

CHAPTER 8 – AQUATIC NUISANCE SPECIES (ANS)

ARTICLE 1 - GENERAL PROVISIONS

#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 board to pose a significant threat to the aquatic resources or water infrastructure of the state, including, but not limited to, the following:

Animals:

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

Plants:

Common Name	Scientific Name
African elodea	<i>Lagarosiphon major</i>
Brazilian elodea	<i>Egeria densa</i>
Eurasian watermilfoil	<i>Myriophyllum spicatum</i>
Giant salvinia	<i>Salvinia molesta</i>
Hyacinth, water	<i>Eichornia crassipes</i>
Hydrilla	<i>Hydrilla verticillata</i>
Parrotfeather	<i>Myriophyllum aquaticum</i>
Yellow floating heart	<i>Nymphoides peltata</i>

2. In addition to these species, the Directors 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. "Authorized location" means a location or an address where watercraft inspection and decontamination (WID) procedures are authorized and certified by the Divisions including, but not limited to, Division offices, government field stations, or non-governmental facilities as designated by the Divisions.

- C. "Directors" means the Director of the Division of Parks and Outdoor Recreation and the Director of the Division of Wildlife.
- D. "Private inspector and/or decontaminator" means a person employed by a business who is certified by the Divisions to provide services in the form of inspections only or both inspections and decontaminations.
- E. "Vessels or other floating device" means watercraft of any and all kinds including their motors, 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 or inner tubes.
- F. "WID procedures" means Watercraft Inspection and Decontamination procedures, as set forth in these chapter 8 regulations.
- G. "WID seals" means Watercraft Inspection and Decontamination devices or markers that are intended to verify that vessels or other floating devices have successfully passed inspections and, when required, decontaminations.

#801 – POSSESSION OF AQUATIC NUISANCE SPECIES

- A. Except as provided in these regulations or authorized by the Divisions 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 Divisions' 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.

#802 – PRIVATE INSPECTORS, AUTHORIZED AGENTS, TRAINING, CERTIFICATION, AND QUALITY ASSURANCE

- A. The Divisions may certify private inspectors and/or decontaminators. Such persons shall not be authorized to stop, detain, impound a vessel or other floating device, or order a vessel or other floating device decontaminated 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 Divisions prior to providing any inspection or decontamination services. A description of training stages and certification requirements is available from the Divisions. After receiving proper training and certification from the Divisions, authorized agents may stop, detain and inspect vessel or other floating device. Authorized agents do not have any authority to order vessel or other floating device decontaminated, nor do they have the authority to impound or order the quarantine of any vessel or other floating device. Authorized agents shall be authorized to perform decontaminations at the direction of a qualified peace officer or at the voluntary request of any person transporting a 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 Divisions' 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 Divisions to perform inspections and/or decontaminations based on the person's training and the equipment available at the authorized location.
- E. The Divisions 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 Divisions document quality assurance violations, including, but not limited to, improper facilities, maintenance, equipment, records or failures to use proper WID procedures, then the Divisions 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 Divisions have 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.

#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 Divisions, who holds a valid, active certification and who is in good standing with the Divisions' quality assurance checks.
- B. All persons transporting a vessel or other floating device from a water of the state known to be infested, as determined in regulation #806 D, must be inspected prior to leaving the infested 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 waters determined to be infested shall be posted and a list of infested waters will also be available from the Divisions.
- 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 they are not registered in Colorado.
- D. 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 Divisions.
- E. 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.
- F. Any vessel or other floating device found or reasonably believed to contain aquatic nuisance species shall be decontaminated 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.
- G. 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.

- H. 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.
- I. 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.
- J. Once a vessel or other floating device is inspected and/or decontaminated, a WID seal may be attached to the vessel or other floating device by a qualified peace officer, authorized agent, or private inspector/decontaminator. A receipt using the Divisions' form shall accompany all WID seals. WID seals shall be attached to a vessel or other floating device as specified by the Divisions. 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 a proper inspection or decontamination procedure.
- K. If a vessel or other floating device contains bait in water, then the owner or operator will be required to produce a receipt for the bait from a Colorado bait dealer with a date clearly printed on the receipt and the date is no more than 7 days previous. If the owner or operator does not have such a receipt, then they will be required to transfer such bait into a temporary holding container. The bait will be removed from the vessel's or other floating device's live well or container and placed into the holding container using a net while attempting to minimize as much as possible any transference of water from the live well. The live well or container will then be drained and decontaminated using proper WID procedures before restocking with the bait can occur. Whenever possible, water from the water body that the vessel is going to be launched into should be used for restocking the bait.

#804— DECONTAMINATION

- A. The Divisions will only recognize the decontamination methods listed herein that are recognized as proper WID procedures. All treatments 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 140 degrees F or hotter.

- 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 and all intakes will be thoroughly washed with hot water (140 degrees F or hotter) and as necessary use scrubbing or high pressure water (a minimum of 250 psi). All 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 (140 degrees F or hotter) but not at high pressure. If a bilge pump is present, then it will be run until the bilge appears to be empty. The lower unit of the engine will be thoroughly flushed with hot water (140 degrees F or hotter).
- D. 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.
- E. Proof of decontamination will consist of a receipt using the form "*ANS Documentation and Vessel Decontamination Form*" provided by the Divisions. Such forms shall document the reasons for the decontamination, any aquatic nuisance species found, the date and location of the decontamination, and the method(s) of decontamination used. Authorized agents, private decontaminators, or qualified peace officers may also apply a WID seal to document the decontamination procedure.

#805 –IMPOUNDMENT

- A. All vessels or other floating devices are subject to impoundment if the person in charge of the vessel or other floating device:
 - 1. Refuses to allow an inspection of the vessel or other floating device to be conducted by an authorized agent or qualified peace officer.
 - 2. Refuses to allow a decontamination of the vessel or other floating device when decontamination is ordered by a qualified peace officer.
- 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 Divisions will provide impound release forms.

#806 – MONITORING AND IDENTIFICATION

- A. All aquatic nuisance species sampling and monitoring will be coordinated with the Divisions.
- B. Aquatic nuisance species sampling equipment, vessels or other floating devices, and gear will be decontaminated at the conclusion of sampling in compliance with WID procedures.
- 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 Divisions.

- D. To initially identify waters infested with aquatic nuisance species, 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 will be completed in accordance with the procedural checklist "Multi-Phase Identification of Zebra/Quagga Veligers" available from the Divisions.
 - 2. Zebra and quagga mussel adults or New Zealand mudsnails. Concurring identification by two or more mollusk identification experts.
 - 3. Rusty crayfish. Concurring identification by two or more crustacean identification experts.
 - 4. Waterfleas. Concurring identification by two or more plankton identification experts.
 - 5. Aquatic nuisance species plants. Concurring identification by two or more aquatic botanical experts.

#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 Divisions.
- 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 Divisions 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 Divisions, or to the Division of Wildlife Invasive Species Program, 6060 Broadway, Denver, CO 80216. 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: 1-877-STOP-ANS or 1-303-293-6531
 - 2. Email: ReportANS@state.co.us
 - 3. Website: <http://www.colorado.gov/wildlife/>

12/29/2008

Basis and Purpose

Chapter 8 - Aquatic Nuisance Species (ANS)

Basis and Purpose:

Senate Bill 08-226 titled "Concerning the Prohibition of Aquatic Nuisance Species in Colorado, and Making an Appropriation in Connection Therewith" added a new article of law to Title 33, C.R.S. The General Assembly recognized 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 recognized the potential of recreational vessels to be a significant source of the spread of aquatic nuisance species in Colorado. The General Assembly declared that the purposes for enacting the new article of law 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.

Senate Bill 08-226 specifically authorizes and requires the Board of Parks and Outdoor Recreation to promulgate rules needed for the administration and enforcement of the act. These regulations were produced pursuant to a public process with input from and consultation with affected constituencies, including governmental agencies, recreation organizations and individuals, water providers and other entities that control recreational access to waters of the state. The Parks Board finds that the regulations as adopted appropriately address the threat to state resources posed by aquatic nuisance species and do so in a manner that is unobtrusive and convenient for the recreating public as is reasonably possible given the severity of the threat posed by aquatic nuisance species. As science develops and additional information on aquatic nuisance species is produced, the Parks Board anticipates that amendments to these regulations will undoubtedly be necessary to ensure continued protection of state aquatic resources and water infrastructure.

With specific regard to the scope of the required inspections, it is the intent of the Parks Board that only those portions of vessels or other floating devices, including their motors, trailers, compartments and other associated equipment and containers that routinely or reasonably could be expected to contain or have come into contact with water, be subjected to inspection pursuant to these regulations. It is not the intent of the Parks Board that every compartment or container or piece of equipment be subject to inspection simply because it is part of or located on a vessel or other floating device.

Further, with specific regard to the duration and scope of any required impoundment, it is the intent of the Parks Board that vessels or other floating devices, including their motors, trailers, compartments and other associated equipment and containers that routinely or reasonably could be expected to contain or have come into contact with water, be held for the minimum time necessary to ensure proper decontamination or that the vessel or other floating device is no longer a threat to the aquatic resources and water infrastructure of the state and that only those parts or portions of the vessel or other floating device that reasonably poses such a threat are subject to impoundment, provided separation or segregation is possible.

The primary statutory authority for these regulations is sections 33-10.5-101 through 33-10.5-108 C.R.S. especially 33-10.5-107 C.R.S. (2008).

EFFECTIVE DATE - THESE REGULATIONS SHALL BECOME EFFECTIVE APRIL 1, 2009 AND SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL REPEALED, AMENDED OR SUPERSEDED.

APPROVED AND ADOPTED BY THE BOARD OF PARKS AND OUTDOOR RECREATION OF THE STATE OF COLORADO THIS 20th DAY OF FEBRUARY, 2009.

APPROVED:

**Bill Kane
Chairman**

ATTEST:

**Lenna Watson
Secretary**