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**Guideline Clarification for 84D.105 Subd. 2. Inspection Authority[[1]](#footnote-1)**

***84D.105 Inspection of Water-Related Equipment***

 ***Subd. 2 Inspector Authorities***

***(a) The commissioner shall train and authorize individuals to inspect water-related equipment for aquatic macrophytes, aquatic invasive species, and water. The commissioner may enter into a delegation agreement with a tribal or local government where inspection authority as provided under paragraphs (b), (g), and (h) is delegated to tribal and local governments that assume all legal, financial, and administrative responsibilities for inspection programs on some or all public waters within their jurisdiction….***

***(g) The commissioner may authorize tribal and local governments that enter into a delegation agreement with the commissioner to conduct mandatory inspections of water-related equipment at specified locations within a defined area before a person places or removes water-related equipment into or out of a water body. Tribal and local governments that are authorized to conduct inspections under this paragraph must:***

1. ***Assume all legal, financial, and administrative responsibilities for implementing the mandatory inspections, alone or in agreement with other tribal or local governments:***
* The LGU or Tribal government is responsible for the financial costs of the program and administration of the program including staffing responsibilities such as supervision and scheduling.
* DNR will train the inspectors and may have limited grant funding.
* LGU or Tribal agencies will be financially responsible for cost of any appeals of civil citations issued.
1. ***Employ inspectors that have been trained and authorized by the commissioner;***
* The LGU or Tribal government will need to employ the inspectors used to implement the mandatory inspection program. They will need to provide supervision and oversight of the employees or contractor making sure all inspection protocols are met.
* As specified in 84D.105, Subd. 2 (a), DNR shall provide training for the inspectors on the inspection process and training for peace officers on the implementation of regulations outlined in 84D.
* After the LGU or Tribal government inspectors pass the required training the DNR will issue written authorization for the individuals to conduct inspections.
1. ***Conduct inspections and decontamination measures in accordance with guidelines approved by the commissioner:***
* The DNR will provide training for LGU and Tribal inspectors on the protocols used in the inspection and the hot-water/high-pressure decontamination process.
* Decontamination will only be required when consistent with the protocols approved by the commissioner.
* Only protocols developed and approved by the DNR for use in Minnesota can be used for conducting inspections.
1. ***Have decontamination equipment available at inspection stations or identify alternative decontamination equipment locations within a reasonable distance of the inspection station that can bring water-*related equipment into compliance;**
* To meet the Minnesota protocols for decontamination of inspected boats, high pressure/hot water decontamination equipment must be available within a reasonable distance of the inspection station.
* Reasonable distances will vary, but in general decontamination equipment and services should be within three miles of the inspection station/stations for watercraft that require the standard hot water/high pressure decontamination (for example watercraft leaving high risk areas or watercraft with ballast water).
* Off-site decontamination stations serving more than one inspection station should be located relatively equal distance from each inspection station served.
* Hot-water/high-pressure decontamination equipment and services should have liability insurance and this equipment cannot be located where water and debris could run into any water body.
* Other permits may be required for water disposal and transport of prohibited invasive species removed form water-related equipment.
1. ***Provide for inspection station locations that do not create traffic delays or public safety issues:*** The following traffic and safety considerations need to be addressed before establishing a inspection station:
	1. Determine/confirm travel patterns for and volume of trailered watercraft or water-related equipment.
	2. Document by license plate all water related equipment entering inspection stations and if decontamination was utilized.
	3. Provide appropriate signage (per MNDOT and other applicable standards) including warning signals, traffic cones, identification of the entrance and exit areas, and identification of parking.
	4. Consult with law enforcement authorities on proposed locations of inspection stations, traffic assistance and proper signage.
	5. Use appropriate safety gear as identified by American National Standards institute (ANSI) for staff at all times.
	6. The inspection station whenever possible should not direct the public to cross lanes of traffic or include intersections or direct the public to change their course of direction.
2. ***Submit a plan approved by the commissioner according to paragraph (h).***

***(h) Plans required under paragraph (g) must address:***

1. ***No reduction in capacity or hours of operation of public accesses and fees that do not discourage or limit use;***
* The DNR will generally not support strategies that limit access hours or close accesses as a way to achieve mandatory inspections.
* Public accesses are owned by a variety of entities (federal, state, county, city and township) that may have specific hours of operation based on requirements of the funding used to develop the site, local ordinances or other factors.
* Most state accesses are open to the public 24 hours a day and other public accesses may also be required to be open 24 hours a day if funded through federal or state dollars. Required hours of operation and the capacity of state accesses cannot be reduced.
* LGU or Tribal governments that have legal authority to modify the hours of operation or the capacity of a water access and are seeking authority for a delegation agreement under MS84D.105, Subd. 2 are also subject the “no reduction of capacity or hours of operation” in paragraph (h).
* Inspections will need to be available at times that do not restrict the ability of someone entering the water body (e.g. inspections will need to be available from early morning until late evening at least 6 AM to 8 PM).
* Inspection options (e.g. tags that indicate inspection has occurred) must also be available for those who wish to enter open accesses during times when authorized inspectors are unavailable (e.g. late night – early morning hours).
* Fees charged for inspections and decontamination services must not discourage or limit use of the public access.
1. ***Reasonable travel times between public accesses and inspection stations;***
* Reasonable travel times depend on the area the mandatory inspection program covers. The plan must minimize the amount of time and distance that people need to travel between the inspection station and the water accesses. Centralized inspection stations that serve multiple accesses should be located based on considerations that include volume of use, distances to all accesses, and travel routes within the area where mandatory inspections are being required. Stations should be centrally or strategically located on main travel routes.
* Reasonable travel distances will typically be less in urban areas than in rural areas. Travel distances up to 7 miles in an urban area may be appropriate depending on traffic congestion whereas a travel distance up to 15 miles may be acceptable for a rural location. The LGU or Tribal government should submit information (maps, hours of operation for specific inspection stations) that documents the feasibility of inspection station locations.
1. ***Adequate staffing to minimize wait times and provide adequate hours of operation at inspection stations and public accesses;***
* On average, inspections that follow the DNR protocols take approximately 7-10 minutes to complete. Information on high use periods, such as weekends, holidays, and early mornings and evenings, must be used to determine staffing needed to minimize wait times.
* The staffing and inspection hours should be adequate to minimize wait times during high traffic periods.
* MN DNR AIS Spread Prevention Study (2012) indicates that weekend and holiday staffing should be 2.4 times higher than weekday staffing. Report is available at: [www.dnr.state.mn.us/invasives/aquatic\_programs .html](http://www.dnr.state.mn.us/invasives/aquatic_programs%20.html)
	+ Low use stations have at least 2 inspectors and decontamination equipment throughout the year.
	+ Medium use stations are recommended to have 2 inspectors and decontamination equipment available in the spring and fall. Summer weekdays are recommended to have 4 inspectors and decontamination equipment and summer weekend and holidays are recommended to have 6 inspectors and 2 sets of decontamination equipment.
	+ High use stations are recommended to have 2 inspectors and decontamination equipment available during the week and 4 inspectors and decontamination equipment available on weekends and holidays in the spring and fall. Summer weekdays are recommended to have 2 inspectors and 2 sets of decontamination equipment and summer weekend and holidays are recommended to have 10 inspectors and 3 sets of decontamination equipment.
* The LGU or Tribal Government should submit information in its plan that outlines when inspections will be in operation and how many inspectors will be available during specific time periods.
* It is difficult to specify what would constitute a reasonable wait time, but in general, including travel time and inspection wait times, users should not be delayed more than a half-hour (not including travel time)for boats that are not found to be carrying AIS and not requiring hot water/high pressure decontamination.
* Inspections will need to be available at times that do not restrict the ability of someone entering the water body (i.e. inspections will need to be available from early morning until late evening).
1. ***Adequate enforcement capacity;***
* The enforcement of any local law requiring mandatory inspections will need to be carried out solely by local peace officers. DNR enforcement can assist with enforcement of regulations outlined in 84D as availability and time allows.
1. ***Measures to address inspections of water-related equipment at public water accesses for commercial entities and private riparian land owners;***
* A mandatory inspection program will need to incorporate measures that are feasible for commercial entities and private riparian land owners to comply with the law. The state requires permits or licenses for most commercial activities. These contain conditions to reduce the risk of spreading AIS while carrying out various commercial activities.
1. ***Other elements as required by the commissioner to ensure statewide consistency, appropriate inspection and decontamination protocols, and protection of the state’s resources, public safety, and access to public waters.***
* The plan should also include information on public awareness surrounding the new mandatory inspection requirements and what water-related equipment will be included in the mandatory inspection requirements.

 ***(i) A government unit authorized to conduct inspections under this subdivision must submit an annual report to the commissioner summarizing the results and issues related to implementing the inspection program.***

***(j)******The commissioner may waive the plan requirement in paragraph (g) for inspection programs where authorized inspectors are placed directly at one or more water access sites, with no requirement for a person to travel from the water access for inspection or decontamination, and no local ordinance or other regulation requiring a mandatory inspection before placing watercraft or water-related equipment into a water body or after watercraft or water-related equipment are removed from the water body.***

* This section allows the DNR to streamline plan requirement for an LGU or Tribal government that is not pursuing a centralized inspection station, is not enforcing a local inspection requirement, and will only have inspectors at the water access where the watercraft owner intends to launch. In these situations the DNR will only require a streamlined plan that identifies the water accesses and times that LGU or Tribal government inspectors will be working so that the local DNR Watercraft inspection supervisorcan avoid duplication of efforts.
1. ***All statutory language is show in bold italics.*** Minnesota DNR guidance is shown in standard text. [↑](#footnote-ref-1)