

## **Washington AIS Statutes**

### **Wash. Rev. Code Tit. 43, Ch. 43.43 (Washington State Patrol)**

#### **§ 43.43.400. Aquatic invasive species inspection and training**

(1) Money in the aquatic invasive species management account created in RCW 77.135.200 may be used by the Washington state patrol for aquatic invasive species inspection training and to inspect for the presence of aquatic invasive species on aquatic conveyances that are required to stop at a Washington state patrol port of entry weigh station.

(2) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and 77.135.010 apply throughout this section.

### **Wash. Rev. Code Tit. 77, Ch. 77.15 (Fish and Wildlife Enforcement Code)**

#### **§ 77.15.160. Infractions**

The following acts are infractions and may be cited and civil penalties imposed as provided under chapter 7.84 RCW, to include detentions for a reasonable period and investigations as provided in RCW 7.84.030. The civil provisions of this section are cumulative and nonexclusive and do not affect any criminal prosecution or investigatory authority over criminal offenses:

(1) Fishing and shellfishing infractions:

- (a) Barbed hooks: Fishing for personal use with barbed hooks in violation of any department rule.
- (b) Catch recording: Failing to immediately record a catch of fish or shellfish on a catch record card as required by RCW 77.32.430 or department rule.
- (c) Catch reporting: Failing to return a catch record card to the department as required by department rule.
- (d) Recreational fishing: Fishing for fish or shellfish and the person:
  - (i) Fails to have in the person's possession the license or the catch record card required by chapter 77.32 RCW for such an activity; or
  - (ii) Violates any department rule regarding seasons, closed areas, closed times, or any other rule addressing the manner or method of fishing for fish or shellfish and the violation involves:
    - (A) Salmon or steelhead;
    - (B) Sturgeon;
    - (C) Game fish;
    - (D) Food fish;
    - (E) Shellfish;
    - (F) Unclassified fish or shellfish;

(G) Waste of food fish, game fish or shellfish. This subsection (1)(d)(ii) does not apply to use of a net to take fish under RCW 77.15.580 or unlawful recreational fishing in the first degree under RCW 77.15.370.

(e) Seaweed: Taking, possessing, or harvesting less than two times the daily possession limit of seaweed:

- (i) While the person is not in possession of the license required by chapter 77.32 RCW; or
- (ii) In violation of any rule of the department or the department of natural resources regarding seasons, closed areas, closed times, or any other rule addressing the manner or method of taking, possessing, or harvesting of seaweed.

(2) Hunting infractions:

- (a) A person engages in an activity defined by chapter 77.32 RCW while not having in the person's possession or having failed to purchase the hunting license or tag required by that chapter, not including big game.
- (b) Eggs or nests: Maliciously, and without permit authorization, destroying, taking, or harming the eggs or active nests of a wild bird not classified as endangered or protected. For purposes of this subsection, "active nests" means nests that contain eggs or fledglings.
- (c) Hunting for wildlife not classified as big game and the person violates any department rule regarding seasons, closed areas, closed times, or any other rule defining the method or manner of hunting or taking wildlife and the violation involves:
  - (i) Unclassified wildlife;
  - (ii) Small game;
  - (iii) Furbearers;
  - (iv) Game birds;
  - (v) Wild birds;
  - (vi) Wild animals;
  - (vii) Waste of small game.

(3) Trapping, taxidermy, fur dealing, and wildlife meat cutting infractions:

- (a) Recordkeeping and reporting: If a person is a taxidermist, fur dealer, or wildlife meat cutter who is processing, holding, or storing wildlife for commercial purposes, failing to:
  - (i) Maintain records as required by department rule; or
  - (ii) Report information from these records as required by department rule.
- (b) Trapper's report: Failing to report trapping activity as required by department rule.

(4) Limited fish seller infraction: Failure of a holder of a limited fish seller endorsement to satisfy the food safety requirements to consumers under RCW 77.65.510(2).

(5)(a) Invasive species management infractions:

- (i) Out-of-state certification: Entering Washington in possession of an aquatic conveyance that does not meet certificate of inspection requirements as provided under RCW 77.135.100;
- (ii) Clean and drain requirements: Possessing an aquatic conveyance that does not meet clean and drain requirements under RCW 77.135.110;
- (iii) Clean and drain orders: Possessing an aquatic conveyance and failing to obey a clean and drain order under RCW 77.135.110 or 77.135.120; and
- (iv) Aquatic invasive species prevention permit requirements: Failing to possess a valid aquatic invasive species prevention permit as required under RCW 77.135.210, 77.135.220, or 77.135.230.

(b) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and 77.135.010 apply throughout this subsection (5).

(6) Other infractions:

(a) Contests: Unlawfully conducting, holding, or sponsoring a hunting contest, a fishing contest involving game fish, or a competitive field trial using live wildlife.

(b) Other rules: Violating any other department rule that is designated by rule as an infraction.

(c) Posting signs: Posting signs preventing hunting or fishing on any land not owned or leased by the person doing the posting, or without the permission of the person who owns, leases, or controls the land posted.

(d) Department permits: Except as provided in RCW 77.15.750, using a department permit issued by the department, and the person:

- (i) Violates any terms or conditions of the permit;
- (ii) Violates any department rule applicable to the issuance or use of permits; or
- (iii) Violates any commercial use or activity permits, noncommercial use or activity permits, or parking permits.

(e) This subsection does not apply to discover pass, vehicle access pass, or day-use permit requirements or penalties pursuant to RCW 79A.80.080.

**§ 77.15.803. Inspection of aquatic conveyance.**

(1) Based upon reasonable suspicion that a person possesses an aquatic conveyance that has not been cleaned and drained or carries or contains aquatic invasive species in violation of this title, fish and wildlife officers or ex officio fish and wildlife officers may temporarily stop the person and inspect the aquatic conveyance for compliance with the requirements of this title.

(2) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and 77.135.010 apply throughout this section.

**§ 77.15.805. Violation of an invasive species law—Warrant.**

- (1) Upon a showing of probable cause that there has been a violation of an invasive species law of the state of Washington, or upon a showing of probable cause to believe that evidence of such a violation may be found at a place, a court must issue a search warrant or arrest warrant. Fish and wildlife officers or ex officio fish and wildlife officers may execute any such search or arrest warrant reasonably necessary to carry out their duties under this title with regard to an invasive species law and may seize invasive species or any evidence of a crime and the fruits or instrumentalities of a crime as provided by warrant. The court may have property opened or entered and the contents examined.
- (2) Seizure of property as evidence of a crime does not preclude seizure of the property for forfeiture as authorized by law.

**§ 77.15.807. Invasive species in or on water body or property—Warrant.**

- (1) Upon a showing of probable cause that a water body or property has an invasive species in or on it, and the owner refuses permission to allow inspection of the water body or property, a court in the county in which the water body or property is located may, upon the request of the director or the director's designee, issue a warrant to the director or the director's designee authorizing the taking of specimens of invasive species, general inspection of the property or water body, and the performance of containment, eradication, or control work.
- (2) Application for issuance, execution, and return of the warrant authorized by this section must be in accordance with the applicable rules of the superior courts or the district courts.

**§ 77.15.809. Unlawful use of invasive species in the second degree--Penalty**

- (1) A person is guilty of unlawful use of invasive species in the second degree if the person:
  - (a) Fails to stop at a mandatory check station or to return to the mandatory check station for inspection if directed to do so by a fish and wildlife officer or ex officio fish and wildlife officer;
  - (b) Fails to allow an aquatic conveyance stopped at a mandatory check station to be inspected for clean and drain requirements or aquatic invasive species;
  - (c) Fails to comply with a decontamination order;
  - (d) Possesses, except in the case of trafficking, a prohibited level 1 or level 2 species without department authorization, a permit, or as otherwise provided by rule;
  - (e) Possesses, introduces on or into a water body or property, or traffics in a prohibited level 3 species without department authorization, a permit, or as otherwise provided by rule;

(f) Introduces on or into a water body or property a regulated type A, type B, or type C species without department authorization, a permit, or as otherwise provided by rule;

(g) Fails to readily and clearly identify in writing by taxonomic species name or subspecies name a regulated type B species used for commercial purposes; or

(h) Knowingly violates a quarantine declaration under RCW 77.135.050.

(2) A violation of subsection (1) of this section is a gross misdemeanor. In addition to criminal penalties, a court may order the person to pay all costs in capturing, killing, or controlling the invasive species, including its progeny. This subsection does not affect the authority of the department to bring a separate civil action to recover habitat restoration costs necessitated by the person's unlawful use of invasive species.

(3) This section does not apply to:

(a) A person who complies with the department directives pursuant to RCW 77.135.120 for mandatory check stations. Such a person is exempt from criminal penalties under this section or RCW 77.15.811, and forfeiture under this chapter, unless the person has a prior conviction under those sections within the past five years;

(b) A person who possesses an aquatic invasive species, if the person is in the process of:

(i) Removing it from the aquatic conveyance in a manner specified by the department; or

(ii) Releasing it if caught while fishing and immediately returning it to the water body from which it came;

(c) Possessing or introducing nonnative aquatic animal species by ballast water held or discharged by vessels regulated under chapter 77.120 RCW; or

(d) Possessing or introducing nonnative aquatic animal species through private sector shellfish aquaculture operations, transfers, or conveyances regulated under chapter 77.115 RCW.

(4) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and 77.135.010 apply throughout this section.

**§ 77.15.811. Unlawful use of invasive species in the first degree—Penalty.**

(1) A person is guilty of unlawful use of invasive species in the first degree if the person:

(a) Traffics or introduces on or into a water body or property a prohibited level 1 or level 2 species without department authorization, a permit, or as otherwise provided by rule; or

- (b) Commits a subsequent violation of unlawful use of invasive species in the second degree within five years of the date of a prior conviction under RCW 77.15.809.
- (2) A violation of this section is a class C felony. In addition to criminal penalties, a court may order the person to pay all costs in managing the invasive species, including the species' progeny. This subsection does not affect the authority of the department to bring a separate civil action to recover habitat restoration costs necessitated by the person's unlawful use of invasive species.
- (3) This section does not apply to:
  - (a) A person who complies with department directives pursuant to RCW 77.135.120 for mandatory check stations, and who is exempt from criminal penalties under this section and forfeiture under this chapter, unless the person has a prior conviction under this section or RCW 77.15.809 within the past five years; or
  - (b) A person who possesses an aquatic invasive species, if the person is in the process of:
    - (i) Removing it from the aquatic conveyance in a manner specified by the department; or
    - (ii) Releasing it if caught while fishing and is immediately returning it to the water body from which it came.
- (4) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and 77.135.010 apply throughout this section.

**Wash. Rev. Code. Tit. 77, Ch. 77.120 (Ballast Water Management)**

**§ 77.120.005. Findings**

The legislature finds that some nonindigenous species have the potential to cause economic and environmental damage to the state and that current efforts to stop the introduction of nonindigenous species from shipping vessels do not adequately reduce the risk of new introductions into Washington waters.

The legislature recognizes the international ramifications and the rapidly changing dimensions of this issue, the lack of currently available treatment technologies, and the difficulty that any one state has in either legally or practically managing this issue. Recognizing the possible limits of state jurisdiction over international issues, the state declares its support for the international maritime organization and United States coast guard efforts, and the state intends to complement, to the extent its powers allow it, the United States coast guard's ballast water management program.

**§ 77.120.010. Definitions**

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) “Ballast tank” means any tank or hold on a vessel used for carrying ballast water, whether or not the tank or hold was designed for that purpose.
- (2) “Ballast water” means any water and matter taken on board a vessel to control or maintain trim, draft, stability, or stresses of the vessel, without regard to the manner in which it is carried.
- (3) “Biofouling” means the accumulation of aquatic organisms on a vessel such as attached or associated mobile microorganisms, plants, and animals on surfaces and structures immersed in or exposed to the aquatic environment.
- (4) “Empty/refill exchange” means to pump out, until the tank is empty or as close to empty as the master or operator determines is safe, the ballast water taken on in ports, estuarine, or territorial waters, and then refilling the tank with open sea waters.
- (5) “Exchange” means to replace the water in a ballast tank using either flow through exchange, empty/refill exchange, or other exchange methodology recommended or required by the United States coast guard.
- (6) “Flow through exchange” means to flush out ballast water by pumping in midocean water at the bottom of the tank and continuously overflowing the tank from the top until three full volumes of water have been changed to minimize the number of original organisms remaining in the tank.
- (7) “Nonindigenous species” means any species or other viable biological material that enters an ecosystem beyond its natural range.
- (8) “Open sea exchange” means an exchange that occurs fifty or more nautical miles offshore. If the United States coast guard requires a vessel to conduct an exchange further offshore, then that distance is the required distance for purposes of compliance with this chapter.
- (9) “Recognized marine trade association” means those trade associations in Washington state that promote improved ballast water management practices by educating their members on the provisions of this chapter, participating in regional ballast water coordination through the Pacific ballast water group, assisting the department in the collection of ballast water exchange forms, and the monitoring of ballast water. This includes members of the Puget Sound marine committee for Puget Sound and the Columbia river steamship operators association for the Columbia river.
- (10) “Sediments” means any matter settled out of ballast water within a vessel.
- (11) “Untreated ballast water” includes exchanged or unexchanged ballast water that has not undergone treatment.

- (12) “Vessel” means a ship, boat, barge, or other floating craft of three hundred gross tons or more, United States and foreign, carrying, or capable of carrying, ballast water into the coastal waters of the state after operating outside of the coastal waters of the state, except those vessels described in RCW 77.120.020.
- (13) “Voyage” means any transit by a vessel destined for any Washington port.
- (14) “Waters of the state” means any surface waters, including internal waters contiguous to state shorelines within the boundaries of the state.

**§ 77.120.020. Application of chapter**

- (1) This chapter applies to all vessels transiting into the waters of the state from a voyage, except:
  - (a) A vessel of the United States department of defense or United States coast guard subject to the requirements of section 1103 of the national invasive species act of 1996, or any vessel of the armed forces, as defined in 33 U.S.C. Sec. 1322(a)(14), that is subject to the uniform national discharge standards for vessels of the armed forces under 33 U.S.C. Sec. 1322(n);
  - (b) A vessel that discharges ballast water or sediments only at the location where the ballast water or sediments originated, if the ballast water or sediments do not mix with ballast water or sediments from areas other than open sea waters; and
  - (c) A vessel in innocent passage, merely traversing the territorial sea of the United States and not entering or departing a United States port, or not navigating the internal waters of the United States, and that does not discharge ballast water into the waters of the state.
- (2) This chapter does not authorize the discharge of oil or noxious liquid substances in a manner prohibited by state, federal, or international laws or regulations. Ballast water containing oil, noxious liquid substances, or any other pollutant shall be discharged in accordance with the applicable requirements.
- (3) The master or operator in charge of a vessel is responsible for the safety of the vessel, its crew, and its passengers. Nothing in this chapter relieves the master or operator in charge of a vessel of the responsibility for ensuring the safety and stability of the vessel or the safety of the crew and passengers.

**§ 77.120.030. Authorized ballast water discharge--Adoption of standards by rule**

- (1) The owner or operator in charge of any vessel covered by this chapter is required to ensure that the vessel under their ownership or control does not discharge ballast water into the waters of the state except as authorized by this section.



- (2) Discharge of ballast water into waters of the state is authorized only if there has been an open sea exchange, or if the vessel has treated its ballast water, to meet standards set by the department consistent with applicable state and federal laws.
- (3) The department, in consultation with a collaborative forum, shall adopt by rule standards for the discharge of ballast water into the waters of the state and their implementation timelines. The standards are intended to ensure that the discharge of ballast water poses minimal risk of introducing nonindigenous species. In developing these standards, the department shall consider the extent to which the requirement is technologically and practically feasible. Where practical and appropriate, the standards must be compatible with standards set by the United States coast guard, the federal clean water act (33 U.S.C. Sec. 1251-1387), or the international maritime organization.
- (4) The master, operator, or person in charge of a vessel is not required to conduct an open sea exchange or treatment of ballast water if the master, operator, or person in charge of a vessel determines that the operation would threaten the safety of the vessel, its crew, or its passengers, because of adverse weather, vessel design limitations, equipment failure, or any other extraordinary conditions. A master, operator, or person in charge of a vessel who relies on this exemption must file documentation defined by the department, subject to: (a) Payment of a fee not to exceed five thousand dollars; (b) discharging only the minimal amount of ballast water operationally necessary; (c) ensuring that ballast water records accurately reflect any reasons for not complying with the mandatory requirements; and (d) any other requirements identified by the department by rule as provided in subsections (3) and (6) of this section.
- (5) For treatment technologies requiring shipyard modification, the department may enter into a compliance plan with the vessel owner. The compliance plan must include a timeline consistent with drydock and shipyard schedules for completion of the modification. The department shall adopt rules for compliance plans under this subsection.
- (6) For an exemption claimed in subsection (4) of this section, the department shall adopt rules for defining exemption conditions, requirements, compliance plans, or alternative ballast water management strategies to meet the intent of this section.
- (7) The department shall make every effort to align ballast water standards with adopted international and federal standards while ensuring that the goals of this chapter are met.
- (8) The requirements of this section do not apply to a vessel discharging ballast water or sediments that originated solely within the waters of Washington, the Columbia river system, or the internal waters of British Columbia south of latitude fifty degrees north, including the waters of the Straits of Georgia and Juan de Fuca.
- (9) Open sea exchange is an exchange that occurs fifty or more nautical miles offshore. If the United States coast guard requires a vessel to conduct an exchange further offshore, then that distance is the required distance for purposes of compliance with this chapter.

**§ 77.120.040. Reporting and sampling requirements**

The owner or operator in charge of any vessel covered by this chapter is required to ensure that the vessel under their ownership or control complies with the reporting and sampling requirements of this section.

- (1) Vessels covered by this chapter must report ballast water management information to the department using ballast water management forms that are acceptable to the United States coast guard. The frequency, manner, and form of such reporting shall be established by the department by rule. Any vessel may rely on a recognized marine trade association to collect and forward this information to the department.
- (2) In order to monitor the effectiveness of national and international efforts to prevent the introduction of nonindigenous species, all vessels covered by this chapter must submit nonindigenous species ballast water monitoring data. The monitoring, sampling, testing protocols, and methods of identifying nonindigenous species in ballast water shall be determined by the department by rule. A vessel covered by this chapter may contract with a recognized marine trade association to randomly sample vessels within that association's membership, and provide data to the department.
- (3) Vessels that do not belong to a recognized marine trade association must submit individual ballast tank sample data to the department for each voyage.
- (4) All data submitted to the department under subsection (2) of this section shall be consistent with sampling and testing protocols as adopted by the department by rule.
- (5) The department shall adopt rules to implement this section. The rules and recommendations shall be developed in consultation with advisors from regulated industries and the potentially affected parties, including but not limited to shipping interests, ports, shellfish growers, fisheries, environmental interests, interested citizens who have knowledge of the issues, and appropriate governmental representatives including the United States coast guard. In recognition of the need to have a coordinated response to ballast water management for the Columbia river system, the department must consider rules adopted by the state of Oregon when adopting rules under this section for ballast water management in the navigable waters of the Columbia river system.
  - (a) The department shall set standards for the discharge of treated ballast water into the waters of the state. The rules are intended to ensure that the discharge of treated ballast water poses minimal risk of introducing nonindigenous species. In developing this standard, the department shall consider the extent to which the requirement is technologically and practically feasible. Where practical and appropriate, the standards shall be compatible with standards set by the United States coast guard and shall be developed in consultation with federal and state agencies to ensure consistency with the federal clean water act, 33 U.S.C. Sec. 1251-1387.

- (b) The department shall adopt ballast water sampling and testing protocols for monitoring the biological components of ballast water that may be discharged into the waters of the state under this chapter. Monitoring data is intended to assist the department in evaluating the risk of new, nonindigenous species introductions from the discharge of ballast water, and to evaluate the accuracy of ballast water exchange practices. The sampling and testing protocols must consist of cost-effective, scientifically verifiable methods that, to the extent practical and without compromising the purposes of this chapter, utilize easily measured indices, such as salinity, or check for species that indicate the potential presence of nonindigenous species or pathogenic species. The department shall specify appropriate quality assurance and quality control for the sampling and testing protocols.

**§ 77.120.050. Pilot project--Private sector ballast water treatment operation**

The shipping vessel industry, the public ports, and the department shall promote the creation of a pilot project to establish a private sector ballast water treatment operation that is capable of servicing vessels at all Washington ports. Federal and state agencies and private industries shall be invited to participate. The project will develop equipment or methods to treat ballast water and establish operational methods that do not increase the cost of ballast water treatment at smaller ports. The legislature intends that the cost of treatment required by this chapter is substantially equivalent among large and small ports in Washington.

**§ 77.120.070. Violation of chapter--Penalties--Rules**

- (1) The department may establish by rule schedules for any penalty allowed in this chapter. The schedules may provide for the incremental assessment of a penalty based on criteria established by rule.
- (2) The director or the director's designee may impose a civil penalty or warning for a violation of the requirements of this chapter on the owner or operator in charge of a vessel who fails to comply with the requirements imposed under this chapter. The penalty shall not exceed twenty-seven thousand five hundred dollars for each day of a continuing violation. In determining the amount of a civil penalty, the department shall set standards by rule that consider if the violation was intentional, negligent, or without any fault, and shall consider the quality and nature of risks created by the violation. The owner or operator subject to such a penalty may contest the determination by requesting an adjudicative proceeding within twenty days. Any determination not timely contested is final and may be reduced to a judgment enforceable in any court with jurisdiction. If the department prevails using any judicial process to collect a penalty under this section, the department shall also be awarded its costs and reasonable attorneys' fees.
- (3) The department, in cooperation with the United States coast guard, may enforce the requirements of this chapter.

**§ 77.120.100. Department may assess fee for exemptions--Rules**

The department may assess a fee for any exemptions allowed under this chapter. Such a fee may not exceed five thousand dollars. The department may establish by rule schedules for any fee allowed in this chapter. The schedules may provide for the incremental assessment of a penalty based on criteria established by rule.

**§ 77.120.110. Ballast water and biofouling management account**

- (1) The ballast water and biofouling management account is created in the state treasury. All receipts from legislative appropriations, gifts, grants, donations, penalties, and fees received under this chapter must be deposited into the account.
- (2) Expenditures from the account may be used only to carry out the purposes of this chapter. However, penalties may not be used for the salaries of permanent department employees.
- (3) Moneys in the account may be spent only after appropriation.

**§ 77.120.120. Special operating authorization--Rules**

The department may issue a special operating authorization for passenger vessels conducting or assisting in research and testing activities to determine the presence of invasive species in ballast water collected in the waters of southeast Alaska north of latitude fifty-four degrees thirty minutes north to sixty-one degrees ten minutes north, extending to longitude one hundred forty-nine degrees thirty minutes west. The department may adopt rules for defining special operating authorization conditions, requirements, limitations, and fees as necessary to implement this section, consistent with the intent of this chapter.

**§ 77.120.130. Department's authority to enter into partnerships, contracts, or other agreements**

The department may enter into partnerships, contracts, or any other form of agreements with other entities to carry out the intent of this chapter. The department shall ensure that any such entity is registered and licensed to do business in Washington. All agreements must be consistent with existing state laws, agency rules, state water quality standards, and collective bargaining agreements.

**§ 77.120.140. Biofouling--Agency rule-making authority**

- (1) The owner or operator of a vessel covered by this chapter is required to ensure that the vessel under their ownership or control does not release biofouling into waters of the state except as authorized by this section.
- (2) The department may adopt by rule standards and requirements governing the release of biofouling on vessels arriving or moored at a Washington port.
- (3) The department shall adopt rules under subsection (2) of this section for adoption in consultation with a collaborative forum with advisors from regulated industries and the

potentially affected parties including shipping interests, ports, shellfish growers, fisheries, environmental interests, interested citizens who have knowledge of the issues, and appropriate governmental representatives including the United States coast guard and the United States environmental protection agency. The rules must:

- (a) Ensure that biofouling management poses minimal risk of release of nonindigenous species;
- (b) Be based on the best available technology that is economically achievable; and
- (c) Where practical and appropriate, be compatible with standards and requirements set by the United States coast guard, the United States environmental protection agency, or the international maritime organization.

**Wash. Rev. Code. Tit. 77, Ch. 77.135 (Invasive Species)**

**§ 77.135.010. Definitions**

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) “Aquatic conveyance” means transportable personal property having the potential to move an aquatic invasive species from one aquatic environment to another. Aquatic conveyances include but are not limited to vessels and associated equipment, float planes, construction equipment, fish tanker trucks, hydroelectric and irrigation equipment, personal fishing and hunting gear, and materials used for aquatic habitat mitigation or restoration.
- (2) “Aquatic invasive species” means an invasive species of the animal kingdom with a life cycle that is at least partly dependent upon fresh, brackish, or marine waters. Examples include nutria, waterfowl, amphibians, fish, and shellfish.
- (3) “Aquatic plant” means a native or nonnative emergent, submersed, partially submersed, free-floating, or floating-leaved plant species that is dependent upon fresh, brackish, or marine water ecosystems and includes all stages of development and parts.
- (4) “Certificate of inspection” means a department-approved document that declares, to the extent technically or measurably possible, that an aquatic conveyance does not carry or contain an invasive species. Certification may be in the form of a decal, label, rubber stamp imprint, tag, permit, locking seal, or written statement.
- (5) “Clean and drain” means to remove the following from areas on or within an aquatic conveyance to the extent technically and measurably possible:
  - (a) Visible native and nonnative aquatic animals, plants, or other organisms; and
  - (b) Raw water.

- (6) “Commercial vessel” means a management category of aquatic conveyances:
  - (a) Required to have valid marine documentation as a vessel of the United States or similar required documentation for a country other than the United States; and
  - (b) Not subject to vessel registration requirements under chapter 88.02 RCW or ballast water requirements under chapter 77.120 RCW.
- (7) “Cryptogenic species” means a species that scientists cannot commonly agree are native or nonnative or are part of the animal kingdom.
- (8) “Decontaminate” means, to the extent technically and measurably possible, the application of a treatment to kill, destroy, remove, or otherwise eliminate all known or suspected invasive species carried on or contained within an aquatic conveyance or structural property by use of physical, chemical, or other methods. Decontamination treatments may include drying an aquatic conveyance for a time sufficient to kill aquatic invasive species through desiccation.
- (9) “Detect” means the verification of invasive species' presence as defined by the department.
- (10) “Eradicate” means, to the extent technically and measurably possible, to kill, destroy, remove, or otherwise eliminate an invasive species from a water body or property using physical, chemical, or other methods.
- (11) “Infested site management” means management actions as provided under RCW 77.135.070 that may include long-term actions to contain, control, or eradicate a prohibited species.
- (12) “Introduce” means to intentionally or unintentionally release, place, or allow the escape, dissemination, or establishment of an invasive species on or into a water body or property as a result of human activity or a failure to act.
- (13) “Invasive species” means nonnative species of the animal kingdom that are not naturally occurring in Washington for purposes of breeding, resting, or foraging, and that pose an invasive risk of harming or threatening the state's environmental, economic, or human resources. Invasive species include all stages of species development and body parts. They may also include genetically modified or cryptogenic species.
- (14) “Invasive species council” means the Washington invasive species council established in RCW 79A.25.310 or a similar collaborative state agency forum. The term includes the council and all of its officers, employees, agents, and contractors.
- (15) “Mandatory check station” means a location where a person transporting an aquatic conveyance must stop and allow the conveyance to be inspected for aquatic invasive species.

- (16) “Possess” means to have authority over the use of an invasive species or use of an aquatic conveyance that may carry or contain an invasive species. For the purposes of this subsection, "authority over" includes the ability to intentionally or unintentionally hold, import, export, transport, purchase, sell, barter, distribute, or propagate an invasive species.
- (17) “Prohibited species” means a classification category of nonnative species as provided in RCW 77.135.030.
- (18) “Property” means both real and personal property.
- (19) “Quarantine declaration” means a management action as provided under RCW 77.135.050 involving the prohibition or conditioning of the movement of aquatic conveyances and waters from a place or an area that is likely to contain a prohibited species.
- (20) “Rapid response” means expedited management actions as provided under RCW 77.135.060 triggered when invasive species are detected, for the time-sensitive purpose of containing or eradicating the species before it spreads or becomes further established.
- (21) “Raw water” means water from a water body and held on or within property. “Raw water” does not include water from precipitation that is captured in a conveyance, structure, or depression that is not otherwise intended to function as a water body, or water from a potable water supply system, unless the water contains visible aquatic organisms.
- (22) “Registered vessel” means a management category of aquatic conveyances required to register as vessels under RCW 88.02.550 or similar requirements for a state other than Washington or a country other than the United States.
- (23) “Regulated species” means a classification category of nonnative species as provided in RCW 77.135.030.
- (24) “Seaplane” means a management category of aquatic conveyances capable of landing on or taking off from water and required to register as an aircraft under RCW 47.68.250 or similar registration in a state other than Washington or a country other than the United States.
- (25) “Small vessel” means a management category of aquatic conveyances including every description of vessel on the water used or capable of being used as a means of transportation on the water, except:
  - (a) Inner tubes, air mattresses, sailboards, and small rafts or flotation devices or toys customarily used by swimmers;
  - (b) Vessels meeting registration requirements under chapter 88.02 RCW; and

(c) Seaplanes.

- (26) “Water body” means an area that carries or contains a collection of water, regardless of whether the feature carrying or containing the water is natural or nonnatural. Examples include basins, bays, coves, streams, rivers, springs, lakes, wetlands, reservoirs, ponds, tanks, irrigation canals, and ditches.

**§ 77.135.020. Department is lead agency for managing invasive species--Responsibilities--  
Limitation of chapter**

(1) The department is the lead agency for managing invasive species of the animal kingdom statewide. This lead responsibility excludes pests, domesticated animals, or livestock managed by the department of agriculture under Titles 15, 16, and 17 RCW, forest invasive insect and disease species managed by the department of natural resources under Title 76 RCW, and mosquito and algae control and shellfish sanitation managed by the department of health under Titles 69, 70, and 90 RCW.

(2) Subject to the availability of funding for these specific purposes, the department may:

(a) Develop and implement integrated invasive species management actions and programs authorized by this chapter, including rapid response, early detection and monitoring, prevention, containment, control, eradication, and enforcement;

(b) Establish and maintain an invasive species outreach and education program, in coordination with the Washington invasive species council, that covers public, commercial, and professional pathways and interests;

(c) Align management classifications, standards, and enforcement provisions by rule with regional, national, and international standards and enforcement provisions;

(d) Manage invasive species to support the preservation of native species, salmon recovery, and the overall protection of threatened or endangered species;

(e) Participate in local, state, regional, national, and international efforts regarding invasive species to support the intent of this chapter;

(f) Provide technical assistance or other support to tribes, federal agencies, local governments, and private groups to promote an informed public and assist the department in meeting the intent of this chapter;

(g) Enter into partnerships, cooperative agreements, and state or interstate compacts as necessary to accomplish the intent of this chapter;



(h) Research and develop invasive species management tools, including standard methods for decontaminating aquatic conveyances and controlling or eradicating invasive species from water bodies and properties;

(i) Post invasive species signs and information at port districts, privately or publicly owned marinas, state parks, and all boat launches owned or leased by state agencies or political subdivisions; and

(j) Adopt rules as needed to implement the provisions of this chapter.

(3) The department may delegate selected and clearly identified elements of its authorities and duties to another agency of the state with appropriate expertise or administrative capacity upon cooperative agreement with that agency. This delegation may include provisions of funding for implementation of the delegations. The department retains primary authority and responsibility for all requirements of this chapter unless otherwise directed in this chapter.

(4) This chapter does not apply to the possession or introduction of nonnative aquatic animal species by:

(a) Ballast water held or discharged by vessels regulated under chapter 77.120 RCW; or

(b) Private sector aquaculture operations, transfers, or conveyances regulated under chapter 77.115 RCW.

(5) This chapter does not preempt or replace other department species classification systems or other management requirements under this title. However, the department must streamline invasive species requirements under this chapter into existing permits and cooperative agreements as possible.

#### **§ 77.135.030. Classification of species--Rules**

(1) The department, in consultation with the invasive species council, may classify or reclassify and list by rule nonnative aquatic animal species as prohibited level 1, level 2, or level 3, based on the degree of invasive risk, the type of management action required, and resources available to conduct the management action.

(a) Species classified as prohibited level 1 pose a high invasive risk and are a priority for prevention and expedited rapid response management actions.

(b) Species classified as prohibited level 2 pose a high invasive risk and are a priority for long-term infested site management actions.

(c) Species classified as prohibited level 3 pose a moderate to high invasive risk and may be appropriate for prevention, rapid response, or other prohibited species management plan actions by the department, another agency, a local government, tribes, or the public.

(2) The department, in consultation with the invasive species council, may classify and list by rule regulated type A species. This classification is used for nonnative aquatic animal species that pose a low to moderate invasive risk that can be managed based on intended use or geographic scope of introduction, have a beneficial use, and are a priority for department-led or department-approved management of the species' beneficial use and invasive risks.

(3) Nonnative aquatic animal species not classified as prohibited level 1, level 2, or level 3 under subsection (1) of this section, or as regulated type A species under subsection (2) of this section, are automatically managed statewide as regulated type B species or regulated type C species and do not require listing by rule.

(a) Species managed as regulated type B pose a low or unknown invasive risk and are possessed for personal or commercial purposes, such as for aquariums, live food markets, or as nondomesticated pets.

(b) Species managed as regulated type C pose a low or unknown invasive risk and include all other species that do not meet the criteria for management as a regulated type B invasive species.

(4) Classification of prohibited and regulated species:

(a) May be by individual species or larger taxonomic groups up to the family name;

(b) Must align, as practical and appropriate, with regional and national classification levels;

(c) Must be statewide unless otherwise designated by a water body, property, or other geographic region or area; and

(d) May define general possession and introduction conditions acceptable under department authorization, a permit, or as otherwise provided by rule.

(5) Prior to or at the time of classifying species by rule as prohibited or regulated under subsections (1) and (2) of this section, the department, in consultation with the invasive species council, must adopt rules establishing standards for determining invasive risk levels and criteria for determining beneficial use that take into consideration environmental impacts, and especially effects on the preservation of native species, salmon recovery, and threatened or endangered species.

#### **§ 77.135.040. Prohibited and regulated species--Required authorization**

(1) Prohibited level 1, level 2, and level 3 species may not be possessed, introduced on or into a water body or property, or trafficked, without department authorization, a permit, or as otherwise provided by rule.

(2) Regulated type A, type B, and type C species may not be introduced on or into a water body or property without department authorization, a permit, or as otherwise provided by rule.

(3) Regulated type B species, when being actively used for commercial purposes, must be readily and clearly identified in writing by taxonomic species name or subspecies name to distinguish the subspecies from another prohibited species or a regulated type A species. Nothing in this section precludes using additional descriptive language or trade names to describe regulated type B species as long as the labeling requirements of this section are met.

**§ 77.135.050. Department-declared quarantine**

(1) If the department determines it is necessary to protect the environmental, economic, or human health interests of the state from the threat of a prohibited level 1 or level 2 species, the department may declare a quarantine against a water body, property, or region within the state. The department may prohibit or condition the movement of aquatic conveyances and waters from such a quarantined place or area that are likely to contain a prohibited species.

(2) A quarantine declaration under this section may be implemented separately or in conjunction with rapid response management actions under RCW 77.135.060 and infested site management actions under RCW 77.135.070 in a manner and for a duration necessary to protect the interests of the state from the threat of a prohibited level 1 or level 2 species. A quarantine declaration must include:

- (a) The reasons for the action including the prohibited level 1 or level 2 species triggering the quarantine;
- (b) The boundaries of the area affected;
- (c) The action timeline;
- (d) Types of aquatic conveyances and waters affected by the quarantine and any prohibition or conditions on the movement of those aquatic conveyances and waters from the quarantine area; and
- (e) Inspection and decontamination requirements for aquatic conveyances.

**§ 77.135.060. Rapid response management actions**

(1) The department may implement rapid response management actions where a prohibited level 1 species is detected in or on a water body or property. Rapid response management actions may include expedited actions to contain, control, or eradicate the prohibited species; and, if applicable, be implemented in conjunction with a quarantine declaration. Rapid response management actions must be terminated by the department when it determines that the targeted prohibited level 1 species are:

- (a) Eradicated;
- (b) Contained or controlled without need for further management actions;

(c) Reclassified for that water body; or

(d) Being managed under infested site management actions pursuant to RCW 77.135.070.

(2) If a rapid response management action exceeds seven days, the department may implement an incident command system for rapid response management including scope, duration, and types of actions and to support mutual assistance and cooperation between the department and other affected state and federal agencies, tribes, local governments, and private water body or property owners. The purpose of this system is to coordinate a rapid, effective, and efficient response to contain, control, and eradicate if feasible, a prohibited level 1 species. Mutual assistance and coordination by other state agencies is especially important to assist the department in expediting necessary state and federal environmental permits.

(3) The department may enter into cooperative agreements with national, regional, state, and local rapid response management action partners to establish incident command system structures, secure or prepare submission-ready environmental permits, and identify mutual assistance commitments in preparation for potential future actions.

(4) The department may perform simulated rapid response exercises, testing, or other training activities to prepare for future rapid response management actions.

(5) In implementing rapid response management actions, the department may enter upon property consistent with the process established under RCW 77.135.170.

**§ 77.135.070. Infested site management actions**

(1) The department may implement infested site management actions where a prohibited level 2 species is detected in or on a water body or property. Infested site management actions may: Include long-term actions to contain, control, or eradicate the prohibited species; and, if applicable, be implemented in conjunction with a quarantine declaration. Infested site management actions must be terminated by the department when it determines that the targeted prohibited level 2 species are:

(a) Eradicated;

(b) Contained or controlled without need for further management actions; or

(c) Reclassified for that water body.

(2) The department must consult with affected state and federal agencies, tribes, local governments, and private water body or property owners prior to implementing infested site management actions. The purpose of the consultation is to support mutual assistance and cooperation in providing an effective and efficient response to contain, control, and eradicate, if feasible, a prohibited level 2 species.

(3) The department may enter into cooperative agreements with national, regional, state, and local infested site management action partners to establish management responsibilities, secure or prepare submission-ready environmental permits, and identify mutual assistance commitments.

(4) In implementing infested site management actions, the department may enter upon property consistent with the process established under RCW 77.135.170.

**§ 77.135.080. Implementation of department's duties--Department is lead agency--Notice**

(1) To the extent possible, the department's quarantine declarations under RCW 77.135.050, rapid response management actions under RCW 77.135.060, and infested site management actions under RCW 77.135.070 must be implemented in a manner best suited to contain, control, and eradicate prohibited level 1 and level 2 species while protecting human safety, minimizing adverse environmental impacts to a water body or property, and minimizing adverse economic impacts to owners of an affected water body or property.

(2) The department is the lead agency for quarantine declarations, rapid response, and infested site management actions. Where the infested water body is subject to tribal, federal, or other sovereign jurisdiction, the department:

(a) Must consult with appropriate federal agencies, tribal governments, other states, and Canadian government entities to develop and implement coordinated management actions on affected water bodies under shared jurisdiction;

(b) May assist in infested site management actions where these actions may prevent the spread of prohibited species into state water bodies; and

(c) May assist other states and Canadian government entities, in the Columbia river basin, in management actions on affected water bodies outside of the state where these actions may prevent the spread of the species into state water bodies.

(3) (a) The department must provide notice of quarantine declarations, rapid response, and infested site management actions to owners of an affected water body or property. Notice may be provided by any reasonable means, such as in person, by United States postal service, by publication in a local newspaper, by electronic publication including social media or postings on the department's public web site, or by posting signs at the water body.

(b) The department must provide updates to owners of an affected water body or property based on management action type as follows:

(i) Every seven days for a rapid response management action and, if applicable, a quarantine declaration implemented in conjunction with a rapid response management action;

(ii) Every six months for a separate quarantine declaration;

(iii) Annually for the duration of an infested site management action and, if applicable, a quarantine declaration implemented in conjunction with an infested site management action; and

(iv) A final update at the conclusion of any management action.

(c) In addition to owners of an affected water body or property, the department must provide notice of a quarantine declaration to members of the public by any reasonable means for an area subject to a quarantine declaration, such as by publication in a local newspaper, by electronic publication including social media or postings on the department's public web site, or by posting signs at the water body. The department must provide updates at reasonable intervals and a final update at the conclusion of the quarantine declaration.

(4) The department must publicly list those water bodies or portions of water bodies in which a prohibited level 1 or level 2 species has been detected. The department may list those areas in which a prohibited level 3 species has been detected.

(5) When posting signs at a water body or property where a prohibited species has been detected, the department must consult with owners of the affected water body or property regarding placement of those signs.

#### **§ 77.135.090. Emergency measures**

(1) If the director finds that there exists an imminent danger of a prohibited level 1 or level 2 species detection that seriously endangers or threatens the environment, economy, human health, or well-being of the state of Washington, the director must ask the governor to order, under RCW 43.06.010(14), emergency measures to prevent or abate the prohibited species. The director's findings must contain an evaluation of the effect of the emergency measures on environmental factors such as fish listed under the endangered species act, economic factors such as public and private access, human health factors such as water quality, or well-being factors such as cultural resources.

(2) If an emergency is declared pursuant to RCW 43.06.010(14), the director may consult with the invasive species council to advise the governor on emergency measures necessary under RCW 43.06.010(14) and this section, and make subsequent recommendations to the governor. The invasive species council must involve owners of the affected water body or property, state and local governments, federal agencies, tribes, public health interests, technical service providers, and environmental organizations, as appropriate.

(3) Upon the governor's approval of emergency measures, the director may implement these measures to prevent, contain, control, or eradicate invasive species that are the subject of the emergency order, notwithstanding the provisions of chapter 15.58 or 17.21 RCW or any other statute. These measures, after evaluation of all other alternatives, may include the surface and aerial application of pesticides.

(4) The director must continually evaluate the effects of the emergency measures and report these to the governor at intervals of not less than ten days. The director must immediately advise the governor if the director finds that the emergency no longer exists or if certain emergency measures should be discontinued.

**§ 77.135.100. Aquatic conveyance--Certificate of inspection--Adoption of rules**

(1) A person in possession of an aquatic conveyance who enters Washington by road, air, or water is required to have a certificate of inspection. A person must provide this certificate of inspection upon request by a fish and wildlife officer or ex officio fish and wildlife officer.

(2) The department must adopt rules to implement this section including:

(a) Types of aquatic conveyances required to have a certificate of inspection;

(b) Allowable certificate of inspection forms including passport type systems and integration with existing similar permits;

(c) Situations when authorization can be obtained for transporting an aquatic conveyance not meeting inspection requirements to a specified location within the state where certificate of inspection requirements can be provided; and

(d) Situations where aquatic conveyances are using shared boundary waters of the state, such as portions of the Columbia river, lake Osoyoos, and the Puget Sound.

**§ 77.135.110. Aquatic conveyance--Clean and drain requirements--Enforcement--Adoption of rules**

(1) A person in possession of an aquatic conveyance must meet clean and drain requirements after the conveyance's use in or on a water body or property. A certificate of inspection is not needed to meet clean and drain requirements.

(2) A fish and wildlife officer or ex officio fish and wildlife officer may order a person transporting an aquatic conveyance not meeting clean and drain requirements to:

(a) Clean and drain the conveyance at the discovery site, if the department determines there are sufficient resources available; or

(b) Transport the conveyance to a reasonably close location where resources are sufficient to meet the clean and drain requirements.

(3) This section may be enforced immediately on the transportation of aquatic plants by registered vessels, small vessels, seaplanes, and commercial vessels. The department must adopt rules to implement all other aspects of clean and drain requirements, including:

(a) Other types of aquatic conveyances subject to this requirement;

(b) When transport of an aquatic conveyance is authorized if clean and drain services are not readily available at the last water body used; and

(c) Exemptions to clean and drain requirements where the department determines there is minimal risk of spreading invasive species.

**§ 77.135.120. Mandatory check stations**

(1) The department may establish mandatory check stations to inspect aquatic conveyances for clean and drain requirements and aquatic invasive species. The check stations must be operated by at least one fish and wildlife officer, an ex officio fish and wildlife officer in coordination with the department, or department-authorized representative, and must be plainly marked by signs and operated in a safe manner.

(2) Aquatic conveyances required to stop at mandatory check stations include registered vessels, commercial vessels, and small vessels. The department may establish rules governing other types of aquatic conveyances that must stop at mandatory check stations. The rules must provide sufficient guidance so that a person transporting the aquatic conveyance readily understands that he or she is required to stop.

(3) A person who encounters a mandatory check station while transporting an aquatic conveyance must:

(a) Stop at the mandatory check station;

(b) Allow the aquatic conveyance to be inspected for clean and drain requirements and aquatic invasive species;

(c) Follow clean and drain orders if clean and drain requirements are not met pursuant to RCW 77.135.110; and

(d) Follow decontamination orders pursuant to RCW 77.135.130 if an aquatic invasive species is found.

(4) A person who complies with the department directives under this section is exempt from criminal penalties under RCW 77.15.809 and 77.15.811, civil penalties under RCW 77.15.160(4) [RCW 77.15.160(5), effective Jan. 1, 2018], and civil forfeiture under RCW 77.15.070, unless the person has a prior conviction for an invasive species violation within the past five years.

**§ 77.135.130. Decontamination order**

(1) Upon discovery of an aquatic conveyance that carries or contains an aquatic invasive species without department authorization, a permit, or as otherwise provided by rule, a fish and wildlife officer or ex officio fish and wildlife officer may issue a decontamination order:



(a) Requiring decontamination at the discovery site, if the situation presents a low risk of aquatic invasive species introduction, and sufficient department resources are available at the discovery site;

(b) Prohibiting the launch of the aquatic conveyance in a water body until decontamination is completed and certified, if the situation presents a low risk of aquatic invasive species introduction, and sufficient department resources are not available at the discovery site;

(c) Requiring immediate transport of the conveyance to an approved decontamination station, and prohibiting the launch of the conveyance in a water body until decontamination is completed and certified, if the situation presents a moderate risk of aquatic invasive species introduction, and sufficient department resources are not available at the discovery site; or

(d) Seizing and transporting the aquatic conveyance to an approved decontamination station until decontamination is completed and certified, if the situation presents a high risk of aquatic invasive species introduction, and sufficient department resources are not available at the discovery site.

(2) The person possessing the aquatic conveyance that is subject to orders issued under subsection (1)(b) through (d) of this section must bear any costs for seizure, transportation, or decontamination.

(3) Orders issued under subsection (1)(b) through (d) of this section must be in writing and must include notice of the opportunity for a hearing pursuant to RCW 77.135.140 to determine the validity of the orders.

(4) If a decontamination order is issued under subsection (1)(d) of this section, the department may seize the aquatic conveyance for two working days or a reasonable additional period of time thereafter as needed to meet decontamination requirements. The decontamination period must be based on factors including conveyance size and complexity, type and number of aquatic invasive species present, and decontamination station resource capacity.

(5) If an aquatic conveyance is subject to forfeiture under RCW 77.15.070, the timelines and other provisions under that section apply to the seizure.

(6) Upon decontamination and issuing a certificate of inspection, an aquatic conveyance must be released to the person in possession of the aquatic conveyance at the time the decontamination order was issued, or to the owner of the aquatic conveyance.

**§ 77.135.140. Person aggrieved or adversely affected by department's action--Hearing**

(1) A person aggrieved or adversely affected by a quarantine declaration under RCW 77.135.050, a rapid response management action under RCW 77.135.060, an infested site management action under RCW 77.135.070, or a decontamination order under RCW 77.135.130 may contest the validity of the department's actions by requesting a hearing in writing within twenty days of the department's actions.

(2) Hearings must be conducted pursuant to chapter 34.05 RCW and the burden of demonstrating the invalidity of agency action is on the party asserting invalidity. The hearing may be conducted by the director or the director's designee and may occur telephonically.

(3) A hearing on a decontamination order is limited to the issues of whether decontamination was necessary and the reasonableness of costs assessed for any seizure, transportation, and decontamination. If the person in possession of the aquatic conveyance that was decontaminated prevails at the hearing, the person is entitled to reimbursement by the department for any costs assessed by the department or decontamination station operator for the seizure, transportation, and decontamination. If the department prevails at the hearing, the department is not responsible for and may not reimburse any costs.

**§ 77.135.150. Aquatic conveyance inspection and decontamination stations--Adoption of rules**

(1) The department may operate aquatic conveyance inspection and decontamination stations statewide for voluntary use by the public or for mandatory use where directed by the department to meet inspection and decontamination requirements of this chapter. Decontamination stations can be part of or separate from inspection stations. Inspection and decontamination stations are separate from commercial vehicle weigh stations operated by the Washington state patrol.

(2) Inspection station staff must inspect aquatic conveyances to determine whether the conveyances carry or contain aquatic invasive species. If an aquatic conveyance is free of aquatic invasive species, then inspection station staff must issue a certificate of inspection. A certificate of inspection is valid until the conveyance's next use in a water body.

(3) If a conveyance carries or contains aquatic invasive species, then inspection station staff must require the conveyance's decontamination before issuing a certificate of inspection. The certificate of inspection is valid until the conveyance's next use in a water body.

(4) The department must identify, in a way that is readily available to the public, the location and contact information for inspection and decontamination stations.

(5) The department must adopt by rule standards for inspection and decontamination that, where practical and appropriate, align with regional, national, and international standards.

**§ 77.135.160. Department-authorized representatives--Adoption of rules--Fee schedule**

(1) The department may authorize representatives to operate its inspection and decontamination stations and mandatory check stations. Department-authorized representatives may be department volunteers, other law enforcement agencies, or independent businesses.

(2) The department must adopt rules governing the types of services that department-authorized representatives may perform under this chapter.

(3) Department-authorized representatives must have official identification, training, and administrative capacity to fulfill their responsibilities under this section.

(4) By December 1, 2018, the department must provide the legislature with recommendations for a fee schedule that department-authorized representatives may charge users whose aquatic conveyances receive inspection and decontamination services.

**§ 77.135.170. Department’s authority to enter upon property/water body--Notification--Application, issuance of warrant**

(1) The department may enter upon a property or water body at any reasonable time for the purpose of administering this chapter, including inspecting and decontaminating aquatic conveyances, collecting invasive species samples, implementing rapid response management actions or infested site management actions, and containing, controlling, or eradicating invasive species.

(2) Prior to entering the property or water body, the department shall make a reasonable attempt to notify the owner of the property or water body as to the purpose and need for the entry. Should the department be denied access to any property or water body where access is sought for the purposes set forth in this chapter, the department may apply to any court of competent jurisdiction for a warrant authorizing access to the property.

(3) Upon such an application, the court may issue the warrant for the purposes requested where the court finds reasonable cause to believe it is necessary to achieve the purposes of this chapter.

**§ 77.135.180. Chapter must be liberally construed**

The provisions of this chapter must be liberally construed to carry out the intent of the legislature.

**§ 77.135.200. Aquatic invasive species management account.**

The aquatic invasive species management account is created in the state treasury. All receipts directed to the account from RCW 88.02.640 and 77.135.230, as well as legislative appropriations, gifts, donations, fees, and penalties received by the department for aquatic invasive species management, must be deposited into the account. Moneys in the account may be used only after appropriation. Expenditures from the account may only be used to implement aquatic invasive species-related provisions under this title.

**§ 77.135.210. Aquatic invasive species prevention permit—Operators of vessels and aquatic conveyances.**

(1) The department may issue aquatic invasive species prevention permits to operators of vessels and aquatic conveyances.

- (2) A person must obtain a Washington state aquatic invasive species prevention permit for each seaplane or vessel registered in another state, before placing or operating such a vessel or seaplane on any water body in the state.
- (3) The valid aquatic invasive species prevention permit must be present and readily available for inspection by a fish and wildlife officer or ex officio fish and wildlife officer at the location where the vessel or seaplane is placed or operated.
- (4) Aquatic invasive species prevention permits for conveyances listed in subsection (2) of this section are not transferable.

**§ 77.135.220 Aquatic invasive species prevention permits—Commercial transporters and aquatic conveyances.**

- (1) The department may issue aquatic invasive species prevention permits to commercial transporters of vessels and aquatic conveyances.
- (2) A person must obtain a Washington state aquatic invasive species prevention permit before commercially transporting into or through the state one or more of the following conveyances that have previously been placed or operated in the waters of any state or country: (a) a small vessel; (b) a registered vessel; (c) a seaplane; or (d) a commercial vessel.
- (3) The valid aquatic invasive species prevention permit must be present and readily available for inspection upon request by a fish and wildlife officer or ex officio fish and wildlife officer at any location where the listed conveyance is associated with the transport vehicle.
- (4) The aquatic invasive species prevention permit is transferable between vehicles and vehicle operators of the same business used to commercially transport aquatic conveyances but a separate permit is required for each vehicle operator commercially transporting aquatic conveyances at any given time.
- (5) An aquatic invasive species prevention permit is not required to commercially transport new conveyances if the vehicle operator has documentation present and readily available proving all conveyances originated from the manufacturer or vendor and the conveyances have never been placed or operated in waters of any state or country.

**§ 77.135.230. Aquatic invasive species prevention permit—Fee—Exempt vessels.**

- (1) Washington state aquatic invasive species prevention permits are valid for one year beginning from the date that the permit is marked for activation unless otherwise directed by the department. The permits must be made available for purchase throughout the year through the department's automated licensing system consistent with RCW 77.32.050.
- (2) The aquatic invasive species prevention permit fee for a nonresident registered vessel or seaplane as required under RCW 77.135.210 is twenty dollars.

- (3) The aquatic invasive species prevention permit fee for a person commercially transporting a small vessel, registered vessel, seaplane, or commercial vessel as required under RCW 77.135.220 is twenty dollars.
- (4) The department may adopt rules addressing conditions and costs of obtaining duplicate aquatic invasive species prevention permits.
- (5) Permit fees collected under this section must be deposited into the aquatic invasive species management account created in RCW 77.135.200.
- (6) Exemptions for aquatic invasive species prevention permits include:
  - (a) A military vessel or seaplane owned by the United States government; and
  - (b) A vessel clearly identified as being owned by any federal, tribal, state, or local government agency or other public corporations, and used primarily for governmental purposes.
- (7) (a) The following nonresident aquatic conveyances are exempt from aquatic invasive species prevention permit requirements under this section while placed or operated on shared boundary waters of the state:
  - (i) Vessels having valid state of Idaho or Oregon registration or numbering; and
  - (ii) Seaplanes or commercial vessels having a valid Idaho or Oregon aquatic invasive species prevention or similar permit.
  - (b) The department may adopt by rule a regional reciprocity process to further exempt aquatic conveyances from permit requirements under this section in part or whole. A reciprocity system may be implemented only where the participating state or country does not require a Washington resident to purchase an equivalent permit.

**§ 77.135.240. Aquatic invasive species local management grant program.**

- (1) Money in the aquatic invasive species management account created in RCW 77.135.200 may be appropriated to the department to establish an aquatic invasive species local management grant program. The department shall enter into agreement with the recreation and conservation office to administer the grant funds or other financial assistance, assist the department in developing grant program policies and funding criteria, and consult with the department prior to awarding grants. State agencies, cities, counties, tribes, special purpose districts, academic institutions, and nonprofit groups are eligible for competitive grants to:
  - (a) Manage prohibited level 1 or level 2 aquatic [invasive] species at a local level;
  - (b) Develop rapid response management cooperative agreements for local water bodies;

- (c) Develop or implement prohibited species management cooperative agreements for local water bodies; and
  - (d) Conduct innovative applied research that directly supports on-the-ground prevention, control, and eradication efforts.
- (2) The department may give preference to projects that have matching funds, provide in-kind services, or maintain or enhance outdoor recreational opportunities.

**Wash. Rev. Code Tit. 79a, Ch. 79A.60 (Regulation of Recreational Vessels)**

**§ 79A.60.630. Boating safety education--Commission's duties--Fee--Report to the legislature**

*\*AIS-relevant provision: § 79A.60.630(1)*

(1) The commission shall establish and implement by rule a program to provide required boating safety education. The boating safety education program shall include training on preventing the spread of aquatic invasive species. The boating safety education program shall include educational materials regarding whale watching guidelines and other voluntary and regulatory measures related to whale watching. The program shall be phased in so that all boaters not exempted under RCW 79A.60.640(3) are required to obtain a boater education card by January 1, 2016. To obtain a boater education card, a boater shall provide a certificate of accomplishment issued by a boating educator for taking and passing an accredited boating safety education course, or pass an equivalency exam, or provide proof of completion of a course that meets the standard adopted by the commission.

(2) As part of the boating safety education program, the commission shall:

(a) Establish a program to be phased over eleven years starting July 1, 2005, with full implementation by January 1, 2016. The period July 1, 2005, through December 31, 2007, will be program development, boater notification of the new requirements for mandatory education, and processing cards to be issued to individuals having taken an accredited course prior to January 1, 2008. The schedule for phase-in of the mandatory education requirement by age group is as follows:

- January 1, 2008--All boat operators twenty years old and younger;
- January 1, 2009--All boat operators twenty-five years old and younger;
- January 1, 2010--All boat operators thirty years old and younger;
- January 1, 2011--All boat operators thirty-five years old and younger;
- January 1, 2012--All boat operators forty years old and younger;
- January 1, 2013--All boat operators fifty years old and younger;
- January 1, 2014--All boat operators sixty years old and younger;
- January 1, 2015--All boat operators seventy years old and younger;
- January 1, 2016--All boat operators;

- (b) Establish a minimum standard of boating safety education accomplishment. The standard must be consistent with the applicable standard established by the national association of state boating law administrators;
- (c) Adopt minimum standards for boating safety education course of instruction and examination that ensures compliance with the national association of state boating law administrators minimum standards;
- (d) Approve and provide accreditation to boating safety education courses operated by volunteers, or commercial or nonprofit organizations, including, but not limited to, courses given by the United States coast guard auxiliary and the United States power squadrons;
- (e) Develop an equivalency examination that may be taken as an alternative to the boating safety education course;
- (f) Establish a fee of ten dollars for the boater education card to fund all commission activities related to the boating safety education program created by chapter 392, Laws of 2005, including the initial costs of developing the program. Any surplus funds resulting from the fees received shall be distributed by the commission as grants to local marine law enforcement programs approved by the commission as provided in RCW 88.02.650;
- (g) Establish a fee for the replacement of the boater education card that covers the cost of replacement;
- (h) Consider and evaluate public agency and commercial opportunities to assist in program administration with the intent to keep administrative costs to a minimum;
- (i) Approve and provide accreditation to boating safety education courses offered online; and
- (j) Provide a report to the legislature by January 1, 2008, on its progress of implementation of the mandatory education program.

**Wash. Rev. Code Tit. 88, Ch. 88.02 (Vessel Registration)**

**§ 88.02.640. Fees by type--Disposition, distribution** *(Effective until January 1, 2026)*

*\* AIS-relevant provisions: §§ 88.02.640(1)(b) and (3).*

(1) In addition to any other fees and taxes required by law, the department, county auditor or other agent, or subagent appointed by the director must charge the following vessel fees and surcharge:

FEE	AMOUNT	AUTHORITY	DISTRIBUTION
(a) Dealer temporary permit	\$5.00	RCW 88.02.800(2)	General fund

(b) Derelict vessel and invasive species removal	Subsection (3) of this section	Subsection (3) of this section	Subsection (3) of this section
(c) Derelict vessel removal surcharge	\$1.00	Subsection (4) of this section	Subsection (4) of this section
(d) Duplicate certificate of title	\$1.25	RCW 88.02.530(1)(c)	General fund
(e) Duplicate registration	\$1.25	RCW 88.02.590(1)(c)	General fund
(f) Filing	RCW 46.17.005	RCW 88.02.560(2)	RCW 46.68.400
(g) License plate technology	RCW 46.17.015	RCW 88.02.560(2)	RCW 46.68.370
(h) License service	RCW 46.17.025	RCW 88.02.560(2)	RCW 46.68.220
(i) Nonresident vessel permit	Subsection (5) of this section	RCW 88.02.620(4)	Subsection (5) of this section
(j) Quick title service	\$50.00	RCW 88.02.540(3)	Subsection (7) of this section
(k) Registration	\$10.50	RCW 88.02.560(2)	RCW 88.02.650
(l) Replacement decal	\$1.25	RCW 88.02.595(1)(c)	General fund
(m) Service fee	RCW 46.17.040	RCW 88.02.515 and 88.02.560(2)	RCW 46.17.040
(n) Title application	\$5.00	RCW 88.02.515	General fund
(o) Transfer	\$1.00	RCW 88.02.560(7)	General fund
(p) Vessel visitor permit	\$30.00	RCW 88.02.610(3)	Subsection (6) of this section

(2) The five dollar dealer temporary permit fee required in subsection (1) of this section must be credited to the payment of registration fees at the time application for registration is made.

(3) The derelict vessel and invasive species removal fee required in subsection (1) of this section is five dollars and must be distributed as follows:

(a) Two dollars must be deposited in the aquatic invasive species management account created in RCW 77.135.200;

(b) One dollar must be deposited into the aquatic algae control account created in RCW 43.21A.667; and

(c) Two dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100.

(4) In addition to other fees required in this section, an annual derelict vessel removal surcharge of one dollar must be charged with each vessel registration. The surcharge is to address the significant backlog of derelict vessels accumulated in Washington waters that pose a threat to the



health and safety of the people and to the environment and must be deposited into the derelict vessel removal account created in RCW 79.100.100.

(5) (a) The amount of the nonresident vessel permit fee is:

(i) For a vessel owned by a nonresident natural person, twenty-five dollars; and

(ii) For a nonresident vessel owner that is not a natural person, the fee is equal to:

(A) Twenty-five dollars per foot for vessels between thirty and ninety-nine feet in length;

(B) Thirty dollars per foot for vessels between one hundred and one hundred twenty feet in length; and

(C) Thirty-seven dollars and fifty cents per foot for vessels between one hundred twenty-one and one hundred sixty-four feet in length. The fee must be multiplied by the extreme length of the vessel in feet, rounded up to the nearest whole foot.

(b) The fee must be paid by the vessel owner to the department. Any moneys remaining from the fee after the payment of costs to administer the permit must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.650.

(c) A nonresident vessel owner that is not a natural person may not obtain more than two nonresident vessel permits under RCW 88.02.620 within any thirty-six month period.

(6) The thirty dollar vessel visitor permit fee must be distributed as follows:

(a) Five dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100;

(b) The department may keep an amount to cover costs for providing the vessel visitor permit;

(c) Any moneys remaining must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.650; and

(d) Any fees required for licensing agents under RCW 46.17.005 are in addition to any other fee or tax due for the titling and registration of vessels.

(7) (a) The fifty dollar quick title service fee must be distributed as follows:

(i) If the fee is paid to the director, the fee must be deposited to the general fund.

(ii) If the fee is paid to the participating county auditor or other agent appointed by the director, twenty-five dollars must be deposited to the general fund. The remainder must

be retained by the county treasurer in the same manner as other fees collected by the county auditor.

(iii) If the fee is paid to a subagent appointed by the director, twenty-five dollars must be deposited to the general fund. The remaining twenty-five dollars must be distributed as follows: Twelve dollars and fifty cents must be retained by the county treasurer in the same manner as other fees collected by the county auditor and twelve dollars and fifty cents must be retained by the subagent.

(b) For the purposes of this subsection, “quick title” has the same meaning as in RCW 88.02.540.

(8) The department, county auditor or other agent, or subagent appointed by the director shall charge the service fee under subsection (1)(m) of this section beginning January 1, 2016.