

FINAL REGULATIONS - CHAPTER P-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 Commission 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	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:

Common Name	Scientific Name
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 any watercraft described in section 33-10-102(27), C.R.S., of any and all kinds including associated 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 and hand-powered rafts, kayaks, belly boats, float tubes, canoes, windsurfer boards, sail-boards, rowing shells, or inner tubes or foldable plastic boats.~~
- 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 device or marker, including any attaching wire that temporarily locks 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.

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.

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.

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, except those that are hand-launched and human-powered, 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, except those that are hand-launched and human-powered, 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, except those that are hand-launched and human-powered, 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.
 - 1. It is unlawful for any person to deface or tamper with, or attempt to deface or tamper with, any WID seal or WID seal receipt.

2. Any WID seal or WID seal receipt that has been defaced or tampered with is void. A vessel or other floating device bearing a void WID seal or WID seal receipt must be inspected prior to launch.
 3. As used in this subsection M., “deface” and “tamper” have the meanings set forth in section 18-1-901, C.R.S.
- 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.

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.

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.

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.

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>

AS APPROVED - 03/09/2022
Basis and Purpose
Chapter 8 - Aquatic Nuisance Species (ANS)

Basis and Purpose:

The Colorado Parks and Wildlife Commission incorporates this statement of basis, purpose, and statutory authority into its amendments to the definition of “vessels or other floating device” in P-8, #800.K and the inspection provisions in P-8, #803. See § 24-4-103(4)(c), C.R.S.

The Commission’s rules previously exempted specific styles of watercraft from aquatic nuisance species (ANS) inspection requirements (e.g., “hand-launched and hand-powered rafts, kayaks, belly boats,” etc.). Basing exemptions on the style of watercraft, rather than the features that reduce the risk a watercraft will transport ANS, requires the Commission to frequently update its rules to add new watercraft to the exemption list. The purpose of these amendments is to eliminate the need for frequent rule changes while providing the same level of protection to Colorado’s aquatic resources by exempting watercraft from inspection requirements based on the features that reduce their risk of transporting ANS.

Watercraft that are hand-launched and human-powered have a low risk of transporting ANS because they are not launched with a trailer or other launching aid that comes into contact with water, they have no mechanical propulsion system, they generally do not anchor or remain in the water for extended periods of time, and they typically dry quickly after leaving the water. The Commission therefore amends #803 to exempt hand-launched and human-powered watercraft from certain ANS inspection requirements. And because these exemptions are now included in #803, the Commission amends #800.K to remove the list of specific styles of watercraft from the definition of “vessels or other floating device.”

The statutory authority for these amendments includes section 33-10.5-107, C.R.S.

The statements of basis and purpose for these regulations can be obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager by emailing dnr_cpw_planning@state.co.us or by visiting the Division of Parks and Wildlife headquarters at 6060 Broadway, Denver, CO, 80216.

The primary statutory authority for these regulations can be found in § 24-4-103, C.R.S., and the state Parks Act, §§ 33-10-101 to 33-33-113, C.R.S., and specifically including, but not limited to: §§ 33-10-106, C.R.S.

EFFECTIVE DATE – THE REGULATIONS HEREIN SHALL BECOME EFFECTIVE MAY 1, 2022 AND SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL REPEALED, AMENDED OR SUPERSEDED.

APPROVED AND ADOPTED BY THE PARKS AND WILDLIFE COMMISSION OF THE STATE OF COLORADO THIS 9TH DAY OF MARCH, 2022.

APPROVED:
Carrie Besnette Hauser
Chair

ATTEST:
Luke B. Schafer
Secretary

Philip J. Weiser
Attorney General

Natalie Hanlon Leh
Chief Deputy Attorney General

Eric R. Olson
Solicitor General



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Tracking Number: **2022-00055**

**OPINION OF THE ATTORNEY GENERAL RENDERED IN
CONNECTION WITH THE RULES ADOPTED BY THE
Colorado Parks and Wildlife (405 Series, Parks)
ON 03/09/2022**

**2 CCR 405-8
CHAPTER P-8 - AQUATIC NUISANCE SPECIES (ANS)**

The above-referenced rules were submitted to this office on 03/15/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

March 23, 2022 10:34:37 MST

A handwritten signature in blue ink, appearing to read "P. Weiser".

Philip J. Weiser
Attorney General
by Eric R. Olson
Solicitor General