

6280.0250 STANDARDS FOR AQUATIC PLANT MANAGEMENT PERMIT ISSUANCE.

Subpart 1. **Actions not requiring an APM or commercial harvest permit.** A person may conduct the activities listed in items A to H without an APM or commercial harvest permit, subject to restrictions in part 6280.0350, subpart 3. A person conducting activities under item C, E, F, or H must be an owner, lessee, or easement holder of land adjacent to the water where the activity is occurring or an agent of the owner, lessee, or easement holder:

A. cutting or pulling aquatic plants for the purpose of constructing shooting or observation blinds in amounts sufficient for those purposes;

B. harvesting aquatic plants or plant parts for personal use only;

C. except as provided for automated aquatic plant control devices in subpart 2, item D, mechanical control of submersed aquatic plants to maintain a site for swimming or boat docking not to extend along more than 50 feet or one-half the length of the owner's total shoreline, whichever is less, and not to exceed 2,500 square feet plus the area needed to extend a channel no wider than 15 feet to open water, provided the channel is included in the maximum shoreline feet allowed;

D. destroying aquatic plants incidental to activities authorized by a department permit for work in public waters as provided by Minnesota Statutes, section 103G.245, or by a license permitting the passage of utilities over public lands and waters as provided by parts 6135.0100 to 6135.1800 and Minnesota Statutes, section 84.415;

E. mechanical control of purple loosestrife (*Lythrum salicaria*);

F. skimming duckweed or filamentous algae off the surface of a water body;

G. mechanical or pesticide control of aquatic plants done as part of public road or utility crossing right-of-way maintenance by authorized government units or utility companies; and

H. mechanical control of floating-leaf aquatic plants to obtain a channel extending to open water, provided that:

(1) the channel is no more than 15 feet wide and takes the most direct route to open water;

(2) the channel is maintained by cutting or pulling; and

(3) the channel remains in the same location from year to year.

Subp. 1a. **Limits on APM activities without a permit.** Subpart 1 shall not be construed to allow taking or control of aquatic plants inconsistent with other provisions of law, including wild rice provisions under chapter 6284 and provisions for endangered, threatened, and of special concern species under chapter 6134. A person who receives an

APM permit under this chapter may not conduct unpermitted aquatic plant control under subpart 1, item C or H, at the location and during the period covered by the permit.

Subp. 2. **Actions requiring an APM permit.** Except as provided in subpart 1, a person must have an APM permit for all aquatic plant management activities below the ordinary high water level in public waters, including:

- A. mechanical and pesticide control of aquatic plants or nuisances;
- B. transplanting aquatic plants in public waters;
- C. relocating or removing a bog or portion thereof; and
- D. installing or operating an automated aquatic plant control device.

Subp. 3. **Justification required for issuance of permits.** Permits for the control of emergent and floating-leaf aquatic plants will not be issued unless the commissioner determines sufficient justification exists. The commissioner will consider the relevant criteria in subpart 3a and balance the reasonable needs of riparian owners to gain access and use public water against the need to protect emergent and floating-leaf aquatic plants so that the integrity and value of the aquatic plant community is maintained.

Subp. 3a. **Criteria for issuing APM permits.** The commissioner may issue APM permits for public waters to provide riparian access, enhance recreational use, control invasive aquatic plants, manage water levels, and protect or improve habitat. The following criteria shall be considered to determine if an APM permit should be approved or denied and how much control or harvest to allow under an APM permit:

- A. the presence of aquatic plants or nuisances that are interfering with a permit applicant's ability to use watercraft, swim, or engage in other traditional recreational uses;
- B. the habitat, water quality, and erosion control value of the aquatic plants subject to the proposed permit;
- C. the extent of shoreline development on the water body subject to the proposed permit and potential for aquatic plant control to result in cumulative impacts to habitat and water quality;
- D. the presence of invasive aquatic plants in the proposed permit area;
- E. whether the water body subject to the proposed permit is a wetland or a shallow lake or bay that naturally supports abundant aquatic plants;
- F. the prevalence of soft bottom types that could result in turbidity or changes to the cross-section of the bottom if aquatic plants are disturbed or removed;
- G. whether the proposed permit is consistent with a lake vegetation management plan under part 6280.1000, subpart 2, and shoreland conservation ordinances, lake

management plans and programs, wild and scenic river plans, and other pertinent ordinances and regulations;

H. whether the proposed permit is consistent with a variance issued to control invasive aquatic plants or protect or improve aquatic resources under part 6280.1000, subpart 1;

I. the presence of species designated as of special concern, threatened, or endangered under chapter 6134;

J. the presence of public land adjacent to the public water and the compatibility of the proposed permit with the management of the public land;

K. the presence of an excessive algae bloom; and

L. the presence of wild rice.

Subp. 4. **Prohibitions.** An APM or commercial harvest permit will not be issued:

A. to place plastic mats, plastic sheets, filter fabric, or similar materials on the bed of public waters to destroy or prevent the growth of aquatic plants;

B. to improve the appearance of undeveloped shoreline;

C. for esthetic purposes alone on developed shoreline;

D. for mechanical or pesticide control or commercial harvest of aquatic plants in areas posted or designated by the commissioner as scientific and natural areas under Minnesota Statutes, section 84.033, aquatic management areas under Minnesota Statutes, section 86A.07, or in areas designated for the protection of lotus (*Nelumbo lutea*) or other kinds of aquatic plants and animals;

E. for pesticide control of aquatic plants, except plankton and filamentous algae, in natural environment lakes established pursuant to part 6120.3000 or in waters adjacent to special protection lakes, bays, or districts established pursuant to part 6120.3200;

F. for pesticide control of aquatic plants in watercourses or portions of watercourses classified as wild as defined under either the Minnesota or federal Wild and Scenic Rivers Acts as provided in Minnesota Statutes, section 103F.325, and Public Law 90-542 (1968), United States Code, title 16, sections 1271 to 1287, as amended; or

G. for mechanical or pesticide control or commercial harvest of aquatic plants within an area posted for fish spawning under Minnesota Statutes, section 97C.025.

Subp. 5. **Pesticide treatment of drinking water.** The commissioner shall not issue an APM permit for pesticide treatment of waters used by humans for drinking unless approval is obtained from the Minnesota Department of Health.

Subp. 6. **APM permit conditions.** The commissioner may specify conditions for APM permits to avoid or minimize harm to aquatic resources and conflict between public water users, including:

- A. limits on the amount of control allowed, including limits on the percentage of the littoral area, shoreline length, and distance outward from the shoreline to be managed;
- B. restrictions on the method and timing of control;
- C. restrictions on the species of plants targeted by the control;
- D. requirements for supervision of the control by the commissioner; and
- E. requirements for public notice including posting at public water access sites, news releases or public notices in a local newspaper, public meetings, or other notice that would effectively inform users of the affected water.

Subp. 7. **Inspections.** The commissioner shall require field inspection of a proposed APM permit site prior to issuing a permit for:

- A. properties with no previous permit history, unless the proposed control is for swimmer's itch;
- B. properties where there has been a lapse in permit issuance or where ownership has changed;
- C. requests for changes in treatment area, plant type controlled, or method of control;
- D. requests for off-shore control or requests to control invasive aquatic plants to enhance growth of native aquatic plants; and
- E. properties where there has been a shoreline restoration order that could be affected by aquatic plant control.

Statutory Authority: *MS s 103G.615*

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