - (i) Natal Rat/African Soft Fur Rat - *Natal multimammate mouse/Mastomys natalensis*;
  - (j) Pongidae family (apes);
  - (k) Short-tailed opossum - *Monodelphis domestica*;
  - (l) Small spotted genet - *Genetta genetta*;
  - (m) Southern flying squirrel - *Glaucomys volans*;
  - (n) Transcaspian urial sheep - *Ovis aries vignei*; and
  - (o) Virginia opossum - *Didelphis virginiana*.
- (5) The following mollusks are classified as prohibited species:
- (a) New Zealand mudsnail - *Potamopyrgus antipodarum*;
  - (b) Quagga mussel - *Dreissena bugensis*; and
  - (c) Zebra mussel - *Dreissena polymorpha*.
- (6) The following reptiles are classified as prohibited:
- (a) African rock python - *Python sebae*;
  - (b) Alligatoridae family;
  - (c) Amethystine python - *Morelia amethystina*;
  - (d) Boomslang - *Dispholidus typus*;
  - (e) Burrowing asps (all species in family Atractaspidae);
  - (f) Coral snakes (all species in family Elapidae);
  - (g) Cobras (all species in family Elapidae);
  - (h) Crocodylidae family;
  - (i) Green Anaconda - *Eunectes marinus*;
  - (j) Indian python (including the Burmese python) - *Python molurus*;
  - (k) Kraits (all species in family Elapidae);
  - (l) Mambas (all species in family Elapidae);
  - (m) Pit vipers and true vipers (all species in family Viperidae except species indigenous to Montana);
  - (n) Red-eared slider - *Trachemys scripta elegans*; and
  - (o) Reticulated python - *Python reticulatus*.
- (7) The following birds are classified as prohibited:
- (a) California quail - *Callipepla californica*; and
  - (b) Gambel's quail - *Callipepla gambelii*.

## Nebraska AIS Statutes

*Compiled 10/14/15*

### **Neb. Rev. Stat. Ch. 37, Art. 2 (Game Law General Provisions)**

#### **§ 37-206.01. Aquatic invasive species, defined**

Aquatic invasive species means exotic or nonnative aquatic organisms listed in rules and regulations of the commission which pose a significant threat to the aquatic resources, water supplies, or water infrastructure of this state.

#### **§ 37-207. Aquatic organism, defined**

Aquatic organism means an individual member of any species of fish, mollusk, crustacean, aquatic reptile, aquatic amphibian, aquatic insect, or other aquatic invertebrate. Aquatic organism includes the viable gametes, eggs or sperm, of an aquatic organism.

#### **§ 37-207.01. Authorized inspector, defined**

Authorized inspector means a person who meets the requirements established in rules and regulations of the commission to inspect for aquatic invasive species and includes, but is not limited to, a conservation officer and a peace officer as defined in section 49-801.

#### **§ 37-215.01. Conveyance, defined**

Conveyance means a motorboat as defined in section 37-1204, a personal watercraft as defined in section 37-1204.01, a vessel as defined in section 37-1203, a trailer, or any associated equipment or containers which may contain or carry aquatic invasive species.

### **Neb. Rev. Stat. Ch. 37, Art. 3(h) (Aquatic Invasive Species Program)**

#### **§ 37-355. Aquatic Invasive Species Program**

The Aquatic Invasive Species Program is created. Funds identified to support the program shall be used for aquatic invasive species activities which may include monitoring and sampling waters of the state for aquatic invasive species, hiring personnel, purchasing equipment to inspect and decontaminate conveyances, providing additional enforcement, education, and research relating to aquatic invasive species, and conducting aquatic invasive species projects as needed.

### **Neb. Rev. Stat. Ch. 37, Art. 5(b) (Game, Birds, and Aquatic Invasive Species)**

#### **§ 37-524. Aquatic invasive species; wild or nonnative animals; importation, possession, or release; prohibition; violation; penalty**

(1) It shall be unlawful for any person, partnership, limited liability company, association, or corporation to import into the state or possess aquatic invasive species, the animal known as the San Juan rabbit, or any other species of wild vertebrate animal, including domesticated cervine animals as defined in section 54-701.03, declared by the commission following public hearing and consultation with the Department of Agriculture to constitute a serious threat to economic or ecologic conditions, except that the commission may authorize by specific written permit the acquisition and possession of such species for educational or scientific purposes. It shall also be unlawful to release to the wild any nonnative bird or nonnative mammal without written authorization from the commission. Any person, partnership, limited liability company, association, or corporation violating the provisions of this subsection shall be guilty of a Class IV misdemeanor.

(2) Following public hearing and consultation with the Department of Agriculture, the commission may, by rule and regulation, regulate or limit the importation and possession of any aquatic invasive species or wild vertebrate animal, including a domesticated cervine animal as defined in section 54-701.03, which is found to constitute a serious threat to economic or ecologic conditions.

**§ 37-524.02. Aquatic invasive species; prohibited acts; penalty; impoundment of conveyance**

(1) No person shall possess, import, export, purchase, sell, or transport aquatic invasive species except when authorized commission personnel or the owner of a conveyance, or a person authorized by such owner, is removing an aquatic invasive species from a conveyance to be killed or immediately disposed of in a manner determined by the commission. The commission shall adopt and promulgate rules and regulations governing the inspection, decontamination, and treatment of conveyances capable of containing or transporting aquatic invasive species.

(2) Any person who (a) fails or refuses to submit to an inspection of a conveyance requested by an authorized inspector or (b) refuses to permit or prevents proper decontamination or treatment of a conveyance as prescribed by the authorized inspector is guilty of a Class III misdemeanor and upon conviction shall be fined not less than five hundred dollars. Such person's conveyance shall also be subject to impoundment.

**§ 37-524.03. Aquatic invasive species; rules and regulations**

The commission shall adopt and promulgate rules and regulations to carry out section 37-524.02.

**Neb. Rev. Stat. Ch. 37, Art. 5(d) (Fish and Aquatic Organisms)**

**§ 37-547. Aquatic invasive species; wildlife; legislative intent**

It is the intent of the Legislature to prevent the release or importation into the State of Nebraska of any aquatic invasive species or any live wildlife which may cause economic or ecologic harm or be injurious to human beings, agriculture, horticulture, forestry, water, or wildlife or wildlife resources of the state. It is further the intent of the Legislature to prevent the commercial

exploitation or exportation of any aquatic invasive species or any dead or live wildlife taken from the wild.

**§ 37-548. Aquatic invasive species; wildlife; prohibited acts; violation; penalty; release, importation, commercial exploitation, and exportation permits; fees; commission; powers and duties**

(1) It shall be unlawful for any person to import into the state or release to the wild any aquatic invasive species or any live wildlife including the viable gametes, eggs or sperm, except those which are approved by rules and regulations of the commission or as otherwise provided in the Game Law. It shall be unlawful to commercially exploit or export from the state any aquatic invasive species or dead or live wildlife taken from the wild except those which are exempted by rules and regulations of the commission. Any person violating this subsection shall be guilty of a Class III misdemeanor.

(2) The commission shall adopt and promulgate rules and regulations to carry out subsection (1) of this section. In adopting such rules and regulations, the commission shall be governed by the Administrative Procedure Act. Such rules and regulations shall include a listing of (a) the aquatic invasive species or wildlife which may be released or imported into the state and (b) the aquatic invasive species or wildlife taken from the wild which may be commercially exploited or exported from the state. The rules and regulations for release, importation, commercial exploitation, and exportation of species other than commercial fish and bait fish shall include, but not be limited to, requirements for annual permits for release or importation or for commercial exploitation or exportation, permit fees, the number of individual animals of a particular species that may be released, imported, collected, or exported under a permit, and the manner and location of release or collection of a particular species. The rules and regulations may be amended, modified, or repealed from time to time, based upon investigation and the best available scientific, commercial, or other reliable data.

(3) The commission shall establish permit fees as required by subsection (2) of this section to cover the cost of permit processing and enforcement of the permits and research into and management of the ecological effects of release, importation, commercial exploitation, and exportation. The commission shall remit the fees to the State Treasurer for credit to the Wildlife Conservation Fund.

(4) The commission may determine that the release, importation, commercial exploitation, or exportation of aquatic invasive species or wildlife causes economic or ecologic harm by utilizing the best available scientific, commercial, and other reliable data after consultation, as appropriate, with federal agencies, other interested state and county agencies, and interested persons and organizations.

(5) The commission shall, upon its own recommendation or upon the petition of any person who presents to the commission substantial evidence as to whether such additional species will or will not cause ecologic or economic harm, conduct a review of any listed or unlisted species proposed to be removed from or added to the list published pursuant to subdivision (2)(a) of this section. The review shall be conducted pursuant to subsection (4) of this section.



(6) The commission shall, upon its own recommendation or upon the petition of any person who presents to the commission substantial evidence that commercial exploitation or exportation will cause ecologic or economic harm or significant impact to an aquatic or wildlife population, conduct a review of any listed or unlisted species proposed to be added to or removed from the list published pursuant to subdivision (2)(b) of this section. The review shall be conducted pursuant to subsection (4) of this section.

**Neb. Rev. Stat. Ch. 37, Art. 12 (State Boat Act)**

**§ 37-1214. Motorboat; registration; period valid; application; fee**

(1) Except as otherwise provided in section 37-1211, the owner of each motorboat shall register such vessel or renew the registration every three years as provided in section 37-1226. The owner of such vessel shall file an initial application for a certificate of number pursuant to section 37-1216 with a county treasurer on forms approved and provided by the commission. The application shall be signed by the owner of the vessel, shall contain the year manufactured, and shall be accompanied by a registration fee for the three-year period of not less than twenty dollars and not more than twenty-three dollars for Class 1 boats, not less than forty dollars and not more than forty-six dollars for Class 2 boats, not less than sixty dollars and not more than sixty-seven dollars and fifty cents for Class 3 boats, and not less than one hundred dollars and not more than one hundred fifteen dollars for Class 4 boats, as established by the commission pursuant to section 37-327. The owner of the motorboat shall also pay a fee established pursuant to section 37-327 of not less than five dollars and not more than ten dollars for the Aquatic Invasive Species Program at the time of registration or renewal.

(2) The owner of a motorboat not registered in Nebraska shall purchase an aquatic invasive species stamp for the Aquatic Invasive Species Program valid for one calendar year prior to launching into any waters of the state. The cost of such one-year stamp shall be established pursuant to section 37-327 and be not less than ten dollars and not more than fifteen dollars plus an issuance fee pursuant to section 37-406. Such one-year stamp may be purchased electronically or through any vendor authorized by the commission to sell other permits and stamps issued under the Game Law pursuant to section 37-406. The aquatic invasive species stamp shall be permanently affixed on the starboard and rearward side of the vessel. The proceeds from the sale of stamps shall be remitted to the State Game Fund.

(3) This subsection applies beginning on an implementation date designated by the Director of Motor Vehicles in cooperation with the commission. The director shall designate an implementation date on or before January 1, 2020, for motorboat registration. In addition to the information required under subsection (1) of this section, the application for registration shall contain (a) the full legal name as defined in section 60-468.01 of each owner and (b)(i) the motor vehicle operator's license number or state identification card number of each owner, if applicable, and one or more of the identification elements as listed in section 60-484 of each owner, if applicable, and (ii) if any owner is a business entity, a nonprofit organization, an estate, a trust, or a church-controlled organization, its tax identification number.

**§ 37-1215. Motorboat; registration period already commenced; fee reduced; computation**

In the event an application is made after the beginning of any registration period for registration of any vessel not previously registered by the applicant in this state, the registration fee on such vessel shall be reduced by one thirty-sixth for each full month of the registration period already expired as of the date such vessel was acquired. The fee for the Aquatic Invasive Species Program shall not be so reduced. The county treasurer shall compute the registration fee on forms and pursuant to rules of the commission.

**§ 37-1219. Registration fees; remitted to commission; when; form; duplicate copy**

All registration fees and fees for the Aquatic Invasive Species Program received by the county treasurers shall be remitted on or before the thirtieth day of the following month to the secretary of the commission. All remittances shall be upon a form to be furnished by the commission and a duplicate copy shall be retained by the county treasurer.

**§ 37-1220. Registration fees; deposited with State Treasurer; placed in State Game Fund**

The secretary of the commission shall deposit daily with the State Treasurer all fees received pursuant to section 37-1219 and shall take the receipt of the State Treasurer therefor. The State Treasurer shall place all of the fees so deposited in the State Game Fund.

**§ 37-1273. Fees; placed in State Game Fund; how used**

All fees as provided by the State Boat Act shall be remitted to the State Treasurer for credit to the State Game Fund to be used primarily for (1) administration and enforcement of the State Boat Act, (2) boating safety educational programs, (3) the construction and maintenance of boating and docking facilities, navigation aids, and access to boating areas and such other uses as will promote the safety and convenience of the boating public in Nebraska, (4) the Aquatic Invasive Species Program, and (5) publishing costs subject to the restrictions and limitations in section 37-324. Secondary uses for the fees shall be for the propagation, importation, protection, preservation, and distribution of game and fish and necessary equipment therefor and all things pertaining thereto.

**Neb. Rev. Stat. Ch. 37, Art. 14 (Nebraska Invasive Species Council)**

**§ 37-1401. Legislative findings**

The Legislature finds that:

- (1) The land, water, and other resources of Nebraska are being severely impacted by the invasion of an increasing number of harmful invasive species;
- (2) These impacts are resulting in damage to Nebraska's environment and causing economic hardships; and

(3) The multitude of public and private organizations with an interest in controlling and preventing the spread of harmful invasive species in Nebraska need a mechanism for cooperation, communication, collaboration, and developing a statewide plan of action to meet these threats.

**§ 37-1402. Invasive species, defined**

For purposes of sections 37-1401 to 37-1406, invasive species means aquatic or terrestrial organisms not native to the region that cause economic or biological harm and are capable of spreading to new areas, and invasive species does not include livestock as defined in sections 54-1368 and 54-1902, honey bees, domestic pets, intentionally planted agronomic crops, or nonnative organisms that do not cause economic or biological harm.

**§ 37-1403. Nebraska Invasive Species Council; created; members; expenses; Game and Parks Commission; rules and regulations; meetings**

(1) The Nebraska Invasive Species Council is created. Members of the council shall serve without compensation and shall not be reimbursed for expenses associated with their service on the council. The Game and Parks Commission shall provide administrative support to the council to carry out the council's duties, and the commission may adopt and promulgate rules and regulations to carry out sections 37-1401 to 37-1406 .

(2) Voting members of the council shall be appointed by the Governor and shall include a representative of:

- (a) An electric generating utility;
- (b) The Department of Agriculture;
- (c) The Game and Parks Commission;
- (d) The Nebraska Forest Service of the University of Nebraska Institute of Agriculture and Natural Resources;
- (e) The University of Nebraska-Lincoln;
- (f) The Nebraska Cooperative Fish and Wildlife Research Unit of the University of Nebraska;
- (g) The Nebraska Weed Control Association; and
- (h) The Nebraska Association of Resources Districts.

(3) Voting members of the council shall also include up to five members at large appointed by the Governor who shall represent public interests, at least three of which shall represent agricultural land owner interests.

(4) Nonvoting, ex officio members of the council shall include a representative of:

- (a) The Midwest Region of the National Park Service of the United States Department of the Interior;
- (b) The Animal and Plant Health Inspection Service of the United States Department of Agriculture;
- (c) The Natural Resources Conservation Service of the United States Department of Agriculture;

- (d) The United States Geological Survey; and
- (e) The Nature Conservancy, Nebraska Field Office.

(5) The council may seek additional advisory support from representatives of relevant federal, state, or local agencies as it deems necessary to accomplish its duties.

(6) The council shall select a chairperson from among its members. The council shall meet at the call of the chairperson or upon the request of a majority of the members.

#### **§ 37-1404. Nebraska Invasive Species Council; duties**

The Nebraska Invasive Species Council shall:

- (1) Recommend action to minimize the effects of harmful invasive species on Nebraska's citizens in order to promote the economic and environmental well-being of the state;
- (2) Develop and periodically update a statewide adaptive management plan for invasive species as described in section 37-1405;
- (3) Serve as a forum for discussion, identification, and understanding of invasive species issues;
- (4) Facilitate the communication, cooperation, and coordination of local, state, federal, private, and nongovernmental entities for the prevention, control, and management of invasive species;
- (5) Assist with public outreach and awareness of invasive species issues; and
- (6) Provide information to the Legislature for decision making, planning, and coordination of invasive species management and prevention.

#### **§ 37-1405. Adaptive management plan; contents**

The adaptive management plan required under section 37-1404 will address the following:

- (1) Statewide coordination and intergovernmental cooperation;
- (2) Prioritization of invasive species response and management;
- (3) Early detection and prevention of new invasive species through deliberate or unintentional introduction;
- (4) Inventory and monitoring of invasive species;
- (5) Identification of research and information gaps;
- (6) Public outreach and education;

(7) Identification of funding and resources available for invasive species prevention, control, and management; and

(8) Recommendations for legislation regarding invasive species issues.

**§ 37-1406. Adaptive management plan; completion; update; Nebraska Invasive Species Council; reports; subcommittees**

(1) The adaptive management plan required under section 37-1404 shall be updated at least once every three years following its initial development. The plan shall be submitted to the Governor and the Agriculture Committee of the Legislature. The plan submitted to the committee shall be submitted electronically.

(2) The Nebraska Invasive Species Council shall submit an annual report of its activities to the Governor and the Agriculture Committee of the Legislature by December 15 of each year. The annual report shall include an evaluation of progress made in the preceding year. The report submitted to the committee shall be submitted electronically.

(3) The council shall complete the initial adaptive management plan within three years after April 6, 2012.

(4) Prior to the start of the 2015 legislative session, the council shall submit electronically a report to the Agriculture Committee of the Legislature that makes recommendations as to the extension or modification of the council.

(5) The council may establish advisory and technical subcommittees that the council considers necessary to aid and advise it in the performance of its functions.

## Nebraska AIS Regulations

### Neb. Admin. R. & Regs. Tit. 163, Ch. 2 (Fisheries Regulations)

#### 012 Aquatic Invasive Species Regulations.

The following regulations are prescribed by the Nebraska Game and Parks Commission, State of Nebraska, in addition to State Statutes in accordance with Neb. Rev. Stat. 37-301, 37-304, 37-524, 37-547, and 37-548. For purposes of these regulations, unless context otherwise requires, the definitions found in Chapter 37, sections 201-234 of the Game Law, are used. These regulations are effective following enactment by the Commission, approval by the Attorney General and Governor, and when five days have elapsed since filing with the Secretary of State.

#### § 012.01 Definitions

012.01A Aquatic Invasive Species are defined as exotic or non-native aquatic organisms that pose a significant threat to the aquatic resources, water supplies, or water infrastructure of this State. Since the current status and level of threat can be different for each species, four different categories are established: Category 1 - Potential Aquatic Invasive Species; Category 2 Priority Aquatic Invasive Species; Category 3 Established Aquatic Invasive Species; and Category 4 - Aquatic Invasive Plant Species Listed as Noxious in Nebraska.

Category 1 - Potential Aquatic Invasive Species are those species that have not yet been sampled in Nebraska and are considered a high threat. Those organisms are as follows:

<b>Scientific Name</b>	<b>Common Name</b>
<i>Apollonia melanostoma</i>	Round Goby
<i>Chana sp.</i>	Snakehead
<i>Mylopharyngodon piceus</i>	Black Carp
<i>Dreissena rostriformis bugensis</i>	Quagga Mussel
<i>Potamopyrgus antipodarum</i>	New Zealand Mudsnail
<i>Arundo donax</i>	Giant Reed
<i>Egeria densa</i>	Brazilian Waterweed, Elodea
<i>Hydrilla verticillata</i>	Hydrilla
<i>Najas minor</i>	Brittle Niad
<i>Didymosphenia geminate</i>	Didymo, Rock Snot
<i>Procambarus acutus</i>	White River Crayfish
<i>Procambarus clarkua</i>	Red Swamp Crayfish

Category 2 - Priority Aquatic Invasive Species are those species that are currently present in Nebraska but with limited distribution. They are considered highly unwanted species and all efforts should be taken to prevent the expansion of their populations. Those species are as follows:

<b>Scientific Name</b>	<b>Common Name</b>
<i>Hypophthalmichthys molitrix</i>	Silver Carp
<i>Hypophthalmichthys Nobilis</i>	Bighead Carp
<i>Morone americana</i>	White Perch
<i>Roccus mississippiensis</i>	Yellow Bass
<i>Corbicula fluminea</i>	Asian Clam
<i>Dreissena polymorpha</i>	Zebra Mussel
<i>Daphnia lumholtzii</i>	Waterflea
<i>Orconectes Rusticus</i>	Rusty Crayfish
<i>Potamogeton crispus</i>	Curly-leaf Pondweed
<i>Butomus umbellatus</i>	Flowering Rush
<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil
<i>Nymphoides peltata</i>	Yellow Floating Heart
<i>Ludwigia peploides</i>	Creeping Water Primrose

Category 3 - Established Aquatic Invasive Species are those species that are well established in Nebraska and total elimination is impossible. Local removal and control is the best that can be expected and protocols established in sections 12.02 to 12.05 below do not apply to the species on this list, which are as follows:

<b>Scientific Name</b>	<b>Common Name</b>
<i>Cyprinus carpio</i>	Common Carp
<i>Scardinius erythrophthalmus</i>	European Rudd
<i>Cipangopaludina chinensis</i>	Chinese Mystery Snail
<i>Cipangopaludina japonica</i>	Japanese Mystery Snail
<i>Nasturium officinale</i>	Common Watercress
<i>Phalaris arundinacea</i>	Reed Canary Grass
<i>Typha angustifolia and hybrids</i>	Narrow-leaf Cattail

Category 4 - Aquatic Invasive Species Listed as Noxious in Nebraska are regulated by the Nebraska Department of Agriculture as noxious plant species. Those species are listed as follows:

<b>Scientific Name</b>	<b>Common Name</b>
<i>Phragmites australis</i>	Eurasian Common Reed
<i>Tamarix ramosissima and hybrids</i>	Salt Cedar
<i>Lythrum salicaria</i>	Purple Loosestrife

012.01B An authorized inspector means a person who has completed Aquatic Invasive Species Level 1 training, or Conservation Officer or peace officer.

012.01C Conveyance means a motor vehicle, boat, watercraft, raft, vessel, trailer, or any associated equipment or containers, including but not limited to live wells, ballast tanks, bilge areas, and water hauling equipment that may contain or carry Aquatic Invasive Species.

012.01D Decontaminate means to wash, drain, dry, or thermally or otherwise treat a conveyance in order to remove or destroy Aquatic Invasive Species.

012.01E Equipment means an article, tool, implement, or device capable of containing or transporting water or Aquatic Invasive Species.

012.01F Waters of the State means all waters under the jurisdiction of the State of Nebraska.

012.01G Launch area means any ground along the shoreline of a water body where a conveyance may be launched into the water or loaded out of the water for transport, including but not limited to boat ramps.

012.02 It shall be unlawful for any person to possess, import, export, purchase, sell, transport or release into the waters of the State any Aquatic Invasive Species except when Commission personnel or the owner of a conveyance, or a person authorized by such owner, is removing an Aquatic Invasive Species from a conveyance to be killed or immediately disposed of in a manner as determined by the Commission or allowed to possess, sell or transport by regulations listed in Chapter 2, Sections 003 and 006.

### **§ 012.03 Inspections**

012.03A An authorized inspector has the authority to require and conduct inspection of any conveyance that may contain or carry an Aquatic Invasive Species.

012.03B It shall be unlawful to fail or refuse to submit to an inspection of a conveyance upon request of an authorized inspector, Conservation Officer or peace officer.

012.03C If a person refuses to allow inspection of a conveyance or to complete any required removal and disposal of Aquatic Invasive Species prior to departure from any water of the State known to be infected by an Aquatic Invasive Species, the conveyance is subject to impoundment until an Aquatic Invasive Species inspection and decontamination is completed.

012.03D It shall be unlawful to refuse to permit or prevent proper decontamination of a conveyance as prescribed by an authorized inspector. It is the responsibility of the owner of the conveyance to cover any costs related to the decontamination procedure.

012.03E Any person operating a conveyance may be ordered to remove the conveyance from any water of the State or any conveyance launch area by any Conservation Officer or peace officer if there is reason to believe the conveyance was not properly inspected prior to launch or may otherwise contain Aquatic Invasive Species. Once removed from the water, the



conveyance shall be subject to inspection for the removal and disposal of Aquatic Invasive Species.

012.03F Any authorized inspector who, through the course of an inspection, determines that Aquatic Invasive Species are present shall document the inspection, including but not limited to the type and number of Aquatic Invasive Species suspected or detected and identification of the conveyance, including license plate number and hull or vehicle identification number, if available. The authorized inspector shall advise the operator that the conveyance shall be required to be decontaminated according to Commission procedures as soon as possible.

012.03G It shall be unlawful to arrive at or leave any water body in Nebraska with water other than from a domestic source (e.g., water supply system, well, or bottled) except for fire-fighting purposes.

012.03H It shall be unlawful for a conveyance to be launched into waters of the State with Aquatic Invasive plant species attached or leave a launch area with any aquatic vegetation from that water body still attached.

012.03I It shall be unlawful to use felt sole boots or waders in waters of the State.

#### **§ 012.04 Decontamination**

012.04A Decontamination shall be achieved by removal of the conveyance from any water body and eliminating the water from all compartments, equipment, and containers that may hold water, including but not limited to live wells, ballast tanks and bilges for a length of time as determined by the Commission not to exceed thirty (30) days.

012.04B If decontamination is not achieved by removal of the conveyance from any water body for at least 30 days, the following requirements apply:

012.04B1 Decontamination of the exterior of a conveyance shall be accomplished by removing or destroying all Aquatic Invasive Species, soil, plants, and organisms. The entire exterior of the conveyance and all intakes shall be thoroughly washed with water of at least 140 degrees Fahrenheit. A high pressure (minimum of 2,500 pounds per square inch or psi) water wash or scrubbing will be used as necessary.

012.04B2 All compartments, equipment and containers in a conveyance that hold water including, but not limited to live wells, ballast and bilge areas, shall be flushed with water of at least 140 degrees Fahrenheit but not at high pressure. If a bilge pump is present, it shall be operated until the bilge appears to be empty. The lower unit of the engine shall be thoroughly flushed with water of at least 140 degree Fahrenheit.

012.04B3 After decontamination, an authorized inspector, Conservation Officer or peace officer shall re-inspect the conveyance to ensure complete decontamination has occurred prior to the release of the conveyance.

## **§ 012.05 Impoundment and Quarantine**

012.05A All conveyances are subject to impoundment and quarantine by a Conservation Officer or peace officer if:

012.05A1 The person transporting the conveyance refuses to allow an inspection of the conveyance by an authorized inspector, Conservation Officer or peace officer;

012.05A2 An authorized inspector, Conservation Officer or peace officer has probable cause to believe an Aquatic Invasive Species is present after conducting an inspection;

012.05A3 The person transporting the conveyance refuses to allow a decontamination of the conveyance when decontamination is ordered by an authorized inspector, Conservation Officer, or peace officer; or

012.05A4 An authorized inspector, Conservation Officer, or peace officer determines that a quarantine is necessary following decontamination.

012.05B If the person in charge of an impounded conveyance is not the registered owner, the registered owner shall be notified by mail, return receipt requested, within ten days of the location of the impounded conveyance. Such notification shall also include contact information for the Conservation Officer or peace officer ordering the impoundment. If the registered owner is present when the conveyance is ordered impounded, then the same information shall be provided to the registered owner at the time the impound order is issued.

012.05C All impounded conveyances shall be held at the risk and expense of the owner. A conveyance held under impound for non-compliance with this regulation shall only be released after an authorized inspector or Conservation Officer is satisfied by inspection or quarantine that the conveyance is no longer a threat to the aquatic resources, water supplies, and water infrastructure of the State.

012.05D Duration of conveyance quarantine shall be determined by the Department and shall not exceed thirty (30) days.

012.05E An impounded conveyance shall not be released until a Commission impound release form is signed and executed by a Conservation Officer. It is the responsibility of the owner to coordinate with the Commission for the release of the conveyance.

## **§ 012.06 Restrictions**

012.06A Waters of the State found to contain Category 1 or Category 2 Aquatic Invasive Species may be listed and posted by the Commission as Aquatic Invasive Species-Contaminated Waters. The Commission may then establish site-specific protocols for such waters that could include inspection and decontamination. The Commission may require additional restrictions on launching and loading conveyances and restrictions on live baitfish leaving the area.

**Neb. Admin. R. & Regs. Tit. 163, Ch. 3 (Boating Regulations)**

**§ 019 Non-Resident Aquatic Invasive Species Stamp**

019.01 It shall be unlawful:

019.01A for any owner or operator of a motorboat not registered in the state of Nebraska to launch into border waters from this state without first purchasing or displaying a valid Aquatic Invasive Species Stamp issued by the Commission.

019.01B for any owner or operator of a motorboat not registered in the state of Nebraska to operate or launch on any inland waters of the state without first purchasing or displaying a valid Aquatic Invasive Species Stamp issued by the Commission.

019.01C for owners or operators of a motorboat utilizing a Temporary Aquatic Invasive Species Stamps purchased online to fail to fill out and show upon demand the Temporary Internet Aquatic Invasive Species Stamp. This temporary permit will be valid for fifteen (15) days from the date of purchase printed on the temporary stamp.

019.01D upon receipt of the Aquatic Invasive Species Stamp, to fail to permanently affix the stamp on the starboard and rearward side of the motorboat, on the outside of the hull above the water line.

## Nevada AIS Statutes

### Nev. Rev. Stat. Tit. 43, Ch. 488 (Watercraft)

#### *General Provisions*

#### **§ 488.035. Definitions**

As used in this chapter, unless the context otherwise requires:

1. “Aquatic invasive species” means an aquatic species which is exotic or not native to this State and which the Commission has determined to be detrimental to aquatic life, water resources or infrastructure for providing water in this State.
2. “Aquatic plant material” means aquatic plants or parts of plants that are dependent on an aquatic environment to survive.
3. “Commission” means the Board of Wildlife Commissioners.
4. “Conveyance” means a motor vehicle, trailer or any other equipment used to transport a vessel or containers or devices used to haul water on a vessel that may contain or carry an aquatic invasive species or aquatic plant material.
5. “Decontaminate” means eliminate any aquatic invasive species on a vessel or conveyance in a manner specified by the Commission which may include, without limitation, washing the vessel or conveyance, draining the water in the vessel or conveyance, drying the vessel or conveyance or chemically, thermally or otherwise treating the vessel or conveyance.
6. “Department” means the Department of Wildlife.
7. “Flat wake” means the condition of the water close astern a moving vessel that results in a flat wave disturbance.
8. “Interstate waters of this State” means waters forming the boundary between the State of Nevada and an adjoining state.
9. “Legal owner” means a secured party under a security agreement relating to a vessel or a renter or lessor of a vessel to the State or any political subdivision of the State under a lease or an agreement to lease and sell or to rent and purchase which grants possession of the vessel to the lessee for a period of 30 consecutive days or more.
10. “Motorboat” means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion.
11. “Operate” means to navigate or otherwise use a motorboat or a vessel.

12. "Owner" means:
  - (a) A person having all the incidents of ownership, including the legal title of a vessel, whether or not he or she lends, rents or pledges the vessel; and
  - (b) A debtor under a security agreement relating to a vessel.

"Owner" does not include a person defined as a "legal owner" under subsection 9.
13. "Prohibited substance" has the meaning ascribed to it in NRS 484C.080.
14. "Registered owner" means the person registered by the Commission as the owner of a vessel.
15. "State hull number" means a hull number issued for a vessel by the Department that meets the requirements prescribed by the United States Coast Guard, including, without limitation, 33 C.F.R. § 174.16 and 33 C.F.R. Part 181, Subpart C.
16. "Under the influence" means impaired to a degree that renders a person incapable of safely operating or exercising actual physical control of a vessel.
17. A vessel is "under way" if it is adrift, making way or being propelled, and is not aground, made fast to the shore, or tied or made fast to a dock or mooring.
18. "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.
19. "Waters of this State" means any waters within the territorial limits of this State.

**§ 488.045. Regulations of Board of Wildlife Commissioners: Adoption**

The Commission may carry out the provisions of this chapter by appropriate regulations.

*Aquatic Invasive Species*

**§ 488.530. Unlawful acts; inspections; authority of peace officers**

1. It is unlawful for any person at any time to:
  - (a) Launch a vessel into any body of water in this State for which the Department has approved an inspection program without first complying with that program;
  - (b) Refuse to comply with any requirements of the Department or any requirements of an inspection program approved by the Department; or
  - (c) Leave an impaired body of water in this State or any other state after operating a vessel on that impaired body of water and launch the vessel on any other body of water in this State without first decontaminating the vessel and any conveyance used on the impaired body of water.

2. In addition to any inspection conducted pursuant to NRS 488.900, each owner, operator or person in control of a vessel or conveyance shall stop at any mandatory inspection station for aquatic invasive species authorized by the Department. If a peace officer reasonably believes, based on articulable facts, that an aquatic invasive species or aquatic plant material may be present on the vessel or conveyance, the peace officer may:

(a) Require the owner, operator or person in control of the vessel or conveyance to decontaminate the vessel or conveyance; or

(b) In addition to any seizure required pursuant to NRS 488.910, impound or quarantine the vessel or conveyance.

3. A peace officer may stop and inspect a vessel or conveyance for the presence of aquatic invasive species or aquatic plant material, or for proof of a required inspection:

(a) Before a vessel is launched into a body of water in this State;

(b) Before a vessel or conveyance departs from a body of water in this State, a launch ramp or a vessel staging area;

(c) If the vessel or conveyance is visibly transporting any aquatic invasive species or aquatic plant material; or

(d) If the peace officer reasonably believes, based on articulable facts, that an aquatic invasive species or aquatic plant material is present.

4. If a peace officer conducts an inspection of a vessel or conveyance pursuant to this section and determines that an aquatic invasive species or aquatic plant material is present on the vessel or conveyance, the peace officer may order the vessel or conveyance to be decontaminated.

5. A peace officer may impound or quarantine a vessel if:

(a) An inspection conducted pursuant to this section indicates the presence of an aquatic invasive species or aquatic plant material on the vessel or conveyance; or

(b) The owner, operator or person in control of the vessel or conveyance refuses to:

(1) Submit to an inspection authorized pursuant to this section; or

(2) Comply with an order issued pursuant to this section to decontaminate his or her vessel or conveyance.

6. As used in this section, “impaired body of water” means any body of water in this State or any other state which the Commission or another governmental entity has identified as containing an aquatic invasive species.

**§ 488.533. Impoundment or quarantine**

1. If a peace officer orders a vessel or conveyance to be impounded or quarantined pursuant to NRS 488.530, the vessel or conveyance may be impounded or quarantined for a reasonable period to ensure that the vessel or conveyance is inspected and decontaminated and that any aquatic invasive species or aquatic plant material is completely removed.
2. The owner of a vessel or conveyance which is impounded or quarantined is responsible for all costs associated with the impoundment or quarantine.
3. The Department may suspend the certificate of number or validation decal of an impounded or quarantined vessel until:
  - (a) The operator or owner of the vessel has completed the decontamination of the vessel; and
  - (b) The Department has inspected the vessel and determined that it is in compliance with NRS 488.530.

**§ 488.536. Fees; decal; exceptions**

1. Except as otherwise provided in subsection 6, a person shall not operate a vessel on the waters of this State unless the person has:
  - (a) Paid to the Department the aquatic invasive species fee established pursuant to subsection 4; and
  - (b) Attached the aquatic invasive species decal issued pursuant to subsection 2 to the port side transom of the vessel so that the decal is distinctly visible.
2. The Department shall issue to a person who pays the fee established pursuant to subsection 4 an aquatic invasive species decal as evidence of the payment of the aquatic invasive species fee.
3. Aquatic invasive species decals expire at the end of each calendar year. Only the decal for the current year may be displayed on a vessel.
4. The Commission shall establish by regulation an aquatic invasive species fee, which:
  - (a) For a motorboat which is owned or operated by a person who is a resident of this State, must not exceed \$10;
  - (b) For a vessel, other than a motorboat, which is owned or operated by a person who is a resident of this State, must not exceed \$5;

- (c) For a motorboat which is owned or operated by a nonresident of this State, must be \$20; and
  - (d) For a vessel, other than a motorboat, which is owned or operated by a nonresident of this State, must be \$10.
5. The aquatic invasive species fee established pursuant to subsection 4 must be paid annually for the issuance of an aquatic invasive species decal. The fee must be deposited in the Wildlife Account in the State General Fund and used by the Department for enforcement of this section and NRS 488.530, 488.533 and 503.597 and for education about and management of aquatic invasive species.
  6. The provisions of this section do not apply to a person who operates a vessel on the waters of:
    - (a) The Colorado River, Lake Mead or Lake Mohave if, as determined by the Department, the vessel is registered in Arizona and Arizona has a program in effect for the management of aquatic invasive species; or
    - (b) Lake Tahoe or Topaz Lake if, as determined by the Department, the vessel is registered in California and California has a program in effect for the management of aquatic invasive species.

*Enforcement*

**§ 488.900. Enforcement by game wardens and other peace officers; inspection of vessel**

1. Every game warden, sheriff and other peace officer of this State and its political subdivisions shall enforce the provisions of this chapter and may stop and board any vessel subject to the provisions of this chapter.
2. Any vessel located upon the waters of this State is subject to inspection by the Department or any lawfully designated agent or inspector thereof at any time to determine whether the vessel is equipped in compliance with the provisions of this chapter.
3. Any vessel located upon the waters of this State is subject to inspection by the Division of Environmental Protection of the State Department of Conservation and Natural Resources or any lawfully designated agent or inspector thereof at any time to determine whether the vessel is equipped in compliance with the provisions of NRS 488.320. As used in this subsection, “vessel” includes any watercraft or structure floating on the water, whether or not capable of self-locomotion, including houseboats, barges and similar structures.

**§ 488.910. Seizure of vessel to preserve evidence of crime; payment of storage fees**

1. If a peace officer has probable cause to believe that a vessel or its contents contain evidence tending to show that a criminal offense has been committed or that a particular person has



committed an offense, the officer may take whatever steps are reasonable to ensure the preservation of the evidence including safe storage of the vessel or its contents.

2. If a criminal conviction is obtained as a result of an action taken pursuant to subsection 1, the person convicted shall pay any storage fees incurred pursuant to that subsection. If a conviction is not obtained, the law enforcement agency that seized the vessel pursuant to subsection 1 shall pay those fees.

**Nev. Rev. Stat. Tit. 45, Ch. 501 (Wildlife: Administration and Enforcement)**

**§ 501.105. Commission to establish policies and adopt regulations**

The Commission shall establish policies and adopt regulations necessary to the preservation, protection, management and restoration of wildlife and its habitat. In establishing such policies and adopting such regulations, the Commission must first consider the recommendations of the Department, the county advisory boards to manage wildlife and other persons who present their views at an open meeting of the Commission.

**§ 501.181. Duties; regulations**

The Commission shall:

1. Establish broad policies for:
  - (a) The protection, propagation, restoration, transplanting, introduction and management of wildlife in this State.
  - (b) The promotion of the safety of persons using or property used in the operation of vessels on the waters of this State.
  - (c) The promotion of uniformity of laws relating to policy matters.
2. Guide the Department in its administration and enforcement of the provisions of this title and of chapter 488 of NRS by the establishment of such policies.
3. Establish policies for areas of interest including:
  - (a) The management of big and small game mammals, upland and migratory game birds, fur-bearing mammals, game fish, and protected and unprotected mammals, birds, fish, reptiles and amphibians.
  - (b) The management and control of predatory wildlife.
  - (c) The acquisition of lands, water rights and easements and other property for the management, propagation, protection and restoration of wildlife.

- (d) The entry, access to, and occupancy and use of such property, including leases of grazing rights, sales of agricultural products and requests by the Director to the State Land Registrar for the sale of timber if the sale does not interfere with the use of the property on which the timber is located for wildlife management or for hunting or fishing thereon.
  - (e) The control of nonresident hunters.
  - (f) The introduction, transplanting or exporting of wildlife.
  - (g) Cooperation with federal, state and local agencies on wildlife and boating programs.
  - (h) The revocation of licenses issued pursuant to this title to any person who is convicted of a violation of any provision of this title or any regulation adopted pursuant thereto.
4. Establish regulations necessary to carry out the provisions of this title and of chapter 488 of NRS, including:
- (a) Seasons for hunting game mammals and game birds, for hunting or trapping fur-bearing mammals and for fishing, the daily and possession limits, the manner and means of taking wildlife, including, but not limited to, the sex, size or other physical differentiation for each species, and, when necessary for management purposes, the emergency closing or extending of a season, reducing or increasing of the bag or possession limits on a species, or the closing of any area to hunting, fishing or trapping. If, in establishing any regulations pursuant to this subsection, the Commission rejects the recommendations of a county advisory board to manage wildlife with regard to the length of seasons for fishing, hunting and trapping or the bag or possession limits applicable within the respective county, the Commission shall provide to the county advisory board to manage wildlife at the meeting an explanation of the Commission's decision to reject the recommendations and, as soon as practicable after the meeting, a written explanation of the Commission's decision to reject the recommendations. Any regulations relating to the closure of a season must be based upon scientific data concerning the management of wildlife. The data upon which the regulations are based must be collected or developed by the Department.
  - (b) The manner of using, attaching, filling out, punching, inspecting, validating or reporting tags.
  - (c) The delineation of game management units embracing contiguous territory located in more than one county, irrespective of county boundary lines.
  - (d) The number of licenses issued for big game and, if necessary, other game species.
5. Adopt regulations requiring the Department to make public, before official delivery, its proposed responses to any requests by federal agencies for its comment on drafts of statements concerning the environmental effect of proposed actions or regulations affecting public lands.

6. Adopt regulations:
  - (a) Governing the provisions of the permit required by NRS 502.390 and for the issuance, renewal and revocation of such a permit.
  - (b) Establishing the method for determining the amount of an assessment, and the time and manner of payment, necessary for the collection of the assessment required by NRS 502.390.
7. Designate those portions of wildlife management areas for big game mammals that are of special concern for the regulation of the importation, possession and propagation of alternative livestock pursuant to NRS 576.129.
8. Adopt regulations governing the trapping of fur-bearing mammals in a residential area of a county whose population is 100,000 or more.
9. Adopt regulations prescribing the circumstances under which a person, regardless of whether the person has obtained a valid tag issued by the Department, may assist in the killing and retrieval of a wounded big game mammal by another person who:
  - (a) Is a paraplegic, has had one or both legs amputated or has suffered a paralysis of one or both legs which severely impedes the person's walking; and
  - (b) Has obtained a valid tag issued by the Department for hunting that animal.
10. In establishing any policy or adopting any regulations pursuant to this section, first consider the recommendations of the Department, the county advisory boards to manage wildlife and other persons who present their views at an open meeting of the Commission.

**Nev. Rev. Stat. Tit. 45, Ch. 503 (Hunting, Fishing and Trapping; Miscellaneous Protective Measures)**

**§ 503.597. Introduction or removal of aquatic life or wildlife: Approval required; investigation; regulations; penalties**

1. Except as otherwise provided in this section, it is unlawful, except by the written consent and approval of the Department, for any person at any time to receive, bring or have brought or shipped into this State, or remove from one stream or body of water in this State to any other, or from one portion of the State to any other, or to any other state, any aquatic life or wildlife, or any spawn, eggs or young of any of them.
2. The Department shall require an applicant to conduct an investigation to confirm that such an introduction or removal will not be detrimental to the wildlife or the habitat of wildlife in this State. Written consent and approval of the Department may be given only if the results of the

investigation prove that the introduction, removal or importation will not be detrimental to existing aquatic life or wildlife, or any spawn, eggs or young of any of them.

3. The Commission may through appropriate regulation provide for the inspection of such introduced or removed creatures and the inspection fees therefor.
4. The Commission may adopt regulations to prohibit the importation, transportation or possession of any species of wildlife which the Commission deems to be detrimental to the wildlife or the habitat of the wildlife in this State.
5. A person who knowingly or intentionally introduces, causes to be introduced or attempts to introduce an aquatic invasive species or injurious aquatic species into any waters of this State is guilty of:
  - (a) For a first offense, a misdemeanor; and
  - (b) For any subsequent offense, a category E felony and shall be punished as provided in NRS 193.130.
6. A court before whom a defendant is convicted of a violation of subsection 5 shall, for each violation, order the defendant to pay a civil penalty of at least \$25,000 but not more than \$250,000. The money must be deposited into the Wildlife Account in the State General Fund and used to:
  - (a) Remove the aquatic invasive species or injurious aquatic species;
  - (b) Reintroduce any game fish or other aquatic wildlife destroyed by the aquatic invasive species or injurious aquatic species;
  - (c) Restore any habitat destroyed by the aquatic invasive species or injurious aquatic species;
  - (d) Repair any other damage done to the waters of this State by the introduction of the aquatic invasive species or injurious aquatic species; and
  - (e) Defray any other costs incurred by the Department because of the introduction of the aquatic invasive species or injurious aquatic species.
7. The provisions of this section do not apply to:
  - (a) Alternative livestock and products made therefrom; or
  - (b) The introduction of any species by the Department for sport fishing or other wildlife management programs.
8. As used in this section:

- (a) “Aquatic invasive species” means an aquatic species which is exotic or not native to this State and which the Commission has determined to be detrimental to aquatic life, water resources or infrastructure for providing water in this State.
- (b) “Injurious aquatic species” means an aquatic species which the Commission has determined to be a threat to sensitive, threatened or endangered aquatic species or game fish or to the habitat of sensitive, threatened or endangered aquatic species or game fish by any means, including, without limitation:
  - (1) Predation;
  - (2) Parasitism;
  - (3) Interbreeding; or
  - (4) The transmission of disease.

## Nevada AIS Regulations

### Nev. Admin. Code Ch. 488 (Watercraft)

\* Last amended 12/21/16

*Note: In December 2016, the Nevada Board of Wildlife Commissioners adopted regulations imposing draining requirements. Adopted regulation stated that it was adding a new section to Ch. 488, in addition to amending existing provisions of the chapter. This new section is referred to in later sections as “section 1 of this regulation.” As of the date of publication, a new section has not be added to the state administrative code.*

**Section 1** of Adopted Regulation R093-16 states that “Chapter 488 is amended by adding thereto a new section to read as follows:”

The owner, operator or person in control of a vessel or conveyance that is transported on a public road or launched on a body of water in this State shall:

1. At or reasonably near the site at which the vessel or conveyance is taken out of the body of water, drain all water from the vessel or conveyance and from any equipment on the vessel or conveyance, including, without limitation, any water held in a ballast tank, motor cooling system, bilge, live well, motor or lower outboard unit.
2. Ensure that all drain plugs, drain valves and other devices used to control the draining of water from the vessel or conveyance, and from any equipment on the vessel or conveyance, are removed or opened while transporting the vessel or conveyance on public roads in this State.

### **§ 488.520 Duties of person required to decontaminate vessel or conveyance. (NRS 488.035, 488.045)**

1. Except as otherwise provided in this section, a person required to decontaminate a vessel or conveyance pursuant to paragraph (c) of subsection 1 of NRS 488.530 shall, in addition to complying with the requirements of section 1 of this regulation:
  - (a) Inspect all exposed surfaces on the vessel or conveyance;
  - (b) Remove and kill all aquatic invasive species that are visible on the vessel or conveyance;
  - (c) Remove all aquatic plant material and any other debris visible on the vessel or conveyance;
  - (d) Inspect, clean and dry each item on the vessel or conveyance, including, without limitation, each life jacket, water ski, anchor, rope and piece of equipment for fishing;

- (e) Wash the vessel and any portion of the conveyance that was in contact with the impaired body of water with high-pressure hot water; and
  - (f) Allow the vessel or conveyance to dry for not less than the period recommended by the Drying Time Estimator of the 100th Meridian Initiative, which is available at its website, <http://www.100thmeridian.org/>.
2. In lieu of complying with the provisions of subsection 1, the person may decontaminate the vessel or conveyance at an inspection station for aquatic invasive species using any method approved by the Department for that inspection station.

**§ 488.522 “Resident of this State” interpreted. (NRS 488.045, 488.536)**

1. For the purposes of NRS 488.536 and NAC 488.523 and 488.525, the Commission will interpret “resident of this State” to mean a person who, during the 6 months before the person's application to the Department for an aquatic invasive species decal:

- (a) Maintained his or her principal and permanent residence in this State; and
- (b) Was physically present in this State, except for temporary absences.

2. As used in this section, “principal and permanent residence” means a place where a person is legally domiciled and maintains a permanent habitation in which the person lives and to which the person intends to return when he or she leaves this State. The term does not include merely owning a residence in this State.

**§ 488.523 Fee. (NRS 488.045, 488.536)**

1. The amount of the aquatic invasive species fee required pursuant to NRS 488.536 is:

- (a) For a motorboat which is owned or operated by a person who is a resident of this State, \$10;
- (b) For a vessel, other than a motorboat, which is owned or operated by a person who is a resident of this State, \$5;
- (c) For a motorboat which is owned or operated by a nonresident of this State, \$20; and
- (d) For a vessel, other than a motorboat, which is owned or operated by a nonresident of this State, \$10.

2. A person who wishes to obtain a replacement aquatic invasive species decal for a lost, stolen, mutilated or destroyed aquatic invasive species decal must pay to the Department a replacement fee of \$5.

**§ 488.525 Decals. (NRS 488.045, 488.536)**

1. The aquatic invasive species decal issued by the Department for an inflatable vessel with an inflatable transom may be attached to a removable plate that is securely attached to the port side transom of the vessel.
2. Each aquatic invasive species decal issued by the Department:
  - (a) For a vessel which is owned and operated by a resident of this State must be designated with the letter “R” on the face of the decal;
  - (b) For a vessel which is owned and operated by a nonresident of this State must be designated with the letters “NR” on the face of the decal;
  - (c) Must be approximately 3 inches square; and
  - (d) On and after January 1, 2013, must be issued in an annual rotation of the colors blue, international orange, green and red.
3. An aquatic invasive species decal is invalid if the decal has been cut, trimmed or otherwise altered.
4. Only an aquatic species decal issued by the Department for the current calendar year may be displayed on a vessel.
5. An aquatic invasive species decal is invalid and must be surrendered to the Department if:
  - (a) The application submitted to obtain the aquatic invasive species decal contained false or fraudulent information; or
  - (b) The fee for the issuance of the decal is not paid.
6. A manufacturer or dealer must possess an aquatic invasive species decal for each temporary operating permit issued by the Department.

**§ 488.527 Exception. (NRS 488.045)**

The provisions of NAC 488.520, 488.523 and 488.525 and section 1 of this regulation do not apply to a vessel which is not capable of retaining water.

**Nev. Admin. Code Ch. 503 (Hunting, Fishing, Trapping: Miscellaneous Protective Measures)**

**§ NAC 503.072 Injurious aquatic species: Fish; mollusks; amphibians; crustaceans. (NRS 501.105, 501.181, 503.597)**



For the purposes of NRS 503.597, the following species are classified as injurious aquatic species:

1. Fish:

	<b>Common Name</b>	<b>Scientific Classification</b>
(a)	Asian swamp eel	All species in the genus <i>Monopterus</i>
(b)	Bighead carp	<i>Hypophthalmichthys nobilis</i>
(c)	Flathead catfish	<i>Pylodictus olivaris</i>
(d)	Gars	All species in the family Lepisosteidae
(e)	Nile perch	All species in the genera <i>Lates</i> and <i>Luciolates</i> , except for <i>Lates calcarifer</i>
(f)	Northern pike	<i>Esox lucius</i>
(g)	Piranhas	All species in the genera <i>Serrasalmus</i> , <i>Serrasalmo</i> , <i>Pygocentrus</i> , <i>Pristobrycon</i> , <i>Hydrolycus</i> , <i>Rooseveltiella</i> and <i>Pygopristis</i>
(h)	Round goby	<i>Neogobius melanostomus</i>
(i)	Silver carp	<i>Hypophthalmichthys molitrix</i>
(j)	Snakeheads	All species in the genera <i>Ophicephalus</i> , <i>Channa</i> and <i>Parachanna</i>
(k)	South American parasitic catfish	All species in the families Cetopsidae and Trichomycteridae
(l)	Tiger fish	<i>Hoplias malabaricus</i>

2. Mollusks:

<b>Common Name</b>	<b>Scientific Classification</b>
Apple snails	All species in the genus <i>Pomacea</i>

3. Amphibians:

<b>Common Name</b>	<b>Scientific Classification</b>
African clawed frogs	All species in the genus <i>Xenopus</i>

4. Crustaceans:

	<b>Common Name</b>	<b>Scientific Classification</b>
(a)	Rusty crayfish	<i>Orconectes rusticus</i>
(b)	Australian red claw crayfish	<i>Cherax quadricarinatus</i>

## **New Mexico AIS Statutes**

*Compiled 10/14/15*

### **N.M. Stat. Ch. 17, Art. 1 (State Game Commission)**

#### **§ 17-1-26. Commission's power to establish rules and regulations; predatory animals; eradication**

The state game commission is hereby authorized and directed to make such rules and regulations and establish such service as it may deem necessary to carry out all the provisions and purposes of this act, and all other acts relating to game and fish, and in making such rules and regulations and in providing when, to what extent, if at all, and by what means game animals, birds and fish may be hunted, taken, captured, killed, possessed, sold, purchased and shipped, the state game and fish commission [state game commission] shall give due regard to the zones of temperatures, and to the distribution, abundance, economic value and breeding habits of such game animals, birds and fish.

The state game commission is hereby authorized to spend such reasonable amounts as in its judgment is desirable and necessary annually from their funds not otherwise needed for the eradication of predatory animals.

### **N.M. Stat. Ch. 17, Art. 4 (Propagation of Fish and Game)**

#### **§ 17-4-35. Aquatic invasive species control**

A. Based on a determination of credible scientific evidence, the director, after consulting with the secretary of energy, minerals and natural resources and with the concurrence of the director of the New Mexico department of agriculture, is authorized to designate:

- (1) species of exotic or nonnative animals or plants as aquatic invasive species;
- (2) water bodies within the state as infested waters; and
- (3) specific requirements to decontaminate conveyances and equipment.

B. Prior to entering a conveyance or equipment into any water body in the state, the owner or person in control of a warning-tagged conveyance or warning-tagged equipment or a conveyance or equipment that has been in an infested water body in New Mexico or elsewhere shall:

- (1) have the conveyance or equipment decontaminated by a person or entity approved by the director to effect decontamination, and only the person legally effecting the decontamination is authorized to remove a warning tag and provide certification that the conveyance or equipment is free from infestation; or

(2) have the conveyance or equipment inspected and certified as free from infestation by trained personnel prior to entering a water body or if certification or other documentation of decontamination is not available, otherwise demonstrate compliance with the decontamination requirements established by the director.

C. A law enforcement officer may impound a conveyance or equipment if the person transporting the conveyance or equipment refuses to submit to an inspection authorized by this section and the officer has reason to believe that an aquatic invasive species may be present, or if the conveyance or equipment has a warning tag affixed and the operator of the conveyance is attempting to enter a state water body and cannot provide evidence that the conveyance or equipment has been decontaminated. A law enforcement officer shall take action to prevent equipment or conveyances believed or known to contain an aquatic invasive species and warning-tagged equipment or conveyances from entering a state water body.

D. The impoundment of a conveyance or equipment may continue for a reasonable period necessary to inspect and decontaminate the conveyance or equipment.

E. Notwithstanding any provision to the contrary, no motor vehicle that is drawing a conveyance shall be impounded pursuant to this section.

F. Trained personnel may:

(1) establish, operate and maintain aquatic invasive species check stations and conduct inspections at or adjacent to the entrance to any state-controlled water body or, pursuant to a cooperative agreement, at or adjacent to any county, municipal or federally or privately controlled water body or at or adjacent to the exit point of an infested water body or at a location agreed to by the owner of the conveyance or equipment in order to inspect conveyances and equipment prior to a conveyance or equipment entering, being launched onto or being directly exposed to water bodies of the state or upon the conveyance's or equipment's departure from infested waters;

(2) affix a warning tag to equipment or a conveyance where the presence of an aquatic invasive species has been found;

(3) affix a warning tag to a conveyance or equipment upon the conveyance or equipment leaving an infested water; or

(4) affix a warning tag to a conveyance or equipment that the trained personnel have reason to believe is infested with an aquatic invasive species based on its point of origin or use.

G. Except for state, local, tribal or federal agencies and their respective agents, employees and contractors while performing their duties or contractual obligations specific to management or control of an aquatic invasive species, it is unlawful for a person to:

(1) knowingly possess, import, export, ship or transport an aquatic invasive species into, within or from the state;

(2) knowingly release, place, plant or cause to be released, placed or planted an aquatic invasive species into a water body or adjacent to a water body where it reasonably might be anticipated to be introduced into a water body that is not infested;

(3) remove a warning tag other than as provided pursuant to this section;

(4) introduce any tagged conveyance or equipment or any equipment or conveyance from which a warning tag has been unlawfully removed into a water body without first having that conveyance or equipment decontaminated and certified pursuant to the provisions of this section; or

(5) knowingly introduce into any water body a conveyance or equipment that has been exposed to an infested water body or a water body in any other state known to contain aquatic invasive species without first being decontaminated and certified pursuant to the provisions of this section.

H. Knowingly or willfully violating any provision of this section as a first offense is a petty misdemeanor. A second or subsequent violation of any provision of this section is a misdemeanor. Any violation is punishable pursuant to Section 31-19-1 NMSA 1978.

I. The director or the director's designee shall coordinate the monitoring of the water bodies of the state for the presence of aquatic invasive species, including privately controlled waters if the director has authorized access to them or has received permission to monitor them from the persons controlling access to such waters.

J. Upon determination of an infested water body in New Mexico, the director shall immediately recommend to the person in control of the infested water body actions to limit access or take other actions to prevent the potential spread of an aquatic invasive species to other water bodies.

K. The commission is authorized to adopt rules pursuant to Section 17-1-26 NMSA 1978, and the secretary of energy, minerals and natural resources is authorized to adopt rules pursuant to Section 16-2-32 NMSA 1978 as necessary to implement and enforce the provisions of this section.

L. The director may enter into cooperative agreements with any federal, state, county or municipal authority or private entity that may be in control of a water body potentially affected by aquatic invasive species.

M. As used in this section:

(1) "aquatic invasive species" means quagga mussels and zebra mussels and other exotic or nonnative aquatic animals, including invertebrates but excluding those species listed as protected in Chapter 17 NMSA 1978, or any plant or animal species whose introduction into an aquatic ecosystem is determined by the director, after consulting with the secretary of energy, minerals and natural resources and with the concurrence of the director of the New

Mexico department of agriculture, to cause or be likely to cause harm to the economy, environment or human health or safety;

(2) “commission” means the state game commission;

(3) “conveyance” means a motor vehicle, vessel, trailer or any associated equipment or containers, including, but not limited to, live wells, fish-hauling tanks, ballast tanks, motorized skis and bilge areas that may contain or carry an aquatic invasive species or any other equipment by which aquatic invasive species may be introduced into an aquatic ecosystem;

(4) “decontaminate” means to wash, drain, dry or otherwise treat a conveyance in accordance with guidelines established by the director in order to remove or destroy an aquatic invasive species;

(5) “director” means the director of the department of game and fish;

(6) “equipment” means an article, a tool, an implement, a device or a piece of clothing, including boots and waders, that is capable of containing or transporting water;

(7) “infested water” means a geographic region, water body or water supply system or facility within the state that the director, after consulting with the secretary of energy, minerals and natural resources and with the concurrence of the director of the New Mexico department of agriculture, identifies as carrying or containing an aquatic invasive species or a water body outside the state that has been identified as carrying or containing an aquatic invasive species;

(8) “inspect” means to examine a conveyance or equipment to determine whether an aquatic invasive species is present;

(9) “law enforcement officer” means a state or federal certified law enforcement officer;

(10) “trained personnel” means individuals who have successfully completed the United States fish and wildlife service's aquatic invasive species watercraft inspection and decontamination training, level I or level II, or an equivalent training recognized by the director;

(11) “warning tag” means a tag that is affixed to equipment or a conveyance upon the equipment or conveyance leaving an infested water or upon an inspection determining that the equipment or conveyance contains an aquatic invasive species that requires the equipment or conveyance to be decontaminated; and

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

## **New Mexico AIS Regulations**

### **N.M. Admin. Code Tit. 19, Ch. 30, Part 14 (Aquatic Invasive Species)**

**§ 19.30.14.1 Issuing Agency:** New Mexico Department of Game and Fish.

**§ 19.30.14.2 Scope:** Providing for the control and prevention of the spread of aquatic invasive species in New Mexico.

**§ 19.30.14.3 Statutory Authority:** Chapter 17, including 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to aquatic invasive species.

**§ 19.30.14.4 Duration:** Permanent.

**§ 19.30.14.5 Effective Date:** May 29, 2009, unless a later date is cited at the end of a section.

**§ 19.30.14.6 Objective:** To establish and define the procedures and restrictions for controlling or preventing aquatic invasive species.

#### **§ 19.30.14.7 Definitions:**

- A. “Department” shall mean the New Mexico department of game and fish.
- B. “Director” shall mean the director of the New Mexico department of game and fish.
- C. “Warning tag” as used herein, shall mean a document or tag issued by the department or other state or federal agency and affixed to a conveyance or equipment that prohibits a conveyance or equipment from entering into a water body until being properly decontaminated or otherwise approved for re-entry.
- D. “Impound” shall mean to detain or subject to temporary control of the state other than detention for purposes of inspection a conveyance or equipment until the owner or person in control thereof shall meet all conditions for release of such conveyance or equipment.
- E. “Decontaminate” shall mean to clean, drain, dry or otherwise treat a conveyance in accordance with guidelines established by the director, including minimum standards as described in the Uniform Minimum Protocols and Standards for Watercraft Inspection Program for Dreissenid Mussels in the Western United States (2012) or versions thereafter in order to remove or destroy an aquatic invasive species.
- F. “Proof of decontamination” shall mean verifiable documentary proof, official marking or tag affixed to the conveyance or equipment, or otherwise provided to the owner or person in control of a conveyance or equipment trained personnel to effect decontamination of the conveyance or equipment, or otherwise demonstrate compliance with the decontamination

requirement established by the director; such certification shall be valid only until the conveyance or equipment re-enters a water body.

- G. “Trained personnel” means individuals who have successfully completed the United States fish and wildlife service’s aquatic invasive species watercraft inspection and decontamination training, level I, level II or an equivalent training recognized by the director.
- H. “Watercraft inspection and decontamination seal” shall mean a device issued by trained personnel that attaches the conveyance or equipment to the trailer to indicate that the conveyance or equipment has not been launched since it was last inspected or decontaminated, and is accompanied by a receipt.

**§ 19.30.14.8 Warning Tag:**

The director shall prescribe and procure the printing of warning tags to be used for the state to identify any conveyance or equipment known or believed to contain an aquatic invasive species or a conveyance or equipment leaving an infested water body without being decontaminated.

- A. Trained personnel may affix a warning tag to any conveyance or equipment known or believed to contain aquatic invasive species, based upon its point of origin or exposure to infested water, unless the person in control of such equipment or conveyance has proof of decontamination, or can otherwise demonstrate that the equipment or conveyance is not infested.
- B. Trained personnel may affix a warning tag to a conveyance or equipment if they have reason to believe aquatic invasive species may be present and the person operating or in control of such conveyance or equipment refuses inspection.
- C. Each warning tag shall be affixed on boats and other similar vessels within 12" of the boat number on the port (left) side, to the windshield of the conveyance or equipment, or in the case where a transport company is transferring the conveyance or equipment, via United States mail, electronic mail or hand delivery to both owner and transport company. In cases where no boat number is found the warning tag shall still be affixed in the same general location.
- D. Each warning tag shall be individually affixed to all other conveyances and equipment in the most visible manner possible.
- E. No warning tag may be removed except by trained personnel or a person or entity certified by the director and only if the respective personnel, person or entity is acting in their official capacity and has inspected the conveyance or equipment, satisfied that proper decontamination or elimination of aquatic invasive species has occurred.

**§ 19.30.14.9 Impoundment of Conveyance or Equipment:**

- A. Any law enforcement officer may impound any conveyance or equipment if warning tagged

and the conveyance or equipment is currently in or entering a water body.

- B. Any law enforcement officer may impound any conveyance or equipment known or believed to contain aquatic invasive species if such conveyance or equipment is currently in a water body or the person operating or in control of such conveyance or equipment fails to follow the enforcement officer's command to immediately prevent such from entering or remaining in a water body.
- C. A warning tag shall be immediately affixed to any conveyance or equipment impounded pursuant to Subsection B above.
- D. Any impounded conveyance or equipment shall only be released from impoundment:
  - (1) upon receipt of satisfactory proof that decontamination requirements as prescribed by the director have been met; or
  - (2) upon receipt of a conditional release from the director wherein the owner or person responsible for the conveyance or equipment agrees to the specific terms and conditions that require immediate decontamination followed by an inspection to verify decontamination has occurred.
- E. It shall be the responsibility of the owner of any impounded conveyance or equipment to pay all costs, including storage fees, decontamination charges and towing associated with the impoundment and to reimburse any agency that incurs expenditures for the impoundment.

**§ 19.30.14.10 Limited Transport:** The department's employees, agents or designees, or employees of other state or federal agencies while acting in their official capacity may authorize an owner or person in control of a warning tagged conveyance or equipment to transport the conveyance or equipment to a location approved by the department or their designee.

**§ 19.30.14.11 Waiver and Release of Liability:** Prior to being eligible for decontamination by the state or its designee the owner or person in control of a warning tagged conveyance or equipment shall sign and deliver to the department a release of liability in a form approved by the director.

**§ 19.30.14.12 Inspection and Decontamination Program:**

- A. Trained personnel may conduct mandatory inspections of all conveyances or equipment prior to entering, being launched onto or being directly exposed to any water body of the state.
- B. All conveyances or equipment transported into New Mexico or registered in a state other than New Mexico shall be inspected by trained personnel prior to entering, being launched or being directly exposed to any water body of the state. Proof of decontamination may be used in lieu of an inspection at the discretion of trained personnel.
- C. The owner of a conveyance or equipment that is greater than or equal to twenty-six (26) feet



in length and will be transported into or within New Mexico shall notify the department aquatic invasive species program coordinator at least fourteen (14) days prior to the anticipated date of transport.

- D. Upon completion of any conveyance or equipment inspection, trained personnel may require decontamination, re-inspection and additional drying time prior to the conveyance or equipment entering any water body of the state.
- E. Trained personnel may affix a watercraft inspection and decontamination seal to a conveyance or equipment to serve as proof of decontamination or inspection. Conveyances or equipment with an intact watercraft inspection and decontamination seal may be allowed to enter a water body of the state without further inspection or decontamination upon verification by trained personnel.
- F. The owner or operator of any conveyance or equipment transported in New Mexico shall remove any plug or other barrier that prevents water drainage, drain bilge lines, ballast tanks and live wells and take reasonable measures to decontaminate all equipment, compartments or spaces that are wet or hold water.
- G. Trained personnel may not self-inspect, decontaminate or attach a seal to their own conveyance or equipment.

**N.M. Admin. Code 19.31.2 (Hunting and Fishing License Revocation)**

*\* AIS-relevant provisions: N.M. Admin. Code §§ 19.31.2.8(A); 19.31.2.9(A)(19*

**§ 19.31.2.1 Issuing Agency:** New Mexico Department of Game and Fish.

**§ 19.31.2.2 Scope:** Person or persons who violate the provisions of Chapter 17, 30-14-1, and the Parental Responsibility Act (40-5A-1- 40-5A-13) NMSA 1978.

**§ 19.31.2.3 Statutory Authority:** NMSA 1978 Sections 11-16-5 and 11-16-6; sections 17-1-14(B)(10) and (11); Sections 17-3-34; Section 30-14-1; and Sections 40-5A-3, and 40-5A-6.

**§ 19.31.2.4 Duration:** Permanent.

**§ 19.31.2.5 Effective Date:** September 14, 2012, unless a later date is cited at the end of a section or paragraph.

**§ 19.31.2.6 Objective:** To revoke or suspend the hunting, fishing, trapping, guiding and outfitting privileges of any person who persistently, flagrantly or knowingly violates or countenances the violation of any of the provisions of Chapter 17 NMSA 1978, or any rule adopted by the state game commission, or Section 30-14-1 NMSA 1978; to revoke or suspend the hunting, fishing, trapping, guiding and outfitting privileges or other privileges or authorities granted by an agreement, license or permit issued by the department of game and fish, of any person whose name appears on a human services department certified list of obligors not in

compliance with the Parental Responsibility Act, 40-5A-1 NMSA 1978; or to revoke or suspend the hunting, fishing, trapping, guiding and outfitting privileges pursuant to the wildlife violator compact, 11-16 -1 NMSA 1978, of any person who has been placed on revocation by a wildlife violator compact member state, or temporarily suspend those privileges of any resident that fails to meet the terms of a citation issued from a compact state; or to revoke or deny the private land agreement privileges of any person who does not comply with a department sponsored private lands agreement.

**§ 19.31.2.7 Definitions:**

- A. "Commission" means the New Mexico state game commission.
- B. "Department" means New Mexico department of game and fish.
- C. "Director" means the director of the department of game and fish.
- D. "Obligor" means a person who has been ordered to pay child or spousal support pursuant to a judgment and order for support.
- E. "Respondent" means any person holding a license, permit, certificate, landowner agreement, or applicant thereof, who is served a notice of contemplated action.
- F. "Revocation" means when a person's hunting, fishing, trapping, guiding and outfitting privileges, or other privileges or authorities granted by an agreement, license or permit issued by the department of game and fish, are taken away by the state game commission after notice and opportunity for a hearing.
- G. "Suspension" means when a person's hunting, fishing, trapping, guiding and outfitting privileges, or other privileges or authorities granted by an agreement, license or permit issued by the department, are taken away by the commission, after notice and opportunity for a hearing, until the person comes back into compliance.

**§ 19.31.2.8 REVOCATION CATEGORIES AND TIMEFRAME:**

A. Points: Any person with 20 or more points accumulated within any consecutive three-year period, shall have all of his or her hunting, fishing, trapping, guiding and outfitting privileges, or other privileges or authorities (granted by an agreement, license, permit or certificate issued) under Chapter 17 NMSA 1978 and its implementing rules subject to revocation or suspension.

B. Guide and outfitter: A registered outfitter or guide who violates any provision of Section 17-2A-3, or 17-3-16 and their implementing rules not already addressed in this section shall be assessed points towards the revocation or suspension of their guide and or outfitting registration as follows:

- (1) 20 points:
  - (a) violation of conditions of registration;
  - (b) misrepresentation or failure to disclose;

(c) aiding, concealing or willfully allowing violations of applicable laws by a hunter-client.

(2) 10 points:

- (a) failure to provide sufficient guides or guiding services;
- (b) failure to properly supervise guides;
- (c) unregistered services;
- (d) failure to comply with any local, state, or federal laws;
- (e) breach of contract;
- (f) failure to provide a signed contract;
- (g) failure to report illegal activity.

(3) 5 points: Any outfitter and guide misconduct not otherwise specifically listed herein.

(4) Guides and outfitters shall be notified when points are assessed.

C. Landowner contracts and agreements: A landowner's privilege to participate in a department-sponsored private land program may be revoked for breach or violation of the conditions of a contract or agreement with the department. The landowner shall be afforded with notice and opportunity for a hearing in accordance with the process for revocation as set forth in this rule.

D. Timeframe: 17-1-14 B. (11) NMSA 1978 provides that the commission shall establish procedures for the suspension, revocation, or withholding of license privileges for a definite period of time.

(1) Any person found to have accumulated 20 or more points within any consecutive three-year period in violation of Chapter 17, its implementing rules, or Section 30-14-1 NMSA 1978, after notice and opportunity to be heard by a hearing officer, shall have his or her license, permit, certificate, and privilege to hold such, revoked for up to three years, unless otherwise provided for by law.

(2) Any person, who, after having had their privileges revoked, is found to have accumulated 20 or more points within any consecutive three-year period in violation of Chapter 17 or its implementing rules, for a second time, after notice and opportunity to be heard by a hearing officer, shall have his or her license, permit, certificate, and privilege to hold such, revoked for up to five years, unless otherwise provided for by law, and provided that any revocation under this section shall commence consecutively to any current revocation.

(3) Any person, who, after having had their privileges revoked for a second time, is found to have accumulated 20 or more points within any consecutive three-year period in violation of Chapter 17 or its implementing rules, for a third or subsequent time, shall have his or her license, permit, certificate, and privilege to hold such, revoked for up to seven years, unless otherwise provided for by law, and provided that any revocation under this section shall commence consecutively to any current revocation.

(4) Any person found to have taken or killed a bighorn sheep, ibex, oryx, barbary sheep, elk, deer, or pronghorn antelope, without a valid license or during closed season, which results in the unnecessary or wanton waste of game, shall have his or her license, permit, certificate, and privilege to hold such, revoked for up to seven years, unless otherwise provided for by law.

(5) Any person found to have taken or killed a bighorn sheep, ibex, oryx, barbary sheep, elk, deer, or pronghorn antelope, without a valid license or during closed season, which results in the unnecessary or wanton waste of game, for a second or subsequent time, shall have his or her license, permit, certificate, and privilege to hold such, revoked for up to ten years, unless otherwise provided for by law.

(6) Any person that buys, sells, trades or attempts to buy, sell or trade illegal wildlife or the parts thereof, or aids and abets in this activity, shall have his or her license, permit, certificate, and privilege to hold such, revoked for up to five years, unless otherwise provided for by law.

(7) Any person that buys, sells, trades or attempts to buy, sell or trade illegal wildlife or the parts thereof, or aids and abets in this activity, for a second or subsequent time, shall have his or her license, permit, certificate, and privilege to hold such, revoked for up to seven years, unless otherwise provided for by law.

(8) Any person found to not comply with a department sponsored private lands agreement shall have his or her private lands program privileges revoked for up to three years.

(9) Any person not in compliance with the Parental Responsibility Act (Section 40-5A-1 NMSA 1978) or the Wildlife Violator Compact (Section 11-16-1 NMSA 1978) shall have his or her license, permit, certificate, and privilege to hold such, revoked or suspended for the timeframe designated and allowed by law.

(10) The commission may revoke a person's license, permit, certificate, and privilege to hold such, for any definite period of time they deem appropriate if they determine that the person has committed a flagrant or egregious violation of Chapter 17 or its implementing rules.

**§ 19.31.2.9 Point Categories:** The violations listed below are each assigned specific point values which count toward the revocation of a license, permit or certificate and the suspension of associated privileges when 20 or more points are accrued in a period of three consecutive years.

A. 20-point violations: Any person violating any of the following provisions shall be assessed 20 points:

(1) illegally taking, attempting to take, killing, capturing or possessing any big game species outside of hunting season in violation of Section 17-2-7 or 17-3-33;

(2) except as otherwise provided by Sections 17-2-37 to 17-2-46, taking, possessing, transporting, exporting, processing, selling or offering for sale, or shipping any species or

subspecies of wildlife listed on the state list of endangered species or the United States' list of endangered native and foreign fish and wildlife;

(3) any violation of Section 17-3-6;

(4) selling, offering for sale, offering to purchase or purchasing any game animal, game bird or protected species, in violation of Section 17-2-7;

(5) hunting with the aid of an artificial light or spotlight, in violation of Section 17-2-31;

(6) hunting big game outside the ranch boundaries for which a ranch-only license is issued or otherwise hunting big game in the wrong area, in violation of Section 17-2-7;

(7) criminal trespass, in violation of Section 30-14-1, when in connection with hunting, fishing or trapping activity; revocation to be for three years;

(8) for violations of Section 17-2-29, involving hunting or boating while intoxicated (revocation for a period of one year, as prescribed by Section 17-2-30);

(9) buying of licenses, permits certificates or registration without sufficient funds to pay for same;

(10) any violation of Section 17-3-48, provided that any revocation under this section shall commence consecutively to any current revocation;

(11) guiding or outfitting without being registered in violation of Section 17-2A-3;

(12) using an outfitter or guide license issued to another;

(13) hunting big game without a license;

(14) any violation of Section 17-3-49;

(15) any violation of Section 17-2-7.1;

(16) any person submitting, or allowing to be submitted for them, false or fraudulent harvest reporting information as required by rule;

(17) flagrant violation of the provisions of any special use of wildlife permit issued by the department pursuant to Chapter 17 NMSA 1978 and its implementing rules;

(18) unlawfully taking amphibians and reptiles for commercial purposes, without a permit, in violation of Section 17-2-4.2;

(19) knowingly or willfully introducing an aquatic invasive species, in violation of Section 17-4-35;

(20) accessory to any of the above.

B. 15-point violations: Any person violating any of the following provisions shall be assessed 15 points:

- (1) shooting at any protected species from a vehicle;
- (2) shooting at any protected species from a roadway, as provided in rule;
- (3) illegally taking, attempting to take, killing, capturing or possessing any turkey outside of hunting season in violation of Section 17-2-7 or 17-3-33;
- (4) any violation of Section 17-2-8, except as otherwise provided for in Subsection D of 19.31.2.8 NMAC;
- (5) unlawfully using dogs while hunting big game or turkey;
- (6) importation of any species in violation of Section 17-3-32 without a permit;
- (7) any violation of Section 17-3-45;
- (8) accessory to any of the above violations.

C. 10-point violations: Any person violating any of the following provisions shall be assessed 10 points:

- (1) hunting in a closed area;
- (2) exceeding the bag limit of game;
- (3) illegal possession of fish;
- (4) exceeding the bag limit on fish;
- (5) fishing by an illegal method;
- (6) procurement or possession of additional deer license, except as provided by rule;
- (7) illegally taking, attempting to take, killing, or capturing of any big game species or turkey during hunting season;
- (8) illegal possession of any big game species or turkey during hunting season;
- (9) hunting turkey or small game without a license;

(10) hunting, taking or attempting to take protected game, game fish, or furbearers on private land, without written permission, in violation of Chapter 17 NMSA 1978 and its implementing rules;

(11) accessory to any of the above violations.

D. 7-point violations: Any person fishing without a license shall be assessed seven points.

E. 5-point violations: Any person violating any provision of Chapter 17 NMSA 1978 and its implementing rules not specifically listed herein, except for violations of Section 17-2A-3 and its implementing rules shall be assessed five points.

**§ 19.31.2.10 Notice Of Contemplated Action:** The department shall mail out a notice of contemplated action ('NCA') as required by this section when it determines that there is sufficient evidence that a person has accumulated 20 or more points, or when the commission is contemplating revoking a landowner's privileges to participate in any department sponsored private land program. The commission grants approval to the department, through the director, to initiate this process without commission consideration. However, the commission retains all authority for final decisions. The NCA shall clearly describe the action that the commission is contemplating, and shall contain a statement that includes the following.

A. Sufficient evidence: that the department of game and fish has sufficient evidence which, if not rebutted or explained, will justify the commission taking the contemplated action.

B. Hearing may be requested: that the respondent may secure a hearing before a hearing officer designated by the commission by depositing in the mail within 20 days after service of the notice, a certified, return receipt requested letter addressed to the department at PO Box 25112, Santa Fe, NM 87504, and containing a request for a hearing.

C. Rights of respondent: calling the attention of the respondent to his or her rights under Section 17-3-34 NMSA 1978 and this rule.

**§ 19.31.2.11 No Hearing Requested:** If a respondent does not mail a request for a hearing within the time frame and in the manner required by this rule, the commission may take the action contemplated in the notice and such action shall be final and not subject to judicial review.

**§ 19.31.2.12 Hearing Requested:** If a respondent does request a hearing as provided by this rule, the department, within 20 days of receipt of such request, shall notify the respondent of the time and place of the hearing, the name or names of the person or persons who shall conduct the hearing for the commission, and the statutes and rules authorizing the commission to take the contemplated action. The hearing shall be held not more than 90 nor less than 30 days from the date of service of such notice.

**§ 19.31.2.13 Rights Of A Person Requesting A Hearing:** A person entitled to be heard under this rule shall have the right to be represented by counsel or may appear on his or her own behalf; to present all relevant evidence by means of witnesses, papers, documents and other

evidence; to examine all opposing witnesses who appear on any matter relevant to the issues. All notices issued pursuant to this rule shall contain a statement of these rights.

A. Written request: Upon written request to another party, any party is entitled to:

(1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and

(2) inspect and copy any documents or items which the other party will or may introduce in evidence at the hearing.

B. Response time frame: The party to whom such a request is made shall comply with the request within 10 days after the mailing or delivery of the request. No such request shall be made less than 15 days before the hearing.

C. Stipulated agreements: A person entitled to be heard under this rule may enter into a written stipulated agreement with the department. Signing such an agreement shall waive the person's right to a hearing and the filing of a written exception. The agreement shall be presented to the commission at the department's recommendation and the commission retains authority for the final decision.

**§ 19.31.2.14 Method Of Service:** Any notice or decision required by this rule shall be served by certified mail, return receipt requested, directed to the holder of a license, permit, registration or certificate, landowner agreement or applicant thereof, at his or her last known address as shown by the records of the department of game and fish.

**§ 19.31.2.15 Revocation Notice Of Service:** Notice by certified mail shall be deemed to have been served on the date born by the return receipt showing delivery or the last attempted delivery of the notice or decision to the addressee or refusal of the addressee to accept delivery of the notice or decision.

**§ 19.31.2.16 Venue:** Hearings held under this rule shall be conducted in Santa Fe county or Bernalillo county, New Mexico. Under exigent circumstances, and at the discretion of the hearing officer, the hearing may be held in another county in New Mexico.

**§ 19.31.2.17 Hearing Officer:**

A. Conducts hearing: All hearings under this rule shall be conducted by a hearing officer who is designated by the commission.

B. Disqualification of hearing officer: The hearing officer may be disqualified as provided for under the rules of civil procedure by filing of an affidavit of disqualification.

**§ 19.31.2.18 Hearing Open to the Public:** All hearings conducted under this rule shall be open to the public.



**§ 19.31.2.19 Hearing Interpreter Provided:** The commission shall provide an interpreter for individuals requesting a hearing who provide proof of hearing impairment to the extent that he/she cannot understand voice communications.

**§ 19.31.2.20 Language Interpreter Provided:** The commission shall provide an interpreter for individuals requesting a hearing who provide proof of inability to comprehend English well enough to understand the proceedings.

**§ 19.31.2.21 Rules of Evidence:** The hearing officer shall consider a copy of a conviction, certified by the clerk of the court entering the conviction, as conclusive evidence of a violation of Chapter 17 NMSA 1978, its implementing rules, or Section 30-14-1 NMSA 1978. In cases where magistrate court records associated with a conviction are not available, the official form of the records maintained by either the magistrate court or the department of game and fish shall be admissible. These records shall also stand as conclusive evidence of a violation of Chapter 17 NMSA 1978, its implementing rules, or Section 30-14-1 NMSA 1978. In the case of hearings in which a criminal conviction is not germane, the standard of proof shall be a preponderance of the evidence.

A. Admission of evidence: In proceedings held under this regulation, the hearing officer may admit any evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent people in the conduct of serious affairs. The hearing officer may, at his discretion, exclude incompetent, irrelevant, immaterial and unduly repetitious evidence. Documentary evidence may be received in the form of copies or excerpts.

B. Judicial notice: The hearing officer may take notice of judicially cognizable facts.

C. Rules of privilege: The rules of privilege shall be effective to the extent that they are required to be recognized in civil actions in district courts of the state of New Mexico.

D. Mitigating circumstances: The hearing officer may consider mitigating, extenuating, and aggravating circumstances surrounding the violations of game and fish laws and rules to determine the recommended period of the revocation or suspension.

**§ 19.31.2.22 Hearing and Post-Hearing Procedures:**

A. Record of hearing: In all hearings conducted under this rule, the hearing officer shall cause a complete record to be made by tape or digital audio recording and shall preserve all evidence received. The hearing officer shall observe any standards pertaining to tape or digital audio recordings established for the district courts of this state.

B. Post-hearing briefs: The hearing officer may require post-hearing briefs and the preparation and submittal to the hearing officer of proposed findings of fact and conclusions of law.

C. Hearing officer's report: Within 30 days of any hearing, the hearing officer shall make and submit to the department a report setting forth his findings of fact, conclusions of law, and recommended decision.

D. Report copies to parties: The department shall serve a copy of the recommended decision on the parties by certified mail with return receipt requested.

E. Filing of exceptions to hearing officer's report: The parties to the proceeding may file exceptions, with supporting briefs, to a hearing officer's recommended decision within a time period set by the hearing officer or within 30 days of the hearing if not otherwise specified by the hearing officer.

F. Exceptions and briefs served on all parties: Copies of exceptions to the hearing officer's recommended decision and any briefs shall be served simultaneously on all parties, and a statement of such service may be furnished to the hearing officer.

G. Exceptions and briefs-requirements: Any exception not specifically made shall be considered waived. Any exception that fails to comply with the foregoing requirements may be disregarded. Any brief in support of exceptions shall not contain matter not related to and within the scope of the exceptions.

**§ 19.31.2.23 Final Decision of the Commission:**

A. Review and consideration of hearing officer's report and filed exceptions: After a hearing has been completed, the commission shall review and consider the hearing officer's report and any filed exceptions to the recommended decision.

B. No oral arguments; no new evidence: The commission shall not permit any oral arguments. The commission shall not consider any evidence outside of the hearing officer's report and filed exceptions.

C. Final decision: The commission's final decision shall be made by a quorum of the commission at a regularly scheduled commission meeting.

D. Written decision served: Within 15 days after the commission's decision is rendered and signed by the chairman of the commission, the department shall serve upon the respondent a copy of the written decision.

E. Default orders for failure to request a hearing: The commission shall consider the department's submission of names of respondents who have not requested a hearing and whose license(s), permit(s), certificate(s), landowner agreement(s), or application(s) shall be automatically revoked and associated privileges suspended pursuant to Section 8 of this rule.

**§ 19.31.2.24 JUDICIAL REVIEW:** In accordance with Section 17-3-34 NMSA 1978, any person whose license, permit, certificate or landowner agreement has been revoked by the commission may appeal to the district court for further relief. Upon appeal, the district court shall set aside the decision only if it is found to be:

A. arbitrary, capricious, or an abuse of discretion;

B. not supported by substantial evidence in the record; or

C. otherwise not in accordance with law.

**§ 19.31.2.25 Wildlife Violator Compact Suspension and Revocation:** Any person whose name appears on the wildlife violator compact list or who has been revoked by another wildlife violator compact member state and is in accordance with Section 17-2-10.3.B NMSA 1978 shall have his or her license, permit, certificate or registration immediately and temporarily withheld or suspended, if any such license, permit, certificate or registration has been issued by the department. Any resident who fails to comply with the terms of a citation including failure to appear, from a member state shall have his or her license, permit, certificate or registration immediately and temporarily withheld or suspended, if any such license, permit, certificate or registration has been issued by the department. The information provided by the board of wildlife violator compact administrators or their designee shall be deemed sufficient to allow the department by and through its director to send the same violator a notice of commission contemplated action. Revocation proceedings and hearings shall be in accordance with this rule.

**§ 19.31.2.26 Suspension:** The Parental Responsibility Act ('PRA'), 40-5A-1 NMSA 1978, provides that the commission shall suspend the license, permit, certificate or registration, and the associated privileges of any person not in compliance with the PRA, and allows the reinstatement if such privileges at any time that the obligor comes into compliance. Chapter 17 NMSA 1978 provides that the commission shall suspend the license, permit, or certificate, and the associated privileges of any person who fails to pay a penalty assessment or a civil judgment, until the assessment or judgment is paid in full.

**§ 19.31.2.27 Parental Responsibility Act:** Any person found to be in violation of the PRA, after notice and an opportunity for review by a hearing officer, shall have his or her license, permit, certificate, registration and associated privileges suspended until he or she provides a certificate of compliance from the human services department.

A. Notice procedures: When the department receives a human services department certified list of obligors not in compliance with the PRA, the department will present the list to the commission for the approval of the issuance and service of a NCA to the listed obligors. The department shall send a NCA as required by this section to any named obligor who holds a license, permit, certificate, or registration. The NCA, sent by certified mail with return receipt requested, shall consist of a written notice advising the obligor that the department has grounds to take action, and that on behalf of the commission, it shall suspend the obligors license(s), permit(s), certificate(s) or registration(s), and the privileges thereof, unless the obligor:

(1) files a timely written request for a hearing protesting the proposed suspension within 30 days from the date that the notice is mailed; or

(2) provides the department, within 30 days from the date the notice is mailed, with a valid certificate of compliance from the human services department.

B. Hearing procedures: The obligor may request a hearing by filing a written request for hearing protesting the proposed suspension of the license, permit, certificate or registration, and the privileges thereof.

(1) The request for hearing must be filed within 30 days from the date the notice is mailed. The request shall be mailed to Law Enforcement Division, New Mexico Department of Game and Fish, PO Box 25112, Santa Fe, NM 87504.

(2) The commission, through the department, shall appoint a hearing officer.

(3) The department, within 20 days of receipt of such request, shall notify respondent, of the time and place of the hearing, the name or names of the person or persons who shall conduct the hearing for the commission, and the statutes and rules authorizing the commission to take the contemplated action. The hearing shall be held not more than 90 nor less than 30 days from the date of mailing of such notice.

(4) The hearing officer shall make and preserve a record of the proceedings as prescribed in Section 22 of this rule.

(5) An obligor may appear at a hearing on their own behalf or be represented by an attorney.

(6) Hearings may be conducted in person or telephonically. Witnesses may appear in person or telephonically.

(7) Hearings may be postponed or continued at the discretion of the hearing officer.

(8) In proceedings held under this rule, the hearing officer may admit any evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent people in the conduct of serious affairs. The hearing officer may, at his discretion, exclude incompetent, irrelevant, immaterial and unduly repetitious evidence. Documentary evidence may be received in the form of copies or excerpts. The hearing officer may take notice of judicially cognizable facts.

(9) The issues to be decided at the hearing are limited to whether the respondent is:

(a) in compliance with a judgment and order for support;

(b) in compliance with a subpoena or warrants relating to paternity or child support proceedings;

(c) the person whose name appears on the certified list sent to the department from human services department.

(10) In any hearing under this section, relevant evidence shall be limited to the following:

(a) a valid certificate of compliance, if one has been issued between the date of the notice and the hearing date;

(b) evidence of compliance with a judgment or order of support, subpoena or warrant relating to paternity or child support proceedings to rebut the absence of a certificate of compliance in cases in which the licensee, permittee, or certificate holder, has cured any non-compliance with a judgment or order of support, subpoena or warrant after the notice date but before the date of hearing;

(c) evidence that the respondent is not the same person as the person whose name appears on the certified list of obligors sent to the department by human services department;

(d) in lieu of a hearing, a respondent may present a valid certificate of compliance to the department and the suspension proceedings will cease.

(11) Within 30 days of any hearing, the hearing officer shall make and submit to the department a report setting forth his findings of fact, conclusions of law and recommended decision.

(12) The department shall serve copies of the recommended decision to the parties by certified mail with return receipt requested.

(13) In accordance with the PRA, the commission shall suspend the license, permit, or certificate, registration, and associated privileges of any obligor determined not to be in compliance, until such time as the obligor becomes in compliance.

C. Default orders for failure to request a hearing: In the event an obligor does not request a hearing, or provide proof of compliance within 30 days of the date the notice was mailed, the commission grants approval to the department through the director to administer these suspensions without further commission consideration or additional notice.

D. Reinstatement fee: Any person whose license, permit, certificate, or registration, has been suspended in accordance with the PRA shall be reinstated after demonstrating proof of compliance from the human services department, and having paid the department of game and fish a reinstatement fee of \$25.00 and all costs associated with his or her revocation hearing. The director has the authority to waive this fee in the case of unusual circumstances or clerical errors. **§ 19.31.2.28 Failure To Pay Penalty Assessment Or Civil Damage:** In accordance with Section 17-2-10.3 the hunting and or fishing license and associated privileges of a person who fails to pay a penalty assessment levied under Section 17-2-10.1 shall be suspended for three years, or until the penalty assessment is paid in full. Any person that has had a civil judgment assessed against them pursuant to Section 17-2-26 shall have their license, permit, or certificate, and the associated privileges suspended until those damages have been paid in full.

A. Notice procedures: When the department determines that a person has failed to pay a penalty assessment pursuant to Section 17-2-10.2, or that a person has failed to pay damages pursuant a civil judgment in accordance with Section 17-2-26, the department will present to the

commission, at a regularly scheduled commission meeting, a list of such persons for the commission to approve the serving of a NCA to the listed persons. The department shall send a NCA as required by this section to any named person who holds a license, permit, or certificate. The NCA, sent by certified mail with return receipt requested, shall consist of a written notice advising the respondent that the department has grounds to take action, and that on behalf of the commission it shall suspend the license, permit, certificate or registration and any privileges thereof unless the person:

- (1) files a timely written request for a hearing protesting the proposed suspension within 30 days from the date that the notice is mailed; or
- (2) pays the penalty assessment or civil damages within 30 days from the date the notice is mailed.

B. Hearing procedures: The person may request a hearing by filing a written request for hearing protesting the proposed suspension of the license, permit, or certificate, and the privileges thereof.

- (1) The request for hearing must be filed within 30 days from the date the notice is mailed. The request shall be mailed to Law Enforcement Division, New Mexico Department of Game and Fish, PO Box 25112, Santa Fe, NM 87504.
- (2) The commission, through the department, shall appoint a hearing officer.
- (3) The department, within 20 days of receipt of such request, shall notify the respondent of the time and place of the hearing, the name or names of the person or persons who shall conduct the hearing for the commission, and the statutes and rules authorizing the commission to take the contemplated action. The hearing shall be held not more than 90 nor less than 30 days from the date of mailing of such notice.
- (4) The hearing officer shall make and preserve a record of the proceedings as prescribed in Section 22 of this rule.
- (5) A person may appear at a hearing on their own behalf or be represented by an attorney.
- (6) Hearings may be conducted in person or telephonically. Witnesses may appear in person or telephonically.
- (7) Hearings may be postponed or continued at the discretion of the hearing officer.
- (8) In proceedings held under this rule, the hearing officer may admit any evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent people in the conduct of serious affairs. The hearing officer may, at his discretion, exclude incompetent, irrelevant, immaterial and unduly repetitious evidence. Documentary evidence may be received in the form of copies or excerpts. The hearing officer may take notice of judicially cognizable facts.

(9) The issues to be decided at the hearing are limited to whether the respondent:

- (a) owes an outstanding penalty assessment or civil damages;
- (b) is the person whose name appears on the list presented to the commission by the department.

(10) In any hearing under this section, relevant evidence shall be limited to the following:

- (a) documentary evidence that the respondent owes an outstanding penalty assessment or civil damages;
- (b) documentary evidence that the respondent has paid such penalty assessment or civil damages;
- (c) evidence that the respondent is not the same person as the person whose name appears on the list presented to the commission;
- (d) in lieu of a hearing, a respondent may pay the outstanding assessment or damages to the department and the suspension proceedings will cease.

(11) Within 30 days of any hearing, the hearing officer shall make and submit to the department a report setting forth his findings of fact, conclusions of law, and recommended decision.

(12) The department shall serve copies of the recommended decision to the parties by certified mail with return receipt requested.

(13) The commission shall consider the recommendation of the hearing officer, and determine if the respondent shall have their license, permit, or certificate, and the privileges thereof suspended until such time as the outstanding assessment or damages are paid.

C. Default orders for failure to request a hearing: In the event a respondent does not request a hearing, or pay their outstanding assessment or damages within 30 days of the date that notice was mailed, the commission grants approval to the department through the director to administer these suspensions without further commission consideration or notice.

D. Reinstatement: Any person whose license, certificate, or permit, has been suspended in accordance with this section shall be reinstated after paying their outstanding assessments or damages.

**North Dakota AIS Statutes**

**N.D. Cent. Code Tit. 20.1, Ch. 20.1-02 (Game and Fish Department)**

**§ 20.1-02-05. Powers of director**

The director may:

1. Fix the salaries and the necessary travel and other expenses of department personnel subject to law and legislative appropriations.
2. Employ any part-time personnel necessary to run the director's office and remove the employees at will. Salaries and necessary traveling and other expenses of these appointees must be authorized, audited, and paid in the same manner as salaries and expenses of state officers.
3. Accept from any person, or gather, or purchase, fish, spawn, or fry, for distribution in state waters.
4. Take alive at any time, under the director's personal supervision or under the personal supervision of any of the director's bonded appointees, any birds or animals for propagation purposes or for exchange with other states and foreign countries for game birds and animals of other species.
5. Order additional protection for any fish with an open season when, after investigation, the director finds danger of extinction, undue depletion in any waters, or to aid in the propagation and protection of immature fish, by prescribing how, how many, where, and when the fish may be taken. The orders have the force of law.
6. Take or cause to be taken at any time from any state public waters any suckers, carp, or pickerel.
7. With the governor's approval, purchase, lease, or, subject to chapter 32-15, condemn real estate, when it is required to carry out this title, and sell it when it is no longer required, in the name of the state.
8. Lease up to ninety-nine years any department land, for the purpose of development and improvement, to any nonprofit corporation, upon consideration of specified improvements to be made by the corporation and other improvements the department and the corporation may agree upon. The lease must provide that all funds received by the corporation through lease of the property be expended upon the leased premises for development and improvements. The corporation has the authority, subject to approval by the director, to sublease the premises for cabin sites and other recreational purposes. Upon termination of the lease, the leased property, together with all improvements, reverts to the department.



9. Secure specimens of game birds, animals, and fish for breeding purposes by purchase or otherwise and by exchange with the game commissions or state game wardens of other states or countries.
10. Issue special permits to shoot wildlife from a stationary motor vehicle upon application from individuals who are physically unable to walk for purposes of hunting or taking wildlife or who have lost the use of an arm at or below the elbow. The application must be accompanied by a physician's statement verifying the person's condition, and if used to hunt on lands controlled by the board of university and school lands, must designate the land on which the individual intends to hunt. The permittee must have permission from the lessee and the commissioner of university and school lands to hunt on lands controlled by the board of university and school lands. A permit issued under this subsection allows the permittee to drive, or to be driven, onto any land for the purposes of hunting wildlife, except that neither any other passenger within the vehicle nor the driver, if someone other than the permittee, may be a hunter, unless the other person is also a permittee. Provided, however, that if the land is privately owned and if the permittee is not going to drive or be driven along an established road or trail, the permittee must first obtain the consent of the owner or lessee to hunt on the land in the manner provided in this title.
11. Issue to any individual who is blind, is a paraplegic, or who has lost the use of one or both arms a special permit to hunt game with a crossbow if that individual otherwise complies with and qualifies under the licensing and other provisions of this title. Battery-powered and electronic-lighted sight pins and telescopic sights not exceeding a maximum power of four by thirty-two millimeters may be attached to crossbows used for hunting under this subsection. However, an individual who is blind and who receives a special permit to hunt game with a crossbow under this subsection may hunt only on a preserve or area approved by the director. For purposes of this subsection, an individual who is blind means an individual who is totally blind, whose central visual acuity does not exceed twenty/two hundred in the better eye with corrective lenses, or in whom the widest diameter of the visual field is no greater than twenty degrees.
12. Issue any resident license and adopt rules if necessary to carry out resident licensing for each of the following, except a lottery permit or license may be issued only to an individual who qualifies as a resident under subdivision a:
  - a. A resident who is eligible for a license under this title, except that the director shall issue a license on proper application. A resident who is eighteen years of age or older must submit a valid driver's license number from this state or valid nondriver photo identification number issued by this state before the director may issue a license.
  - b. An individual who has come to the state with a bona fide intention of becoming a resident, even though that individual has not been a resident of this state for the required time period immediately preceding the application for the license. However, an individual who is eighteen years of age or older is not eligible for a resident license under this subsection unless that individual first produces a driver's license number from this state or a nondriver photo identification number issued by this state and submits an

affidavit of a bona fide resident setting forth the actual conditions of residency. An individual is not eligible for a resident license under this subsection if the individual maintains a valid resident hunting-related or fishing-related license from another state or country, unless the license is a lifetime license.

- c. An individual who is a member of the United States armed forces and who is within the state on duty or leave.
  - d. An employee of the United States fish and wildlife service or the conservation department of any state or province of Canada in the state to advise or consult with the department.
  - e. A nonresident full-time student living in this state who is attending an institution under the jurisdiction of the state board of higher education, a private institution of higher education, or a tribal college. A license may not be issued under this subdivision unless a valid student identification number accompanies the application.
  - f. A resident of this state who applies for a resident deer hunting license, is a member of the United States armed forces stationed outside this state, who shows proof of North Dakota residence, including a driver's license number from this state or a nondriver photo identification number from this state, and who pays the appropriate licensing fee, except the director shall issue the resident deer hunting license on proper application. A deer license issued to a member of the United States armed forces under this subdivision must be issued without being subject to the lottery for deer hunting licenses.
13. Adopt rules, and issue permits for the transporting or introducing of fish, fish eggs, small game, big game, or fur-bearers after determining that the fish, fish eggs, birds, or animals have been properly inspected for disease, and that the transplanting or introduction will be in compliance with state laws and rules. No person may transplant or introduce any fish or fish eggs into any of the public waters of this state, or transplant or introduce any species of small game, big game, or fur-bearers into this state without obtaining a permit from the director.
14. Pursuant to section 4-01-17.1, cooperate with the agriculture commissioner, the United States fish and wildlife service, and other agencies in the destruction of predatory animals, destructive birds, and injurious field rodents. The director may adopt rules in accordance with organized and systematic plans of the department of the interior for the destruction of these birds and animals. The director may determine the necessity and issue permits and rules and regulations therefor for the operation and use of private aircraft to assist in the destruction of the above birds and animals and aid in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops.
15. Exercise authority to establish programs and rules and administer state and federal funds provided to the state for the preservation and management of resident species determined by the director to be threatened or endangered species of wildlife. The authority exercised must be in compliance with the Endangered Species Act of 1973, Public Law 93-205. Any person who violates rules adopted under this subsection is guilty of a class B misdemeanor.

16. Provide for the funding of a private land habitat and access improvement program with moneys derived from the interest earned on the game and fish fund and habitat restoration stamp fees. The director shall place these funds in a special fund called the “game and fish department private land habitat and access improvement fund”.
17. Carry out a private land habitat and access improvement program by:
  - a. Entering cost-sharing, habitat enhancement, and access agreements with landowners or agencies working on private land to help defray all or a portion of their share of local, state, or federally sponsored conservation practices considered beneficial to fish and wildlife.
  - b. Leasing and developing fish and wildlife habitat or sport fishing areas on private land. Except for purposes of subdivision i, public access to leased land may not be prohibited.
  - c. Carrying out practices or designating an individual to carry out practices or authorizing or having the designee authorize landowners to carry out practices that will alleviate depredations caused by predatory animals and big game animals.
  - d. Publishing a brochure on an annual basis describing areas funded from the game and fish department private land habitat and access improvement fund which are open to public access in this state.
  - e. Receiving advice from the game and fish advisory board concerning expenditures from the game and fish department private land habitat and access improvement fund.
  - f. Working with livestock producers experiencing chronic deer depredation problems to develop site-specific deer depredation management plans.
  - g. Giving first consideration to producers impacted by deer foraging on stored winter forage when purchasing winter deer management supplies.
  - h. Making available the sum of one million dollars from each biennial game and fish department appropriation to be used to provide feeding and other winter management practices to alleviate depredation caused by big game animals. Any unexpended funds under this subdivision, up to two million dollars, are not subject to section 54-44.1-11 and may be carried forward for expenditure in future bienniums.
  - i. Making available the sum of one hundred thousand dollars from each biennial game and fish department appropriation to be used for food plots on private property for the purpose of providing winter feed. These food plots are not subject to public access considerations.

18. Subject to prior approval of the attorney general, lease or exchange lands under the director's jurisdiction or control which are deemed necessary for the improved management of wildlife resources.
19. Subject to prior approval of the attorney general, impose any conditions or reservations to the leases or exchanges as the director determines necessary.
20. Adopt rules and issue permits for conducting fishing contests involving public waters of the state. The director by rule shall define the term "fishing contest" and shall set criteria for which a fishing contest permit is required. The director may deny permits. No person may conduct a fishing contest on public waters without first receiving a permit issued by the director.
21. Issue duplicates of lost or destroyed game and fish licenses or permits. The procedure for reissuing the licenses or permits and fees to be charged must be prescribed by the director by rule.
22. Establish noncriminal penalties for any rules adopted by the director. The maximum noncriminal penalty that may be set by the director is a fine of two hundred fifty dollars. Violation of any rule not designated as having a noncriminal penalty is considered a criminal violation as established in the appropriate chapter of this title.
23. Issue, as a means of encouraging and promoting economic development in this state, complimentary fishing licenses to nonresident visiting dignitaries. The circumstances and conditions of complimentary fishing licenses issued must be determined by the director. The number of complimentary licenses may not exceed fifty licenses per year. The director shall determine the visiting dignitaries to be of national or international stature before they are eligible for complimentary licenses.
24. Carry out a coyote depredation prevention program by conducting practices that will alleviate depredations caused by coyotes.
25. Issue, as a means of rewarding dedication to teaching firearm hunter safety, complimentary lifetime resident certificates and combination licenses provided under section 20.1-03-11.1 to resident certified hunter education volunteer instructors. Eligible persons must have served as a lead or assistant certified hunter education volunteer instructor in this state for a minimum of one course in each of thirty years. The license is known as the "lifetime combination license" and must be signed by the director and the person receiving the license. The license must be revoked by the director if the licenseholder is convicted of a felony or found to have violated any provision of this title.
26. Carry out a program that targets waterfowl resting areas within the private lands initiative program which includes payments to private landowners for lease of waterfowl resting areas on private lands that during the term of the lease provides limited public access for the hunting of waterfowl.

27. Issue free hunting licenses to an organization that sponsors hunting trips for terminally ill children. A license issued under this subsection may be used by an individual sponsored by the organization to hunt the species indicated on the license.
28. Authorize individuals with valid antlerless deer licenses to take deer on private lands determined by the director to be severely impacted by deer. Before authorizing individuals under this subsection, the director must attempt other measures and determine them to be ineffective. A landowner dissatisfied with a decision of the director under this subsection may submit the decision to the agricultural mediation service for mandatory mediation. A decision of an agricultural mediation service negotiator is subject to review by the credit review board. A decision of the credit review board under this subsection is final. The director may authorize individuals to take deer under this subsection between December first of a year through January fifteenth of the following year.

**N.D. Cent. Code Tit. 20.1, Ch. 20.1-17 (Aquatic Nuisance Species)**

**§ 20.1-17-01. Prevention and control of aquatic nuisance species**

The director, to prevent and control aquatic nuisance species, shall:

1. Prepare a statewide management plan for aquatic nuisance species to be approved by the governor.
2. Organize an aquatic nuisance species committee, as provided for in the statewide management plan, composed of the director or the director's designee; representatives of the agriculture commissioner, state water commission, parks and recreation department, state department of health, and tourism division; up to five private entities or individuals; and a representative of tribal entities. The director or the director's designee is the chairman of the aquatic nuisance species committee.
3. Develop and adopt the state's list of aquatic nuisance species after consulting with the aquatic nuisance species committee. The list must be updated annually.
4. Provide for a permitting system to import listed aquatic nuisance species into or move those species within the state.
5. Develop rules to prevent the movement of aquatic nuisance species into or within the state. In addition to requirements under chapter 28-32, the department shall conduct a cost-benefit analysis for any rule proposed for adoption under this chapter.
6. Conduct aquatic nuisance species education and prevention efforts.
7. Provide for the partnership of the federal government, state agencies, and private or public organizations to fund aquatic nuisance species prevention efforts.

**§ 20.1-17-02. Compensation and expenses of appointive members of the aquatic nuisance committee**

Each appointive member of the committee is entitled to receive sixty-two dollars and fifty cents compensation per day and to reimbursement for expenses in the amounts provided in sections 44-08-04 and 54-06-09 while attending meetings of the committee or, at the discretion of the member, may receive either per diem compensation or expenses in those amounts while otherwise engaged in official business of the department, including time of travel between home and the place at which the member performs such duties.

**§ 20.1-17-03. Management plan**

The statewide management plan must address:

1. Coordinated detection efforts and prevention of illegal introductions;
2. Coordinated dissemination of information concerning aquatic nuisance species among resource management agencies and organizations and impacted entities;
3. A coordinated education and awareness campaign;
4. Coordinated control of selected invasive species of aquatic plants and wild animals on lands and public waters;
5. A reasonable and workable inspection requirement for watercraft and equipment working on waters of the state, including those participating in organized events on the waters of the state;
6. Closure of points of access to infested waters, if the director determines closure is necessary;
7. Maintenance of public access to infested waters which are reasonably free of aquatic nuisance species; and
8. Notice to travelers of the penalties for violation of laws relating to aquatic nuisance species.

**§ 20.1-17-04. Inspection of watercraft**

The director shall train and authorize personnel to inspect watercraft and associated equipment, including weed harvesters, for aquatic nuisance species before the watercraft and equipment enter or leave waters of the state during the open water season.

**§ 20.1-17-05. Infested waters--Restricted activities**

The director shall designate a water of the state as an infested water if the director determines that the water contains a population of an aquatic nuisance species that may spread to other waters if use of the water and related activities is not regulated to prevent this spread. In determining which waters are infested with a nuisance species, the director shall consider:

1. The extent of a species distribution within the state;
2. The likely means of spread for a species; and
3. Whether rules specific to infested waters containing a specific species will effectively reduce that species' spread.

**§ 20.1-17-06. Prohibited activities**

A person may not possess, import, purchase, sell, propagate, transport, or introduce a prohibited aquatic nuisance species except:

1. Under a permit issued by the director;
2. When being transported to the department, or another destination as the director may direct, in a sealed container for purposes of identifying the species or reporting the presence of the species;
3. When being transported for disposal as part of a harvest or control activity under a permit issued by the director or when being transported as specified by the director;
4. When the specimen has been lawfully acquired dead and, in the case of plant species, all seeds are removed or are otherwise secured in a sealed container;
5. When being removed from watercraft or equipment, or caught while angling, and immediately returned to the water from which it came; or
6. As the director otherwise may prescribe by rule.

**§ 20.1-17-07. Standard**

The director may issue a permit under this chapter only if the director determines that the permitted activity does not pose an unreasonable risk of harm to natural resources or their use in the state. The director may deny, issue with conditions, modify, or revoke a permit issued under this chapter as necessary to ensure that the proposed activity will not pose an unreasonable risk of harm to natural resources or their use in the state.

**§ 20.1-17-08. Seizure**

The director may seize or dispose of any specimens of prohibited aquatic nuisance species unlawfully possessed, imported, purchased, sold, propagated, transported, or introduced in this state.

**§ 20.1-17-09. Penalty**

A person who violates this chapter is guilty of a class B misdemeanor.



## **North Dakota AIS Regulations**

### **N.D. Admin. Code Tit. 30, Art. 30-03, Ch. 30-03-06 (Aquatic Nuisance Species)**

#### **§ 30-03-06-01. Equipment.**

Upon leaving any water body or while in transit, all watercraft, watercraft motors, watercraft trailers, and recreational and commercial equipment used in fishing, hunting, and watercrafting or construction equipment shall be free of prohibited or regulated aquatic nuisance species, as defined in the state's aquatic nuisance species list. All equipment is subject to inspection by a duly appointed agent of the director.

#### **§ 30-03-06-02. Aquatic vegetation definition.**

Aquatic vegetation includes all obligate submergent species of aquatic plants.

#### **§ 30-03-06-03. Aquatic vegetation prohibited.**

No aquatic vegetation, or parts thereof, shall be in or on watercraft, watercraft motors, watercraft trailers, and recreational, commercial, or construction equipment when out of water. Watercraft and recreational, commercial, or construction equipment on lifts suspended above the water from which they originated are excluded. Time out of the water needed to clean aquatic vegetation from the watercraft, watercraft motors, watercraft trailers, and recreational, commercial, or construction equipment at the immediate water access area (e.g., boat ramp) is allowed. All built-in structures to boats, including livewells and bait compartments and containers used to transport legal live bait, must be free of aquatic vegetation.

#### **§ 30-03-06-04. Aquatic vegetation transport.**

No person may transport any aquatic vegetation to or from any waters of the state without approval from the director. No person may transport any aquatic vegetation into the state.

#### **§ 30-03-06-05. Water prohibited.**

1. Refer to the North Dakota game and fish department website for a listing of state waters infested with class I prohibited aquatic nuisance species. Fish transported and held in or on ice are allowed.
2. All water must be drained from all watercraft and recreational, commercial, and construction equipment bilges and confined spaces, livewells, and baitwells, when out of water or upon entering the state. Water used for instate transportation of legal live bait and legal live baitfish in bait buckets no larger than five gallons in volume is allowed to and from waters of the state not designated as infested with class I prohibited aquatic nuisance species. Refer to the current fishing proclamation for legal live bait and legal live baitfish definitions. Potable water and sewage water are excluded from this restriction.

3. Water may not be transported away from waters of the state designated as infested with class I prohibited aquatic nuisance species unless permitted by the state water commission or otherwise authorized.
4. All drain plugs that may hold back water must be removed, and water draining devices must be open, on all watercraft and recreational, commercial, and construction equipment bilges and confined spaces, during any out-of-water transport of same.

**§ 30-03-06-06. Inspections.**

Repealed effective October 1, 2010.

**§ 30-03-06-07. Penalty.**

Any person violating a provision of this chapter, except subsection 3 of North Dakota Administrative Code section 30-03-06-05. is guilty of a noncriminal offense and shall pay a one hundred dollar fee. Any person violating subsection 3 of North Dakota Administrative Code section 30-03-06-05 is guilty of a class b misdemeanor under the authority of North Dakota Century Code section 20.1-17-09

## Oklahoma AIS Regulations

*Compiled 10/15/15*

### **Okla. Admin. Code Tit. 800, Ch. 20, Subch. 4 (Aquatic Nuisance Species Restrictions)**

#### **§ 800:20-4-1. Purpose**

The purpose of this subchapter is to describe the rules pertaining to the movement of aquatic nuisance species.

#### **§ 800:20-4-2. Movement of aquatic plants**

No person may transport aquatic plants between waters of this state. Persons must remove all aquatic plants from boat, trailer, or any other gear capable of holding aquatic plants prior to placing boat, trailer or gear into waters of the state.

#### **§ 800:20-4-3. List of restricted aquatic nuisance species**

(a) In addition to species listed under 800:20-1-2 and 800:20-3-2 and until such time as is necessary for the Department of Wildlife Conservation to obtain adequate information for the determination of other harmful or potentially harmful aquatic nuisance species, the importation into the State and/or the possession of the following aquatic nuisance species is prohibited:

(1) Zebra mussel (*Dreissena polymorpha*)

(2) Quagga mussel (*Dreissena bugensis*)

(b) Boats, trailers, and boat parts must be cleaned free of live zebra and/or quagga mussels before launching in any public waters.

#### **§ 800:20-4-4. Penalties**

Any person violating these Chapter provisions shall be subject to the penalties provided in 29 O.S., Section 7-602 and 8-104.

## Oregon AIS Statutes

*Compiled 10/15/15*

### Ore. Rev. Stat. Tit. 61, Ch. 830 (Small Watercraft)

#### § 830.560. Boating restrictions when certain aquatic species are present

(1) As used in this section:

(a) “Aquatic invasive species” means any aquatic life or marine life determined by the State Fish and Wildlife Commission by rule to be invasive or any aquatic noxious weed determined by the State Department of Agriculture to be invasive.

(b) “Launch” means any act that places a boat into a waterway for recreational boating, for flushing or testing an engine or for any other purpose.

(2) Except as provided in subsection (3) of this section, a person may not launch a boat into the waters of this state if:

(a) The boat has any visible aquatic species on its exterior hull or attached to any motor, propulsion system or component, anchor or other attached apparatus outside of the hull, or on the trailer or other device used to transport the boat; or

(b) The boat has any aquatic invasive species within its bilge, livewell, motorwell or other interior location.

(3) The State Fish and Wildlife Commission, in consultation with the State Department of Agriculture, by rule may allow the presence of certain aquatic species on or within a boat for activities including but not limited to hunting and photography.

(4) The State Marine Board shall provide information to the public about any rules adopted under subsection (3) of this section.

#### § 830.565. Permits; requirements for certain boats

(1) A person may not operate a manually propelled boat that is 10 feet or more in length or a motorboat on the waters of this state without first obtaining an aquatic invasive species prevention permit from the State Marine Board under ORS 830.570.

(2) A person who obtains an aquatic invasive species prevention permit for a manually propelled boat may use the permit on any manually propelled boat the person operates on the waters of this state.

#### § 830.570. Permits; issuance and renewal; agents

(1) The State Marine Board shall issue and renew an aquatic invasive species prevention permit to a person who pays the fee for the permit described in ORS 830.575.

(2) The board may appoint agents to issue aquatic invasive species prevention permits.

(3) Agents shall issue permits in accordance with procedures prescribed by the board by rule and shall charge and collect the aquatic invasive species prevention permit fees prescribed by law.

(4) The board may authorize an agent other than a board employee to charge a service fee of \$2, in addition to the permit fee, for the issuance service performed by the agent.

(5) The board shall supply the agents with motorboat and manually propelled boat aquatic invasive species prevention permits.

### **§ 830.575. Permits; fees**

Notwithstanding ORS 830.790 (3), fees for issuance and renewal of an aquatic invasive species prevention permit are as follows:

(1) The biennial fee for a motorboat issued a certificate of number under ORS 830.795 is \$5.

(2) The annual fee for a manually propelled boat 10 feet or more in length is \$5.

(3) The annual fee for a motorboat operated by a nonresident is \$20.

(4) The annual fee for an operator of a boat livery is:

(a) \$30 for an operator who owns 6 to 10 manually propelled boats;

(b) \$55 for an operator who owns 11 to 20 manually propelled boats; or

(c) \$100 for an operator who owns 21 or more manually propelled boats.

### **§ 830.580. Rules**

(1) The State Marine Board shall adopt rules for the implementation and administration of ORS 830.565 to 830.575, including but not limited to the exemption of certain boats from the requirements of ORS 830.565.

(2) Nothing in ORS 830.565 to 830.575 prevents the board from contracting any service provided under ORS 830.565 to 830.575 to any private person or entity or other unit of government.

### **§ 830.585. Aquatic Invasive Species Prevention Fund**

The Aquatic Invasive Species Prevention Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Aquatic Invasive Species Prevention Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State

Marine Board for the purpose of administering the aquatic invasive species prevention permit program under ORS 830.565 to 830.575 and preventing and controlling aquatic invasive species.

**§ 830.587. Definitions**

As used in ORS 830.589, 830.594 and 830.999:

(1) “Aquatic invasive species” means any aquatic species of wildlife or any freshwater or marine invertebrate, as specified by the State Fish and Wildlife Commission by rule, or any aquatic noxious weeds as specified by the State Department of Agriculture by rule.

(2) “Recreational or commercial watercraft” means any boat, any equipment used to transport a boat and any auxiliary equipment for a boat, including but not limited to attached or detached outboard motors.

**§ 830.589. Operation of check stations to inspect for aquatic invasive species**

(1) The State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture may require a person transporting a recreational or commercial watercraft to stop at a check station to inspect the watercraft for the presence of aquatic invasive species. The purpose of the administrative search authorized under this section is to prevent and limit the spread of aquatic invasive species within Oregon.

(2) The State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture may decontaminate, or recommend decontamination of, any recreational or commercial watercraft that the agency inspects at a check station operated under authority of this section.

(3) All check stations operated under authority of this section must be plainly marked by signs that comply with all state and federal laws and must be staffed by at least one uniformed employee of the State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture trained in inspection and decontamination of recreational or commercial watercraft.

(4) An agency that operates a check station under this section shall require all persons transporting recreational or commercial watercraft to stop at the check station, and the agency shall inspect every recreational or commercial watercraft that goes through the check station.

(5) Notwithstanding ORS 496.992, a person transporting a recreational or commercial watercraft who stops at a check station for inspection and who cooperates in the decontamination process is not subject to criminal sanctions for possessing or transporting aquatic invasive species.

(6) The State Department of Fish and Wildlife, the State Marine Board and the State Department of Agriculture may adopt rules to carry out the provisions of this section.

**§ 830.594. Reports**

(1) The State Department of Fish and Wildlife, after consultation with the State Marine Board, the State Department of Agriculture and the Department of State Police, shall report biennially to the Legislative Assembly on efforts to prevent aquatic invasive species from entering this state and may include in the report suggested legislation necessary to more effectively prevent aquatic invasive species from entering this state.

(2) Reports to the Legislative Assembly required under this section must be made in accordance with ORS 192.245.

**§ 830.998. Failure to stop at aquatic invasive species check station; penalties**

(1) A person who is transporting a recreational or commercial watercraft and fails to stop and submit to an inspection at an aquatic invasive species check station operated by the State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture as provided under ORS 830.589 commits a Class D violation.

(2) Notwithstanding ORS 153.042, an enforcement officer may issue a citation under subsection (1) of this section when the conduct alleged to constitute a violation has not taken place in the presence of the enforcement officer, if the enforcement officer has reasonable grounds to believe that the conduct constitutes a violation on the basis of information received from an employee of an agency authorized to operate an aquatic invasive species check station who observed the violation.

**§ 830.999. Civil penalties**

(1) A person is subject to a civil penalty in an amount to be determined by the State Fish and Wildlife Director of not more than \$6,250 if the person knowingly transports aquatic invasive species on or in a recreational or commercial watercraft. A second or subsequent violation of this subsection within a five-year period shall result in a civil penalty in an amount not less than \$5,000 and not more than \$15,000.

(2) Subsection (1) of this section does not apply to:

(a) A person who transports aquatic invasive species in ballast water.

(b) A person who complies with all instructions for the proper decontamination of the recreational or commercial watercraft given by an employee authorized under ORS 830.589(1) to inspect recreational or commercial watercraft.

(c) A person who transports aquatic invasive species to the State Department of Fish and Wildlife or the State Department of Agriculture, or to another destination designated by the State Fish and Wildlife Commission by rule, in a manner designated by the commission for purposes of identifying or reporting an aquatic invasive species.

(3) The civil penalties authorized in this section shall be imposed as provided in ORS 183.745. Any civil penalty recovered under this section shall be deposited in the State Wildlife Fund. The

commission by rule shall adopt the formula the State Fish and Wildlife Director shall use in determining the amount of civil penalties under this section.



## Oregon AIS Regulations

*Compiled 10/15/15*

### Oregon Admin. R. Ch. 250 (Oregon State Marine Board), Div. 10 (Statewide Rules)

#### R. 250-010-0650. Aquatic Invasive Species Prevention Permit

##### (1) Definitions:

- (a) “Manually powered boat” means any watercraft as defined in ORS 830.005(2), but not a motorboat as defined in 830.005(6).
- (b) “Aquatic Invasive Species Prevention Permit” is an authorization issued by the Oregon State Marine Board (Board) or through designated agents that certifies payment to the Aquatic Invasive Species Prevention Fund.
- (c) “Board” means the Oregon State Marine Board.
- (d) “Valid temporary permit” means a temporary aquatic invasive species prevention permit generated from a person purchasing a permit from a designated Internet agent.
- (e) “Eleemosynary” means an organization supported by gifts or charity which is operated primarily as a part of organized activities for the purpose of teaching youth's scout craft, camping, seamanship, self-reliance, patriotism, courage and kindred virtues.

##### (2) Permit Rules:

- (a) A person may not operate a manually powered boat that is 10 feet or more in length, or a motorboat of any length, or a sailboat 12 feet or more in length, on the waters of this state without first obtaining an aquatic invasive species prevention permit from the Board or designated agent.
- (b) The aquatic invasive species prevention permit for manually powered boats may be issued as either an annual or biennial permit to be carried or otherwise displayed on the boat. The biennial permit is valid for two calendar years and will cost double the annual permit as described in ORS 830.570 and 830.575.
- (c) The owner of a boat for which fees for a certificate of number or registration under ORS 830.790(1)(a)(b)(c) are required will pay an aquatic invasive species prevention permit surcharge of \$5 per biennium at the time of boat registration.
  - (A) The registration validation stickers are in lieu of an Aquatic Invasive Species Prevention Permit.
  - (B) The validation stickers are non-transferable.

(d) Persons age 14 and older operating manually powered boats that are 10 feet or more in length shall have a valid aquatic invasive species prevention permit or valid temporary permit on board when the boat is in use on the waters of this state.

(e) Out-of-state motorboats and out-of-state sailboats 12 feet in length or more that are of the same boat category that would be required to be registered in Oregon per ORS 830.790, shall carry a non-resident aquatic invasive species prevention permit on board when in use on waters of the state.

(f) Boats required to carry permits must present their permit for inspection upon request by a law enforcement officer.

(A) Motor boats and sailboats 12 feet in length or more, registered in Washington or Idaho, that launch directly into waters that form a common interstate boundary, or launch in Oregon tributaries within one mile of these waters, that have a current boat registration, Coast Guard documentation, or an aquatic invasive species prevention permit issued by the States of Idaho or Washington, are exempt from the non-resident Oregon aquatic invasive species prevention permit.

(B) Manually powered boats from Idaho that are 10 feet or longer and affixed with an Idaho Aquatic Invasive Species Prevention sticker, and all manually powered boats from Washington, are exempt from Oregon aquatic invasive species permit carriage requirements when launching into waters that form a common interstate boundary, or when launching into Oregon tributaries within one mile of these waters.

(g) Manually powered boats and out-of-state motor boat permits are transferrable only within their respective boat categories. The name on the permit does not need to match the name of the person operating the boat. Persons may purchase multiple permits for use by family and friends.

(h) Operators of manually powered boat liveries, and guides using manually powered watercraft for group-guided activities, may qualify to purchase aquatic invasive species prevention permits at a discounted rate described in ORS 830.575. To qualify for the discounted rate:

(A) These operators shall register with the Board by documenting current business status as a livery.

(B) All boats rented by the livery must be clearly labeled with the livery name.

(i) Clubs or organizations that possess or own boats for communal use by members, participants, racing teams, or for public educational purposes except as exempted under this rule, may purchase aquatic invasive species prevention permits under the name of the organization or the club's presiding officer or secretary.

(A) For racing shells, dragon boats or resident boats exempt from registration under OAR 250-010-0150(2), aquatic invasive species prevention permits numbering not less than the maximum number of boats in use on the water at any given time during a planned event may be held by the event organizer, coach or other designated person at the event site as long as the permits are readily available for inspection by a peace officer.

(B) A \$5 annual or \$10 biennial aquatic invasive species permit may be held as described in (2)(i)(A) for events involving motorized race boats which are owned by Oregon residents but that are otherwise exempt from registration under OAR 250-010-0150(2).

(j) The Board or designated agent may issue a temporary aquatic invasive species prevention permit to an individual who pays for the permit using a Board designated Internet agent.

(A) The temporary aquatic invasive species prevention permit will be valid for 14 days from the date of issue listed on the temporary permit.

(B) Each temporary permit shall contain a unique number that corresponds to the electronic record for the individual named on the permit and to the annual permit.

(k) A person is considered in violation of the provisions contained this rule and subject to the penalties prescribed by law when they:

(A) Alter an aquatic invasive species prevention permit; or

(B) Produce or possess an unauthorized replica of an aquatic invasive species prevention permit; or

(C) Exhibit an altered aquatic invasive species prevention permit to a peace officer.

(l) The aquatic invasive species prevention permit expires on December 31 of the year indicated on the permit.

(m) The following vessels or classifications are exempt from the requirement to carry an aquatic invasive species prevention permit:

(A) State-owned boats

(B) County-owned boats

(C) Municipality-owned boats

(D) Eleemosynary-owned boats which a supervising adult can confirm through documentation are engaged in an organization-related activity.

(E) A ship's lifeboat used solely for lifesaving purposes.

(F) Seaplanes

(G) Federal government-owned boats

(H) Surfboards, sailboards and kite boards.

**R. 250-010-0660. Watercraft Inspection Stations**

(1) For the purpose of this rule, the following definitions apply:

(a) “Check Station” is a location in Oregon that a watercraft inspection team has designated for conducting watercraft inspections for aquatic invasive species.

(b) “Decontamination” is the removal of aquatic invasive species from a watercraft.

(c) “Inspector” is an individual certified and authorized by the Oregon Department of Fish and Wildlife to conduct boat inspections for aquatic invasive species.

(d) “Inspection Certificate” is a form used by the inspector to conduct and record watercraft inspection information.

(e) “Seal” is a plastic zip tie or cable with a unique number that is affixed to the trailer or other device to carry or convey the watercraft.

(f) “Watercraft Inspection Team” is one or more inspectors authorized to inspect for aquatic invasive species on all types of watercraft being transported over roads.

(g) “Watercraft” are recreational or commercial, motorized and non-motorized boats, including canoes, kayaks and rafts, as provided in ORS 830.005, and any equipment used to transport a boat and any auxiliary equipment, as provided in ORS 570.850.

(2) The watercraft inspection team will select Oregon locations to conduct mandatory watercraft inspections as described in the Oregon Department of Fish and Wildlife Aquatic Invasive Species Watercraft Inspection Handbook. Signs will be placed along roads, as prescribed by the Oregon Department of Transportation, directing motorists transporting a watercraft over roads to a designated inspection station.

(3) The watercraft inspection team will inspect every watercraft that enters the check station for the presence of aquatic invasive species and may order decontamination of the watercraft. The inspection will include the hull, motor, propulsion system or component, anchor or other attached apparatus, trailer or other device used to transport the boat, and the bilge, live-well, motor-well and other interior locations that could harbor aquatic plants or animals.

(4) The watercraft inspection team will complete, submit and file an inspection certificate with the Oregon Department of Fish and Wildlife for each watercraft inspection conducted.

(5) The watercraft owner, operator or carrier must provide to the inspector, on request, his or her name and ZIP code. If an inspector determines that decontamination is required, the owner, operator or carrier must provide the additional information requested on the inspection certificate form including contact information.

(a) The decontamination process will include the hull, motor, propulsion system or component, anchor or other attached apparatus, trailer or other device used to transport the watercraft, bilge, live-well, motor-well or other interior location that could harbor aquatic plants or animals.

(b) Means of decontamination include, but are not limited to, one or more of the following: hot water washing or flushing, high-pressure water jets, hand removal and chemical treatment as determined necessary by the watercraft inspection team.

(6) The inspector will determine that the watercraft is a severe risk if the boat contains quagga or zebra mussels or other high risk aquatic invasive species, as defined in Oregon Department of Agriculture OAR chapter 603, division 052 “Quarantine; Noxious Weeds” or Oregon Department of Fish and Wildlife OAR chapter 635, division 056 “Importation, possession, confinement, transportation and sale of nonnative wildlife”, or is of a design that prevents or inhibits effective on-site decontamination and the watercraft is from a known aquatic invasive species contaminated waterbody. In such cases, the inspector will place a seal on the watercraft indicating potential contamination. Only the inspector may attach this seal. Tampered, broken or removed seals are void and no longer valid for the purposes as to when they were attached.

(7) When the inspector determines the watercraft is clean or fully decontaminated, the inspector will attach a seal between the watercraft and trailer or other carriage device indicating a completed inspection. Only the inspector may attach this seal. Tampered, broken or removed seals are void.

## **Ore. Admin. R. Ch. 635 (Department of Fish and Wildlife), Div. 59 (Aquatic Invasive Species Control)**

### **R. 635-059-0000. Purpose and General Information**

(1) The purpose of this rule is to protect Oregon's water resources, fish, wildlife and their habitat from harm due to the introduction and/or spread of aquatic invasive species.

(2) “Aquatic Invasive Species” is any species of wildlife, fish (excluding game fish) or freshwater or marine invertebrates that are listed in the “United States Geological Service list of Aquatic Nonindigenous species in Oregon” dated June 4, 2009 or that is listed as a mollusk or crustacean in OAR 635-056-0050 as a Prohibited Species.

### **R. 635-059-0010. Aquatic Invasive Species Reporting Information**

If aquatic invasive species are found on or inside a watercraft, the owner or operator must provide the department with an accurate history as to where the watercraft has been during the last six months. Information shall include;

- (1) All waterbody(s) in which the watercraft has been moored or operated;
- (2) The length of time that the watercraft has been out of water;
- (3) All locations where the watercraft has been stored; and
- (4) If previously inspected, the agency and individual which conducted the inspection.

**R. 635-059-0050. Allowable Blind Material for Coats**

(1) Oregon Laws 2009, chapter 303, section 2(2) generally prohibits the launching of boats with aquatic species on or in the boat. However, that law also authorizes the Fish and Wildlife Commission to by rule allow the presence of certain aquatic species on or in a boat for activities including but not limited to hunting and photography. This rule implements that authority.

(2) Aquatic plant species which are not listed in the “Oregon State Noxious Weed List” adopted by the Oregon Department of Agriculture in OAR 603-052-1200 may be used on or within a boat as blind material for the purpose of hunting or wildlife photography.

**South Dakota AIS Statute**

**S.D. Codified Laws Tit. 41, Ch. 41-2 (State Department of Fish, Game and Parks)**

**§ 41-2-18. Rules for implementation of game, fish and conservation laws**

*\* Authority for AIS regulations derived from subsection (1)*

The Game, Fish and Parks Commission may adopt such rules as may be necessary to implement the provisions of chapters 41-1 to 41-15, inclusive. The rules may be adopted to regulate:

- (1) The conservation, protection, importation, and propagation of wild animals and fish except for any nondomestic animal which is regulated pursuant to § 40-3-26;
- (2) The hunting, taking, killing, possession, sale, and transportation of all wild birds, wild animals, and wild fish except for any nondomestic animal which is regulated pursuant to § 40-3-26;
- (3) The management of nongame, endangered, or threatened wildlife to ensure their perpetuation as viable components of the ecosystem;
- (4) The management, control of traffic, improvement and public use of all lands and water owned, leased, or controlled by the state and Department of Game, Fish and Parks designated as public shooting areas, game production areas, wildlife refuges, lake and fishing access use areas and controlled hunting areas;
- (5) The management, use, and improvement of all meandered lakes, sloughs, marshes, and streams extending to and over dry or partially dry meandered lakes, sloughs, marshes, and streams, including all lands to which the state has acquired any right, title or interest for the purpose of water conservation or recreation;
- (6) The creation, modification, or vacation of state game refuges, state waterfowl refuges, and state game bird refuges on all public land and on private land with the written consent of the landowner;
- (7) The management and improvement of all islands or accumulations of land formed in the bed of a navigable stream or meandered lake on the Missouri River below the Fort Randall Power Plant and Lake Francis Case;
- (8) The appointment, management, bonding, and cancellation of licensing agents;
- (9) The gathering, purchasing, distributing, and transferring of all wild animals and fish for population management, stocking purposes, scientific study, and intergovernmental trades;
- (10) The form of and the manner and placement of any tags, coupons, or permits necessary for the transportation of any wild animal or fish;

- (11) The sale, breeding, raising, and transportation of any nondomestic animal which is not regulated pursuant to § 40-3-26;
- (12) The form, procedures for, and content of all license applications authorized under this title;
- (13) The form, procedures for, fee, and manner of validation, replacement, or cancellation of all licenses authorized under this title that are not already established by statute;
- (14) The devices, weapons, ammunition, traps, tackle, bait, lures, and equipment which may be used to hunt, kill, capture, or locate any wild animal or fish if use of the above items would adversely affect the health, safety, or welfare of people or wildlife resources;
- (15) The hunting, fishing, and trapping in the boundary waters of this state;
- (16) The release, hunting, and taking of animals and birds on private shooting preserves;
- (17) The establishment of, and the opening, closing, modifying, or curtailing of hunting, fishing, and trapping seasons, if the seasons are not established by statute;
- (18) The setting of fees for special licenses not covered by statute to manage specific and limited wildlife populations;
- (19) The number of persons who may cooperate as a group in the pursuit, hunting, taking, or killing of game birds or game animals;
- (20) The acquisition, possession, use, and disposition of raptors;
- (21) The acquisition, possession, transportation, sale, and release of bait fish and frogs;
- (22) The regulation of, and the acquisition, possession, transportation, sale, and release of fish, from private fish hatcheries;
- (23) The regulation of fish houses or other sheltering structures maintained upon the ice of any public waters;
- (24) The issuance and cancellation of taxidermist licenses and the acquisition, possession, and disposition of specimens for taxidermy purposes;
- (25) The operation of controlled hunting areas.

The rules shall be adopted pursuant to chapter 1-26 and shall be in accordance with the provisions of this chapter.



A violation of the substantive provision of any rule authorized by this section is a Class 2 misdemeanor. If the same incident is a violation of statute and of the rules authorized by this section only the penalty authorized for the violation of the statute may be imposed.

## South Dakota AIS Regulations

### S.D. Admin. R. Art. 41:10, Ch. 41:10:04 (Aquatic Nuisance Species)

#### R. 41:10:04:01. List of aquatic invasive species.

Species classified as aquatic invasive species in the state are as follows;

(1) Fish:

- (a) Black carp, *Mylopharyngodon piceus*;
- (b) Common carp, *Cyprinus carpio*;
- (c) Grass carp, *Ctenopharyngodon idella*;
- (d) Bighead carp, *Hypophthalmichthys nobilis*;
- (e) Silver carp, *Hypophthalmichthys molitrix*;
- (f) European rudd, *Scardinius erythrophthalmus*;
- (g) Giant snakehead, *Channa micropeltes*;
- (h) Northern snakehead, *Channa argus*;
- (i) Bullseye snakehead, *Channa marulius*;
- (j) Blotched snakehead, *Channa maculata*; and
- (k) Western mosquitofish, *Gambusia affinis*;

(2) Plants:

- (a) Brittle naiad, *Najas minor*;
- (b) Curly pondweed, *Potamogeton crispus*;
- (c) Didymo, *Didymosphenia geminata*;
- (d) Eurasian water-milfoil, *Myriophyllum spicatum*;
- (e) Purple loosestrife, *Lythrum salicaria*;
- (f) Flowering rush, *Butomus umbellatus*; and
- (g) Common reed, *Phragmites australis*;

(3) Invertebrates:

- (a) New Zealand mudsnail, *Potamopyrgus antipodarum*;
- (b) Rusty crayfish, *Orconectes rusticus*;
- (c) Zebra mussel, *Dreissena polymorpha*;
- (d) Quagga mussel, *Dreissena rostriformis bugensis*;
- (e) Asian clam, *Corbicula fluminea*;
- (f) Red rimmed melania, *Melanoides tuberculata*; and
- (g) Red swap crayfish, *Procambarus clarkii*.

#### R. 41:10:04:02. Aquatic invasive species restrictions.

No person may possess, transport, sell, purchase, or propagate an aquatic invasive species except for the following:

- (1) A person possessing a valid scientific collectors permit issued by the department;

(2) A person authorized by the department to stock triploid grass carp for pond management purposes;

(3) A person contracted by the department to conduct commercial fishing operations as authorized in SDCL 41-13-7; or

(4) A person in the process of removing an aquatic invasive species from a boat, motorboat, or equipment and returning it to the water from which it came.

In the case of fish and crayfish species, only dead specimens may be transported or possessed.

**R. 41:10:04:03. Watercraft restrictions.**

No person may launch or attempt to launch a boat or boat trailer into the waters of the state with an aquatic invasive species attached or onboard. Except for emergency response boats, all trailered boats shall have all drain plugs, bailers, valves or other devices used to control the drainage of water opened or removed except while in a boat ramp parking area or while being launched or loaded.

**R. 41:10:04:04. Watercraft inspections.**

Any boat or boat trailer may be inspected by a department representative. A department representative may require the removal of aquatic vegetation and aquatic invasive species from any boat, motor, trailer, and associated equipment. If an aquatic invasive species is found during inspection, a department-approved decontamination process, specific to the aquatic invasive species present, is required before launching or transport of the boat to another water of the state.

**R. 41:10:04:05. Fish and bait transportation restrictions.**

Except as authorized by the Secretary, a person may not transport fish or aquatic bait in water obtained from a lake, river, or stream except when in a boat ramp parking area.

## **Tahoe Regional Planning Agency AIS Provisions**

*Compiled 10/26/15*

**Bi-State Compact (Nev. Stat. § 277.200; Cal. Gov't Code § 66801).**

### **Art. 1. Findings and Declarations of Policy**

(a) It is found and declared that:

...

(b) In order to enhance the efficiency and governmental effectiveness of the region, it is imperative that there be established a Tahoe Regional Planning Agency with the powers conferred by this compact including the power to establish environmental threshold carrying capacities and to adopt and enforce a regional plan and implementing ordinances which will achieve and maintain such capacities while providing opportunities for orderly growth and development consistent with such capacities.

(c) The Tahoe Regional Planning Agency shall interpret and administer its plans, ordinances, rules and regulations in accordance with the provisions of this compact.

Art. VI, subsection (a). The governing body shall adopt all necessary ordinances, rules, and regulations to effectuate the adopted regional plan.

Art. V, subsection (b). The agency shall develop, in cooperation with the States of California and Nevada, environmental threshold carrying capacities for the region.

Art. V, subsection (c). Within 1 year after the adoption of the environmental threshold carrying capacities for the region, the agency shall amend the regional plan so that, at a minimum, the plan and all its elements, as implemented through agency ordinances, rules and regulations, achieves and maintains the adopted environmental threshold carrying capacities.

Art. II, subsection (i). "Environmental threshold carrying capacity" means an environmental standard necessary to maintain a significant scenic, recreational, educational, scientific or natural value of the region or to maintain public health and safety within the region. Such standards shall include but not be limited to standards for air quality, water quality, soil conservation, vegetation preservation and noise.

### **Environmental Thresholds (Resolution No. 82-11)**

#### **Water Quality: Littoral Lake Tahoe Aquatic Invasive Species Management Standard**

Prevent the introduction of new aquatic invasive species into the region's waters and reduce the abundance and distribution of known aquatic invasive species. Abate harmful ecological, economic, social and public health impacts resulting from aquatic invasive species.

## **Code of Ordinances Ch. 63.4. Aquatic Invasive Species**

Aquatic invasive species (AIS) pose a serious threat to the waters of the Lake Tahoe region and can have a disastrous impact to the ecology and economy of the Tahoe Region. The following provisions are necessary to prevent the introduction and spread of aquatic invasive species.

### **63.4.1. Prohibition**

- A. The transport or introduction of aquatic invasive species into the Lake Tahoe region.
- B. The launching of any watercraft or landing of any seaplane contaminated with aquatic invasive species into the waters of the Tahoe region.
- C. The provision of inaccurate or false information to the TRPA or persons designated to conduct inspections pursuant to subsection 63.4.2.
- D. The alteration or modification of any inspection seal or other device used by TRPA or its designee to indicate that a watercraft or seaplane last entered the waters of the Lake Tahoe region.

### **63.4.2. Watercraft Inspections and Decontamination**

- A. All motorized watercraft shall be inspected by TRPA or its designee prior to launching into the waters of the Lake Tahoe region to detect the presence, and prevent the introduction of, aquatic invasive species. Non-motorized watercraft and seaplanes may be subject to an inspection prior to entering the waters of the Lake Tahoe region if determined necessary by the TRPA or its designee.
- B. All watercraft and seaplanes inspected pursuant to subparagraph 63.4.2.A shall be subject to decontamination if determined necessary by the TRPA or its designee.
- C. All Watercraft and seaplanes subject to decontamination pursuant to subparagraph 63.4.2.B shall be permitted to enter the waters of the Lake Tahoe region only if: (a) the decontamination is performed and completed by an individual trained and certified pursuant to TRPA standards and requirements for aquatic invasive species decontamination, and (b) following decontamination, the launch or landing, as appropriate, is authorized by an inspector trained and certified pursuant to TRPA's standards and requirements for aquatic invasive species inspections.
- D. Inspections and decontaminations performed pursuant to Section 63.4 shall be subject to a fee related to the costs of performing such services and other Watercraft inspection program costs. The TRPA Governing Board shall review and approve the fee amount and structure annually.
- E. An owner and/or operator of a boat ramp (excluding Marine Railway Systems) or other boat launch facility shall close any ramp or facility if the provisions of subparagraphs 63.4.2.A-C are not met in order to prevent the launching of motorized watercraft.

**F.** Any watercraft or seaplane entering the waters of the Lake Tahoe region in violation of Chapter 63: *Fish Resources* shall be removed from those waters immediately.

**G.** Any individual who launches watercraft in violation of Section 63.4 may be held responsible for the costs expended by the TRPA or its designee for response and mitigation of impacts.

**Texas AIS Statutes**

*Compiled 10/15/15*

**Tex. Parks & Wild. Code Tit. 5, Ch. 66 (Fish and Aquatic Plants)**

**§ 66.007. Exotic Harmful or Potentially Harmful Fish and Shellfish**

(a) No person may import, possess, sell, or place into the public water of this state exotic harmful or potentially harmful fish or shellfish except as authorized by rule or permit issued by the department.

(b) The department shall publish a list of exotic fish and exotic shellfish for which a permit under Subsection (a) is required.

(c) The department shall make rules to carry out this section.

(c-1) The commission by rule shall waive the initial and renewal fees for an exotic species permit if the permit or permit renewal is requested by a public school to establish and maintain an educational program that will give students experience with a sustainable system of agriculture that mixes aquaculture and hydroponics. To qualify for the fee waiver, the school must submit an application to the department showing that the school's program meets the department's requirements, including requirements for supervision, handling of the exotic species, and control of wastes.

(d) A fish farmer may import, possess, or sell harmful or potentially harmful exotic fish species as provided by Section 134.020, Agriculture Code.

(e) In this section:

(1) "Exotic fish" means a nonindigenous fish that is not normally found in the public water of this state.

(2) "Exotic shellfish" means a nonindigenous shellfish that is not normally found in the public water of this state.

(3) "Public water" has the meaning assigned by Section 66.015.

(f) A fish farmer may not import, possess, propagate, or transport exotic shellfish unless the fish farmer furnishes evidence required by the department showing that the shellfish are free of disease.

(g) The commission may adopt rules to control a disease or agent of disease transmission that:

(1) may affect penaeid shrimp species; and

(2) has the potential to affect cultured species or other aquatic species.

(h) If one or more manifestations of disease is observed in any cultured marine penaeid shrimp species, the department shall immediately place the aquaculture facility under quarantine condition. The department shall determine, by rule, the meaning of “manifestation of disease” and “quarantine condition” under this section.

(i) The department may coordinate with the Texas Animal Health Commission regarding testing for diseases.

(j) Except as provided in Subsection (k), an operator of an aquaculture facility under quarantine condition may not discharge waste or another substance from the facility except with approval of the department and a wastewater discharge authorization from the Texas Commission on Environmental Quality.

(k) Even if under quarantine condition, an aquaculture facility shall discharge wastewater or another substance as necessary to comply with an emergency plan that has been submitted to and approved by the department and incorporated into a wastewater discharge authorization issued by the Texas Commission on Environmental Quality.

(l) On receiving notice from an owner of the observance of manifestations of disease, the department shall immediately:

(1) notify the Department of Agriculture, the Texas Commission on Environmental Quality, and the Texas Animal Health Commission; and

(2) advise the Department of Agriculture, the Texas Commission on Environmental Quality, and the Texas Animal Health Commission regarding the appropriate action to be taken.

(m) A water transfer described by this subsection is not a violation of this section. The department may not require a permit under this section for a water transfer described by this subsection. This subsection applies to a water transfer by a district or authority created under Section 59, Article XVI, Texas Constitution, that:

(1) is initially conveyed by a water intake structure that is:

(A) shared by at least two districts or authorities; and

(B) located on a reservoir situated on the boundary of this state and another state;

(2) uses a closed conveyance system approved by the United States Army Corps of Engineers in accordance with an invasive species management plan approved by the United States Army Corps of Engineers; and

(3) contributes to a water supply that serves at least 1.5 million people, all of whom reside in an area that:



- (A) borders another state;
- (B) contains at least 10 contiguous counties;
- (C) contains at least one county with a population of more than one million; and
- (D) is adjacent to a county with a population of more than one million.

(n) A water transfer described by this subsection is not a violation of this section. The department may not require a permit under this section for a water transfer described by this subsection. This subsection applies to a water transfer that meets the following criteria:

(1) the transfer is through a water supply system, including a related water conveyance, storage, or distribution facility;

(2) the transfer is undertaken by a utility owned by a political subdivision, including a water district or municipality; and

(3) the transfer is described by one or more of the following:

(A) a transfer from a water body in which there is no known exotic harmful or potentially harmful fish or shellfish population;

(B) a transfer of water into a water body in which there is a known exotic harmful or potentially harmful fish or shellfish population;

(C) a transfer of water directly to a water treatment facility;

(D) a transfer of water that has been treated prior to the transfer into a water body; or

(E) a transfer of water from a reservoir or through a dam to address flood control or to meet water supply requirements or environmental flow purposes, provided that a person making a transfer of water described by this paragraph from a body of water in which there is a known exotic harmful or potentially harmful fish or shellfish population notifies the department annually in writing before the proposed transfer occurs.

### **§ 66.0071. Removal of Harmful Aquatic Plants**

On leaving any public or private body of water in this state, a person shall immediately remove and lawfully dispose of any exotic aquatic plant on the list of prohibited plants adopted under Section 66.0072 that is clinging or attached to the person's:

- (1) vessel or watercraft; or

(2) trailer, motor vehicle, or other mobile device used to transport or launch a vessel or watercraft.

**§ 66.0072. Exotic Harmful or Potentially Harmful Aquatic Plants**

(a) In this section:

(1) “Exotic aquatic plant” means a nonindigenous aquatic plant that is not normally found in the public water of this state.

(2) “Public water” has the meaning assigned by Section 66.015.

(b) A person may not import, possess, sell, or place into the public water of this state an exotic harmful or potentially harmful aquatic plant except as authorized by commission rule or a permit issued by the department.

(c) The commission by rule shall adopt a list of exotic aquatic plants that may not be imported into or possessed in this state without a permit.

(d) The commission may enact an emergency rule as provided by Chapter 2001, Government Code, to add an exotic aquatic plant to the list of prohibited plants if the plant is determined to be harmful or potentially harmful.

(e) This section does not apply to any microalgae imported, possessed, used, or sold for biofuel, academic, or research and development purposes. The department shall consult with the Department of Agriculture as necessary to administer this section and may not adopt rules or permits for microalgae imported, possessed, used, or sold for biofuel, academic, or research and development purposes without written approval from the Department of Agriculture of the rules or permits.

(f) The commission shall adopt rules to implement this section.

(g) A water transfer described by this subsection is not a violation of this section. The department may not require a permit under this section for a water transfer described by this subsection. This subsection applies to a water transfer that meets the following criteria:

(1) the transfer is through a water supply system, including a related water conveyance, storage, or distribution facility;

(2) the transfer is undertaken by a utility owned by a political subdivision, including a water district or municipality; and

(3) the transfer is described by one or more of the following:

(A) a transfer from a water body in which there is no known exotic harmful or potentially harmful aquatic plant population;

(B) a transfer of water into a water body in which there is a known exotic harmful or potentially harmful aquatic plant population;

(C) a transfer of water directly to a water treatment facility;

(D) a transfer of water that has been treated prior to the transfer into a water body; or

(E) a transfer of water from a reservoir or through a dam to address flood control or to meet water supply requirements or environmental flow purposes, provided that a person making a transfer of water described by this paragraph from a body of water in which there is a known exotic harmful or potentially harmful aquatic plant population notifies the department annually in writing before the proposed transfer occurs.

### **§ 66.0073. Rules Requiring Water to be Drained**

(a) In this section:

(1) “Public water” has the meaning assigned by Section 66.015.

(2) “Salt water” has the meaning assigned by Section 66.001.

(3) “Vessel” has the meaning assigned by Section 31.003.

(b) The commission may adopt rules requiring a person leaving or approaching public water to drain from a vessel or portable container on board the vessel any water that has been collected from or has come in contact with public water. This subsection does not apply to salt water.

(c) When promulgating rules described by Subsection (b), the commission shall consider the effects on boaters, anglers, and local interests while maintaining the ability to prevent the spread of harmful or potentially harmful exotic fish, shellfish, and aquatic plants.

(d) If the commission adopts rules described by Subsection (b), an authorized employee of the department may inspect a vessel leaving or approaching public water, including any portable containers on board the vessel, for the presence of water. This subsection does not apply to a vessel that is on public water.

## Texas AIS Regulations

*Compiled 10/15/15*

### **Texas Admin. Code, Tit. 31, Ch. 57, Subch. A (Harmful or Potentially Harmful Fish, Shellfish, and Aquatic Plants)**

#### **§ 57.111. Definitions**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Aquaculture or fish farming--The business of producing and selling cultured species raised in private facilities.
- (2) Aquaculturist or fish farmer--Any person engaged in aquaculture.
- (3) Aquaculture facility--The property, including all drainage ditches and private facilities where cultured species are produced, held, propagated, transported or sold.
- (4) Aquaculture complex--A group of two or more separately owned aquaculture facilities located at a common site and sharing privately owned water diversion or drainage structures.
- (5) Beheaded--The complete detachment of the head (that portion of the fish from the gills to the nose; that portion of the shrimp called the carapace) from the body.
- (6) Certified Inspector--An employee of the Texas Parks and Wildlife Department who has satisfactorily completed a department approved course in clinical analysis of shellfish.
- (7) Cultured species--Aquatic plants, fish, or shellfish raised under conditions where at least a portion of their life cycle is controlled by an aquaculturist.
- (8) Clinical Analysis Checklist--A TPWD form specifying sampling protocols and listing certain characteristics which may constitute manifestations of disease.
- (9) Department--The Texas Parks and Wildlife Department or a designated employee of the department.
- (10) Director--The executive director of the Texas Parks and Wildlife Department.
- (11) Disease--Contagious pathogens or injurious parasites which may be a threat to the health of natural populations of aquatic organisms.
- (12) Disease-Free--A status, based on the results of an examination conducted by a department approved shellfish disease specialist that certifies a group of aquatic organisms as being free of disease.

(13) Exotic species--A nonindigenous aquatic plant, fish, or shellfish not normally found in public water of this state.

(14) Gutted--The complete removal of all internal organs and entrails.

(15) Harmful or potentially harmful exotic fish-

(A) Lampreys: Family Petromyzontidae--all species except *Ichthyomyzon castaneus* and *I. gagei*;

(B) Freshwater Stingrays: Family Potamotrygonidae--all species;

(C) Arapaima: Family Arapaimidae--*Arapaima gigas*;

(D) South American Pike Characoids: Family Acestrorhynchidae--all species of genus *Acestrorhynchus*;

(E) African Tiger Fishes: Family Alestidae--all species of genus *Hydrocynus*;

(F) Piranhas: Family Characidae (Subfamily Serrasalminae)--all species of the genera *Catopryon*, *Pristobrycon*, *Pygocentrus*, *Pygopristis*, and *Serrasalmus*;

(G) Dogtooth characins (Payara and vampire tetras): Family Cynodontidae--all species of genera *Hydrolycus*, *Rhaphiodon*, and *Cynodon*;

(H) Dourados: Family Characidae (Subfamily Salmininae)--all species of genus *Salminus*;

(I) South American Tiger Fishes: Family Erythrinidae--all species;

(J) South American Pike Characids: Family Ctenoluciidae--all species of genera *Ctenolucius* and *Boulengerella*;

(K) African Pike and Lute Fishes: Families Hepsetidae and Citharinidae--all species;

(L) Electric Eels: Family Gymnotidae--*Electrophorus electricus*;

(M) Carps and Minnows: Family Cyprinidae--all species and hybrids of species of genera:

*Aspius*, *Pseudaspius*, and *Aspiolucius* (*Asps*); *Abramis*, *Blicca*, *Megalobrama*, and

*Parabramis* (Old World Breams); *Hypophthalmichthys* (Bighead and Silver Carp);

*Mylopharyngodon* (Black Carp); *Ctenopharyngodon* (Grass Carp); *Cirrhinus*; *Thynnichthys*;

*Gibelion* (Catla); *Leuciscus* (Eurasian Daces); *Tor*, and *Neolissochilus hexagonolepis*

(Barbs and Mahseers); *Rutilus* (Roaches); *Scardinius* (Rudds); *Elopichthys* (Yellowcheek);

*Catlocarpio* (Giant Barb); all species of the genus *Labeo* except *Labeo chrysophekadion*

(Black Sharkminnow);

(N) Walking Catfishes: Family Clariidae--all species;

(O) Electric Catfishes: Family Malapteruridae--all species;

(P) South American Parasitic Candiru Catfishes: Family Trichomycteridae--all species;

(Q) Pike Killifish: Family Poeciliidae--*Belonesox belizanus*;

(R) Marine Stonefishes: Family Synanceiidae--all species;

(S) Tilapia: Family Cichlidae--all species of genera *Tilapia*, *Oreochromis*, and *Sarotherodon*;

(T) Asian Pikeheads: Family Osphronemidae--all species of the genus *Luciocephalus*;

(U) Snakeheads: Family Channidae--all species;

(V) Perch: Family Percidae--all species of the genus *Sander* except *Sander canadensis* and *S. vitreus* and hybrids between these two species and all species of genus *Gymnocephalus*;

(W) Nile Perch: Family Latidae--all species of genus *Lates*;

(X) Seatrouts and Corvinas: Family Sciaenidae--all species of genus *Cynoscion* except *Cynoscion arenarius*, *C. nebulosus*, and *C. nothus*;

- (Y) Whale Catfishes: Family Cetopsidae--all species;
- (Z) Airsac Catfishes: Family Heteropneustidae--all species;
- (AA) Swamp Eels, Rice Eels, or One-Gilled Eels: Family Synbranchidae--all species;
- (BB) Freshwater Eels: Family Anguillidae--all species except *Anguilla rostrata*;
- (CC) Round Gobies: Family Gobiidae--all species of genus *Neogobius*;
- (DD) Temperate Basses: Family Moronidae--all species except *Morone chrysops*, *M. mississippiensis*, and *M. saxatilis* and hybrids of these species; and
- (EE) Temperate Perches: Family Percichthyidae--all species.

(16) Harmful or potentially harmful exotic shellfish-

- (A) Crayfishes: Family Parastacidae--all species;
- (B) Mitten Crabs: Family Varunidae--all species of genus *Eriocheir*;
- (C) Zebra Mussels: Family Dreissenidae--all species of genus *Dreissena*;
- (D) Penaeid Shrimp: Family Penaeidae--all species of genera *Penaeus*, *Litopenaeus*, *Farfantepenaeus*, *Fenneropenaeus*, *Marsupenaeus*, and *Melicertus* except *Litopenaeus setiferus*, *Farfantepenaeus aztecus*, and *F. duorarum*;
- (E) Oysters: Family Ostreidae--all species except *Crassostrea virginica* and *Ostrea equestris*; and
- (F) Applesnails and Giant Rams-Horn Snails: Family Ampullariidae--all species of the genera *Marisa* and *Pomacea* except *Pomacea bridgesi* (spiketop applesnail).

(17) Harmful or potentially harmful exotic plants-

- (A) Dotted Duckweed: Family Araceae--*Landoltia punctata*;
- (B) Salvinia: Family Salviniaceae--all species of genus *Salvinia*;
- (C) Water hyacinth: Family Pontederiaceae--*Eichhornia crassipes* (floating water hyacinth) and *E. azurea* (rooted water hyacinth);
- (D) Waterlettuce: Family Araceae--*Pistia stratiotes*;
- (E) Hydrilla: Family Hydrocharitaceae--*Hydrilla verticillata*;
- (F) Lagarosiphon: Family Hydrocharitaceae--*Lagarosiphon major*;
- (G) Eurasian Watermilfoil: Family Haloragaceae--*Myriophyllum spicatum*;
- (H) Alligatorweed: Family Amaranthaceae--*Alternanthera philoxeroides*;
- (I) Paperbark: Family Myrtaceae--*Melaleuca quinquenervia*;
- (J) Torpedograss: Family Poaceae--*Panicum repens*;
- (K) Water spinach (also called ong choy, rau mong and kangkong): Family Convolvulaceae--*Ipomoea aquatica*.
- (L) Ambulia (Asian marshweed): Family Scrophulariaceae--*Limnophila sessiliflora*;
- (M) Arrowleaf False Pickerelweed: Family Pontederiaceae--*Monochoria hastate*;
- (N) Heartshaped False Pickerelweed: Family Pontederiaceae--*Monochoria vaginalis*;
- (O) Duck-lettuce: Family Hydrocharitaceae--*Ottelia alismoides*;
- (P) Wetland Nightshade: Family Solanaceae--*Solanum tampicense*;
- (Q) Exotic Bur-reed: Family Sparganiaceae--*Sparganium erectum*;
- (R) Brazilian Peppertree: Family Anacardiaceae--*Schinus terebinthifolius*; and
- (S) Purple Loosestrife: Family Lythraceae--*Lythrum salicaria*.

- (18) Harmful or potentially harmful exotic species exclusion zone--That part of the state that is both south of SH 21 and east of I-35, but not including Brazos County.
- (19) Immediately--Without delay; with no intervening span of time.
- (20) Manifestations of disease--Manifestations of disease include, but are not limited to, one or more of the following: heavy or unusual predator activity, empty guts, emaciation, rostral deformity, digestive gland atrophy or necrosis, gross pathology of shell or underlying skin typical of viral infection, fragile or atypically soft shell, gill fouling, or gill discoloration.
- (21) Nauplius or nauplii--A larval crustacean having no trunk segmentation and only three pairs of appendages.
- (22) Operator--The person responsible for the overall operation of a wastewater treatment facility.
- (23) Place of business--A permanent structure on land where aquatic products or orders for aquatic products are received or where aquatic products are sold or purchased.
- (24) Post-larvae--A juvenile crustacean having acquired a full complement of functional appendages.
- (25) Private facility--A pond, tank, cage, or other structure capable of holding cultured species in confinement wholly within or on private land or water, or within or on permitted public land or water.
- (26) Private facility effluent--Any and all water which has been used in aquaculture activities.
- (27) Private pond--A pond, tank, lake, or other structure capable of holding cultured species in confinement wholly within or on private land.
- (28) Public aquarium--An American Association of Zoological Parks and Aquariums accredited facility for the care and exhibition of aquatic plants and animals.
- (29) Public waters--Bays, estuaries, and water of the Gulf of Mexico within the jurisdiction of the state, and the rivers, streams, creeks, bayous, reservoirs, lakes, and portions of those waters where public access is available without discrimination.
- (30) Quarantine condition--Confinement of exotic shellfish such that neither the shellfish nor the water in which they are or were maintained comes into contact with water in the state and with other fish and/or shellfish.
- (31) Shellfish disease specialist--A person with a degree in veterinary medicine or a Ph.D. who specializes in disease of shellfish.

(32) Triploid grass or black carp--A grass carp (*Ctenopharyngodon idella*) or black carp (*Mylopharyngodon piceus*) that has been certified by the United States Fish and Wildlife Service as having 72 chromosomes and as being functionally sterile.

(33) Waste--Waste shall have the same meaning as in Chapter 26, § 26.001(6) of the Texas Water Code.

(34) Water in the state--Water in the state shall have the same meaning as in Chapter 26, § 26.001(5) of the Texas Water Code.

(35) Wastewater treatment facility--All contiguous land and fixtures, structures or appurtenances used for treating wastewater pursuant to a valid permit issued by the Texas Commission on Environmental Quality.

**Texas Admin. Code, Tit. 31, Ch. 57, Div. 4 (Special Provisions to Prevent the Spread of Exotic Aquatic Species)**

**§ 57.1000. Prohibited Transport of Live Nongame Fish**

No person may leave a body of water listed in this section while in possession of a live nongame fish:

(1) the Red River below Lake Texoma downstream to the Texas/Arkansas border;

(2) Big Cypress Bayou downstream of Ferrell's Bridge Dam on Lake O' the Pines, including the Texas waters of Caddo Lake; and

(3) the Sulphur River downstream of the Lake Wright Patman dam to the Texas/Arkansas border.

**§ 57.1001. Draining of Water from Vessels Leaving or Approaching Public Fresh Water**

For the purposes of this section, “vessel” has the meaning assigned by Parks and Wildlife Code, § 31.003, and “boat ramp” means a boat ramp, launch area, or any other access point that can be used to access public water, and includes parking areas, parking overflow areas, and any other area in the immediate vicinity of the ramp, launch, or access point where a vehicle, trailer, or vessel may be parked while waiting to launch or retrieve a vessel.

(1) General Provisions. Except as provided in paragraph (2) of this section, no person may use any public roadway other than a boat ramp to transport a vessel to or from a public water body to which the provisions of paragraph (3) of this section apply unless all bilges, live wells, and other similar receptacles and systems holding or capable of holding water on board the vessel as a result of immersion in or transfer from the public water body have been drained.

(2) Exceptions.



(A) The provisions of paragraph (1) of this section do not apply to:

(i) a person travelling on a public roadway via the most direct route to another access point located on the same body of water, provided the beginning and ending of the travel occur within a single 24-hour period;

(ii) water contained in marine sanitary systems;

(iii) a person in possession of a receptacle containing water and live bait purchased from a commercial bait dealer, provided:

(I) the person also possesses a dated receipt, bill of sale, or other written evidence that identifies the name and commercial location of the dealer; and

(II) the live bait, if it has come into contact with public water to which the provisions of paragraph (3) of this section apply, is used only on the water body from which the public water was obtained;

(iv) government employees or persons under contract to a governmental entity in the performance of official duties that involve the use of a vessel in an emergency response to a threat to human health or safety, or property; or

(v) a person who is a participant in a fishing tournament (as defined by Parks and Wildlife Code, § 66.023), provided:

(I) the tournament fishing activities are restricted to a single public water body on any given day;

(II) the weigh-in site is not located on the body of water on which the tournament is held;

(III) all water other than water in a live well has been drained from the vessel as required by this section;

(IV) the live well is being transported by the most direct route to an official weigh-in location designated by the tournament;

(V) the water in the live well is drained or properly disposed of before the vessel leaves the weigh-in location; and

(VI) the person in possession of the water in the live well also possesses documentation provided by a fishing tournament representative that bears the participant's name, the date, water body name, tournament name, location and time of the weigh-in, and the name and phone number of a tournament representative.

(B) A government employee or persons under contract to a governmental entity may remove water for purposes of testing or analysis from a public water body to which the provisions of paragraph (3) of this section apply; however, the water must be in closed, portable container and all bilges, live wells, motors, and other similar receptacles and systems holding or capable of holding water on board the vessel as a result of immersion in or transfer from the public water body must be drained.

(3) This section applies to all public fresh water in Texas.

## Utah AIS Statutes

*Compiled 10/15/15*

### Utah. Code Tit. 23, Ch. 27 (Aquatic Invasive Species Interdiction Act)

#### § 23-27-101. Title

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

#### § 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.

### **§ 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.

### **§ 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.

**§ 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.

**§ 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.

**§ 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.

### **§ 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.

### **Utah. Code Tit. 73, Ch. 18 (State Boating Act)**

#### **§ 73-18-22. Boating Account created--Contents--Use of money**

- (1) There is created within the General Fund a restricted account known as the Boating Account.
- (2) The restricted account shall consist of:
  - (a) except as provided under Sections 73-18-24 and 73-18-25, all registration fees and related money collected by the division or an authorized agent, less the costs of collecting motorboat and sailboat registration fees by an authorized agent; and
  - (b) aquatic invasive species mitigation fees collected under Section 73-18-26.
- (3) The amount retained by an authorized agent under Subsection (2)(a) may not exceed 20% of the fees charged in Section 73-18-7.
- (4) Except as provided in Subsection (5), money in the Boating Account may be used for:
  - (a) the construction, improvement, operation, and maintenance of publicly owned boating facilities;
  - (b) boater education; and



(c) the payment of the costs and expenses of the division in administering and enforcing this chapter.

(5) Fees collected under Section 73-18-26 and deposited into the Boating Account shall be used for aquatic invasive species

**§ 73-18-26. Aquatic invasive species fee--Amount--Deposit**

(1) In addition to the registration fee imposed under Section 73-18-7, there is imposed an aquatic invasive species mitigation fee of \$10 on a motorboat or sailboat required to be registered under Section 73-18-7.

(2) The fee imposed under Subsection (1) shall be deposited in the Boating Account created in Section 73-18-22 for the purpose of aquatic invasive species interdiction.

## Utah AIS Regulations

### Utah. Admin. Code 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 23-27-102.

(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” or “Decontaminated” means to comply with one of the following methods:

(i) If no adult mussels are attached to the conveyance after exiting the water body, an owner or operator may self-decontaminate equipment or a conveyance that has been in an infested water in the previous 30 days by:

(A) removing all plants, fish, 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; or

- (iii) Complying with all protocols identified in a certificate of registration.
- (c) “Detected Water” or “Detected” means a water body, facility, or water supply system where the presence of a Dreissena mussel is indicated in two consecutive sampling events using visual identification or microscopy and the results of each sampling event is confirmed in two polymerase chain reaction tests, each conducted at independent laboratories.
- (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” or “Infested” means a water body, facility, water supply system, or geographic region where the presence of multiple age classes of attached Dreissena mussels is indicated in two or more consecutive sampling events using visual detection or microscopy and the result of each sampling event is confirmed in two polymerase chain reaction tests, each conducted at independent laboratories.
- (i) “Juvenile or adult Dreissena mussel” means a macroscopic Dreissena mussel that is not a veliger.
- (j) “Suspected Water” or “Suspected” means a water body, facility, or water supply system where the presence of a Dreissena mussel is indicated through a single sampling event using visual identification or microscopy and the result of that sampling event is confirmed in two independent polymerase chain reaction tests, each conducted at independent laboratories.
- (k) “Veliger” means a microscopic, planktonic larva of Dreissena mussel.
- (l) “Vessel” means every type of watercraft used or capable of being used as a means of transportation on water.
- (m) “Water body” means natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank, and fountain.
- (n) “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.

- (o) "Water supply system" does not include 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](http://www.wildlife.utah.gov/law/hsp/pf.php).

**R657-60-5. Transportation of Equipment and Conveyances That Have Been in Waters Containing Dreissena Mussels.**

- (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) decontaminated; or
  - (b) temporarily stored and subsequently returned to the same water body and take out site as provided in Subsection (5).
- (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) Except as provided in Subsection (5), 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.
- (5) Decontamination is not required when a conveyance or equipment is removed from an infested water or other water body subject to decontamination requirements, provided the conveyance and equipment is:
- (a) inspected and drained at the take out site, and is free from attached mussels, shelled organisms, fish, plants, and mud as required in Subsections (1) and (2);
  - (b) returned to the same water body and launched at the same take out site; and
  - (c) not placed in or on any other Utah water body in the interim without first being decontaminated.
- (6)(a) Division personnel may provide the operator of a vessel leaving an infested water, or any water subject to a closure order under R657-60-8 or control plan under R657-60-9, with an inspection certification indicating the date which that vessel left the water body.
- (b) An individual who receives a certification of inspection from the division must retain that certification of inspection until:

- (i) the operator returns to the same body of water and receives a new certification of inspection upon leaving the water body;
- (ii) the operator completes a certification of decontamination; or
- (iii) the operator receives a professional decontamination certificate.

**R657-60-6. Certification of Inspection; Certification of Decontamination; Certificate of Registration to Perform Decontamination.**

- (1) The owner, operator or possessor of a vessel desiring to launch on a water body in Utah must:
  - (a) present an inspection certificate to division personnel if required; and
  - (b) 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 R657-60-9 that requires decontamination of conveyances and equipment upon leaving the water; or
  - (c) 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)(b) 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)(b); or
  - (c) complying with the terms identified in a certificate of registration issued for alternative decontamination measures.
- (3) A certificate of registration to complete alternate forms of decontamination may be issued to an individual who:
  - (a) operates conveyances as a part of their business;
  - (b) whose conveyances cannot be decontaminated using self decontamination or professional decontamination as defined in R657-60-2(b)(i) and (ii).

- (4) 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.
- (5)(a) It is unlawful under Section 76-8-504 to knowingly falsify a decontamination certification form.
  - (b) It is unlawful under Section 23-13-11(2) to alter or destroy a certificate of inspection prior to completing a decontamination certification form.
  - (c) The division may suspend, revoke, or terminate a certificate of registration if the business entity or an employee thereof has violated a term of this rule, the Wildlife Resources Code, or a certificate of registration.

**R657-60-7. Wildlife Board Designations of Infested Waters.**

- (5) 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.
- (6) The Wildlife Board may designate a particular water body, facility, or water supply system within the state as Infested with *Dreissena* mussels when sampling indicates the water body, facility, or water supply system meets the minimum criteria for an Infested Water as defined in this rule.
- (7) The Wildlife Board may designate a particular water body, facility, or water supply system outside the state as Infested with *Dreissena* mussels when it has credible evidence suggesting the presence of a *Dreissena* mussel in that water body, facility, or water supply system.
- (8) Where the number of Infested Waters in a particular area is numerous or growing, or where surveillance activities or infestation containment actions are deficient, the Wildlife Board may designate geographic areas as Infested with *Dreissena* mussels.
- (9) The following water bodies and geographic areas are classified as infested:
  - (a) all coastal and inland waters in:
    - (i) Colorado;
    - (ii) California;
    - (iii) Nevada;
    - (iv) Arizona;
    - (v) all states east of Montana, Wyoming, Colorado, and New Mexico;
    - (vi) the provinces of Ontario and Quebec Canada; and
    - (vii) Mexico;
  - (b) Lake Powell and that portion of the:

- (i) Colorado River within the boundaries of Glen Canyon National Recreation Area;
  - (ii) Escalante River between Lake Powell and the Coyote Creek confluence;
  - (iii) Dirty Devil River between Lake Powell and the Highway 95 bridge; and
  - (iv) San Juan River between Lake Powell and Clay Hills Crossing; and
- (c) other waters established by the Wildlife Board and published on the DWR website.
- (10) The Wildlife Board may remove an infested classification if:
- (a) the division samples the affected water body for seven (7) consecutive years without a single sampling event producing evidence sufficient to satisfy the criteria for a “suspected” classification, as defined in this rule; or
  - (b) the controlling entity eradicates all *Dreissena* mussels at the water body, facility, or water supply system through chemical or biological treatments, desiccation, or freezing, and the division verifies in writing that *Dreissena* mussels are no longer present.

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

- (1) (a) The division may classify a water body, facility, or water supply system as suspected or detected if it meets the minimum criteria for suspected or detected, as defined in this rule.
- (b) If the division classifies a water body, facility, or water supply system as either suspected or detected, 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.
  - (c) 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.
  - (d) 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 presence of Dreissena mussels 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)(a) 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.
- (b) 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 suspected or detected water supply system where the controlling entity has prepared and implemented a control plan in cooperation with the division that effectively 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.
- (6) A closure order or control plan shall remain effective so long as the water body, water supply system, or facility remains classified as suspected or detected.
- (7) The director or his designee may remove a Suspected classification if:
- (a) the division samples the affected water body for three (3) consecutive years without a single sampling event producing evidence sufficient to satisfy the criteria for a “suspected” classification, as defined in this rule; or
  - (b) the controlling entity eradicates all Dreissena mussels at the water body, facility, or water supply system through chemical or biological treatments, desiccation, or freezing, and the division verifies that Dreissena mussels are no longer present.
- (8) The director or his designee may remove a detected classification if:

- (a) the division samples the affected water body for five (5) consecutive years without a single sampling event producing evidence sufficient to satisfy the criteria for a “suspected” classification, as defined in this rule; or
- (b) the controlling entity eradicates all *Dreissena* mussels at the water body, facility, or water supply system through chemical or biological treatments, desiccation, or freezing, and the division verifies that *Dreissena* mussels are no longer present.

**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 a water body, facility, or water supply system within the state is classified as infested, detected, or suspected, and it does not have an approved control plan, the controlling entity shall cooperate with the division in developing and implementing a control plan to address the:

- (a) scope and extent of the presence of *Dreissena* mussels;
- (b) actions proposed to control the pathways of spread of *Dreissena* mussels;
- (c) actions proposed to control the spread or eradicate the presence of *Dreissena* mussels;
- (d) methods to decontaminate the water body, facility, or water supply system, if possible;
- (e) actions required to systematically monitor the presence of *Dreissena* mussels; and
- (f) requirements and methods to update and revise the plan with scientific advances.

(4) All control plans 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) temporarily 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.

**R657-60-13. Inspection Stations.**

- (1) Inspection stations may be established for administrative purposes to interdict the spread of Dreissena mussels consistent with Utah Code Title 23, Chapter 27 “Aquatic Invasive Species Act,” and this rule.
- (2) The Division may establish inspection stations at locations authorized under Section 23-27-301 where:
  - (a) there is a high probability of intercepting conveyances or equipment transporting Dreissena mussels;
  - (b) there is typically a high level of boat and trailer traffic; or
  - (c) inspection of conveyances or equipment will provide increased protection against the introduction of Dreissena mussels into a water body that is not classified as infested, suspected, or detected under R657-60-2.
- (3) Inspection stations shall have adequate space for conveyances or equipment to be stopped, inspected, and if necessary, decontaminated, without interfering with the public's use of highways or presenting a safety risk to the public.
- (4) Inspection stations shall have adequate signage providing the public:

(a) notice that the inspection station is open and operational;

(b) notice that all persons transporting conveyances or equipment must stop at the inspection station and submit their conveyance and equipment for inspection; and

(c) an adequate opportunity to safely stop at the inspection station.

(5) Any person transporting a conveyance or equipment is required to stop at an inspection station during its hours of operation and submit that conveyance or equipment to the Division for inspection.

(6) The Division shall conduct an inspection of a conveyance or equipment that is stopped at an inspection station as follows:

(a) Division personnel will determine whether the conveyance or equipment has been in an infested, suspected, or detected water body within the past 30 days.

(b) If the conveyance or equipment has not been in an infested, suspected, or detected water body within the past 30 days, the Division will:

(i) conduct a brief visual inspection of the conveyance or equipment to ensure that there are no visible *Dreissena* mussels;

(ii) provide educational materials regarding aquatic invasive species risks and regulations in Utah; and

(iii) provide a certificate of inspection to the person in possession of the conveyance or equipment.

(c) If the conveyance or equipment has been in an infested, suspected, or detected water body within the past 30 days, the Division will:

(i) verify all water is drained from the conveyance or equipment, including water held in ballast tanks, bilges, livewells, motors, and other areas of containment;

(ii) verify that the surface of the conveyance or equipment is free of *Dreissena* mussels, shelled organisms, fish, plants, and mud; and

(iii) verify that the conveyance or equipment has been or will be decontaminated as defined in R657-60-2(b) before launching in a Utah water body.

(d) The Division may require professional decontamination of conveyances or equipment that have been in an infested, suspected, or detected water within the past 30 days and failed to comply with the draining and cleaning requirements established in R657-60-5(3).

(7) The Division may issue a certification of inspection and decontamination to persons who complete inspections and any applicable decontamination at an inspection station.

(8) Inspection stations shall be operated in a manner that minimizes the length of time of an inspection while ensuring that conveyances are free from the presence of Dreissena mussels.

**Utah. Admin. Code R652-70 (Sovereign Lands)**

**R652-70-2300. Management of Bear Lake Sovereign Lands.**

*\* AIS-relevant provision: R652-70-2300(9)*

- (1) Lands lying below the ordinary high water mark of Bear Lake as of the date of statehood are owned by the state of Utah and shall be administered by the division as sovereign lands.
- (2) Upon application for a specific use of state lands near the boundary of Bear Lake, or in the event of a dispute as to the ownership of the sovereign character of the lands near the boundary of Bear Lake, the division may evaluate all relevant historical evidence of the lake elevation, the water erosion along the shoreline, the topography of the land, and other relevant information to determine the relationship of the land in question to the ordinary high water mark.
- (3) In the absence of evidence establishing the ordinary high water mark as of the date of statehood, the division shall administer all the lands within the bed of Bear Lake and lying below the level of 5,923.65 feet above mean sea level, Utah Power and Light datum, as being sovereign lands.
- (4) The division, after notice to affected state agencies and any person with an ownership in the land, may enter into agreements to establish boundaries with owners of land adjoining the bed of Bear Lake; provided that the agreements shall not set a boundary for sovereign lands below the level of 5,923.65 feet above mean sea level.
- (5) The established speed limit is 10 miles per hour.
- (6) Camping and use of motorized vehicles are prohibited between the hours of 10 p.m. and 7 a.m.
- (7) No campfires or fireworks are allowed.
- (8) The use and operation of motor vehicles on sovereign land at Bear Lake shall be governed by Utah Code 65A-3-1 and division plans.
- (9) Pursuant to 65A-2-6(2), to obtain a permit to launch or retrieve a motorboat on states lands surrounding Bear Lake, a person shall:

- (a) Complete the online Mussel-Aware Boater Program and receive a multiple use Decontamination Certification Form valid through the end of the calendar year as required and provided by the Utah Division of Wildlife Resources as part of the Aquatic Invasive Species Program.
- (10) A person may only purchase one (1) beach launching permit annually.
- (a) The permit is valid for the calendar year within which the permit is issued.
  - (b) The permit does not authorize launching or retrieving a motorboat or parking or operating a motor vehicle in an area designated as closed to motorized use.
  - (c) Lost or stolen permits may be replaced at the established fee.
- (11) The division may enter into an agreement with a local governmental entity or state agency to issue the beach launching permits in compliance with the requirements listed above.
- (a) The agreement will allow the entity or agency to establish a minimal administrative fee not to exceed \$25 for issuing the beach launching permit.
- (12) The division or the entity or agency with an agreement to issue the beach launching permit may revoke a permit or deny an applicant a permit to launch under the following circumstances:
- (a) The applicant fails to comply with the beach launching permit requirements and stipulations listed above (R652-70-2300(9)(a-b) and R652-70-2300(10)(a-c))
  - (b) the applicant fails to acquire a lease or permit for structures placed on sovereign lands that may include but is not limited to buoys, piers, docks (with the associated anchors/weights) or boat ramps as required in R652-70-300.
- (13) Persons found in violation of 65A-3-1(1-3) are subject to the criminal penalties set forth in 76-3-204 and 76-3-301 as determined by the court as well as civil damages set forth in 65A-3-1(3).

## **Washington AIS Statutes**

*Compiled 10/15/15*

### **Wash. Rev. Code Tit. 43, Ch. 43.43 (Washington State Patrol)**

#### **§ 43.43.400. Aquatic invasive species enforcement account**

(1) The aquatic invasive species enforcement account is created in the state treasury. Moneys directed to the account from RCW 88.02.640 must be deposited in the account. Expenditures from the account may only be used as provided in this section. Moneys in the account may be spent only after appropriation.

(2) Expenditures from the account by the Washington state patrol may only be used to inspect for the presence of aquatic invasive species on aquatic conveyances that are required to stop at a Washington state patrol port of entry weigh station.

(3) Expenditures from the account by the department of fish and wildlife may only be used to develop and implement an aquatic invasive species enforcement program including enforcement of chapter 77.135 RCW, enforcement of aquatic invasive species provisions in chapter 77.15 RCW, and training Washington state patrol employees working at port of entry weigh stations on how to inspect aquatic conveyances for the presence of aquatic invasive species.

(4) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and 77.135.010 apply throughout this section.

### **Wash. Rev. Code Tit. 77 (Fish and Wildlife), Ch. 77.12 (Powers and Duties)**

#### **§ 77.12.879. Aquatic invasive species prevention account**

(1) The aquatic invasive species prevention account is created in the state treasury. All receipts directed to the account from RCW 88.02.640, as well as legislative appropriations, gifts, donations, fees, and penalties received by the department for aquatic invasive species management, must be deposited into the account.

(2) Expenditures from the account may only be used to implement the provisions of chapter 77.135 RCW.

(3) Moneys in the account may be spent only after appropriation.

### **Wash. Rev. Code Tit. 77, Ch. 77.15 (Fish and Wildlife Enforcement Code)**

#### **§ 77.15.809. Unlawful use of invasive species in the second degree--Penalty**

(1) A person is guilty of unlawful use of invasive species in the second degree if the person:



- (a) Fails to stop at a mandatory check station or to return to the mandatory check station for inspection if directed to do so by a fish and wildlife officer or ex officio fish and wildlife officer;
- (b) Fails to allow an aquatic conveyance stopped at a mandatory check station to be inspected for clean and drain requirements or aquatic invasive species;
- (c) Fails to comply with a decontamination order;
- (d) Possesses, except in the case of trafficking, a prohibited level 1 or level 2 species without department authorization, a permit, or as otherwise provided by rule;
- (e) Possesses, introduces on or into a water body or property, or traffics in a prohibited level 3 species without department authorization, a permit, or as otherwise provided by rule;
- (f) Introduces on or into a water body or property a regulated type A, type B, or type C species without department authorization, a permit, or as otherwise provided by rule;
- (g) Fails to readily and clearly identify in writing by taxonomic species name or subspecies name a regulated type B species used for commercial purposes; or
- (h) Knowingly violates a quarantine declaration under RCW 77.135.050.

(2) A violation of subsection (1) of this section is a gross misdemeanor. In addition to criminal penalties, a court may order the person to pay all costs in capturing, killing, or controlling the invasive species, including its progeny. This subsection does not affect the authority of the department to bring a separate civil action to recover habitat restoration costs necessitated by the person's unlawful use of invasive species.

(3) This section does not apply to:

- (a) A person who complies with the department directives pursuant to RCW 77.135.120 for mandatory check stations. Such a person is exempt from criminal penalties under this section or RCW 77.15.811, and forfeiture under this chapter, unless the person has a prior conviction under those sections within the past five years;
- (b) A person who possesses an aquatic invasive species, if the person is in the process of:
  - (i) Removing it from the aquatic conveyance in a manner specified by the department; or
  - (ii) Releasing it if caught while fishing and immediately returning it to the water body from which it came;
- (c) Possessing or introducing nonnative aquatic animal species by ballast water held or discharged by vessels regulated under chapter 77.120 RCW; or

(d) Possessing or introducing nonnative aquatic animal species through private sector shellfish aquaculture operations, transfers, or conveyances regulated under chapter 77.115 RCW.

(4) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and 77.135.010 apply throughout this section.

**Wash. Rev. Code. Tit. 77, Ch. 77.135 (Invasive Species)**

**§ 77.135.010. Definitions**

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) “Aquatic conveyance” means transportable personal property having the potential to move an aquatic invasive species from one aquatic environment to another. Aquatic conveyances include but are not limited to watercraft and associated equipment, float planes, construction equipment, fish tanker trucks, hydroelectric and irrigation equipment, personal fishing and hunting gear, and materials used for aquatic habitat mitigation or restoration.

(2) “Aquatic invasive species” means an invasive species of the animal kingdom with a life cycle that is at least partly dependent upon fresh, brackish, or marine waters. Examples include nutria, waterfowl, amphibians, fish, and shellfish.

(3) “Aquatic plant” means a native or nonnative emergent, submersed, partially submersed, free-floating, or floating-leaved plant species that is dependent upon fresh, brackish, or marine water ecosystems and includes all stages of development and parts.

(4) “Certificate of inspection” means a department-approved document that declares, to the extent technically or measurably possible, that an aquatic conveyance does not carry or contain an invasive species. Certification may be in the form of a decal, label, rubber stamp imprint, tag, permit, locking seal, or written statement.

(5) “Clean and drain” means to remove the following from areas on or within an aquatic conveyance to the extent technically and measurably possible:

(a) Visible native and nonnative aquatic animals, plants, or other organisms; and

(b) Raw water.

(6) “Commercial watercraft” means a management category of aquatic conveyances:

(a) Required to have valid marine documentation as a vessel of the United States or similar required documentation for a country other than the United States; and

(b) Not subject to watercraft registration requirements under chapter 88.02 RCW or ballast water requirements under chapter 77.120 RCW.

(7) “Cryptogenic species” means a species that scientists cannot commonly agree are native or nonnative or are part of the animal kingdom.

(8) “Decontaminate” means, to the extent technically and measurably possible, the application of a treatment to kill, destroy, remove, or otherwise eliminate all known or suspected invasive species carried on or contained within an aquatic conveyance or structural property by use of physical, chemical, or other methods. Decontamination treatments may include drying an aquatic conveyance for a time sufficient to kill aquatic invasive species through desiccation.

(9) “Detect” means the verification of invasive species' presence as defined by the department.

(10) “Eradicate” means, to the extent technically and measurably possible, to kill, destroy, remove, or otherwise eliminate an invasive species from a water body or property using physical, chemical, or other methods.

(11) “Infested site management” means management actions as provided under RCW 77.135.070 that may include long-term actions to contain, control, or eradicate a prohibited species.

(12) “Introduce” means to intentionally or unintentionally release, place, or allow the escape, dissemination, or establishment of an invasive species on or into a water body or property as a result of human activity or a failure to act.

(13) “Invasive species” means nonnative species of the animal kingdom that are not naturally occurring in Washington for purposes of breeding, resting, or foraging, and that pose an invasive risk of harming or threatening the state's environmental, economic, or human resources. Invasive species include all stages of species development and body parts. They may also include genetically modified or cryptogenic species.

(14) “Invasive species council” means the Washington invasive species council established in RCW 79A.25.310 or a similar collaborative state agency forum. The term includes the council and all of its officers, employees, agents, and contractors.

(15) “Mandatory check station” means a location where a person transporting an aquatic conveyance must stop and allow the conveyance to be inspected for aquatic invasive species.

(16) “Possess” means to have authority over the use of an invasive species or use of an aquatic conveyance that may carry or contain an invasive species. For the purposes of this subsection, “authority over” includes the ability to intentionally or unintentionally hold, import, export, transport, purchase, sell, barter, distribute, or propagate an invasive species.

(17) “Prohibited species” means a classification category of nonnative species as provided in RCW 77.135.030.

(18) “Property” means both real and personal property.

(19) “Quarantine declaration” means a management action as provided under RCW 77.135.050 involving the prohibition or conditioning of the movement of aquatic conveyances and waters from a place or an area that is likely to contain a prohibited species.

(20) “Rapid response” means expedited management actions as provided under RCW 77.135.060 triggered when invasive species are detected, for the time-sensitive purpose of containing or eradicating the species before it spreads or becomes further established.

(21) “Raw water” means water from a water body and held on or within property. “Raw water” does not include water from precipitation that is captured in a conveyance, structure, or depression that is not otherwise intended to function as a water body, or water from a potable water supply system, unless the water contains visible aquatic organisms.

(22) “Registered watercraft” means a management category of aquatic conveyances required to register as vessels under RCW 88.02.550 or similar requirements for a state other than Washington or a country other than the United States.

(23) “Regulated species” means a classification category of nonnative species as provided in RCW 77.135.030.

(24) “Seaplane” means a management category of aquatic conveyances capable of landing on or taking off from water and required to register as an aircraft under RCW 47.68.250 or similar registration in a state other than Washington or a country other than the United States.

(25) “Small watercraft” means a management category of aquatic conveyances:

(a) Including inflatable and hard-shell watercraft used or capable of being used as a means of transportation on the water, such as kayaks, canoes, sailboats, and rafts that:

(i) Do not meet watercraft registration requirements under chapter 88.02 RCW; and

(ii) Are ten feet or more in length with or without mechanical propulsion or less than ten feet in length and fitted with mechanical propulsion.

(b) Excluding nonmotorized aquatic conveyances of any size not designed or modified to be used as a means of transportation on the water, such as inflatable air mattresses and tubes, beach and water toys, surf boards, and paddle boards.

(26) “Water body” means an area that carries or contains a collection of water, regardless of whether the feature carrying or containing the water is natural or nonnatural. Examples include basins, bays, coves, streams, rivers, springs, lakes, wetlands, reservoirs, ponds, tanks, irrigation canals, and ditches.

**§ 77.135.020. Department is lead agency for managing invasive species--Responsibilities--  
Limitation of chapter**

(1) The department is the lead agency for managing invasive species of the animal kingdom statewide. This lead responsibility excludes pests, domesticated animals, or livestock managed by the department of agriculture under Titles 15, 16, and 17 RCW, forest invasive insect and disease species managed by the department of natural resources under Title 76 RCW, and mosquito and algae control and shellfish sanitation managed by the department of health under Titles 69, 70, and 90 RCW.

(2) Subject to the availability of funding for these specific purposes, the department may:

(a) Develop and implement integrated invasive species management actions and programs authorized by this chapter, including rapid response, early detection and monitoring, prevention, containment, control, eradication, and enforcement;

(b) Establish and maintain an invasive species outreach and education program, in coordination with the Washington invasive species council, that covers public, commercial, and professional pathways and interests;

(c) Align management classifications, standards, and enforcement provisions by rule with regional, national, and international standards and enforcement provisions;

(d) Manage invasive species to support the preservation of native species, salmon recovery, and the overall protection of threatened or endangered species;

(e) Participate in local, state, regional, national, and international efforts regarding invasive species to support the intent of this chapter;

(f) Provide technical assistance or other support to tribes, federal agencies, local governments, and private groups to promote an informed public and assist the department in meeting the intent of this chapter;

(g) Enter into partnerships, cooperative agreements, and state or interstate compacts as necessary to accomplish the intent of this chapter;

(h) Research and develop invasive species management tools, including standard methods for decontaminating aquatic conveyances and controlling or eradicating invasive species from water bodies and properties;

(i) Post invasive species signs and information at port districts, privately or publicly owned marinas, state parks, and all boat launches owned or leased by state agencies or political subdivisions; and

(j) Adopt rules as needed to implement the provisions of this chapter.

(3) The department may delegate selected and clearly identified elements of its authorities and duties to another agency of the state with appropriate expertise or administrative capacity upon cooperative agreement with that agency. This delegation may include provisions of funding for implementation of the delegations. The department retains primary authority and responsibility for all requirements of this chapter unless otherwise directed in this chapter.

(4) This chapter does not apply to the possession or introduction of nonnative aquatic animal species by:

(a) Ballast water held or discharged by vessels regulated under chapter 77.120 RCW; or

(b) Private sector aquaculture operations, transfers, or conveyances regulated under chapter 77.115 RCW.

(5) This chapter does not preempt or replace other department species classification systems or other management requirements under this title. However, the department must streamline invasive species requirements under this chapter into existing permits and cooperative agreements as possible.

#### **§ 77.135.030. Classification of species--Rules**

(1) The department, in consultation with the invasive species council, may classify or reclassify and list by rule nonnative aquatic animal species as prohibited level 1, level 2, or level 3, based on the degree of invasive risk, the type of management action required, and resources available to conduct the management action.

(a) Species classified as prohibited level 1 pose a high invasive risk and are a priority for prevention and expedited rapid response management actions.

(b) Species classified as prohibited level 2 pose a high invasive risk and are a priority for long-term infested site management actions.

(c) Species classified as prohibited level 3 pose a moderate to high invasive risk and may be appropriate for prevention, rapid response, or other prohibited species management plan actions by the department, another agency, a local government, tribes, or the public.

(2) The department, in consultation with the invasive species council, may classify and list by rule regulated type A species. This classification is used for nonnative aquatic animal species that pose a low to moderate invasive risk that can be managed based on intended use or geographic scope of introduction, have a beneficial use, and are a priority for department-led or department-approved management of the species' beneficial use and invasive risks.

(3) Nonnative aquatic animal species not classified as prohibited level 1, level 2, or level 3 under subsection (1) of this section, or as regulated type A species under subsection (2) of this section, are automatically managed statewide as regulated type B species or regulated type C species and do not require listing by rule.

(a) Species managed as regulated type B pose a low or unknown invasive risk and are possessed for personal or commercial purposes, such as for aquariums, live food markets, or as nondomesticated pets.

(b) Species managed as regulated type C pose a low or unknown invasive risk and include all other species that do not meet the criteria for management as a regulated type B invasive species.

(4) Classification of prohibited and regulated species:

(a) May be by individual species or larger taxonomic groups up to the family name;

(b) Must align, as practical and appropriate, with regional and national classification levels;

(c) Must be statewide unless otherwise designated by a water body, property, or other geographic region or area; and

(d) May define general possession and introduction conditions acceptable under department authorization, a permit, or as otherwise provided by rule.

(5) Prior to or at the time of classifying species by rule as prohibited or regulated under subsections (1) and (2) of this section, the department, in consultation with the invasive species council, must adopt rules establishing standards for determining invasive risk levels and criteria for determining beneficial use that take into consideration environmental impacts, and especially effects on the preservation of native species, salmon recovery, and threatened or endangered species.

#### **§ 77.135.040. Prohibited and regulated species--Required authorization**

(1) Prohibited level 1, level 2, and level 3 species may not be possessed, introduced on or into a water body or property, or trafficked, without department authorization, a permit, or as otherwise provided by rule.

(2) Regulated type A, type B, and type C species may not be introduced on or into a water body or property without department authorization, a permit, or as otherwise provided by rule.

(3) Regulated type B species, when being actively used for commercial purposes, must be readily and clearly identified in writing by taxonomic species name or subspecies name to distinguish the subspecies from another prohibited species or a regulated type A species. Nothing in this section precludes using additional descriptive language or trade names to describe regulated type B species as long as the labeling requirements of this section are met.

#### **§ 77.135.050. Department-declared quarantine**

(1) If the department determines it is necessary to protect the environmental, economic, or human health interests of the state from the threat of a prohibited level 1 or level 2 species, the department may declare a quarantine against a water body, property, or region within the state. The department may prohibit or condition the movement of aquatic conveyances and waters from such a quarantined place or area that are likely to contain a prohibited species.

(2) A quarantine declaration under this section may be implemented separately or in conjunction with rapid response management actions under RCW 77.135.060 and infested site management actions under RCW 77.135.070 in a manner and for a duration necessary to protect the interests of the state from the threat of a prohibited level 1 or level 2 species. A quarantine declaration must include:

- (a) The reasons for the action including the prohibited level 1 or level 2 species triggering the quarantine;
- (b) The boundaries of the area affected;
- (c) The action timeline;
- (d) Types of aquatic conveyances and waters affected by the quarantine and any prohibition or conditions on the movement of those aquatic conveyances and waters from the quarantine area; and
- (e) Inspection and decontamination requirements for aquatic conveyances.

**§ 77.135.060. Rapid response management actions**

(1) The department may implement rapid response management actions where a prohibited level 1 species is detected in or on a water body or property. Rapid response management actions may include expedited actions to contain, control, or eradicate the prohibited species; and, if applicable, be implemented in conjunction with a quarantine declaration. Rapid response management actions must be terminated by the department when it determines that the targeted prohibited level 1 species are:

- (a) Eradicated;
- (b) Contained or controlled without need for further management actions;
- (c) Reclassified for that water body; or
- (d) Being managed under infested site management actions pursuant to RCW 77.135.070.

(2) If a rapid response management action exceeds seven days, the department may implement an incident command system for rapid response management including scope, duration, and types of actions and to support mutual assistance and cooperation between the department and other affected state and federal agencies, tribes, local governments, and private water body or



property owners. The purpose of this system is to coordinate a rapid, effective, and efficient response to contain, control, and eradicate if feasible, a prohibited level 1 species. Mutual assistance and coordination by other state agencies is especially important to assist the department in expediting necessary state and federal environmental permits.

(3) The department may enter into cooperative agreements with national, regional, state, and local rapid response management action partners to establish incident command system structures, secure or prepare submission-ready environmental permits, and identify mutual assistance commitments in preparation for potential future actions.

(4) The department may perform simulated rapid response exercises, testing, or other training activities to prepare for future rapid response management actions.

(5) In implementing rapid response management actions, the department may enter upon property consistent with the process established under RCW 77.135.170.

### **§ 77.135.070. Infested site management actions**

(1) The department may implement infested site management actions where a prohibited level 2 species is detected in or on a water body or property. Infested site management actions may: Include long-term actions to contain, control, or eradicate the prohibited species; and, if applicable, be implemented in conjunction with a quarantine declaration. Infested site management actions must be terminated by the department when it determines that the targeted prohibited level 2 species are:

(a) Eradicated;

(b) Contained or controlled without need for further management actions; or

(c) Reclassified for that water body.

(2) The department must consult with affected state and federal agencies, tribes, local governments, and private water body or property owners prior to implementing infested site management actions. The purpose of the consultation is to support mutual assistance and cooperation in providing an effective and efficient response to contain, control, and eradicate, if feasible, a prohibited level 2 species.

(3) The department may enter into cooperative agreements with national, regional, state, and local infested site management action partners to establish management responsibilities, secure or prepare submission-ready environmental permits, and identify mutual assistance commitments.

(4) In implementing infested site management actions, the department may enter upon property consistent with the process established under RCW 77.135.170.

**§ 77.135.080. Implementation of department's duties--Department is lead agency--Notice**

(1) To the extent possible, the department's quarantine declarations under RCW 77.135.050, rapid response management actions under RCW 77.135.060, and infested site management actions under RCW 77.135.070 must be implemented in a manner best suited to contain, control, and eradicate prohibited level 1 and level 2 species while protecting human safety, minimizing adverse environmental impacts to a water body or property, and minimizing adverse economic impacts to owners of an affected water body or property.

(2) The department is the lead agency for quarantine declarations, rapid response, and infested site management actions. Where the infested water body is subject to tribal, federal, or other sovereign jurisdiction, the department:

(a) Must consult with appropriate federal agencies, tribal governments, other states, and Canadian government entities to develop and implement coordinated management actions on affected water bodies under shared jurisdiction;

(b) May assist in infested site management actions where these actions may prevent the spread of prohibited species into state water bodies; and

(c) May assist other states and Canadian government entities, in the Columbia river basin, in management actions on affected water bodies outside of the state where these actions may prevent the spread of the species into state water bodies.

(3) (a) The department must provide notice of quarantine declarations, rapid response, and infested site management actions to owners of an affected water body or property. Notice may be provided by any reasonable means, such as in person, by United States postal service, by publication in a local newspaper, by electronic publication including social media or postings on the department's public web site, or by posting signs at the water body.

(b) The department must provide updates to owners of an affected water body or property based on management action type as follows:

(i) Every seven days for a rapid response management action and, if applicable, a quarantine declaration implemented in conjunction with a rapid response management action;

(ii) Every six months for a separate quarantine declaration;

(iii) Annually for the duration of an infested site management action and, if applicable, a quarantine declaration implemented in conjunction with an infested site management action; and

(iv) A final update at the conclusion of any management action.

(c) In addition to owners of an affected water body or property, the department must provide notice of a quarantine declaration to members of the public by any reasonable means for an area subject to a quarantine declaration, such as by publication in a local newspaper, by electronic publication including social media or postings on the department's public web site, or by posting signs at the water body. The department must provide updates at reasonable intervals and a final update at the conclusion of the quarantine declaration.

(4) The department must publicly list those water bodies or portions of water bodies in which a prohibited level 1 or level 2 species has been detected. The department may list those areas in which a prohibited level 3 species has been detected.

(5) When posting signs at a water body or property where a prohibited species has been detected, the department must consult with owners of the affected water body or property regarding placement of those signs.

#### **§ 77.135.090. Emergency measures**

(1) If the director finds that there exists an imminent danger of a prohibited level 1 or level 2 species detection that seriously endangers or threatens the environment, economy, human health, or well-being of the state of Washington, the director must ask the governor to order, under RCW 43.06.010(14), emergency measures to prevent or abate the prohibited species. The director's findings must contain an evaluation of the effect of the emergency measures on environmental factors such as fish listed under the endangered species act, economic factors such as public and private access, human health factors such as water quality, or well-being factors such as cultural resources.

(2) If an emergency is declared pursuant to RCW 43.06.010(14), the director may consult with the invasive species council to advise the governor on emergency measures necessary under RCW 43.06.010(14) and this section, and make subsequent recommendations to the governor. The invasive species council must involve owners of the affected water body or property, state and local governments, federal agencies, tribes, public health interests, technical service providers, and environmental organizations, as appropriate.

(3) Upon the governor's approval of emergency measures, the director may implement these measures to prevent, contain, control, or eradicate invasive species that are the subject of the emergency order, notwithstanding the provisions of chapter 15.58 or 17.21 RCW or any other statute. These measures, after evaluation of all other alternatives, may include the surface and aerial application of pesticides.

(4) The director must continually evaluate the effects of the emergency measures and report these to the governor at intervals of not less than ten days. The director must immediately advise the governor if the director finds that the emergency no longer exists or if certain emergency measures should be discontinued.

#### **§ 77.135.100. Aquatic conveyance--Certificate of inspection--Adoption of rules**

(1) A person in possession of an aquatic conveyance who enters Washington by road, air, or water is required to have a certificate of inspection. A person must provide this certificate of inspection upon request by a fish and wildlife officer or ex officio fish and wildlife officer.

(2) The department must adopt rules to implement this section including:

(a) Types of aquatic conveyances required to have a certificate of inspection;

(b) Allowable certificate of inspection forms including passport type systems and integration with existing similar permits;

(c) Situations when authorization can be obtained for transporting an aquatic conveyance not meeting inspection requirements to a specified location within the state where certificate of inspection requirements can be provided; and

(d) Situations where aquatic conveyances are using shared boundary waters of the state, such as portions of the Columbia river, lake Osoyoos, and the Puget Sound.

**§ 77.135.110. Aquatic conveyance--Clean and drain requirements--Enforcement--Adoption of rules**

(1) A person in possession of an aquatic conveyance must meet clean and drain requirements after the conveyance's use in or on a water body or property. A certificate of inspection is not needed to meet clean and drain requirements.

(2) A fish and wildlife officer or ex officio fish and wildlife officer may order a person transporting an aquatic conveyance not meeting clean and drain requirements to:

(a) Clean and drain the conveyance at the discovery site, if the department determines there are sufficient resources available; or

(b) Transport the conveyance to a reasonably close location where resources are sufficient to meet the clean and drain requirements.

(3) This section may be enforced immediately on the transportation of aquatic plants by registered watercraft, small watercraft, seaplanes, and commercial watercraft. The department must adopt rules to implement all other aspects of clean and drain requirements, including:

(a) Other types of aquatic conveyances subject to this requirement;

(b) When transport of an aquatic conveyance is authorized if clean and drain services are not readily available at the last water body used; and

(c) Exemptions to clean and drain requirements where the department determines there is minimal risk of spreading invasive species.

### **§ 77.135.120. Mandatory check stations**

(1) The department may establish mandatory check stations to inspect aquatic conveyances for clean and drain requirements and aquatic invasive species. The check stations must be operated by at least one fish and wildlife officer, an ex officio fish and wildlife officer in coordination with the department, or department-authorized representative, and must be plainly marked by signs and operated in a safe manner.

(2) Aquatic conveyances required to stop at mandatory check stations include registered watercraft, commercial watercraft, and small watercraft. The department may establish rules governing other types of aquatic conveyances that must stop at mandatory check stations. The rules must provide sufficient guidance so that a person transporting the aquatic conveyance readily understands that he or she is required to stop.

(3) A person who encounters a mandatory check station while transporting an aquatic conveyance must:

(a) Stop at the mandatory check station;

(b) Allow the aquatic conveyance to be inspected for clean and drain requirements and aquatic invasive species;

(c) Follow clean and drain orders if clean and drain requirements are not met pursuant to RCW 77.135.110; and

(d) Follow decontamination orders pursuant to RCW 77.135.130 if an aquatic invasive species is found.

(4) A person who complies with the department directives under this section is exempt from criminal penalties under RCW 77.15.809 and 77.15.811, civil penalties under RCW 77.15.160(4), and civil forfeiture under RCW 77.15.070, unless the person has a prior conviction for an invasive species violation within the past five years.

### **§ 77.135.130. Decontamination order**

(1) Upon discovery of an aquatic conveyance that carries or contains an aquatic invasive species without department authorization, a permit, or as otherwise provided by rule, a fish and wildlife officer or ex officio fish and wildlife officer may issue a decontamination order:

(a) Requiring decontamination at the discovery site, if the situation presents a low risk of aquatic invasive species introduction, and sufficient department resources are available at the discovery site;

(b) Prohibiting the launch of the aquatic conveyance in a water body until decontamination is completed and certified, if the situation presents a low risk of aquatic invasive species introduction, and sufficient department resources are not available at the discovery site;

(c) Requiring immediate transport of the conveyance to an approved decontamination station, and prohibiting the launch of the conveyance in a water body until decontamination is completed and certified, if the situation presents a moderate risk of aquatic invasive species introduction, and sufficient department resources are not available at the discovery site; or

(d) Seizing and transporting the aquatic conveyance to an approved decontamination station until decontamination is completed and certified, if the situation presents a high risk of aquatic invasive species introduction, and sufficient department resources are not available at the discovery site.

(2) The person possessing the aquatic conveyance that is subject to orders issued under subsection (1)(b) through (d) of this section must bear any costs for seizure, transportation, or decontamination.

(3) Orders issued under subsection (1)(b) through (d) of this section must be in writing and must include notice of the opportunity for a hearing pursuant to RCW 77.135.140 to determine the validity of the orders.

(4) If a decontamination order is issued under subsection (1)(d) of this section, the department may seize the aquatic conveyance for two working days or a reasonable additional period of time thereafter as needed to meet decontamination requirements. The decontamination period must be based on factors including conveyance size and complexity, type and number of aquatic invasive species present, and decontamination station resource capacity.

(5) If an aquatic conveyance is subject to forfeiture under RCW 77.15.070, the timelines and other provisions under that section apply to the seizure.

(6) Upon decontamination and issuing a certificate of inspection, an aquatic conveyance must be released to the person in possession of the aquatic conveyance at the time the decontamination order was issued, or to the owner of the aquatic conveyance.

**§ 77.135.140. Person aggrieved or adversely affected by department's action--Hearing**

(1) A person aggrieved or adversely affected by a quarantine declaration under RCW 77.135.050, a rapid response management action under RCW 77.135.060, an infested site management action under RCW 77.135.070, or a decontamination order under RCW 77.135.130 may contest the validity of the department's actions by requesting a hearing in writing within twenty days of the department's actions.

(2) Hearings must be conducted pursuant to chapter 34.05 RCW and the burden of demonstrating the invalidity of agency action is on the party asserting invalidity. The hearing may be conducted by the director or the director's designee and may occur telephonically.

(3) A hearing on a decontamination order is limited to the issues of whether decontamination was necessary and the reasonableness of costs assessed for any seizure, transportation, and

decontamination. If the person in possession of the aquatic conveyance that was decontaminated prevails at the hearing, the person is entitled to reimbursement by the department for any costs assessed by the department or decontamination station operator for the seizure, transportation, and decontamination. If the department prevails at the hearing, the department is not responsible for and may not reimburse any costs.

**§ 77.135.150. Aquatic conveyance inspection and decontamination stations--Adoption of rules**

(1) The department may operate aquatic conveyance inspection and decontamination stations statewide for voluntary use by the public or for mandatory use where directed by the department to meet inspection and decontamination requirements of this chapter. Decontamination stations can be part of or separate from inspection stations. Inspection and decontamination stations are separate from commercial vehicle weigh stations operated by the Washington state patrol.

(2) Inspection station staff must inspect aquatic conveyances to determine whether the conveyances carry or contain aquatic invasive species. If an aquatic conveyance is free of aquatic invasive species, then inspection station staff must issue a certificate of inspection. A certificate of inspection is valid until the conveyance's next use in a water body.

(3) If a conveyance carries or contains aquatic invasive species, then inspection station staff must require the conveyance's decontamination before issuing a certificate of inspection. The certificate of inspection is valid until the conveyance's next use in a water body.

(4) The department must identify, in a way that is readily available to the public, the location and contact information for inspection and decontamination stations.

(5) The department must adopt by rule standards for inspection and decontamination that, where practical and appropriate, align with regional, national, and international standards.

**§ 77.135.160. Department-authorized representatives--Adoption of rules--Fee schedule**

(1) The department may authorize representatives to operate its inspection and decontamination stations and mandatory check stations. Department-authorized representatives may be department volunteers, other law enforcement agencies, or independent businesses.

(2) The department must adopt rules governing the types of services that department-authorized representatives may perform under this chapter.

(3) Department-authorized representatives must have official identification, training, and administrative capacity to fulfill their responsibilities under this section.

(4) Within two years of June 12, 2014, the department must provide the legislature with recommendations for a fee schedule that department-authorized representatives may charge users whose aquatic conveyances receive inspection and decontamination services.

**§ 77.135.170. Department's authority to enter upon property/water body--Notification--Application, issuance of warrant**

(1) The department may enter upon a property or water body at any reasonable time for the purpose of administering this chapter, including inspecting and decontaminating aquatic conveyances, collecting invasive species samples, implementing rapid response management actions or infested site management actions, and containing, controlling, or eradicating invasive species.

(2) Prior to entering the property or water body, the department shall make a reasonable attempt to notify the owner of the property or water body as to the purpose and need for the entry. Should the department be denied access to any property or water body where access is sought for the purposes set forth in this chapter, the department may apply to any court of competent jurisdiction for a warrant authorizing access to the property.

(3) Upon such an application, the court may issue the warrant for the purposes requested where the court finds reasonable cause to believe it is necessary to achieve the purposes of this chapter.

**§ 77.135.180. Chapter must be liberally construed**

The provisions of this chapter must be liberally construed to carry out the intent of the legislature.

**Wash. Rev. Code Tit. 79a, Ch. 79A.60 (Regulation of Recreational Vessels)**

**§ 79A.60.630. Boating safety education--Commission's duties--Fee--Report to the legislature**

*\*AIS-relevant provision: § 79A.60.630(1)*

(1) The commission shall establish and implement by rule a program to provide required boating safety education. The boating safety education program shall include training on preventing the spread of aquatic invasive species. The program shall be phased in so that all boaters not exempted under RCW 79A.60.640(3) are required to obtain a boater education card by January 1, 2016. To obtain a boater education card, a boater shall provide a certificate of accomplishment issued by a boating educator for taking and passing an accredited boating safety education course, or pass an equivalency exam, or provide proof of completion of a course that meets the standard adopted by the commission.

(2) As part of the boating safety education program, the commission shall:

(a) Establish a program to be phased over eleven years starting July 1, 2005, with full implementation by January 1, 2016. The period July 1, 2005, through December 31, 2007, will be program development, boater notification of the new requirements for mandatory education, and processing cards to be issued to individuals having taken an accredited course



prior to January 1, 2008. The schedule for phase-in of the mandatory education requirement by age group is as follows:

- January 1, 2008--All boat operators twenty years old and younger;
- January 1, 2009--All boat operators twenty-five years old and younger;
- January 1, 2010--All boat operators thirty years old and younger;
- January 1, 2011--All boat operators thirty-five years old and younger;
- January 1, 2012--All boat operators forty years old and younger;
- January 1, 2013--All boat operators fifty years old and younger;
- January 1, 2014--All boat operators sixty years old and younger;
- January 1, 2015--All boat operators seventy years old and younger;
- January 1, 2016--All boat operators;

(b) Establish a minimum standard of boating safety education accomplishment. The standard must be consistent with the applicable standard established by the national association of state boating law administrators;

(c) Adopt minimum standards for boating safety education course of instruction and examination that ensures compliance with the national association of state boating law administrators minimum standards;

(d) Approve and provide accreditation to boating safety education courses operated by volunteers, or commercial or nonprofit organizations, including, but not limited to, courses given by the United States coast guard auxiliary and the United States power squadrons;

(e) Develop an equivalency examination that may be taken as an alternative to the boating safety education course;

(f) Establish a fee of ten dollars for the boater education card to fund all commission activities related to the boating safety education program created by chapter 392, Laws of 2005, including the initial costs of developing the program. Any surplus funds resulting from the fees received shall be distributed by the commission as grants to local marine law enforcement programs approved by the commission as provided in RCW 88.02.650;

(g) Establish a fee for the replacement of the boater education card that covers the cost of replacement;

(h) Consider and evaluate public agency and commercial opportunities to assist in program administration with the intent to keep administrative costs to a minimum;

(i) Approve and provide accreditation to boating safety education courses offered online; and

(j) Provide a report to the legislature by January 1, 2008, on its progress of implementation of the mandatory education program.

**§ 88.02.640. Fees by type--Disposition, distribution (Effective January 1, 2016)**

\* AIS-relevant provisions: §§ 88.02.640(1)(b) and (3).

(1) In addition to any other fees and taxes required by law, the department, county auditor or other agent, or subagent appointed by the director must charge the following vessel fees and surcharge:

FEE	AMOUNT	AUTHORITY	DISTRIBUTION
(a) Dealer temporary permit	\$5.00	RCW 88.02.800(2)	General fund
(b) Derelict vessel and invasive species removal	Subsection (3) of this section	Subsection (3) of this section	Subsection (3) of this section
(c) Derelict vessel removal surcharge	\$1.00	Subsection (4) of this section	Subsection (4) of this section
(d) Duplicate certificate of title	\$1.25	RCW 88.02.530(1)(c)	General fund
(e) Duplicate registration	\$1.25	RCW 88.02.590(1)(c)	General fund
(f) Filing	RCW 46.17.005	RCW 88.02.560(2)	RCW 46.68.400
(g) License plate technology	RCW 46.17.015	RCW 88.02.560(2)	RCW 46.68.370
(h) License service	RCW 46.17.025	RCW 88.02.560(2)	RCW 46.68.220
(i) Nonresident vessel permit	Subsection (5) of this section	RCW 88.02.620(4)	Subsection (5) of this section
(j) Quick title service	\$50.00	RCW 88.02.540(3)	Subsection (7) of this section
(k) Registration	\$10.50	RCW 88.02.560(2)	RCW 88.02.650
(l) Replacement decal	\$1.25	RCW 88.02.595(1)(c)	General fund
(m) Service fee	RCW 46.17.040	RCW 88.02.515 and 88.02.560(2)	RCW 46.17.040
(n) Title application	\$5.00	RCW 88.02.515	General fund
(o) Transfer	\$1.00	RCW 88.02.560(7)	General fund
(p) Vessel visitor permit	\$30.00	RCW 88.02.610(3)	Subsection (6) of this section

(2) The five dollar dealer temporary permit fee required in subsection (1) of this section must be credited to the payment of registration fees at the time application for registration is made.

(3) The derelict vessel and invasive species removal fee required in subsection (1) of this section is five dollars and must be distributed as follows:

(a) One dollar and fifty cents must be deposited in the aquatic invasive species prevention account created in RCW 77.12.879;

(b) One dollar must be deposited into the aquatic algae control account created in RCW 43.21A.667;

(c) Fifty cents must be deposited into the aquatic invasive species enforcement account created in RCW 43.43.400; and

(d) Two dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100.

(4) In addition to other fees required in this section, an annual derelict vessel removal surcharge of one dollar must be charged with each vessel registration. The surcharge is to address the significant backlog of derelict vessels accumulated in Washington waters that pose a threat to the health and safety of the people and to the environment and must be deposited into the derelict vessel removal account created in RCW 79.100.100.

(5) (a) The amount of the nonresident vessel permit fee is:

(i) For a vessel owned by a nonresident natural person, twenty-five dollars; and

(ii) For a nonresident vessel owner that is not a natural person, the fee is equal to:

(A) Twenty-five dollars per foot for vessels between thirty and ninety-nine feet in length;

(B) Thirty dollars per foot for vessels between one hundred and one hundred twenty feet in length; and

(C) Thirty-seven dollars and fifty cents per foot for vessels between one hundred twenty-one and one hundred sixty-four feet in length. The fee must be multiplied by the extreme length of the vessel in feet, rounded up to the nearest whole foot.

(b) The fee must be paid by the vessel owner to the department. Any moneys remaining from the fee after the payment of costs to administer the permit must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.650.

(c) A nonresident vessel owner that is not a natural person may not obtain more than two nonresident vessel permits under RCW 88.02.620 within any thirty-six month period.

(6) The thirty dollar vessel visitor permit fee must be distributed as follows:

(a) Five dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100;

(b) The department may keep an amount to cover costs for providing the vessel visitor permit;

(c) Any moneys remaining must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.650; and

(d) Any fees required for licensing agents under RCW 46.17.005 are in addition to any other fee or tax due for the titling and registration of vessels.

(7) (a) The fifty dollar quick title service fee must be distributed as follows:

(i) If the fee is paid to the director, the fee must be deposited to the general fund.

(ii) If the fee is paid to the participating county auditor or other agent appointed by the director, twenty-five dollars must be deposited to the general fund. The remainder must be retained by the county treasurer in the same manner as other fees collected by the county auditor.

(iii) If the fee is paid to a subagent appointed by the director, twenty-five dollars must be deposited to the general fund. The remaining twenty-five dollars must be distributed as follows: Twelve dollars and fifty cents must be retained by the county treasurer in the same manner as other fees collected by the county auditor and twelve dollars and fifty cents must be retained by the subagent.

(b) For the purposes of this subsection, “quick title” has the same meaning as in RCW 88.02.540.

## Washington AIS Regulations

Compiled 10/15/15

### Wash. Admin. Code Tit. 220, Ch. 220-12 (Food Fish and Shellfish – Classified)

#### 220-12-090. Classification-Nonnative aquatic animal species.

(1) Prohibited aquatic animal species. The following species are classified as prohibited aquatic animal species:

(a) Amphibians:

(i) In the family Hylidae: Cricket frog, in the genus *Hyla* species in the group *Arborea* including: *Hyla annectans*, *Hyla arborea*, *Hyla chinensis*, *Hyla hallowellii*, *Hyla immaculata*, *Hyla japonica*, *Hyla meridionalis*, *Hyla sanchiangensis*, *Hyla simplex*, *Hyla suweonensis*, *Hyla tsinlingensis*, *Hyla ussuriensis*, and *Hyla zhaopingensis*.

(ii) In the family Pelobatidae, spadefoots, all species of the genus *Pelobates* including *P. cultripes*, *P. fuscus*, *P. syriacus*, and *P. varaldii*. All species of the genus *Scaphiopus* including: *S. couchii*, *S. holbrookii*, and *S. hurterii*. All species of the genus *Spea* including: *S. hurterii*, *S. bombifrons*, *S. hammondii*, and *S. multiplicata* with the exception of the native species: *Spea intermontana* the great basin spadefoot.

(iii) In the family Pipidae: African clawed frog, all members of the genera *Silurana*, and *Xenopus*.

(iv) In the family Ranidae:

(A) Bull frog, *Rana catesbeiana*.

(B) Holarctic brown frogs and Palearctic green frogs of the genus *Rana*, including the following: *Rana arvalis* group (*R. arvalis*, *R. chaochiaoensis*, *R. chevronta*); *Rana chensinensis* group (*R. altaica*, *R. chensinensis*, *R. dybowskii*, *R. kukunoris*, *R. kunyuensis*, *R. ornativentris*, *R. pirica*); *Rana graeca* group (*R. graeca*, *R. italica*); *Rana japonica* group (*R. amurensis*, *R. aragonensis*, *R. japonica*, *R. omeimontis*, *R. zhenhaiensis*); the subgenus *Rugosa* (*Rana rugosa*, *Rana emeljanovi*, *Rana tientaiensis*); *Rana tagoi* group (*R. sakurarii*, *R. tagoi*); *Rana temporaria* group (*R. asiatica*, *R. dalmatina*, *R. honnorate*, *R. huanrenensis*, *R. iberica*, *R. latastei*, *R. macrocnemis*, *R. okinavana*, *R. pyrenaica*, *R. tsushimensis*, *R. zhengi*); and in the *Rana Pelophylax* section, the subgenus *Pelophylax* (*R. bedriagae*, *R. bergeri*, *R. cerigensis*, *R. chosenica*, *R. cretensis*, *R. demarchii*, *R. epeirotica*, *R. fukienensis*, *R. grafti*, *R. hubeiensis*, *R. lateralis*, *R. lessonae*, *R. nigrolineata*, *R. nigromaculata*, *R. perezi*, *R. plancyi*, *R. porosa*, *R. ridibunda*, *R. saharica*, *R. shqiperica*, *R. shuchinae*, *R. terentievi*, *R. tenggerensis*); and the *Rana ridibunda*-*Rana lessonae* hybridogenetic complex species *R. esculenta* and *R. hispanica*.

(v) In the family Ambystomatidae: Mole salamanders. In the genus *Ambystomata*: *A. californiense*, *A. laterale*, *A. opacum*, *A. rosaceum*, *A. tigrinum*, except for the native species *A. tigrinum mavortium* Western tiger salamander, and *A. tigrinum melanostictum* Tiger salamander.

(vi) In the family Amphiumidae one, two, and three toed salamanders or congo eels: All members of the genus *Amphiuma*.

(vii) In the family Cryptobranchidae: Giant salamanders and hellbenders, all members of the genera *Andrias* and *Cryptobranchus*.

(viii) In the family Dicamptodontidae, American giant salamanders, all members of the genus *Dicamptodon*, except for the native species: *Dicamptodon tenebrosus*, Pacific giant salamander, and *Dicamptodon copei*, Cope's giant salamander.

(ix) In the family Hynobiidae: Mountain salamanders, all members of the genera *Batrachuperus*, *Hynobius*, *Liua*, *Onychodactylus*, *Pachyhynobius*, *Pseudohynobius*, *Ranodon*, and *Salamandrella*.

(x) In the family Plethodontidae, subfamily Desmognathinae: All members of the genus *Desmognathus*, dusky salamander.

(xi) In the family Plethodontidae, subfamily Plethodontinae: All members of the genera *Aneides* (climbing salamanders); *Batrachoseps* (slender salamanders); *Eurycea* (American brook salamanders); *Gyrinophilus* (cave salamanders); *Hemidactylium* (four-toed salamanders); *Hydromantes* (web-toed salamanders); *Plethodon* (woodland and slimy salamanders); *Pseudotriton* (mud or red salamanders), and *Speleomantes* (European salamanders).

(xii) In the family Proteidae, mudpuppies, all members of the genus *Necturus* and *Proteus*.

(xiii) In the family Salamandridae: Newts, all members of the genera *Chioglossa*; *Eichinotriton* (mountain newts); *Euproctus* (European mt. salamander); *Neurergus* (Kurdistan newts); *Notophthalmus* (red-spotted newts); *Pachytriton* (Chinese newts); *Paramesotriton* (warty newts); *Salamandrina* (speckled salamander); *Taricha* except for the native species *Taricha granulosa granulosa* the Northern rough-skinned newt, and *Triturus* (alpine newts).

(xiv) In the family Sirenidae, sirens, all species of the genera *Pseudobranchus* and *Siren*.

(b) Reptiles:

(i) In the family Chelydridae, snapping turtles, all species.

(ii) In the family Emydidae:

(A) Chinese pond turtles, all members of the genus *Chinemys*.

(B) Pond turtles, all members of the genus *Clemmys*.

- (C) European pond turtle, *Emys orbicularis*.
  - (D) Asian pond turtle, all members of the genus *Mauremys*.
- (iii) In the family Trionychidae, American soft shell turtles, all members of the genus *Apalone*.
- (c) Crustaceans:
- (i) Family Cercopagidae:
    - (A) Fish hook water flea, *Cercopagis pengoi*.
    - (B) Spiny water flea, *Bythotrephes cederstroemi*.
  - (ii) Family Grapsidae: Mitten crabs: All members of the genus *Erochier*.
  - (iii) Family Cambaridae: Crayfish: All genera, except a person may possess and transport dead prohibited crayfish species obtained under the department's recreational crayfishing rules (WAC 220-56-336 and 220-56-315). There is no daily limit, size limit, or sex restriction for prohibited crayfish species. All nonnative crayfish must be kept in a separate container from native crayfish. Release of any live crayfish species into waters other than the water being fished is prohibited.
  - (iv) Family Parastacidae: Crayfish: All genera except *Engaeos*, and except the species *Cherax quadricarinatus*, *Cherax papuanus*, and *Cherax tenuimanus*.
  - (v) Family Portunidae: European green crab, *Carcinus maenas*.
  - (vi) Family Spheromatidae: Burrowing isopod, *Sphaeroma quoyanum*.
- (d) Fish:
- (i) Family Amiidae: Bowfin, grinnel, or mudfish, *Amia calva*.
  - (ii) Family Channidae: China fish, snakeheads: All members of the genus *Channa*.
  - (iii) Family Characidae: Piranha or caribe: All members of the genera *Pygocentrus*, *Rooseveltiella*, and *Serrasalmus*.
  - (iv) Family Clariidae: Walking catfish: All members of the family.
  - (v) Family Cyprinidae:
    - (A) Fathead minnow, *Pimephales promelas*.
    - (B) Carp, Bighead, *Hypophthalmichthys nobilis*.
    - (C) Carp, Black, *Mylopharyngodon piceus*.
    - (D) Carp, Grass (in the diploid form), *Ctenopharyngodon idella*.

- (E) Carp, Silver, *Hypophthalmichthys molitrix*.
- (F) Ide, silver orfe or golden orfe, *Leuciscus idus*.
- (G) Rudd, *Scardinius erythrophthalmus*.

(vi) Family Gobiidae: Round goby, *Neogobius melanostomus*.

(vii) Family Esocidae: Northern pike, *Esox lucius*: A person may possess and transport dead prohibited Northern pike obtained under the department's recreational sport fishing rules (WAC 220-56-100 and 220-56-115). There is no minimum size, no daily limit, and no possession limit. Release of any live Northern pike into water other than the water being fished is prohibited.

(viii) Family Lepisosteidae: Gar-pikes: All members of the family.

(e) Mammals:

Family Myocastoridae: Nutria, *Myocastor coypu*.

(f) Molluscs:

(i) Family Dreissenidae: Zebra mussels: All members of the genus *Dreissena* and all species known as quagga.

(ii) Family Gastropoda: New Zealand mud snail, *Potamopyrgus antipodarum*.

(2) Regulated aquatic animal species. The following species are classified as regulated aquatic animal species:

(a) Crustaceans:

All nonnative crustaceans classified as shellfish.

(b) Fish:

(i) All nonnative fish classified as food fish and game fish.

(ii) Family Cichlidae: Tilapia: All members of the genera *Tilapia*, *Oreochromis*, and *Sartheradon*.

(iii) Family Clupeidae: Alewife, *Alosa pseudoharengus*.

(iv) Family Cyprinidae:

(A) Common carp, koi, *Cyprinus carpio*.

(B) Goldfish, *Carassius auratus*.

(C) Tench, *Tinca tinca*.

(D) Grass carp (in the triploid form), *Ctenopharyngodon idella*.



(v) Family Poeciliidae: Mosquito fish, *Gambusia affinis*.

(c) Molluscs:

(i) All nonnative molluscs classified as shellfish.

(ii) Family Psammobiidae: Mahogany clam or purple varnish clam, *Nuttalia obscurata*.

(3) Unregulated aquatic animal species. The following species are classified as unregulated aquatic animal species: None.

**Wash. Admin. Code Tit. 232 (Fish and Wildlife, Department), Ch. 232-12 (Permanent Regulations)**

**§ 232-12-016. Nonnative aquatic species.**

The following provisions apply to nonnative aquatic species except nonnative species in ballast water, which are provided for in chapter 220-77 WAC. The definitions of invasive species, prohibited aquatic animal species, regulated aquatic animal species, unregulated aquatic animal species, unlisted aquatic animal species and aquatic plant species as used in this section are the same as in RCW 77.08.010.

(1) Request for designation of unlisted aquatic animal species prior to release. Unlisted nonnative aquatic animal species must be reviewed and designated for classification by the commission as either regulated aquatic animal species or unregulated aquatic animal species prior to approval for release into state waters. A request for classification of an unlisted nonnative aquatic animal species shall be treated as a petition to amend WAC 220-12-090, and made on the OFM-01 form. Upon receipt of a petition, the department shall initially classify the species as a prohibited species until the review is complete. In addition to the OFM-01 form, a person requesting classification must provide the following information in order to present a complete request for designation for classification:

(a) Common and scientific name, reason for release, source of the animals proposed for release, and number of animals proposed for release.

(b) Native range of the species, assessment of potential positive and negative impacts of the release, citation of available scientific literature on release of the species in other nonnative locales, known potential for displacement of native species, hybridization with or predation upon native species, and disease or parasite transmission.

(c) Estimate of technical and economic feasibility of eradicating or controlling spread of the species once it is introduced into state waters.

(2) Provisions applying to prohibited aquatic animal species.

(a) Zebra mussels: It is unlawful to import live aquatic organisms, including plants, for release into state waters from any state or Canadian province east of the Continental Divide without each importation being accompanied by a zebra mussel-free certificate issued by the department and signed by the supplier of the aquatic organisms. The original receiver in the state of Washington of the shipment of aquatic organisms is required to retain the zebra mussel-free certificate for two years. Secondary receivers, while in possession of live aquatic organisms, are required to retain invoices or other records showing who was the original receiver.

(b) Scientific research or display: The director may authorize, by prior written permit, a person to possess prohibited aquatic animal species for scientific research or display, provided:

(i) Specimens are confined to a secure facility, defined as an enclosure that will prevent the escape or release of prohibited aquatic animal species into a natural watercourse, and specimens are inaccessible to wildlife or other animals that could transport prohibited aquatic animal species.

(ii) Specimens are not transferred to any other facility without written approval by the director or designee.

(iii) All zebra mussels are incinerated or chemically preserved at the conclusion of the project, and the enclosure, holding waters and all equipment are disinfected. All other prohibited aquatic animal species must be killed at the conclusion of the project and either chemically preserved or disposed of in a landfill.

(iv) The permittee provides an annual report to the department, no later than January 31 of the following year, on a form provided by the department, describing the number, size and location of prohibited aquatic animal species enclosures and general nature of the research.

(c) Monitoring and control programs: The director may authorize persons working within the scope and supervision of a department-sponsored monitoring and control program to capture, possess and destroy prohibited aquatic animal species, provided:

(i) The persons have completed a mandatory training program and are certified by the department;

(ii) The persons have a permit authorized by the director or designee in possession;

(iii) All prohibited aquatic animal species are disposed of in accordance with the monitoring and control program; and

(iv) Participants submit a report to the department within thirty days of any monitoring or control activity in accordance with the specifications outlined in the monitoring and control program.

(d) Capture of prohibited species in state waters. Prohibited aquatic animal species that are captured in state waters and not immediately returned to the water from which they were captured must be killed before removing the prohibited aquatic animal species from within the riparian perimeter of the body of water.

(e) It is lawful to possess dead vertebrate prohibited aquatic animal species taken from state waters, and it is lawful to possess chemically preserved nonvertebrate prohibited aquatic animal species from any source. No permit is required for possession under this subsection.

(f) Prohibited aquatic animals held in commercial and personal possession prior to classification. A person who possessed a prohibited aquatic animal species prior to the time the species was classified as prohibited may continue to hold the animal or animals for the life of the animals, provided:

(i) The person must maintain proof of possession prior to the classification.

(ii) The animals may not be transferred to another owner within the state.

(iii) The person must comply with all provisions of this section.

(iv) The animals must be prevented from reproducing, or if prevention is impracticable, the progeny must be destroyed.

(3) Infested waters.

(a) The following bodies of waters are infested with invasive aquatic plants or prohibited aquatic animal species. In these waters:

(i) It is unlawful to use aquatic animals from these waters for bait in the infested waters or any other waters.

(ii) All aquatic vegetation must be removed from lines, nets, motors, and all other equipment when the equipment is removed from the infested waters.

(iii) It is unlawful to transport water from these bodies of water, and bait containers, live wells, and bilges must be emptied before leaving the riparian perimeter of the body of water, except:

(A) Water may be transported in emergencies, such as a fire emergency.

(B) Water may be withdrawn and used under a water appropriation or public waters work permit issued by the department of ecology.

(b) List of infested waters:

Adams County: Herman and Hutchison lakes.  
Chelan County: Chelan, Cortez, Domke, Fish, Roses and Wapato lakes.  
Clallam County: Sutherland Lake.  
Clark County: Battleground, and Lacamas lakes, Klineline Pond, Caterpillar Slough, Columbia River adjacent to Ridgefield National Wildlife Refuge.  
Columbia, Franklin and Walla Walla counties: Herbert G. West Lake, Snake River.  
Cowlitz County: Kress and Silver lakes, Soho and Willow Grove sloughs.  
Ferry County: Twin Lake.  
Franklin County: Kahlotus and Sacajawea lakes, Scootenev Reservoir, Snake River.  
Grant County: Babcock Ridge, Banks, Billy Clapp, Burke, Caliche, Canal, Corral, Corral Southwest, Moses, Priest Rapids, Quincy, Stan Coffin, Warden, and Windmill lakes, unnamed potholes at Dodson Frenchman and Frenchman Hills Nos. 1 through 4, Evergreen and Potholes reservoirs, Rocky Ford Creek and Winchester Wasteway.  
Grays Harbor County: Duck and Failor lakes, Grays Harbor.  
Island County: Crockett and Lone lakes.  
Jefferson County: Crocker and Leland lakes.  
King County: Alice, Angle, Bass, Desire, Fenwick, Geneva, Green, Killarney, Lucerne, Meridian, Nielson (Holm), Otter (Spring), Phantom, Pine, Pipe, Sammamish, Sawyer, Shadow, Shady, Spring, Steel, Twelve, Union, Washington, and Wilderness lakes.  
Kitsap County: Buck, Horseshoe, Long, Mission, Square, Tahuya, and Wye lakes.  
Kittitas County: Lavendar and Mattoon lakes.  
Klickitat County: Celilo, Horsethief, and Spearfish lakes, Columbia River.  
Lewis County: Carlisle, Mayfield, Plummer, and Riffe lakes, Swofford Pond, Chehalis and Cowlitz rivers and the Interstate Avenue Slough.  
Mason County: Isabella, Island, Limerick, Mason, Spencer, and Trails End (Prickett) lakes.  
Okanogan County: Conconully, Green, Osooyoos, Palmer, Pearrygin, and Whitestone lakes, Okanogan River.  
Pacific County: Black, Island, Loomis, and O'Neil lakes, Willapa Bay.  
Pend Oreille County: Davis, Diamond, Fan, Horseshoe, Mashall, Nile, and Sacheen lakes, Little Spokane and Pend Oreille rivers.  
Pierce County: Bay, Clear, Harts, Hidden, Ohop, Rapjohn, Spanaway, Tapps, and Whitman lakes.  
San Juan County: Sportsman Lake.  
Skagit County: Beaver, Big, Campbell, Clear, Erie, Heart, McMurray, and Sixteen lakes.  
Skamania County: Coldwater and Drano lakes, Columbia River.  
Snohomish County: Goodwin, Meadow, Nina, Roesiger, Shoecraft, Silver, Stevens, and Swartz lakes.  
Spokane County: Eloika, Liberty, Long, Newman, and Silver lakes.  
Stevens County: Black, Deep, Gillette, Heritage, Loon, McDowell, Sherry, Thomas, and Waitts lakes, Long Lake Reservoir.  
Thurston County: Capitol, Hicks, Long, Munn, Scott, and Ski lakes, Black and Chehalis rivers.  
Wahkiakum County: Columbia River and Brooks Slough.  
Walla Walla County: Snake River.  
Whatcom County: Terrell and Whatcom lakes.

Whitman County: Bryan and Lower Granite lakes, Snake River.

Yakima County: Buena, Byron, Dog, and Freeway (Rotary) lakes, unnamed ponds at 12N - 19E - 20, Yakima River.

(4) Aquaculture provisions. It is unlawful to fail to comply with the following provisions regarding aquaculture and waters containing prohibited aquatic animal species or invasive aquatic plant species.

(a) When a natural body of water is designated by rule as infested, ongoing aquaculture operations in that body of water are restricted from transferring product, equipment or associated materials until such time as the operator of the aquaculture operation submits to the department a plan to prevent the spread of invasive aquatic plants and prohibited aquatic animal species, and has received approval from the department of such plan.

(b) Artificial water basins found to be infested with prohibited aquatic animal species are required to have the water sterilized before continuing aquaculture operations, and any private sector cultured products in such waters must be killed before sale or transfer.

(c) By permit from the department, water from bodies of water infested with invasive aquatic plants may be used in artificial water basins for aquaculture, provided that the water is treated to eliminate invasive aquatic plants prior to use.

(5) Violations of this section involving invasive aquatic animal species is punishable under RCW 77.15.253.

(6) Violations of this section involving invasive aquatic plants is punishable under RCW 77.15.290.

**§ 232-12-01701. Aquatic nuisance species.**

(1) The following species are designated as deleterious exotic wildlife and aquatic nuisance species:

(a) Zebra mussels, including *Dreissena polymorpha* and other species commonly known as quagga;

(b) The European green crab, *Carcinus maenas*; and

(c) Chinese mitten crabs, including all members of the genus *Eriocheir*.

(2) It is unlawful to intentionally import into the state or possess aquatic nuisance species except as provided in this section.

(3) Zebra mussels: It is unlawful to import live aquatic organisms, including plants, for release into state waters from any state or Canadian province east of the Continental Divide without each importation being accompanied by a zebra mussel-free certificate issued by the department and

signed by the supplier of the aquatic organisms. The original receiver in the state of Washington of the shipment of aquatic organisms is required to retain the zebra mussel-free certificate for two years. Secondary receivers, while in possession of live aquatic organisms, are required to retain invoices or other records showing who was the original receiver.

(4) Scientific research: The director may authorize, by prior written permit, a person to possess aquatic nuisance species for scientific research, provided:

(a) Specimens are confined to a secure facility, defined as an enclosure that will prevent the escape or release of aquatic nuisance species or any form of aquatic nuisance species larvae, is not a natural watercourse, and is inaccessible to wildlife or other animals that could transport aquatic nuisance species.

(b) Specimens are not transferred to any other facility without written approval by the director or designee.

(c) All zebra mussels are incinerated or chemically preserved at the conclusion of the project, and the enclosure, holding waters and all equipment are disinfected. All other aquatic nuisance species must be killed at the conclusion of the project and either chemically preserved or disposed of in a landfill.

(d) The permittee provides an annual report to the department, no later than January 31 of the following year, on a form provided by the department, describing the number, size and location of aquatic nuisance species enclosures and general nature of the research.

(5) Monitoring and control programs: The director may authorize persons working within the scope and supervision of a department-sponsored monitoring and control program to capture, possess and destroy aquatic nuisance species, provided:

(a) The persons have completed a mandatory training program and are certified by the department;

(b) The persons have a permit authorized by the director or designee in possession;

(c) All aquatic nuisance species are disposed of in accordance with the monitoring and control program; and

(d) Participants submit a report to the department within thirty days of any monitoring or control activity in accordance with the specifications outlined in the monitoring and control program.

(6) Abatement. Except as provided for in subsection (4) of this section, the department may take action to prevent or abate introduced aquatic nuisance species as a public nuisance, including but not limited to chemical treatment of the water containing the aquatic nuisance species or object to which an aquatic nuisance species is attached, heat treatment of such object, or other abatement measures as are appropriate. The possessor of aquatic nuisance species may be

responsible for costs incurred by the department in abating an aquatic nuisance species infestation.

**§ 232-12-168. Fishing contests.**

*\* AIS-Relevant Provision: § 232-12-168(7)*

(1) Contest defined: By definition, a fishing contest exists when 6 or more licensed persons fish competitively and determine winners, regardless of prize value.

(2) Application:

(a) Fishing contest permit applications should be submitted to the department by July 1 of each year for contests that are to take place the following calendar year. After July 1, applications must be submitted not less than 30 days prior to the date for which the contest is proposed.

(b) Applications must include the permit fee required by RCW 77.65.480. The fee will be returned if the permit is denied. No more than seven permits will be issued to any one permittee during a calendar year.

(c) For purposes of application for a fishing contest permit, 'permittee' means a 'person' as defined in RCW 77.08.010. All applications from a permittee must be in a single name.

(3) Approval:

(a) Fishing contests which adversely affect fish or wildlife resources or other recreational opportunity may be denied.

(b) Contests will not be allowed on sea-run cutthroat trout, wild steelhead, Dolly Varden or bull trout.

(c) During fishing contests, where anglers target tiger muskies, no retention of caught fish is allowed. Tiger muskies may be caught, measured for length, photographed and all fish must be immediately released alive.

(4) Prize value: Total prize value per contest will not exceed \$5,000 when trout, steelhead, char, whitefish, grayling, tiger muskie, or kokanee are included as target species; provided that contests wherein other species not listed above are targeted, or where bass or walleye are the targeted species and at least 90 percent of bass or walleye are released alive and in good condition after the contest, may qualify for no limitation on amount of prize.

(5) Legal requirements, all contests:

(a) Fishing contest permits must be in the possession of the contest sponsor or official at the contest site.

(b) Contests are restricted to the species and waters approved on the permit. Only those species listed as a target of the contest may be retained by contest participants during bass or walleye contests where all contestants fish at the same time and place.

(c) Sponsors must report contest information requested by the department within 30 days after the contest has ended. Subsequent contest permits will not be issued for one year after the date of the contest for which the report was not returned if this requirement is not fulfilled.

(d) Contest participants may not restrict public access at boat launches.

(e) Contests for bass and walleye where participants expect to fish at the same time from boats on lakes or reservoirs will not last longer than four consecutive days and have the following limits per water:

<b>Acres</b>	<b>Contests per Day</b>	<b>Boats per Contest Day</b>
Less than 300	1	15
301 – 3,000	1	35
3,001 – 6,000	2	75
6,000 – 10,000	2	120
More than 10,000	3	250

\* No more than four weekend days per month nor more than two weekends per month may be scheduled on any water when contestants fish at the same time, and are allowed to fish from boats.

(f) It is unlawful for the fishing contest permittee or any of the contest participants to fail to comply with the conditions of the fishing contest permit, or of general fishing rules not specifically exempted by this permit. Failure of the permittee or any of the contestants to comply with all provisions of the contest permit or of other fishing regulations during a contest may lead to revocation of the permit and result in denial of fishing contest permits to the permittee and related organizations or individuals sponsoring contests for two years.

(6) Special regulations, bass and walleye contests:

(a) In any contest targeting either bass or walleye, all live bass or walleye must be released alive into the water from which they were caught after being weighed and/or measured. At the end of each day's competition, if the mortality of target fish caught that day exceeds 10%, the contest will be suspended. Suspended contests may be continued (within assigned permit dates) only if the cause of the high mortality can be positively identified, and the cause of the mortality (high waves, equipment deficiency, etc.) ceases or is corrected by contest officials.

(b) During bass and walleye contests only, participants may continue to fish while holding up to five fish in possession, as long as one fish is released immediately upon catching a fish which would make the angler in excess of five fish if kept. The fish released may come either



from the one just caught, or from the livewell, but at no time may the angler have more than five fish in the livewell.

(c) During bass contests, contestants may not use live bait.

(d) During bass and walleye contests participants may retain up to five bass and walleye of any size to be weighed in. A tournament angler may not be in possession of more than five bass or walleye from the water being fished, except as authorized under (6)(e) below.

(e) The contest director or director designee may exceed possession limits for bass or walleye for the purpose of transporting fish from a weigh-in site to an open-water area. During transportation, the transport boat must not leave the water the fish were caught from and a copy of the contest permit must be on board during actual fish transport.

(f) Boat identification: All boats used for fishing in bass and walleye contests must be clearly identified according to criteria established by the department.

**(7) Aquatic invasive species decontamination.** Prior to launching into any Washington state body of water:

(a) All contest participants are required to sign an aquatic invasive species decontamination statement that their boats and/or boat trailers have or have not been in physical contact with any waters outside of Washington state for thirty days immediately preceding the contest and, if the boat and/or trailer has been in contact with such waters, the participant must complete an aquatic invasive species decontamination report indicating that the following actions have been taken:

(i) A physical inspection has been made of the hull, motor, trailer, livewell and bilge by the contest director or designee, according to criteria established by the department; and

(ii) Any aquatic invasive species, if found, have been disposed of in a garbage container; and

(iii) The hull, motor, trailer, livewell, and bilge have been decontaminated according to criteria established by the department.

(b) The aquatic invasive species decontamination statement and decontamination report shall be submitted to the department as part of the fishing contest report.

## Wyoming AIS Statutes

*Compiled 10/15/15*

### Wyo. Stat. Ann. Tit. 23 (Game and Fish), Ch. 4, Art. 2 (Aquatic Invasive Species)

#### § 23-4-201. Definitions

(a) As used in this article:

(i) “Aquatic invasive species” means exotic or non-native aquatic organisms that have been determined by the commission to pose a significant threat to the aquatic resources, water supplies or water infrastructure of the state;

(ii) “Conveyance” means a motor vehicle, boat, watercraft, raft, vessel, trailer or any associated equipment or containers, including but not limited to live wells, ballast tanks, bilge areas and water hauling equipment that may contain or carry an aquatic invasive species;

(iii) “Decontaminate” means to wash, drain, dry or chemically, thermally or otherwise treat a conveyance in accordance with rules promulgated by the commission in order to remove or destroy an aquatic invasive species;

(iv) “Equipment” means an article, tool, implement or device capable of containing or transporting water or aquatic invasive species;

(v) “Inspect” means to examine a conveyance pursuant to procedures established by the commission in order to determine whether an aquatic invasive species is present, and includes examining, draining or treating water in the conveyance;

(vi) “Water sport toy” means a sailboard, float tube, kite board or any aid to swimming or fishing that is not designed primarily for navigation.

#### § 23-4-202. Prohibition on aquatic invasive species; mandatory conveyance checks; reporting

(a) No person shall:

(i) Launch any conveyance into the waters of this state without first complying with aquatic invasive species prevention requirements established by commission rule;

(ii) Possess, import, export, ship, transport or cause to be possessed, imported, exported, shipped or transported an aquatic invasive species in this state, except as authorized by the commission;

(iii) Introduce an aquatic invasive species into any waters of the state; or

(iv) Refuse to comply with the inspection requirements or any order issued under this article.

(b) A person who knows that an unreported aquatic invasive species is present at a specific location in this state shall immediately report that knowledge and all pertinent information to the commission or a peace officer.

### **§ 23-4-203. Enforcement**

(a) In order to prevent, control, contain, monitor and whenever possible eradicate aquatic invasive species from the waters of this state, the commission and the department of state parks and cultural resources shall promulgate rules and regulations to administer and enforce the provisions of this article and to establish, operate and maintain aquatic invasive species check stations in order to inspect conveyances.

(b) Every conveyance shall stop at authorized mandatory aquatic invasive species check stations in accordance with rules established by the commission and the department of state parks and cultural resources. Upon probable cause that an aquatic invasive species may be present, a peace officer may:

(i) Require the owner of a conveyance to decontaminate the conveyance; or

(ii) Decontaminate or impound and quarantine the conveyance as provided in this section.

(c) The commission, in consultation with the department of state parks and cultural resources, may restrict watercraft usage on waters of the state as provided in W.S. 41-13-211(b) upon a finding that a specific body of water is threatened with the imminent introduction of an aquatic invasive species or an aquatic invasive species has been introduced to the specific body of water.

(d) Any peace officer is authorized to stop and inspect for the presence of aquatic invasive species or for proof of required inspection any conveyance:

(i) Immediately prior to a boat, vessel or watercraft being launched into waters of the state;

(ii) Prior to departing from the waters of this state or a boat, vessel or watercraft staging area;

(iii) That is visibly transporting any aquatic plant material; or

(iv) Upon a reasonable suspicion that an aquatic invasive species may be present.

(e) A peace officer may order the decontamination of a conveyance upon a determination that an aquatic invasive species is present after conducting an inspection as provided in this section.

(f) A peace officer may impound and quarantine a conveyance if:

(i) The peace officer finds that an aquatic invasive species is present after conducting an inspection authorized by this section;

(ii) The person transporting the conveyance refuses to submit to an inspection authorized by this section; or

(iii) The person transporting the conveyance refuses to comply with an order authorized by this section to decontaminate the conveyance.

(g) An impoundment and quarantine of a conveyance may continue for the reasonable period necessary to inspect and decontaminate the conveyance and to ensure that the aquatic invasive species has been completely eradicated from the conveyance or is no longer living.

(h) As provided in this subsection, every conveyance entering the state by land shall be inspected by an authorized aquatic invasive species inspector in accordance with rules established by the commission prior to contacting or entering the waters of this state. The commission shall promulgate rules establishing the dates when such inspections are required and qualifications for authorized inspectors.

(j) The commission, in coordination with the department of transportation, the department of state parks and cultural resources and the department of agriculture, is authorized to establish and inspect conveyances at mandatory aquatic invasive species check stations at ports of entry, other department of transportation facilities located near the borders of this state that meet established state and national safety and commerce requirements for the traveling public or other appropriate facilities.

#### **§ 23-4-204. Rulemaking authority; fees**

(a) The commission and the department of state parks and cultural resources shall promulgate rules to administer and enforce the provisions of this article.

(b) The commission shall establish and collect fees in accordance with the following:

(i) An annual fee shall be collected by the commission for every watercraft before the watercraft enters the waters of the state. Payment of the fees shall be evidenced by a sticker placed on the bow of the watercraft or electronically as determined by commission rule or regulation. No person shall operate nor shall the owner permit the operation of any watercraft on the waters of the state without payment of the fees provided in this section. For purposes of this paragraph, "watercraft" means any contrivance used or designed primarily for navigation on water but does not include personal flotation devices or water sport toys;

(ii) Notwithstanding W.S. 23-4-203(a) and subsection (a) of this section, fees shall be established by commission rule or regulation promulgated in accordance with the Wyoming Administrative Procedure Act1;

(iii) Fees shall be established in an amount to ensure that, to the extent practicable, the total revenue generated from the fees collected approximates, but does not exceed, the direct and indirect costs of administering the regulatory provisions required under this article.

(c) Repealed by Laws 2015, ch. 41, § 2, eff. July 1, 2015.

#### **§ 23-4-205. Penalties**

(a) Any person who violates the provisions of this article or any order under this article is guilty of a high misdemeanor punishable as provided in W.S. 23-6-202(a)(ii).

(b) In addition to any other criminal penalty provided in this section any person who violates any provision of this article, may be assessed civil penalties in an amount not to exceed the costs incurred by the commission and the department of state parks and cultural resources in enforcing the provisions of this article but shall not include costs associated with the eradication of an aquatic invasive species introduced into the waters of this state. The commission or the department of state parks and cultural resources may bring a civil action in any court of competent jurisdiction for civil penalties or injunctive relief.

#### **§ 23-4-206. Reciprocal aquatic invasive species program agreements with adjoining states authorized; water subject to agreements; implementing orders**

(a) The commission is authorized to enter into reciprocal agreements with corresponding state officials of adjoining states for purposes of providing for the recognition of aquatic invasive species programs at least as restrictive as those in Wyoming, for boating by residents of this state and adjoining states upon artificial impoundments of water forming the boundary between this state and adjoining states. The agreements may include provisions by which each state shall honor the aquatic invasive species program fees of the other state. Watercraft operators from the other state shall display proof of payment of the appropriate aquatic invasive species program fee from the other state and any additional reciprocity fee to the state of Wyoming set by mutual agreement of the states.

(b) It is the primary purpose of this section to provide a method whereby the boating opportunities afforded upon artificial impoundments of water forming the boundary between this state and adjoining states may be mutually enjoyed by the residents of Wyoming and the residents of adjoining states.

(c) The commission is authorized to establish orders as provided in this act to implement any agreements under this section.

#### **Wyo. Stat. Ann. Tit. 23 (Game and Fish), Art. 5 (Finance)**

#### **§ 23-1-501. Game and fish fund**

*\* AIS-relevant provision: § 23-1-501(g)*

(a) The Wyoming game and fish fund is continued in existence.

(b) All income received by the commission or department shall be deposited in the state treasury and credited to the Wyoming game and fish fund. The commission may establish accounts within the fund to carry out the purposes of this act, in addition to those accounts established by law. The Wyoming game and fish fund shall be expended as the commission may direct to carry out the purposes of this act and for no other purpose, except that the legislature may appropriate so much thereof as necessary for expenses of any authorized legislative committee to study matters relating to the commission or department. Expenditures from the Wyoming game and fish fund shall be made only by warrant issued by the state auditor upon vouchers signed by the director and chief fiscal officer, or other persons designated by the commission to sign in their absence, substantiated and approved as provided by law.

(c) An account within the Wyoming game and fish fund is created. Revenues collected from the sale of licenses under W.S. 23-2-101(j)(vii), (viii) and (xlvi) and 23-2-201(d)(viii) shall be deposited within the account. The commission may annually transfer into the fund from the account an amount not to exceed six percent (6%) of the total account balance.

(d) A trust account within the Wyoming game and fish fund is created. Gifts accepted by the commission as provided under W.S. 23-1-302(a)(xxviii) shall be deposited within the account. The commission shall maintain a public record of each donor and the amount of the gift. The commission may make expenditures from the account for any purpose for which the commission is authorized by law to expend funds, subject to any restrictions or conditions placed on the gift by the donor. The commission shall maintain a public record of the amount of each expenditure from the account and the purpose for the expenditure.

(e) An account within the game and fish fund is created. Revenues collected under W.S. 23-2-101(n), 23-2-201(e) and as specified under W.S. 23-2-306(a) and (b) shall be deposited within the account. The commission shall use revenues in the account to purchase access easements to provide access to public and private lands. The commission shall notify in writing the appropriate boards of county commissioners before purchasing any access easements under this subsection. In addition and on or before February 1 of each year, the commission shall annually report to the legislature on easements purchased pursuant to this subsection during the preceding fiscal year.

(f) A trust account separate and apart from the trust account established under subsection (d) of this section is created within the Wyoming game and fish fund. The account shall consist of those funds appropriated or designated to the account by law or by gift from whatever source. Funds deposited within the account are intended to be inviolate and constitute a permanent or perpetual trust account which shall be invested by the state treasurer as authorized under W.S. 9-4-715(a), (d) and (e) and in a manner to obtain the highest return possible consistent with preservation of the account corpus. Any interest earned from investment of the account corpus shall be credited by the state treasurer into the Wyoming game and fish fund to be expended by the commission for purposes specified under subsection (b) of this section.

(g) An account within the game and fish fund is created. Revenues received pursuant to W.S. 23-4-204 shall be credited to the account and are continuously appropriated to the commission to be expended for the prevention, surveillance, containment and direct and indirect costs associated with the administration of the aquatic invasive species program created under chapter 4, article 2 of this act.

## Wyoming AIS Regulations

### Wyo. Code. R. Ch. 62 (Regulation for Aquatic Invasive Species)

#### § 1. Authority.

These regulations are promulgated by authority of W.S. §23-1-102, W.S. §23-4-201 through W.S. §23-4-205.

#### § 2. Definitions.

Definitions shall be as set forth in Title 23, Wyoming Statutes, Commission regulations, and the Commission also adopts the following definitions:

(a) “Aquatic invasive species” is defined in W.S. § 23-4-201(a)(i). Aquatic invasive species include some species known to be present in Wyoming and species with a high potential to invade, survive and reproduce.

(i) Aquatic invasive species include:

- (A) All members of the genus *Dreissena*, including, but not limited to, zebra mussel *D. polymorpha* and quagga mussel *D. rostriformis*;
- (B) New Zealand mudsnail - *Potamopyrgus antipodarum*;
- (C) Asian clam - *Corbicula fluminea*;
- (D) Rusty crayfish - *Orconectes rusticus*;
- (E) Brook stickleback - *Culaea inconstans*;
- (F) All members of the genus *Hypophthalmichthys*, including, but not limited to, bighead carp *H. nobilis*, silver carp *H. molitrix*, and largescale silver carp *H. harmandi*;
- (G) Black carp - *Mylopharyngodon piceus*;
- (H) All members of the genera *Channa* and *Parachanna* in the family Channidae (snakeheads);
- (I) Hydrilla - *Hydrilla verticillata*;
- (J) Eurasian watermilfoil - *Myriophyllum spicatum*; and,
- (K) Curly pondweed - *Potamogeton crispus*.

(b) “Authorized inspector” means an authorized aquatic invasive species inspector who has a valid certification from an aquatic invasive species inspection training course that meets the requirements established by the Wyoming Game and Fish Department (Department) to certify inspectors for aquatic invasive species inspections and decontaminations.

(c) “Certified inspection location” means a location or an address where a Department authorized inspector may be available to conduct an inspection.

(d) “High risk infested water” means a water in any state or province known or suspected to contain Dreissenid mussels. A list of all high risk infested waters will be available on the Department website.



(e) “Interstate water” means Big Horn Lake downstream from the causeway (U.S. Highway 14A) in Bighorn County, Flaming Gorge Reservoir in Sweetwater County, and Palisades Reservoir and the Snake River (South Fork Snake River) between the Greys River in Lincoln County and the Heise Bridge crossing in Bonneville County, Idaho.

(f) “Mandatory aquatic invasive species check station” means a location established by the Department at Wyoming ports of entry, other Wyoming Department of Transportation facilities located near the borders of this state that meet established state and national safety and commerce requirements for the traveling public or other appropriate facilities where stopping is mandatory and an authorized inspector may conduct an inspection.

(g) “Seal” means a locking device affixed to a conveyance that has been inspected or decontaminated.

(h) “Valid seal receipt” means a written document issued by an authorized inspector in conjunction with a seal that contains a number matching the number on the seal and information regarding the conveyance.

(i) “Watercraft” is defined in Chapter 22, Watercraft Regulation.

(j) “Water of the state” means all waters under the jurisdiction of the state of Wyoming.

### **§ 3. Inspection.**

(a) Compliance with aquatic invasive species inspection requirements is an express condition of allowing a conveyance to contact or enter any water of the state.

(i) Any person who refuses to permit inspection of their conveyance or refuses to complete any required removal and disposal of aquatic invasive species shall be prohibited from allowing the conveyance to contact or enter any water of the state.

(ii) If a person refuses to allow inspection of a conveyance or to complete any required removal and disposal of aquatic invasive species prior to departure from any water of the state known to contain an aquatic invasive species, the conveyance is subject to impoundment until an aquatic invasive species inspection and decontamination is completed.

(b) Authorized inspectors may inspect any conveyance. Authorized inspectors shall perform decontaminations at the direction of a peace officer or with the voluntary consent of the person transporting the conveyance.

(c) Inspections shall be conducted by:

(i) any peace officer; or,

(ii) any authorized inspector.

(d) Inspections shall be conducted in accordance with Department procedures at:

- (i) a mandatory aquatic invasive species check station; or,
- (ii) a certified inspection location; or,
- (iii) another location where an authorized inspector is available to conduct an inspection.

(e) Any person transporting a conveyance that within the past thirty (30) days HAS BEEN in contact with a high risk infested water in any state or province, shall have the conveyance inspected by an authorized inspector prior to contacting or entering any water of the state.

(f) Any person transporting a conveyance into the state by land from March 1 through November 30, that HAS NOT BEEN in contact with a high risk infested water within the past thirty (30) days, shall have the conveyance inspected by an authorized inspector prior to contacting or entering any water of the state, unless exempted by (i) below.

(i) Any person transporting a watercraft who did not encounter a mandatory aquatic invasive species check station prior to reaching a water of the state may launch without inspection if the watercraft bears a properly affixed seal applied by an authorized inspector and is accompanied by a valid seal receipt during transit. The person transporting the watercraft may remove the seal immediately prior to launching on the destination water and must retain the seal and valid seal receipt while on the water.

(g) Any person transporting a conveyance into the state by land from December 1 through the last day of February that has not been in contact with a high risk infested water within the past thirty (30) days and did not encounter a mandatory aquatic invasive species check station prior to reaching a water of the state, is exempted from mandatory inspection.

(h) All conveyances are subject to inspection in accordance with Department procedures upon encountering a mandatory aquatic invasive species check station.

(i) Authorized inspectors shall determine if there is reason to believe that aquatic invasive species are present by interviewing the person transporting the conveyance or using visual and tactile inspection methods. As part of all inspections, all compartments, equipment, and containers that may hold water, including, but not limited to, live wells, ballast and bilge areas shall be completely drained as directed by authorized inspectors.

(j) A conveyance suspected to contain an aquatic invasive species shall be decontaminated using Department approved procedures before said conveyance shall be allowed to contact or enter any water of the state.

(k) Any person operating a conveyance may be ordered to remove the conveyance from any water of the state or any conveyance staging area by any peace officer if there is reason to believe the conveyance may contain aquatic invasive species or was not properly inspected prior

to contacting or entering the water. Once removed from the water, the conveyance shall be subject to inspection and decontamination for the removal and disposal of aquatic invasive species.

(l) Any authorized inspector who, through the course of an inspection, determines that aquatic invasive species are present shall document the inspection, including but not limited to the type and number of aquatic invasive species suspected or detected and identification of the conveyance, including license plate numbers and watercraft registration number, if available. The authorized inspector shall advise the operator that the conveyance shall be required to be decontaminated according to Department procedures as soon as possible. Only peace officers have the authority to order decontamination, impoundment, or quarantine of a conveyance.

(m) Once a conveyance is inspected or decontaminated, a seal may be affixed to the conveyance by a peace officer or authorized inspector. A copy of the completed valid seal receipt shall accompany all seals. Seals shall be affixed to a conveyance in accordance with Department procedures. A seal, once properly affixed to a conveyance and when accompanied by the valid seal receipt, certifies a proper inspection or decontamination procedure. The person transporting a conveyance sealed by an authorized inspector may remove the seal at their discretion. The Department may recognize a properly affixed seal applied by an authorized inspector from a state or province with a Department approved aquatic invasive species program if the seal is accompanied by a valid seal receipt. It shall be a violation of this regulation for any person to attempt to reattach any seal once it is removed from a conveyance.

#### **§ 4. Decontamination.**

(a) The Department shall only recognize decontamination methods described in this Section as proper Department procedures. All decontaminations shall be completed following all applicable laws, disposal methods, recommended safety precautions, safety equipment, and Department approved procedures.

(b) Decontamination shall be achieved by removal of the conveyance from any water body and eliminating the water from all compartments, equipment, and containers that may hold water, including but not limited to live wells, ballast tanks and bilges for a length of time as determined by the Department not to exceed thirty (30) days.

(c) If decontamination is not achieved by removal of the conveyance from any water body for at least thirty (30) days, the following requirements apply:

(i) Decontamination of water compartments, equipment or containers in a conveyance to address the potential presence of an aquatic invasive species shall be accomplished by rinsing and flushing with water of at least one hundred twenty (120) degrees Fahrenheit.

(ii) Decontamination of the exterior of a conveyance shall be accomplished by removing or destroying all aquatic invasive species, mud, plants, and organisms. The entire exterior of the conveyance and all intakes shall be thoroughly washed with water of at least one hundred

forty (140) degrees Fahrenheit. A high pressure (minimum of 2500 psi) water wash or scrubbing will be used as necessary.

(iii) All compartments, equipment and containers that hold water including, but not limited to live wells, ballast and bilge areas, shall be flushed with water of at least one hundred twenty (120) degrees Fahrenheit but not at high pressure. If a bilge pump is present, it shall be operated until the bilge appears to be empty. The lower unit of the engine shall be thoroughly flushed with water of at least one hundred forty (140) degrees Fahrenheit.

(iv) After decontamination an authorized inspector or peace officer shall re-inspect the conveyance to ensure complete decontamination has occurred prior to the release of the conveyance.

(v) Proof of decontamination shall consist of a properly affixed seal and valid seal receipt or a copy of the Department decontamination form if no seal was applied.

#### **§ 5. Impoundment and Quarantine.**

(a) A peace officer may impound and quarantine a conveyance as provided in W.S. §23-4-203.

(b) If the person in charge of the conveyance is not the registered owner, the registered owner shall be notified by mail, return receipt requested, within ten (10) days of the location of the impounded conveyance. Such notification shall also include contact information for the peace officer ordering the impoundment. If the registered owner is present when the conveyance is ordered impounded, then the same information shall be provided to the registered owner at the time the impound order is issued.

(c) All impounded conveyances shall be held at the risk and expense of the owner. A conveyance held under impound for non-compliance with this regulation shall only be released after a peace officer is satisfied by inspection or quarantine that the conveyance is no longer a threat to the aquatic resources, water supplies, and water infrastructure of the state.

(d) Duration of conveyance quarantine shall be determined by the Department, shall be sufficient to allow decontamination, and shall not exceed thirty (30) days.

(e) An impounded conveyance shall not be released until a Department impound release form is signed and executed by a peace officer. It is the responsibility of the owner to coordinate with the Department for the release of the conveyance.

#### **§ 6. Mandatory Reporting of Aquatic Invasive Species.**

(a) Identification of an aquatic invasive species through sampling and monitoring procedures at a location where that species has not been known to exist shall be reported immediately to the Department.

(b) Any person who knows that an unreported aquatic invasive species is present at a specific location in Wyoming shall report the aquatic invasive species presence within forty-eight (48) hours to the Commission, the Department, or any peace officer. An aquatic invasive species report shall include the date and time of the detection of the aquatic invasive species, the exact location of sighting (water body and specific location on the water body), the suspected species, and the name and contact information of the reporter. Samples collected of suspected aquatic invasive species shall be submitted to the Department within forty-eight (48) hours.

**§ 7. Aquatic Invasive Species Check Stations.**

- (a) All mandatory aquatic invasive species check stations shall be signed.
- (b) Check stations shall be operated in accordance with Department procedures.
- (c) Lists of mandatory aquatic invasive species check stations and certified inspection locations shall be provided on the Department website.

**§ 8. Aquatic Invasive Species Program Decal.**

- (a) An aquatic invasive species program fee may be assessed as part of the Department's motorized watercraft registration fee. A current, properly affixed combination motorized watercraft registration and Aquatic Invasive Species Program Decal shall be proof of payment of this fee. Proof of combination decal purchase may be used in lieu of a properly affixed decal for up to fifteen (15) days from date of purchase.
- (b) All owners or operators of motorized watercraft registered outside of Wyoming, any owners or operators of Wyoming registered watercraft that have not paid the aquatic invasive species program fee as part of their watercraft registration fee and all owners or operators of non-motorized watercraft shall purchase an Aquatic Invasive Species Program Decal valid for the current calendar year prior to contacting or entering any water of the state. Purchase of this decal shall be evidenced by an Aquatic Invasive Species Program Decal properly affixed to the watercraft. Proof of decal purchase may be used in lieu of a properly affixed decal for up to fifteen (15) days from date of purchase. For the purpose of this Section, all non-motorized inflatable watercraft ten (10) feet in length or less are exempt from this decal provision.
- (c) Aquatic Invasive Species Program Decals shall not be limited in number and shall be sold through the Electronic Licensing System (ELS), designated license selling agents, and authorized personnel. The price of the decal shall be ten dollars (\$10) for motorized watercraft registered in Wyoming and thirty dollars (\$30) for motorized watercraft registered outside of Wyoming. The price of the decal shall be five dollars (\$5) for non-motorized watercraft owned by a Wyoming resident and fifteen dollars (\$15) for non-motorized watercraft owned by a nonresident.
  - (i) Owners or operators of motorized watercraft required to purchase an Aquatic Invasive Species Program Decal shall display the decal on the starboard (right) side of the bow six (6) inches left of and directly in line with the watercraft registration decal. Non-motorized watercraft owners or operators shall display the decal on the bow in such a manner that the

decal shall be visible when the watercraft is underway. Only the Aquatic Invasive Species Program Decal which is currently valid shall be displayed.

(ii) In the case of rental watercraft, it shall be the responsibility of the rental watercraft owner to ensure that a valid Aquatic Invasive Species Program Decal is properly displayed on the watercraft.

(d) Owners of multiple non-motorized watercraft may transfer valid decals between their own non-motorized watercraft, however, each non-motorized watercraft shall display a valid decal while contacting any water of the state.