

## DISTRICT OF COLUMBIA

### Summary Table of Agency Authorities:

State Agency	Scope of Authority	Explicit Authority to Enter Private Land without Consent	Process Required	Relevant provisions
<b>Department of the Environment</b>	Nonnative species	No	N/A	D.C. MUN. REGS. tit. 19, §§ 1503, 1507; D.C. CODE §§ 8-103.03, 8-103.15

### Explanatory Notes:

The District of Columbia has very few statutory or regulatory provisions addressing aquatic invasive species. The District of Columbia Department of the Environment (DDOE) has jurisdiction to administer provisions of the D.C. Code related to fish and wildlife and waters of the District, but has no explicit authority to take management actions to address invasive species.

The D.C. Water Pollution Control Act of 1984 directs the Mayor to protect aquatic animals and plants, and preserve and restore aquatic life in District waters for aesthetic enjoyment, recreation, and industry.<sup>15</sup> There is an implied preference for native species, as the District defines aquatic animals and plants and aquatic life as those “which have typically lived in or otherwise established as a habitat” District waters.<sup>16</sup> The Mayor is also authorized to “protect against aquatic life which creates a nuisance in the District.”<sup>17</sup>

To carry out the directives in the Water Pollution Control Act, the District has issued regulations making it unlawful to “introduce any species of fish or other aquatic organism not indigenous to the District of Columbia into the waters of the District of Columbia.”<sup>18</sup> A conservation officer may conduct a search and inspection when the officer has probable cause to believe a person has violated a provision of the Fish and Wildlife Code.<sup>19</sup> In the absence of probable cause, an officer may conduct a search or inspection only to prevent the removal, alteration, or destruction of potential evidence. Although these regulations do not provide explicit authority to enter private land for control efforts, they do provide authority to access private land to conduct investigations related to violations of the law.

In addition, to enforce the water pollution control laws, the Mayor or designated representatives (presumably the DDOE) may, at any reasonable time, enter any place to inspect “facilities, discharges, activities, equipment, wells, wetlands, underwater lands, or any other item that reasonably relates to the regulation of the quality of District waters.”<sup>20</sup> The Mayor may also enter to inspect and obtain

<sup>15</sup> D.C. CODE § 8-103.03(a).

<sup>16</sup> *Id.* § 8-103.01(2).

<sup>17</sup> *Id.* § 8-103.03(d).

<sup>18</sup> D.C. MUN. REGS. tit. 19, § 1503(1)(a).

<sup>19</sup> *Id.* at § 1507.1(b).

<sup>20</sup> *Id.* § 8-103.15(b)(1).

samples of any water or soil.<sup>21</sup> If the Mayor is denied access, he may apply for a search warrant.<sup>22</sup> The Mayor's authority under the Water Pollution Control Act, however, does not reach waters on private property that are not hydrologically connected to other surface or underground waters.<sup>23</sup> The definition of district waters "excludes water on private property prevented from reaching underground or land watercourses."

The District has also authorized persons responsible for the care of federal or District property to "take any action as may be necessary to capture or destroy wildlife causing annoyance to the public, creating a nuisance, or destroying or damaging property."<sup>24</sup> This provision is found within the District's hunting regulations and would presumably be limited to lethal control of animal species such as deer or wild hogs. It also does not authorize control efforts on private land.

The District has taken non-regulatory action to address threats from invasive plants. Invasive plants are currently addressed in the District by the DDOE and the District of Columbia Cooperative Weed Management Area (DC-CWMA) partnership.<sup>25</sup> Members of the DC-CWMA, which include local and federal agencies, conservation organizations, and academic institutions, work cooperatively to coordinate invasive plant management activities. The DC-CWMA performs assessments, coordinates control and eradication efforts, trains volunteers, and implements outreach programs.

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<sup>21</sup> *Id.* § 8-103.15(b)(2).

<sup>22</sup> *Id.* § 8-103.15(c).

<sup>23</sup> *Id.* § 8-103.01(26).

<sup>24</sup> D.C. MUN. REGS. tit. 19, § 1560.3.

<sup>25</sup> See DC COOPERATIVE WEED MANAGEMENT AREA, <http://doee.dc.gov/DC-CWMA> (last visited September 30, 2015).