

Colorado AIS Statutes

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

§ 33-10.5-101. Legislative declaration

- (1) The general assembly hereby finds, determines, and declares that:
 - (a) Aquatic nuisance species have devastating economic, environmental, and social impacts on the aquatic resources and water infrastructure of the state;
 - (b) Recreational vessels are a significant source of the spread of aquatic nuisance species in Colorado;
 - (c) One of the division's highest priorities should be the prevention, containment, and eradication of aquatic nuisance species in waters of the state in which the species have been detected or are likely to be introduced; and
 - (d) Therefore, the purposes of enacting this article 10.5 are:
 - (I) To implement actions to detect, prevent, contain, control, monitor, and, whenever possible, eradicate aquatic nuisance species from the waters of the state and to protect human health, safety, and welfare from aquatic nuisance species; and
 - (II) To foster and encourage, to the greatest extent possible, voluntary compliance with this article 10.5.
- (2) The general assembly further finds, determines, and declares that:
 - (a) Some of the aquatic resources and water infrastructure within the state are owned or managed by the United States bureau of reclamation, the United States Army corps of engineers, the United States forest service, or another agency of the federal government, and not by the division;
 - (b) A failure to detect, prevent, contain, and, when possible, eradicate aquatic nuisance species from any one of these federally managed aquatic resources or water infrastructure facilities would threaten the health and vibrancy of all aquatic resources and water infrastructure facilities within the state; and
 - (c) Therefore, the purposes for which this article 10.5 is enacted may be achieved only if the federal government dedicates sufficient funding and resources to the prevention, containment, and, when possible, eradication of aquatic nuisance species from the aquatic resources and water infrastructure managed by federal agencies within the state.

§ 33-10.5-102. Definitions

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

(1) “Aquatic nuisance species” means exotic or nonnative aquatic wildlife or any plant species that have been determined by the commission to pose a significant threat to the aquatic resources or water infrastructure of the state.

(2) “Authorized agent” means any person, employee, or representative of local, state, or federal government or any subdivision of the government that is authorized by the government or governmental subdivision to temporarily stop, detain, and inspect a conveyance for aquatic nuisance species.

(3) Repealed by Laws 2012, Ch. 248, § 39, eff. June 4, 2012.

(4) “Conveyance” means a motor vehicle, vessel, trailer, or any associated equipment or containers, including, but not limited to, live wells, ballast tanks, and bilge areas that may contain or carry an aquatic nuisance species.

(5) “Decontaminate” means to wash, drain, dry, or chemically or thermally treat a conveyance in accordance with rules promulgated by the commission in order to remove or destroy an aquatic nuisance species.

(6) “Division” means the division of parks and wildlife created in section 33-9-104.

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

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

(8.5) “Motorboat” has the same meaning as set forth in section 33-13-102(1).

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

(10) “Sailboat” has the same meaning as set forth in section 33-13-102(4).

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

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

(b) (I) The division shall investigate the methods that other states are using with respect to the location and operation of check stations and report pursuant to subsection (5) of this section on its investigation and the implementation of sections 33–10.5–104 (1)(b)(II) and 33–10.5–105 (1)(e).

(II) This subsection (1)(b) is repealed, effective September 1, 2025.

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

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

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

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

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

(5) Notwithstanding section 24-1-136(11)(a)(1), beginning on January 15, 2009, and on or before January 15 of each year thereafter, the division and the water conservation board created in section 37-60-102, shall make an annual report of the efforts in addressing aquatic nuisance species in Colorado for the preceding calendar year to the joint house agriculture, livestock, and natural resources committee and the senate agriculture, natural resources, and energy committee, or its successor committee. Each such report shall set forth a complete operating and financial statement covering the aquatic nuisance species operations of the division during the year.

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

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

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

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

(II) That has encountered an aquatic nuisance species check station.

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

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

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

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

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

(6)(a) When a conveyance that has been impounded and quarantined pursuant to this section is decontaminated, the division may charge the owner of the conveyance the cost incurred by the division or its contractor in storing and decontaminating the conveyance.

(b) The charge imposed pursuant to subsection (6)(a) of this section shall be transmitted to the state treasurer, who shall credit the amounts to the division of parks and wildlife aquatic nuisance species fund, created in section 33-10.5-108.

§ 33-10.5-104.5. Aquatic nuisance species stamp--creation--short title--rules

(1) The short title of this section is the “Mussel-free Colorado Act”.

(2) (a) For any motorboat or sailboat registered in Colorado pursuant to section 33-13-103 for the year 2019 and thereafter, a person shall purchase a separate aquatic nuisance species stamp from the division at a cost of twenty-five dollars to operate or use the motorboat or sailboat on the waters of this state or to possess the motorboat or sailboat at a vessel staging area.

(b) On and after January 1, 2019, for any motorboat or sailboat exempted from registration in Colorado pursuant to section 33-13-103(1)(b) to (1)(d), a person shall purchase an aquatic

nuisance species stamp from the division at a cost of fifty dollars to operate or use the motorboat or sailboat on the waters of this state or to possess the motorboat or sailboat at a vessel staging area; except that a person exempted from registration in Colorado under section 33-13-103(1)(b), but who is a Colorado resident, need only pay twenty-five dollars for an aquatic nuisance species stamp pursuant to subsection (2)(a) of this section.

(c) A person who pays for an aquatic nuisance species stamp for a motorboat or sailboat shall, when operating the motorboat or sailboat, retain the stamp receipt on his or her person or on the motorboat or sailboat.

- (3) The parks and wildlife commission may, by rule adopted after August 8, 2018, adjust the amount of the aquatic nuisance species stamp described in subsection (2) of this section by an amount up to the total amount reflected by the changes made in the United States bureau of labor statistics consumer price index for the Denver-Boulder-Greeley consolidated metropolitan statistical area for all urban consumers and all goods, or its successor index.
- (4) The division shall transmit the stamp fees collected pursuant to this section to the state treasurer, who shall credit them to the division of parks and wildlife aquatic nuisance species fund created in section 33-10.5-108.

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

(1) A person shall not:

- (a) Possess, import, export, ship, or transport an aquatic nuisance species;
- (b) Release, place, plant, or cause to be released, placed, or planted into the waters of the state an aquatic nuisance species;
- (c) Refuse to comply with a proper order issued under this article 10.5;
- (d) Fail or refuse to reimburse the division in accordance with section 33-10.5-104(6)(a); or
- (e) If the person encounters an aquatic nuisance species check station, fail or refuse to stop at the aquatic nuisance species check station while transporting a conveyance during the check station's hours of operation without presenting the conveyance for inspection.

(2) (a) A person who knowingly or willfully violates any of the provisions in subsections (1)(a) to (1)(d) of this section:

- (I) For a first offense, is guilty of a class 2 petty offense, as defined by section 18-1.3-503, and, upon conviction, shall be fined five hundred dollars and issued a warning from the division of the increased penalties for subsequent violations;
- (II) For a second offense, is guilty of a misdemeanor and, upon conviction, shall be fined one thousand dollars; and

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

(a.5) A person who knowingly or willfully violates subsection (1)(e) of this section commits a civil infraction and, upon entry of judgment, shall be fined one hundred dollars. When a person is charged with knowingly or willfully violating subsection (1)(e) of this section, the officer shall give a penalty assessment notice to the defendant and follow the procedures in section 33-15-102 (2). If the fine and surcharge are not timely paid, the case shall be heard in the court of competent jurisdiction prescribed on the penalty assessment notice in the manner provided for in article 4 of title 42 for the prosecution of traffic infractions.

(b) The fine amounts collected pursuant to this subsection (2) shall be transmitted to the state treasurer, who shall credit the amounts to the division of parks and wildlife aquatic nuisance species fund, created in section 33-10.5-108.

(3) (a) A person shall not:

(I) Fail or refuse to comply with a qualified peace officer's or an authorized agent's request, pursuant to section 33-10.5-104, to stop, detain, and inspect any conveyance that the person is operating;

(II) Launch a vessel without obtaining a conveyance inspection at an aquatic nuisance species check station pursuant to section 33-10.5-103; or

(III) If required to purchase an aquatic nuisance species stamp pursuant to section 33-10.5-104.5, fail or refuse to purchase the stamp.

(b) A person who violates subsection (3)(a) of this section is guilty of a class 2 petty offense and, upon conviction, shall be punished by a fine of one hundred dollars.

(c) The proceeds from collection of the fines imposed pursuant to this subsection (3) shall be transmitted to the state treasurer, who shall credit the amounts collected to the division of parks and wildlife aquatic nuisance species fund created in section 33-10.5-108.

§ 33-10.5-106. Duty to report

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

§ 33-10.5-107. Commission to promulgate rules

(1) The commission is authorized to promulgate rules pursuant to article 4 of title 24, C.R.S., as necessary to prevent, control, contain, monitor, and, whenever possible, eradicate aquatic nuisance species. In promulgating such rules, the commission shall consult with any affected

state, federal, and tribal governmental entities and subdivisions thereof, including special districts, water conservancy districts, and water supply agencies.

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

- (a) Procedures for the inspection of conveyances for the presence of aquatic nuisance species;
- (b) Procedures for the impoundment and quarantine of conveyances pursuant to section 33-10.5-104, including notification of the location and contact information to owners of impounded conveyances;
- (c) Procedures for the decontamination of conveyances and destruction of aquatic nuisance species removed from conveyances;
- (d) Methods to establish proof that a conveyance has been decontaminated;
- (e) Processes for the facilitation of the reporting required by section 33-10.5-106; and
- (f) Policies for the monitoring and identification of the waters of the state or geographic areas that are or may be infested with aquatic nuisance species.

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

(1)(a)(I) There is hereby created in the state treasury the division of parks and wildlife aquatic nuisance species fund, also referred to in this section as the “fund”, which shall be administered by the division. The fund consists of all money transferred by the state treasurer as specified in sections 39-29-109.3(1)(g)(II), 33-10.5-104.5, and 33-10.5-105. All money in the fund is continuously appropriated to the division for the purpose of implementing this article 10.5. All money in the fund at the end of each fiscal year remains in the fund and does not revert to the general fund or any other fund.

(II) On August 8, 2018, the state treasurer shall transfer the unobligated balance of the division of wildlife aquatic nuisance species fund, as it existed prior to August 8, 2018, to the fund. This subsection (1)(a)(II) is repealed, effective July 1, 2019.

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