

# NEANS Panel States/Provinces

## Program Contact, Legislation and Regulation Review and Updates since 2003

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# Overview

- Summary of the current initiative
- Overview of process
- Key State/Provincial Legislative/Regulatory changes since 2003 (that pertain to ANS)
- Overview of gap analysis (aka, wish list)
- Next steps

# Purpose

- NEANS is a vehicle for bringing together key players in ANS work in the region
- This allows us to share resources, compare notes and work on larger collaboratives together
- This includes sharing information on how we “do business” in each of our states/provinces, which means
  - Legislation
  - Regulation
  - Policies
  - Etc.

## 2003 Initiative

- In 2003, a fairly comprehensive summary of key legislation and regulations was put together for the NEANS website
- This also includes a listing of state/provincial contacts, affiliations, web links, etc.
- 2003 was the last update to these documents for NEANS---15 years ago!

## 2018 Initiative

- Reach out to all NEANS member-states and provinces for updates to legislation and regulations
- Update documents for online posting on NEANS website
- Merge this information into a tabular or other format for ease of comparing what states have by topic/category (ex., boat wash, species, enforcement, etc)
- Conduct a gap analysis to see which states are falling short and work to achieve similar standards among states/provinces in the region
- This will be a work in progress

# Overview of Significant Changes

- The next several slides will provide an overview of the key changes to legislation and/or regulations in each state since the last update was done
- Panelists around the table will provide a brief update on the changes in their state/province

# Maine- Freshwater



Program was primarily created in 2000 and 2001 and includes the following, which have had minor tweaks over the years:

- Emergency authorization to regulate surface waters
  - Restricted access to waterbodies
  - Inspections of boats, trailers and equipment
- Definition of invasive aquatic plant adopted
- Prohibitions on launching contaminated watercraft

# Maine- Freshwater, cont.



- Lake and river sticker program initiated
  - Disposition of watercraft revenues relative to AIS
  - Lake and river protection sticker required
  - Lake and river protection fund established for activities related to AIS
  - Invasive aquatic plant and nuisance species fund allocations outlined
  - Interagency task for on invasive aquatic plants and nuisance species authorized
  - Illegal possession of live fish and related penalties

## Newer Changes

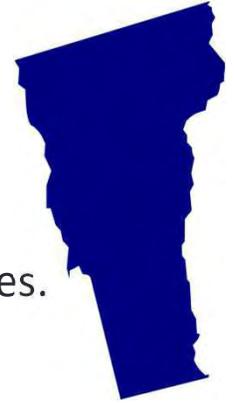
- DEP can identify a plant as invasive without going through rulemaking. Initial statutory language required rulemaking. We have risk assessment for determining whether or not to recommend listing to commissioner.
- The funding mechanism was changed to reduce administrative costs and provide more money to DEP for invasive aquatic plant prevention, early detection and control.

# Maine- Marine and Estuarine



- Prohibition of salmon imports (eggs and live fish)
- Import of Certain Marine Organisms

# Vermont (Freshwater Only)



## 2008

- Baitfish rules enacted that restrict transport of baitfish between waterbodies.

## 2009

- Aquatic nuisance transport prohibition is extended to all aquatic plant parts, zebra mussels, and quagga mussels.
- Vermont DEC and DFW are given coverage under a rapid response general permit to conduct emergency control activities.
- Surcharge for AIS activities on Vermont motorboat registrations increases by \$5.00 (to \$10-\$15 total).
- DFW develops list of banned fish species for possession and transport within VT.

## 2010

- Driven mainly by concerns over *Didymo*, felt-soled waders are banned for use in Vermont

## 2012

- Noxious plant quarantine lists developed, which prohibits the possession and transport of many invasive plants, including several aquatic species.

# Vermont, cont.



## 2016

- Because of new information regarding the native range of *Didymo*, the ban on felt-soled waders is repealed

## 2017

- Rusty crayfish, spiny water flea, fishhook water flea, and Asian clam are added to the transport prohibition list
- Watercraft inspections and potential decontaminations are now mandatory for boaters at certified inspection locations
- All drain plugs must now remain open during watercraft transport
- Watercraft owners must inspect their watercraft for invasive species before and after each use
- A general permit allowing for coverage of the public for rapid response activities using non-chemical methods must be established by the State

# Massachusetts- Freshwater



2004

- “Guidance for Aquatic Plant Management in Lakes and Ponds” developed

2012

- New AIS law enacted

# Massachusetts- Marine and Estuarine



- No updates to marine or estuarine legislation or regulations

# Rhode Island- Freshwater



2008

- Prohibition on import and possession of invasive aquatic plants, including rulemaking authority and enforcement as violation with \$500 fine

# Rhode Island- Marine and Estuarine



## 2003

- Ballast Water: Non-indigenous aquatic species introduced from ballast water have caused considerable environmental damage. Specifically mentions the zebra mussel as one of the organisms coming from ballast water discharges. R.I. Gen. Laws § 46-17.3-1(2) (2003).
- Ballast Water: Protective measures are necessary to prevent the introduction of non-indigenous aquatic species via ballast water. This will reduce exposing Rhode Island waters to unwanted contamination by these species. R.I. Gen. Laws § 46-17.3-1(4) (2003).
- Ballast Water and Introduced Species: Management Options for Narragansett Bay and Rhode Island (Ballast Water White Paper developed to meet the requirements of Chapter 46-17.3 of the Rhode Island General Laws relating to ballast water management). (**Promulgated in 2003**)
- Fish stocking ban in streams and ponds

## 2011

- Prohibition on liberation of exotic invasive freshwater fish and invertebrates into freshwaters
- Regulation of exotic baitfish, prohibition on importation, sale, transport of exotic baitfish

## 2012

- 401 Water Quality Certification (Draft) Small Vessel General Permit (sVGP) and (Draft) Vessel General Permit, (VGP) Request for Clean Water Act Section 401 Certification(WQC File No. 12-017)
  - This RI DEM Water Quality Certification was promulgated in response to the EPA's request that states review the stipulations in both the draft sVGP and draft VGP. The draft sVGP proposes to regulate normal operational discharges covered by EPA's National Pollutant Discharge Elimination System (NPDES) for commercial vessels less than 79 feet in length; the VGP similarly applies to commercial and non-commercial vessels greater than or equal to 79 feet in length. The DEM WQC (File No. 12-017) determined that the draft sVGP and draft VGP are in compliance with Section 401 of the Clean Water Act.

# Rhode Island- Marine and Estuarine, cont.



The DEM WQC (File No. 12-017) includes Conditions More stringent than the Conditions Contained in the Draft VGP as summarized:

- Any vessel whose voyage originates outside the US EEZ and enters RI waters must conduct ballast water exchange beyond the EEZ (at least 200 nautical miles from any shore) *regardless of whether the vessel is equipped with a ballast water treatment system.*
- Any vessel whose voyage originates outside the US EEZ and enters RI waters must discharge all existing bilge water prior to entering RI waters.
- All vessels operating in RI waters and that are equipped with a ballast water treatment system must sample and analyze its ballast water at least once per year using the most advanced shipboard sampling protocol available
- All graywater discharges to nutrient and pathogen impaired waters in RI shall be managed in accordance with the draft VGP and RI State Water Quality Regulations prohibiting the further degradation of state impaired waters

# New York State- Freshwater



## 2014

- ECL 9-1710 Amendment
- NAV 35-d Amendment to Navigation Law Article 3 (Prevention signs at public launches)
- 6 NYCRR Part 50.9 Boat Launching Sites (DEC)
- 9 NYCRR Part 190.24 Boat Launching Sites (Parks)

## 2015

- 6 NYCRR Part 575 Regulated and Prohibited Species
- Revised NYS Aquatic Invasive Species Management Plan

## 2016

- 6 NYCRR Part 576 Reasonable Precautions (for AIS spread prevention)
- Rapid Response and Management Policy

## 2018

- NYS Comprehensive Invasive Species Management Plan (comment period April 18th – June 1st)

# New York State- Marine and Estuarine



## Date unknown

- ECL 13-0323 sub 2. In no case shall oysters other than the species *Crassostrea virginica* be planted or transplanted in New York waters without procuring a permit from the department.

## 2007

- Long Island Sound Interstate Aquatic Invasive Species Management Plan (draft only)

## Pre-2004

- **6 NYCRR Part 44.6**
- *(a) No person shall liberate Chinese mitten crabs (*Eriocheir sinensis*) into the waters of the State.*
- *(b) No person shall possess, import, transport, buy, sell or offer to buy or sell Chinese mitten crabs, whether alive or dead, in New York State.*
- *(c) Chinese mitten crabs, except those lawfully held pursuant to a license or permit issued under section 11-0515 of the Environmental Conservation Law, shall be destroyed.*

# New Hampshire- Freshwater



2003

- Established the Milfoil and Other Exotic Aquatic Plant Prevention and Research Grant Program in legislation, including funding

2006

- MOA with Fish and Game signed regarding development of Long-Term Management Plans for exotic aquatic plants, for all infested waterbodies seeking to perform control activities (not legislative)

2007

- Rule revision to increase the number of species on state prohibited list , nearly doubling original list
- Legislative change to increase program funding and remove sunset provision to exotic species program and it's funding, making program permanent (or requiring legislative action to eliminate it)

2009 & 2013

- Legislatively increased program funding for control and prevention activities

# New Hampshire- Freshwater, cont.



2015

- Added invasive aquatic animals to prevue of standing legislative committee on invasive species, and increased membership
- Re-adopted administrative rules with revisions, adding criteria for grant programs and one new species to prohibited list, among other minor changes

2017

- New Clean and Drain legislation goes into effect:
  - Removed the requirement that a person must “knowingly, recklessly, or purposely” offer for sale, distribute, sell, import, purchase, propagate, or introduce exotic aquatic weeds into NH waterbodies in order to be guilty of a violation.
  - Made it a violation to negligently transport aquatic plants or exotic aquatic weeds on the outside of vehicles, boats, ski craft, trailers, or other equipment.
  - Requires all boats and related equipment to be drained of all water prior to leaving a water body and that all drain plugs and other similar devices be removed or open while in transport.
  - Establishes fines from \$50 to \$250, depending on number of offenses, for violating the law.

# New Hampshire- Marine and Estuarine



- No changes

# Connecticut- Freshwater

- No information received.



# Connecticut- Marine and Estuarine

- No information received.



# Canadian Provinces



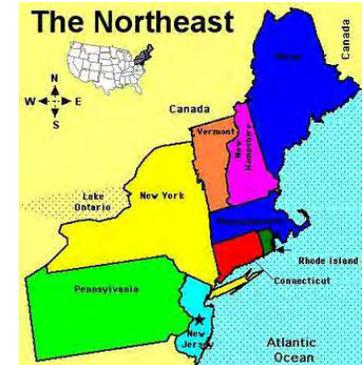
- No updates received
- ?

# Preliminary Gap Analysis



- New Hampshire
  - More with boat wash stations (pilot program, funding, infrastructure, applicable laws/regs)
  - More funding for control
- Maine
  - More with Clean, Drain Dry
  - More funding for prevention, early detection and control activities
- Vermont
  - More law enforcement support for strengthened AIS transport laws
  - More funding for watercraft inspection/decontamination initiatives
- Massachusetts
  - Strengthen MA pesticide control act to eliminate purchase of aquatic herbicides through the mail, and restrict possession of such herbicides by unauthorized individuals

# Preliminary Gap Analysis, cont.



- Connecticut

- No information yet

- Rhode Island

- Continue developing legislation and regulations banning the import/possession of freshwater invasive aquatic plants; liberation of species into surface waters; and program funding
- More funding (FTE) for monitoring and data management
- More funding for education/prevention (GREAT Boater ramp hosting program)- small grants or volunteer/staff coordinator
- More funding for control, management, rapid response for small grants or state use

- New York State

- How to assess risk for new invaders for which little data is available (based on rank species are added to the Part 575 list)
- How to enforce Part 575 and 576 with limited staff (inspectors and ECOs)
- Continue to expand boat steward programs in Western NY, Catskills, Hudson Valley and Long Island
- Consistent messaging and data collection/database for boat steward program

- Canadian Provinces

- No information yet

# Federal Changes

- This assessment does not include any changes on the federal level, but topics that have been discussed/moved/address include:
  - Coast Guard Authorization Act of 2017
    - Vessel Incident Discharge Act (VIDA) transfer from EPA to Coast Guard

## Next Steps

- Summer intern project
  - Finish working up the information for the website
  - Evaluate the information from each state/province, and put it into easy to reference format
  - Complete gap analysis
- Share final product(s) at fall NEANS meeting

# State/Provincial Contacts:

- **Maine**
  - John McPhedran ([john.mcphedran@maine.gov](mailto:john.mcphedran@maine.gov))
- **Vermont**
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- **Canadian provinces- ?**