

# Florida Fish and Wildlife Conservation Commission (Division 68)

## Chapter 68F – Aquatic Plants

### CHAPTER 68F-54 FUNDING FOR AQUATIC PLANT MANAGEMENT

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#### **68F-54.001 Program Criteria and Standards.**

(1) The State of Florida, and the United States Army Corps of Engineers provide funds through the Aquatic Plant Management Trust Fund to water management districts and local governments to implement maintenance programs for the management of aquatic plants. After federal and state appropriation, the Corps and the Florida Legislature provide funds to the commission annually for this purpose.

(2) Funds are allocated by the commission to grant applicants, after evaluation of workplan and budget requests submitted for eligible waters, in accordance with eligibility standards and priorities established in this chapter. The commission then monitors and assists grantees to ensure the appropriate management of aquatic plants and funds.

(3) The Aquatic Plant Management Funding Program and the Corps Cooperative Agreement DACW 17-85-H-0020 (effective date as amended 26 September 1988, which is hereby incorporated by reference and is available from the section) shall be implemented by this chapter.

(4) Applying the maintenance program management policy to noxious aquatic plants shall include the following actions:

- (a) Identifying the noxious aquatic plant species present, and their impact on plant and animal life and property.
- (b) Determining in which eligible water bodies these plants are most disruptive to maintenance program objectives.
- (c) Determining which plants are the most feasible to manage under given conditions and available methodologies.
- (d) Establishing management priorities for eligible waterbodies, and selecting management methods to be used including mechanical, biological, or herbicide techniques, which may often be used in combination.
- (e) Coordinating with and seeking comments from other agencies and local governments.
- (f) In cooperation with the Corps, water management districts and local governments, the commission is authorized to contract with private sector organizations for the management of aquatic plants in waters of the state.
- (g) The commission is authorized to disburse funds to any water management district or local government charged with the responsibility of managing aquatic plants, subject to the eligibility requirements of this chapter.
- (h) The commission is responsible for determining that funds are spent in accordance with the annual workplan, grant agreement, Chapter 16A-11, F.A.C. (Grant and Contract Accountability Policy which is available from the bureau), and O.M.B. Circular A-87 effective date 28 January 1981 (Federal Office of Management and Budget Cost Principles Manual for State and Local

Governments, which is hereby incorporated by reference and is available from the section). The commission shall follow the criteria in this chapter for the disbursement of funds.

(i) The commission shall disburse funds to the program grantees based on the available funds, program eligibility, program priorities, and the method of allocation as defined in this chapter. To compensate for limitations in the planning cycle prior to the end of the fiscal year, the commission is authorized to review allocations to contract grantees to determine if additional funds are needed or if excess funds are available for reallocation to management efforts in need of additional funds.

(5) Herbicide Management Standards:

(a) Herbicide management activities shall be in conformity with label restrictions of the product to be used.

(b) Herbicides with labels which do not indicate a potable water intake setback distance must not be used to manage floating plants within 0.5 miles of a functioning potable water intake in a lake or within 2.0 miles upstream or 0.5 miles downstream of a functioning potable water intake in a river system.

(c) When used to manage aquatic vegetation other than floating plants, herbicides without a potable water setback distance must not be used within 2.0 miles of a functioning potable water intake in a lake or within 2.0 miles upstream or 0.5 miles downstream of a functioning potable water intake in a river system.

(d) When management activities, using a herbicide without a potable water setback distance, are to take place within 2.0 miles of a functioning potable water intake in a lake, or within 2.0 miles upstream or 0.5 miles downstream of a functioning potable water intake in a river system, written notice by certified mail must be given to the operator of the water treatment plant and to the section at least one week prior to the treatment activity, unless an alternative notification system has been previously approved by the commission.

(e) When more than one herbicide is registered for use in an aquatic site, the commission shall require the use of the herbicide which it determines has the least adverse effect upon human health, safety, recreational uses, non-target plants, fish, and wildlife. In determining which herbicide shall be used, the following criteria shall be considered:

1. Which herbicide will provide the greatest protection to human health, safety, and recreational uses.
2. Which herbicide will provide the greatest protection to non-target plant and animal life.
3. Which herbicide will be most effective at controlling the targeted species.

(f) No herbicide shall be permitted for use in violation of label requirements as registered by the Department of Agriculture and Consumer Services or the United States Environmental Protection Agency.

(g) Application of herbicides shall be conducted at all times in a manner to cause the least possible adverse effect on human health, safety, recreational uses, non-target plants, fish, or wildlife.

(h) Management activities using herbicides shall not be permitted in manatee aggregation sites when manatees are present except when automatic herbicide spreaders operating on timing devices have been authorized by a permit.

(i) When manatees are sighted in a control area, all herbicide control operations must cease immediately, (except when automatic herbicide spreaders operating on timing devices have been authorized by a permit), and shall not be resumed until all manatees have left the control area of their own volition. No manatee may be herded or harassed into leaving the control area.

(j) Proposed herbicide treatments that may cause the rapid decay of aquatic vegetation and possible oxygen depletion, shall be required to be staggered or conducted in stages to allow time for recovery and stabilization of oxygen levels between treatments.

(6) Mechanical and Physical Management Standards:

(a) Mechanical aquatic plant management operations shall be conducted in a manner which will not cause further significant spread of noxious aquatic plant species. All cut or harvested aquatic vegetation shall be deposited as prescribed in the permit. No substrate is authorized to be recontoured or removed under an aquatic plant management permit.

(b) When manatees are sighted within 50 feet of mechanical operations, all operations must cease immediately and shall not be resumed until all manatees have left the mechanical operations area of their own volition. No manatee may be herded or harassed into leaving the control area.

(7) Biological Management Standards:

(a) The use of fish as biological management for aquatic plants requires a permit from the commission which has statutory authority for the regulation of the use of fish.

(b) All other biological management agents shall be used only if approved for general release by the U.S. Department of Agriculture and the Florida Department of Agriculture and Consumer Services.

*Specific Authority 369.20, 369.22 FS. Law Implemented 403.088, 369.20, 369.22 FS. History—New 1-7-87, Amended 5-30-93, Formerly 16C-54.001, 62C-54.001.*

**68F-54.003 Definitions.**

(1) "Amendment" means a formalized modification of an existing grant agreement.

(2) "Applicant" means any water management district or local government charged with the responsibility of managing aquatic plants which has requested financial assistance for such management from the commission.

(3) "Aquatic plant" means any plant, including a floating, emersed, submersed or ditchbank species, growing in or closely associated with an aquatic environment, and includes any part or seed of such plant. This includes those species listed in Section 369.251, F.S.

(4) "Budget" means the detailed anticipated expenditures including anticipated federal, state or local funds which are within the categories designated eligible by this chapter for the fiscal year for which funding is being requested.

(5) "Section" means the Invasive Plant Management Section, an administrative subdivision of the Florida Fish and Wildlife Conservation Commission located at 3900 Commonwealth Blvd., MS 705, Tallahassee, FL 32399-3000, Telephone (850)245-2809.

(6) "Connection" means any depression, ditch, canal, culvert, pipe, or any other natural or man-made conveyance, whether permanent or intermittent, which joins the surface water of one waterbody to the surface water of another waterbody in such a manner as to allow the interchange of water between the waterbodies. Waterbodies with conveyances which are subject to man-made controls, including but not limited to dams, weirs, water control gates, and valves, which are preventing the interchange of water between waterbodies at the time of the use of a herbicide for aquatic plant management activities and throughout any water use restriction periods required by the herbicide product label, shall not be considered to be connected.

(7) "Control area" means an area of water containing the aquatic plant management site within which opportunity exists for the mixture of water temporarily degraded by management activities with receiving or adjacent waters, and the area of water in which the use of a herbicide or mechanical aquatic plant management activity is undertaken.

(8) "Corps" means the United States Army Corps of Engineers, an administrative subdivision of the United States Government.

(9) "Commission" means the Florida Fish and Wildlife Conservation Commission.

(10) "Ditchbank species" means those plants usually growing not directly in water but near water's edge at normal water level.

(11) "District" means any one of the five water management districts listed in Section 373.069, F.S.

(12) "Eligible costs" means costs identified by O.M.B. Circular A-87, Chapter 16A-11, F.A.C., or the grant agreement as being reimbursable.

(13) "Federal funds" means those aquatic plant management funds provided by the Corps.

(14) "Fiscal year" means the federal fiscal year, October 1 through September 30.

(15) "Flood control waters" means any permanent waterbody which is primarily used to manage the flow of water to protect human health and safety, and prevent injury to plant life, animal life, and property.

(16) "Grant agreement" means a written agreement which outlines the obligations of the commission and the grantee.

(17) "Grantee" means any applicant which has been approved for aquatic plant management funding.

(18) "Herbicide" means any chemical product used to chemically control or regulate aquatic plant growth.

(19) "Local government" means a county or municipal government.

(20) "Maintenance program" means a method for the management of aquatic plants in which techniques are used in a coordinated manner, on a continuous or periodic basis, in order to maintain the target plant population at the lowest feasible level funding and technology will permit.

(21) "Manatee aggregation site" means a specific area within a waterbody or canal system where manatees periodically congregate, as identified by the section in consultation with the U.S. Fish and Wildlife Service and the commission's Imperiled Species Management Section.

(22) "Native aquatic plant" means any aquatic plant that is indigenous to the State of Florida, as determined by the commission. In making this determination, the commission shall consider data contained in generally accepted scientific literature.

(23) "Noxious aquatic plant" means any part, including but not limited to seeds or reproductive parts, of an aquatic plant which has the potential to hinder the growth of beneficial plants, to interfere with irrigation or navigation, or to adversely affect the public welfare or the natural resources of this state.

(24) "Recreational waters" means waters accessible to the general public, used primarily for recreational purposes, and which are aquatic sites in sovereignty lands.

(25) "Sovereignty lands" means, pursuant to Article X, Section 11, Constitution of the State of Florida, the title to lands under navigable waters, within the boundaries of the state, which have not been alienated, including beaches below mean high water lines, is held by the state, by virtue of its sovereignty, in trust for all the people.

(26) "State funds" means those aquatic plant management funds provided by Legislative appropriation.

(27) "Waters" or "Waters of the state" means rivers, streams, lakes, navigable waters and associated tributaries, canals, meandered lakes, enclosed water systems, and all other bodies of water.

(28) "Workplan" means the commission approved detailed outline of the aquatic plant management operations to be conducted and an approved budget for a given fiscal year.

*Specific Authority 369.20, 369.22 FS. Law Implemented 369.20, 369.22 FS. History—New 1-7-87, Amended 5-30-93, Formerly 16C-54.003, 62C-54.003.*

### **68F-54.0035 Waters Eligible and Eligibility Criteria for Aquatic Plant Management Funds.**

(1) The commission is authorized to enter into grant agreements for the purpose of managing noxious aquatic plants in sovereignty lands, or those sites which might adversely impact sovereignty lands. Applications for grants are made on FWC Form 50-035(16). An executed grant agreement shall serve as proof that the applicant (grantee) has sufficient funds on hand to satisfy any funding match requirement. Approval of control techniques and program approval are contained in the workplan which will become attachment A-1 of the grant agreement.

(2) In order for state and federal aquatic plant management funds to be considered, waters for which these funds are requested must meet the following eligibility criteria:

- (a) The waterbody must be sovereignty lands, or a site which might adversely impact sovereignty lands.
- (b) The waterbody must have access to the boating public by way of an established, improved boat ramp or a direct navigable connection to an eligible waterbody.
- (c) There must be a sign at the boat ramp stating that it is a public boat ramp or use area. A ramp fee may be charged provided that the fee is not unreasonable (in keeping with ramp fees charged in the area).
- (d) There must be at least one directional sign on the nearest paved roadway indicating the way to the public boat ramp.
- (e) The boat ramp must have sufficient space to safely turn a vehicle and trailer around and ample parking space within one quarter mile distance from the boat ramp.

(3) Commission approval shall be the execution of the grant agreement between the applicant and the commission. The applicant shall be notified in writing of application deficiencies or denial.

*Specific Authority 369.20, 369.22 FS. Law Implemented 369.20, 369.22 FS. History—New 5-30-93, Formerly 16C-54.0035, 62C-54.0035.*

### **68F-54.005 Approval, Allocation, and Disbursement Procedures for Aquatic Plant Management Funds.**

(1) The applications for funds shall be reviewed by the section staff to determine compliance with this chapter.

(a) Applicants submitting insufficient information or unreasonable cost estimates to support the allocation of funds will be notified and advised of such deficiency in writing. The applicant shall have 30 days from the date of notification to furnish the additional information. The date of submission of the additional information shall be the postmarked date.

(b) Applicants denied funds shall be notified in writing as to the reason for such denial.

(2) Although a waterbody may meet eligibility criteria, funding and workforce availability may be insufficient to manage noxious plants for a period of time. When federal or state funds are involved, the section shall disperse funds according to the following priorities, and the additional considerations listed in subsection 68F-54.005(3), F.A.C.:

- (a) To manage waterhyacinth and waterlettuce, including those plants in waters which could infest connected eligible lakes and rivers.
- (b) To manage new hydrilla infestations, particularly those at boat ramps or in waters connected to eligible waters which contain little or no hydrilla.
- (c) To manage any noxious aquatic plant restricting access at public boat ramps, or to establish trails which connect boat ramps to major use areas.
- (d) To provide open areas in dense stands of hydrilla for navigation and recreational use.

- (e) To provide for large scale hydrilla management operations.
- (f) To provide open areas in dense stands of other noxious plants for navigation and recreational use.
- (g) To manage noxious plants in residential or dead end canals and which are connected to eligible waters, unless they contain:
  - 1. Waterhyacinth or waterlettuce.
  - 2. Hydrilla, and there is a navigable connection to an eligible water, and the eligible water contains little or no hydrilla.

(3) When federal or state funding is involved, the commission shall allocate funds for an individual waterbody using the criteria established in subsection 68F-54.005(2), F.A.C., with consideration being given to the following factors:

- (a) Availability of state and federal funds.
- (b) Availability of local funds for matching state or federal funds.
- (c) Major uses of the waterbody.
- (d) Feasibility of achieving control of noxious aquatic plants in the waterbody.
- (e) Anticipated environmental and biological community impacts including the current and anticipated water quality conditions.
- (f) Specific comments provided by substantially affected persons.
- (g) Current and anticipated level of aquatic plants in the waterbody.
- (h) Relative benefit to the public.

(4) A grant agreement shall be executed by the commission with the grantee prior to any aquatic plant management activities being eligible for reimbursement. This grant agreement shall contain the mutual obligations of the commission and the grantee.

(5) Reimbursement shall be based on accounting for actual costs and shall be the means for identifying and distributing allowable costs in the program. All reporting forms for a given month shall be provided to the commission for determination of reimbursement no later than the 20th day of the following month. The commission shall have thirty (30) days in which to review, inspect, and accept the grantee's work effort and associated reimbursement documentation. Incomplete or incorrect reports submitted shall be returned by the commission for correction to the grantee within thirty (30) days of receipt. The corrected report shall be returned to the commission no later than the 20th day following the day of receipt by the grantee. The commission shall reimburse the grantee monthly upon receipt of a properly certified invoice. The following certification statement shall appear on the invoice, "I certify that the above bill is correct and just and that payment thereof has not been received; I further certify that the contractor and all sub-contractors employed on the work have complied with the labor standards provision of the contract." The grantee shall keep separate cost accounting records for this program from which the invoice shall be prepared.

*Specific Authority 369.20, 369.22 FS. Law Implemented 369.20, 369.22, 120.60 FS. History—New 1-7-87, Amended 5-30-93, Formerly 16C-54.005, 62C-54.005.*

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