

6280.1000 VARIANCE AND LAKE VEGETATION MANAGEMENT PLAN.**Subpart 1. Variance.**

A. The commissioner may issue APM permits with a variance from one or more of the provisions of parts 6280.0250, subpart 4, and 6280.0350, except that no variance may be issued for part 6280.0250, subpart 4, items B and C. Variances may be issued to control invasive aquatic plants, protect or improve aquatic resources, provide riparian access, or enhance recreational use on public waters. The commissioner shall make a determination that there are exceptional circumstances or special or unique conditions based on the criteria in items B and C before granting a variance to control native aquatic plants to provide riparian access or enhance recreational use.

B. The following criteria shall be considered to determine if a variance is justified to control invasive aquatic plants or protect or improve aquatic resources in public waters:

(1) whether the variance has the potential to increase or protect native aquatic plants, improve water quality, or provide other ecological benefits;

(2) whether the variance has the potential to prevent the spread of invasive aquatic plants;

(3) whether the variance would further research or evaluation of invasive aquatic plant control; and

(4) whether there is a feasible alternative to control invasive aquatic plants or improve aquatic resources.

C. The following criteria shall be considered to determine if a variance is justified to provide riparian access or enhance recreational opportunities on public waters:

(1) the habitat, water quality, and erosion control value of the aquatic plants in the proposed permit area and the amount of aquatic habitat reduction that would occur under the proposed control;

(2) the abundance of invasive aquatic plants in the proposed permit area;

(3) the selectivity of the proposed control for invasive aquatic plants;

(4) whether shoreline development is limited on the water subject to the proposed variance such that exceeding the individual property limits in part 6280.0350, subpart 1a, would not have potential to combine with other aquatic plant control to substantially reduce aquatic habitat or result in other undesirable ecological impacts;

(5) the presence of extensive mats of aquatic plants at the surface that substantially interfere with recreation in the proposed permit area, but only if this is not a natural condition of a shallow lake, shallow bay, or wetland;

(6) the compatibility of the proposed variance with the regulatory or management classification of the water and adjacent lands, including natural environment lakes, special protection districts, scientific and natural areas, wildlife management areas, aquatic management areas, designated wildlife lakes, and wild and scenic rivers;

(7) whether the variance, if granted, would alter the essential character of the public water; and

(8) whether there is a feasible alternative to provide riparian access or enhance recreational access.

D. The commissioner may require monitoring of aquatic plants, water quality, or other parameters as a condition of an APM permit that includes a variance.

E. The commissioner may require practical and feasible measures to mitigate the adverse effects on aquatic habitat as a condition of an APM permit that includes a variance. Mitigation measures may include reduction in the number or size of docks and other water-oriented structures, removal of shoreline riprap and retaining walls, restoration of natural riparian vegetation, and restoration of emergent and floating-leaf aquatic plants.

Subp. 2. Lake vegetation management plan (LVMP).

A. A lake vegetation management plan (LVMP) approved by the commissioner may authorize a variance from the provisions of this chapter, if permitted under subpart 1, item A, to control invasive species, protect or improve aquatic resources, provide riparian access, and enhance recreational use on public waters. The commissioner shall require an APM permit applicant to develop an LVMP before granting a variance if the proposed control proposes methods or actions that need to be evaluated to determine if the goals of the variance are met. If a public water has an LVMP approved by the commissioner, all APM permits within that public water shall be issued in accordance with the plan and APM permit applications that are inconsistent with the plan may be denied.

B. The commissioner shall provide the format for an LVMP. An LVMP must contain the following information before being approved by the commissioner:

(1) a description of the lake and its water quality including location, size, and clarity;

(2) a description of the aquatic plant community;

(3) a description of the public participation process used in developing the plan;

(4) a description of the problems addressed in the plan;

(5) a statement of the goal for management of aquatic plants;

(6) a description of the proposed actions to achieve the plan's goal and a map showing the location of proposed actions; and

(7) conditions of APM permits that would be issued as part of the plan, including identification of variances requested under subpart 1.

C. The commissioner shall require a monitoring plan for an LVMP if the plan proposes methods or actions that need to be evaluated to determine whether the plan's goals will be met.

Statutory Authority: *MS s 103G.615*

History: *18 SR 83; 21 SR 1406; 33 SR 1721*

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