



AIS Findings in the Invasive Species Council Law Review

Identified Issues

- ❖ Creation of an Aquatic Invasive Species List
- ❖ Roles and responsibilities defined as “collectively or individually”
- ❖ Purpose of the Invasive Species Trust Fund
- ❖ AIS Enforcement and Penalties - Drive-bys
- ❖ AIS Enforcement and Penalties - Pull the Plug
- ❖ Mandatory Decon of Vessels entering Montana from the Columbia River Basin
- ❖ Non-Resident fees as stickers or stamps

Creating an Aquatic Invasive Species List

- ❖ 80-7-1003 "Invasive species" means, **upon the mutual agreement of the directors of the departments**, a nonnative, aquatic species that has caused, is causing, or is likely to cause harm to the economy, environment, recreational opportunities, or human health.
- ❖ MOU currently has list with no regulatory authority;
- ❖ Ongoing conversation of where to place aquatic noxious weeds if removed from the noxious weed list;
- ❖ Current prohibited, controlled and uncontrolled lists within FWP do not include plants and only address possession, transport and release of the species
- ❖ MISC List Committee proposing option to provide FWP with rulemaking authority to designate species as an aquatic invasive species modeled after rulemaking authority provided to MDA for noxious weeds.

Roles and responsibilities defined as “collectively or individually”

- ❖ 80-7-1005 Invasive species detection and control. (1) In order to implement, administer, and accomplish the purposes of this part, the departments, **collectively or individually**, shall enter into a cooperative agreement with each other or may enter into an agreement with any person with the appropriate expertise and administrative capacity to perform the obligations of the agreement.
- ❖ Roles and responsibilities currently defined in MOU (which is currently expired)
- ❖ Codifying responsibilities listed in MOU could remove ambiguity and provide consistency to program.

AIS Trust Fund for program or projects

- ❖ 80-7-1016. Invasive species trust fund. (1) **There is an invasive species trust fund.** The board of investments shall invest the money of the fund, and the investment income must be deposited in the fund.
- (2) **The principal of the invasive species trust fund shall forever remain inviolate in an amount of \$100 million** unless appropriated by a vote of three-fourths of the members of each house of the legislature.
- (3) Except as provided in 80-7-1013 and subsection (2) of this section, **money deposited in the invasive species trust fund may not be appropriated until the principal reaches \$100 million.**
- (4) On July 1 of each fiscal year, the principal of the invasive species trust fund in excess of \$100 million and the interest and income generated from the trust fund, excluding unrealized gains and losses, **must be deposited in the invasive species account** established in 80-7-1004.

AIS Trust Fund for program or projects

- ❖ Original legislation for Trust Fund (2015) was modeled after Noxious Weed Trust Fund to provide funding to local projects for AIS with cap set at \$10 million.
- ❖ 2016 detection led to transformation of Trust Fund in the 2017 Legislature to a mechanism to fund entire AIS program with cap set at \$100 million.
- ❖ 2019 Legislature saw multiple attempts to divert funds from Trust Fund to other programs based on the argument that it will never reach \$100 million.

AIS Trust Fund for program or projects

- ❖ Intention of the Trust Fund to fund program or fund local support projects?
- ❖ Amount of Invasive Species Trust Fund - Remain at \$100 million? Lowered to \$10 million? Set at some other amount?
- ❖ Capitalizing Trust Fund:
 - ❖ Unreserved funds from Invasive Species Account continue to Trust Fund?
 - ❖ Allow interest to be deposited in Grant Account before principal reaches cap?
 - ❖ Interest and income earned on the grant account and any unspent or unencumbered money in the grant account at the end of a fiscal year must remain in the account or transferred to Trust Fund?
 - ❖ Revenue earned from Aquatic Invasive Species Prevention Pass (87-2-130) to be transferred to Invasive Species Account

AIS Enforcement and Penalties - Drive-bys

- ❖ The offense of negligently violating the provisions of 80-7-1010 through 80-7-1012 and 80-7-1015 or rules adopted under 80-7-1010 through 80-7-1012 and 80-7-1015 pertaining to an invasive species management area or the statewide invasive species management area is a misdemeanor **punishable by a fine not to exceed \$500 for the first offense and \$750 for subsequent offenses.**
- ❖ Bond Schedule - Failure To Stop at Invasive Species Management Area Check Station **MISD Recommended - \$85; Minimum - \$0; Max - \$1,000; Surcharge - \$35**
- ❖ Lobby Changes to Bond Book vs amend statute to say "not less than \$xx or more than \$500"

AIS Enforcement and Penalties – Pull the Plug

- ❖ 80-7-1010. Invasive species management area -- regulation. (1) The owner, operator, or person in possession of any vessel or equipment authorized for use in an invasive species management area shall comply with any regulations imposed pursuant to 80-7-1008(3)(b) and provide proof of compliance upon request of a department or its designee.
(2) **After use in a body of water within an invasive species management area, all vessels, equipment, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary systems, must be drained** in a way that does not impact any state waters before being transported on land or a public highway, as defined in 61-1-101, except where allowed by the department of fish, wildlife, and parks.

AIS Enforcement and Penalties – Pull the Plug

- ❖ 80-7-1007. Rulemaking authority. (1) Unless otherwise provided in Title 81, chapters 2 and 7, or this chapter, each of the **departments may adopt rules for the prevention, early detection, and control of invasive species** under the departments' jurisdiction, including rules for the:
 - (c) designation, regulation, and treatment of an invasive species management area under 80-7-1008, including rules pertaining to:
 - (i) the use of quarantine regulations and measures;
 - (ii) the movement of vessels and equipment within, to, or from the area; and
 - (iii) the inspection and cleaning of vessels and equipment moving within, to, or from the area;
 - (d) manner in which vessels and equipment, including bilges, livewells, bait containers, and other boating-related equipment, traveling in the state must be cleaned to ensure that they are free from the presence of an invasive species; and
- ❖ Mandate pull the plug? Do so by statute or rule?

Mandatory Decon of Vessels entering Montana from the Columbia River Basin

- ❖ 80-7-1030. Mandatory decontamination for vessels with ballast or bladders -- legislative finding -- fees. (1) Except as provided in subsection (2) and in recognition that any interior portion of a vessel that may contain or retain water presents a significant risk of transporting and spreading invasive species, the legislature finds that as part of quarantine measures implemented in the statewide invasive species management area established pursuant to 80-7-1015, **a vessel with ballast or bladders must be decontaminated upon entering the state or crossing the continental divide into the Columbia River basin** if the vessel is to be launched on waters of this state.
- ❖ Do boats coming from the Columbia River Basin need to be Decontaminated if last launch was in the Columbia River Basin?

Non-Resident fees as stickers or stamps

- ❖ 23-2-541. Aquatic invasive species prevention pass for nonresident vessels -- rulemaking. (1) In order for a motorized vessel exempt from registration in Montana pursuant to 61-3-321 or a nonmotorized vessel owned by a nonresident to launch on the waters of this state, **the operator must possess an aquatic invasive species prevention pass purchased for the vessel, available for inspection either in physical form or as an electronic copy** at the request of a warden, another officer, or an employee of the department. The pass must include a description of the vessel for which it was purchased.
 - (2) (a) The annual fee for an aquatic invasive species prevention pass purchased pursuant to this section is:
 - (i) \$10 for a nonmotorized vessel; and
 - (ii) \$30 for a motorized vessel.
 - (b) The **pass expires at the end of each calendar year** and is not transferable between vessels.
 - (6) For the purposes of this section, the term "**nonmotorized vessel**" **includes catamarans, drift boats, kayaks, rafts, and sailboats. (no canoes?)**
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- ❖ Is a boat sticker more effective for compliance vs a stamp on your license? Should canoes be included if kayaks and rafts are?



Questions???
