

**Montana AIS Statutes**

**Mont. Code Ann. Tit. 2, Ch. 15, Part 33 (Department of Natural Resources and Conservation)**

**§ 2-15-3309. Invasive species council**

- (1) There is an invasive species council within the department of natural resources and conservation. The council is attached to the department for administrative purposes only, as prescribed in 2-15-121.
- (2) The council consists of the following 22 members:
  - (a) the directors of the following departments or their designees:
    - (i) fish, wildlife, and parks;
    - (i) natural resources and conservation;
    - (ii) transportation;
    - (iii) agriculture; and
    - (iv) commerce;
  - (b) a representative of each of the following appointed by and serving at the pleasure of the governor:
    - (i) county weed districts;
    - (ii) conservation districts;
    - (iii) the Montana state university extension service;
    - (iv) agriculture;
    - (v) conservation organizations;
    - (vi) wildlife organizations;
    - (vii) fishing organizations;
    - (viii) hydropower utility industry;
    - (ix) private landowners; and
    - (x) each of the tribal governments in Montana.
- (3) The council shall seek active input and participation in its deliberations from the U.S. army corps of engineers, the U.S. bureau of reclamation, the U.S. bureau of land management, the U.S. department of agriculture animal and plant health inspection service, the U.S. fish and wildlife service, the U.S. forest service, and the national park service.
- (4) The council members shall serve without pay. Unless otherwise provided by law, each council member is entitled to be reimbursed for travel expenses pursuant to 2-18-501 through 2-18-503.
- (5) Council members shall serve staggered 4-year terms.

- (6) A majority of the membership of the council constitutes a quorum to do business. A favorable vote of at least a majority of all of the members is required to adopt any resolution, to approve a motion, or to make any other decision.
- (7) The council shall meet no less than twice annually.
- (8) The governor shall appoint the presiding officer, who shall serve in that capacity for a 2-year term.
- (9) The presiding officer and the director of the department of natural resources and conservation shall serve as the council's liaisons to the governor's office.

**§ 2-15-3310. Upper Columbia conservation commission**

- (1) There is an upper Columbia conservation commission within the department of natural resources and conservation. The commission is attached to the department for administrative purposes only, as prescribed in 2-15-121.
- (2) There are 14 voting commission members who are appointed by and serve at the pleasure of the governor. They include one member at large and a representative of each of the following:
  - (a) the hydropower utility industry;
  - (b) electric cooperatives located within the Columbia River basin in Montana;
  - (c) conservation districts;
  - (d) private industry;
  - (e) private landowners;
  - (f) the Confederated Salish and Kootenai tribes;
  - (g) the invasive species council established in 2-15-3309; and
  - (h) a conservation, natural resources, or fishing or hunting organization representing each of the following:
    - (i) the upper Clark Fork River basin;
    - (ii) the lower Clark Fork River basin;
    - (iii) the Bitterroot River basin;
    - (iv) the Big Blackfoot watershed;
    - (v) the Kootenai River basin; and
    - (vi) the Flathead River basin.
- (3) The speaker of the house and the president of the senate shall each appoint two nonvoting members to the commission, one each from the majority party and the minority party.
- (4) The commission shall seek active input and participation in its deliberations from the U.S. forest service, the national park service, the U.S. fish and wildlife service, the U.S. department of agriculture natural resources conservation service, the U.S. army corps of engineers, the U.S. bureau of reclamation, and the northwest power and conservation council.

- (5) The commission members shall serve without pay. Unless otherwise provided by law, commission members are entitled to reimbursement for travel expenses pursuant to 2-18-501 through 2-18-503.
- (6) Commission members shall serve staggered 4-year terms.
- (7) A majority of the voting membership of the commission constitutes a quorum to do business. A favorable vote of at least a majority of the voting members is required to adopt any resolution, to approve a motion, or to make any other decision, unless otherwise provided by law.
- (8) The governor shall appoint the presiding officer.

**Mont. Code Ann. Tit. 7 (Local Government), Ch. 22 (Weed and Pest Control), Part 26**

**§ 7-22-2601. Invasive Species Ordinances**

- (1) Subject to subsection (2), counties located within the Columbia river basin may adopt ordinances and resolutions regarding the prevention or control of invasive species, as defined in 80-7-1003, within the county.
- (2) If an Indian reservation is located within the boundaries of the county, the board of county commissioners shall consult with the governing body of the tribe or tribes of the Indian reservation prior to adopting an ordinance pursuant to this section.

**Mont. Code Ann. Tit. 15, Ch. 72 (Electrical Generation Tax), Part 6**

**§ 15-72-601. Invasive Species Fee for Hydroelectric Facilities**

- (1) In recognition of the threat that invasive species pose to Montana's hydroelectric power structures and systems, a hydroelectric facility shall pay a quarterly invasive species fee of \$397.88 per megawatt of the facility's nameplate capacity authorized by the federal energy regulatory commission.
- (2) Every hydroelectric facility subject to the fee in subsection (1) shall file on forms provided by the department and pay within 30 days after the end of each quarterly period. The quarterly periods end March 31, June 30, September 30, and December 31 of each year.
- (3) If the fee is not paid on or before the due date, a penalty and interest must be assessed as provided in 15-1-216. The department may waive the penalty pursuant to 15-1-216.
- (4) The department may audit the records and other documents of a hydroelectric facility to ensure that the proper fee is paid and collected pursuant to this section.
- (5) A hydroelectric facility that funds protection, mitigation, and enhancement measures pursuant to a settlement approved by the federal energy regulatory commission may use any

of those funds that are unobligated to pay, in whole or in part, the fee owed pursuant to subsection (1).

(6) Money collected pursuant to this section must be deposited in the invasive species account established in 80–7–1004.

(7) For the purposes of this section, “hydroelectric facility” means an operating facility located in Montana in a watercourse as that term is defined in 85–2–102 that produces electricity using water power and has more than 1.5 megawatts in nameplate capacity.”

**Mont. Code Ann. Tit. 23, Ch. 2, Part 5 (Boats)**

**§ 23-2-541. Aquatic invasive species prevention pass for nonresident vessels--rulemaking**

(1) In order for a motorized vessel exempt from registration in Montana pursuant to 61-3-321 or a nonmotorized vessel owned by a nonresident to launch on the waters of this state, the operator must possess an aquatic invasive species prevention pass purchased for the vessel, available for inspection either in physical form or as an electronic copy at the request of a warden, another officer, or an employee of the department. The pass must include a description of the vessel for which it was purchased.

(2) (a) The annual fee for an aquatic invasive species prevention pass purchased pursuant to this section is:

- (i) \$10 for a nonmotorized vessel; and
- (ii) \$30 for a motorized vessel.

(b) The pass expires at the end of each calendar year and is not transferable between vessels.

(3) Fees collected pursuant to this section must be deposited in the invasive species account established in 80-7-1004.

(4) The department may adopt rules to implement the provisions of this section.

(5) The provisions of this section do not apply to a motorized vessel owned or controlled by the United States or any state, county, city, special district as defined in 18-8-202, or tribal government or to a motorized vessel that meets the description of property exempt from taxation under 15-6-201(1)(d), (1)(n), or (1)(o) or 15-6-215.

(6) For the purposes of this section, the term “nonmotorized vessel” includes catamarans, drift boats, kayaks, rafts, and sailboats.

**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) “Drain plug” means a valve or device used to control the drainage of water from a compartment designed to hold water, such as a bilge, livewell, or ballast tank. The term does not include a permanently sealed device, like those used to prevent water from filling a pontoon, unless the compartment the device is permanently sealed to is compromised and contains water.
- (3) “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.
- (4) “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.
- (5) “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.
- (6) “Person” means an individual, partnership, corporation, association, limited partnership, limited liability company, governmental subdivision, agency, or public or private organization of any character.
- (7) “Tributaries to the Columbia river” means all water bodies in Montana from which water drains into the Columbia river.
- (8) “Vessel” has the meaning provided in 61-1-101.

**§ 80-7-1004. Invasive species account.**

*<Section effective until July 1, 2023. See, also, § 80-7-1004 effective July 1, 2023.>*

- (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 any lawful source, including but not limited to fees collected pursuant to 15-65-121, 15-72-601, and 23-2-541, and 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) At the end of each fiscal year, unreserved funds in the account, including any interest and earnings, must be transferred to the invasive species trust fund established in 80-7-1016.
- (6) The department of fish, wildlife, and parks may not recover indirect costs from the invasive species account.

*<Section effective July 1, 2023. See, also, § 80-7-1004 effective until July 1, 2023.>*

- (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 any lawful source, including but not limited to fees collected pursuant to 15-65-121, 15-72-601, and 23-2-541, and 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) At the end of each fiscal year, unreserved funds in the account, including any interest and earnings, must be transferred to the invasive species trust fund established in 80-7-1016.
- (6) The department of fish, wildlife, and parks may recover not more than 5% in indirect costs from the invasive species 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 or decontamination 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.
- (8)
  - (a) The departments shall report to the environmental quality council at least biannually regarding activities undertaken and expenses incurred in the implementation of this part.
  - (b) The department of fish, wildlife, and parks shall report to the legislative finance committee at least biannually on expenditures made in the implementation of this part.

**§ 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; and
- (e) prohibition on the use of felt-soled waders.

(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. Mandatory inspections of any interior portion of a vessel or equipment that may contain water may occur only if the use of mandatory inspections is included 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) and provide proof of compliance upon request of a department or its designee.
- (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 and the drain plug disengaged to drain the water before leaving the boat launch or parking area and 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. After draining the water, the drain plug may be reengaged. If a drain plug does not exist or a drain plug cannot be disengaged to comply with this subsection, reasonable measures must be taken to dry or drain all compartments or spaces that hold water.

**§ 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. Examination of any interior portion of a vessel or equipment that may contain water, including bilges, livewells, and bait containers, for compliance may occur 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). Every effort must be made 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 for the first offense and \$750 for subsequent offenses.
  - (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 \$975. In addition, the person shall forfeit the following as issued by this state:

- (i) any current fishing license and the privilege to fish in this state for a period of time set by the court; and
  - (ii) any current sticker or decal required under this part to operate a vessel on the waters of this state.
- (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 \$10,000, or both. A person convicted of violating this subsection (1)(c) may also be required to surrender an involved vessel and pay restitution for any cost incurred to mitigate the effect of the violation.
- (d) A civil penalty not to exceed \$2,500 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 entering the state 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. Examination of any interior portion of a vessel or equipment that may contain water, including bilges, livewells, and bait containers, for compliance may occur 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. Every effort must be made 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 and the drain plug disengaged to drain the water before leaving the boat launch or parking area and 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. After draining the water, the drain plug may be reengaged. If a drain plug does not exist or a drain plug cannot be disengaged to comply with this subsection, reasonable measures must be taken to dry or drain all compartments or spaces that hold water.

**§ 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 \$100 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 subsection (2) of this section, money deposited in the invasive species trust fund may not be appropriated until the principal reaches \$100 million.
- (4) On July 1 of each fiscal year, the principal of the invasive species trust fund in excess of \$100 million and the interest and income generated from the trust fund, excluding unrealized gains and losses, must be deposited in the invasive species account established in 80-7-1004.

- (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.

**§ 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, and appropriations from any source.
- (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 80-7-1018. 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 this section.

**§ 80-7-1019. Enforcement.**

- (1) Except as provided in subsection (2), a peace officer, as defined in 45-2-101, may:
  - (a) 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;
  - (b) 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:
    - (i) the peace officer obtains a search warrant, as defined in 46-1-202; or
    - (ii) 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.
  - (c) cite a person for a violation of this part.
- (2) (a) A peace officer may not require a driver who may be in violation of the requirements of 80-7-1010(2) and 80-7-1015(7) to stop except on reasonable cause to believe:
  - (i) that the driver violated a traffic regulation or another provision of this part; or

- (ii) that the driver's vehicle is unsafe or not equipped as required by law.
- (b) A driver found to be in violation of 80–7–1010(2) or 80–7–1015(7) may correct the violation in the presence of the officer and be deemed in compliance. A correction made pursuant to this subsection (2)(b) may not impact any state waters.

**§ 80-7-1025. Missouri river containment and quarantine program**

- (1) The department of fish, wildlife, and parks shall operate a containment and quarantine program for water bodies fouled by invasive mussels in the Missouri river system, including but not limited to:
  - (a) restrictions on moored vessels within the system;
  - (b) restrictions regarding the use of launch sites and the exit of vessels from fouled water bodies in the system. Launching in and exiting from fouled water bodies is restricted to vessels certified by the department of fish, wildlife, and parks for local use on those water bodies, unless check stations and decontamination units are present.
  - (c) restrictions on fishing derbies in fouled water bodies.
- (2) By December 31, 2018, the department of fish, wildlife, and parks shall develop a containment and quarantine plan for the Missouri river system, allowing for public input and comment, and submit the plan to the invasive species council established in [section 1]. The plan may permit the reopening of fouled water bodies in the system to all vessels if launch site inspectors are properly trained, if the necessary infrastructure and equipment are in place and have been fully tested in advance of deployment, and if invasive species are fully contained, after decontamination, to the source water body.

**§ 80-7-1026. Upper Columbia Conservation Commission – Purpose and Duties**

- (1) The purpose of the upper Columbia conservation commission, established in 2-15-3310, is to protect the aquatic environment in tributaries to the Columbia River from the threat of invasive species.
- (2) The commission shall:
  - (a) monitor the condition of aquatic resources in the tributaries to the Columbia River and coordinate development of an annual monitoring plan. The plan must use a cooperative strategy among all water management agencies within the Columbia River basin in Montana and identify monitoring specific to invasive species threats.
  - (b) encourage the close cooperation and coordination between federal, state, regional, tribal, and local water resource managers for establishment of comprehensive monitoring, data collection, and interpretation;

- (c) encourage and work for international cooperation and coordination between the state of Montana and the Canadian province of British Columbia;
  - (d) develop and implement an invasive species education and outreach strategy specifically for the upper Columbia River basin in Montana;
  - (e) encourage economic development by reducing threats from invasive species and conducting restoration and infestation control measures;
  - (f) provide an annual report of the following to the governor, the director of the department of natural resources and conservation, and the environmental quality council in accordance with 5-11-210:
    - (i) a summary of information gathered in fulfillment of its duties under this section;
    - (ii) information on monitoring activities within the portions of the Columbia River basin occurring in Montana;
    - (iii) an accounting of all money received and expended by source and purpose for the period since the last report; and
  - (g) meet at least biennially, alternating the meeting site between the cities of Kalispell and Missoula.
- (3) The commission may make recommendations to the governor and to federal, state, tribal, provincial, regional, and local agencies for reducing threats from invasive species and for conducting restoration and infestation control measures.
- (4) The commission may receive and, subject to appropriation by the legislature, expend donations, gifts, grants, and other money necessary to fulfill its duties.

**§ 80-7-1030. Mandatory decontamination for vessels with ballast or bladders--legislative finding--fees**

- (1) Except as provided in subsection (2) and in recognition that any interior portion of a vessel that may contain or retain water presents a significant risk of transporting and spreading invasive species, the legislature finds that as part of quarantine measures implemented in the statewide invasive species management area established pursuant to 80-7-1015, a vessel with ballast or bladders must be decontaminated upon entering the state or crossing the continental divide into the Columbia River basin if the vessel is to be launched on waters of this state.
- (2) Decontamination of a vessel with ballast or bladders is not required when the operator is able to provide proof that the vessel has not been launched in any water body for the preceding 45 days or meets other criteria determined by the department of fish, wildlife, and parks to render decontamination unnecessary. The department shall establish, in writing, the standards for proof.
- (3) Decontamination shall be performed in accordance with rules adopted pursuant to 80-7-1007.

- (4) The department of fish, wildlife, and parks may certify private entities, tribes, and conservation districts to conduct decontamination pursuant to this section. If it does so, the department shall establish certification procedures, including a decontamination training course and requirements for maintaining certification.
- (5) A fee of \$50 may be charged per vessel decontaminated by the department pursuant to this section. A private entity, tribe, or conservation district certified to decontaminate a vessel with ballast or bladders may charge a fee commensurate with the actual cost of the decontamination.
- (6) A vessel with ballast or bladders that cannot be fully decontaminated must be locked to its trailer to prevent launch for a drying period determined by the department of fish, wildlife, and parks. The vessel may not be unlocked and allowed to launch until the drying time is complete. No one other than authorized department staff may remove the lock during the drying time. If a vessel requires a drying period, then the vessel must pass an inspection prior to launching in Montana waters in order to be considered decontaminated.
- (7) A person in possession of a vessel with ballast or bladders shall carry proof of compliance with this section and provide it for inspection upon request of a department or its designee.

**Mont. Code Ann. Tit. 80, Ch. 7, Part 12**

**§ 80-7-1201. Invasive Species Council – Purpose**

The purpose of the invasive species council is to advise the governor on a science-based, comprehensive program to identify, prevent, eliminate, reduce, and mitigate invasive species in Montana and to coordinate with public and private partners to develop and implement statewide invasive species strategic plans.

**§ 80-7-1203. Invasive Species Council – Duties – Reporting – Definition**

- (1) The invasive species council shall:
  - (a) provide policy level recommendations, direction, and planning assistance for combating infestations of invasive species throughout the state and preventing the introduction of other invasive species;
  - (b) foster cooperation, communication, and coordinated approaches that support federal, state, provincial, regional, tribal, and local initiatives for the prevention, early detection, and control of invasive species;
  - (c) identify, coordinate, and maintain an independent science advisory panel that informs Montana's efforts based on the current status, trends, and emerging technology as they relate to invasive species management in Montana;

- (d) in coordination with stakeholders, identify and implement priorities for coordination, prevention, early detection, rapid response, and control of invasive species in Montana;
  - (e) champion priority invasive species issues identified by stakeholders to best protect the state;
  - (f) advise and coordinate with agency personnel, local efforts, and the scientific community to implement program priorities;
  - (g) implement an invasive species education and outreach strategy;
  - (h) work with regional groups to coordinate regional defense and response strategies; and
  - (i) work toward establishing and maintaining permanent funding for invasive species priorities.
- (2) The council may receive and, subject to appropriation by the legislature, expend donations, gifts, grants, and other money necessary to fulfill its duties.
- (3) The council shall report on its activities to the governor, the director of the department of natural resources and conservation, and the environmental quality council in accordance with 5-11-210 annually.
- (4) For the purposes of this part, “invasive species” means plants, animals, and pathogens that are nonnative to Montana's ecosystem and cause harm to natural and cultural resources, the economy, and human health.

**Mont. Code Ann. Tit. 87, Ch. 1, Part 5 (Fish and Game Wardens)**

**§ 87-1-506. Enforcement powers of wardens**

- (1) A warden may:
- (a) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;
  - (b) conduct a search, with a search warrant, in accordance with Title 46, chapter 5;
  - (c) seize game, fish, game birds, and fur-bearing animals and any parts of them taken or possessed in violation of the law or the rules of the department;
  - (d) seize and hold, subject to law or the orders of the department, devices that have been used to unlawfully take game, fish, birds, or fur-bearing animals;
  - (e) arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the department, violation of which is a misdemeanor;

- (f) enforce the disorderly conduct and public nuisance laws, 45-8-101 and 45-8-111, as they apply to the operation of motorboats on all waters of the state;
  - (g) as provided for in 37-47-345, investigate violations of 37-47-301(1) and (2) and 37-47-404;
  - (h) enforce the provisions of Title 80, chapter 7, part 10, and rules adopted under Title 80, chapter 7, part 10, for those invasive species that are under the department's jurisdiction; and
  - (i) exercise the other powers of peace officers in the enforcement of the fish and game laws, the rules of the department, and judgments obtained for violation of those laws or rules.
- (2) The meat of game animals that are seized pursuant to subsection (1)(c) must be donated directly to the Montana food bank network or to public or charitable institutions to the extent reasonably feasible. Any meat that the department is unable to donate must be sold pursuant to 87-1-511, with the proceeds to be distributed as provided in 87-1-513(2).

**Mont. Code Ann. Tit. 87, Ch. 2 (Fishing, Hunting, and Trapping Licenses), Part 1 (General Provisions)**

**§ 87-2-130. Aquatic Invasive Species Prevention Pass.**

- (1) To be eligible to fish in Montana or to apply for a fishing license or a combination license that includes a fishing license, a person who is 16 years of age or older must first obtain an aquatic invasive species prevention pass as provided in this section. The pass must be purchased once each license year.
- (2) Resident aquatic invasive species prevention passes may be purchased for a fee of \$2.
- (3) Nonresident aquatic invasive species prevention passes may be purchased for a fee of \$7.50.

**Mont. Code Ann. Tit. 87, Ch. 2 (Fishing, Hunting, and Trapping Licenses), Part 9 (License Agents)**

**§ 87-2-903. Compensation, fees, and duties of agents--penalty for late submission of license money**

*<Bracketed text terminates June 30, 2027.>*

- (1) License agents, except salaried employees of the department, must receive for all services rendered a commission of 50 cents for each transaction, plus any additional amount as determined under subsection (9) and by rules adopted pursuant to subsection (10).

- (2) A license agent may charge a convenience fee of up to 3% of the total amount of a transaction if a purchase is made with a credit card or a debit card. A financial institution or credit card company may not prohibit collection of the convenience fee provided for in this subsection.
- (3) Each license agent shall submit to the department the money received from the sale of licenses and aquatic invasive species prevention passes and from donations received pursuant to [76-17-102,] 81-7-123, and 87-1-293, less the appropriate commission and convenience fee.
- (4) Each license agent shall submit to the department copies of each paper license sold.
- (5) The department may charge license agents appointed after March 1, 1998, an electronic license system fee not to exceed actual costs.
- (6) The department may designate classes of license agents and may establish a protocol for each class of agent. Each license agent shall keep the license account open at all reasonable hours to inspection by the department, the director, the wardens, or the legislative auditor.
- (7) For purposes of this section, the term “transaction” includes the sale of any license or permit, collection of any data or fee, or issuance of any certificate prescribed by the department. The term does not include donations collected pursuant to [76-17-102,] 81-7-123, and 87-1-293 or the sale of aquatic invasive species prevention passes pursuant to 23-2-541 or 87-2-130.
- (8) If a license agent fails to submit to the department all money received from the declared sale of licenses and aquatic invasive species prevention passes and from donations received pursuant to [76-17-102,] 81-7-123, and 87-1-293, less the appropriate commission and convenience fee, by the deadline established by the department, an interest charge equal to the rate charged under 15-1-216 may be assessed. Acceptance of late payments with interest does not preclude the department from summarily revoking the appointment of a license agent under 87-2-904.
- (9) A license agent, except for an electronic service provider, must receive a commission of 50 cents for each ticket the agent processes for a hunting license lottery held pursuant to 87-1-271.
- (10) The department may adopt rules necessary to implement this section.