

**571—54.5(461A) Aquatic plants.** This rule applies to the removal of plants in public waters as those waters are defined by rule 571—13.2(455A,461A,462A). For purposes of this rule, aquatic plants include vegetation that exists at or below the ordinary high-water line of a waterway.

**54.5(1) Permits.**

*a.* The department may issue permits for the removal of aquatic plants in public waters. To be considered for a permit under this rule, applicants shall use the department's application form for sovereign lands construction permits, as described in 571—13.9(455A,461A,462A), and complete all relevant information on that application form. Applicants shall also provide any additional information as may be necessary, as described in 571—13.10(455A,461A). The term of the permit shall be stated in the permit. Permits are nontransferable and are subject to reevaluation upon expiration. Permits may be issued for between one and five years.

*b.* Cities and counties in Iowa may use chemicals, including herbicides, to remove aquatic vegetation from water intake structures. Such cities and counties shall be required to obtain a permit under this rule unless operating under a vegetation management plan approved by the director. Permits under 567—Chapter 66 may be required separately. Additionally, a certified aquatic applicator is required to conduct all such use of chemicals, and any application is subject to the terms of a vegetation management plan approved by the director. Issuance of such permits and approval of a vegetation management plan is at the sole discretion of the department.

**54.5(2) Evaluation.** The department shall evaluate all permits sought under this rule in accordance with the evaluation criteria enumerated in 571—13.6(455A,461A,462A). In addition, the department shall consider the following criteria for aquatic plant removal:

*a.* The plants shall be removed by hand-cutting, hand-pulling, hand-raking or mechanical cutting only;

*b.* The plants shall be removed to establish a designated travel lane from a boat dock that has been permitted in accordance with 571—Chapter 16. Such travel lane shall not exceed a 15-foot width, and the placement of such lane shall be subject to the review and approval of the department. A travel lane allowed under this rule may be in the same location during the term of the permit, may be sited by the department to accommodate vegetation, and may not necessarily be the most direct path from the dock to the open water area; and

*c.* All plant material removed under the permit must be left in place or collected and composted on the land owned, leased or otherwise subject to use by the applicant that is adjacent to the removal area.

*d.* Unless otherwise provided by this rule, in no event may a person be allowed to apply chemicals including, without limitation, herbicides to remove aquatic plants from public waters. For nonpublic waters that meet certain designations in 567—Chapter 66, a person may be required to seek a permit under the rules established herein to use herbicides.

**54.5(3) Inspection requirements.** For the purpose of inspecting for compliance with permit conditions, the department shall have the right to enter the property attached to the public water at or near the place of removal. This inspection shall include, without limitation, identification of introduced species, a determination as to whether the travel lane is being maintained in accordance with the permit conditions, and whether removed plant material is left on site.

**54.5(4) Violations.** Persons in violation of this rule or who introduce aquatic plants to public waters are guilty of a simple misdemeanor as described by Iowa Code section 461A.57.

**54.5(5) Exceptions.**

*a.* A dock permittee whose dock meets the conditions of 571—16.4(461A,462A), 571—16.6(461A,462A), or 571—16.7(461A,462A) may remove aquatic vegetation without a permit if the aquatic vegetation:

- (1) Creates a hazardous or detrimental condition in the boating area around the dock, or
- (2) Covers a minimum of 75 percent of the boating area around the dock.

*b.* A dock permittee meeting one of the exceptions in 54.5(5) "a" must verify at inspection that the dock meets the criteria for a Class I, Class II or Class III dock permit and is limited to the following:

- (1) Removal of vegetation in a 20-foot radius around the dock;

(2) Removal of a hazardous or detrimental condition when it interferes with safe boating passage and is located within the boating area around the dock;

(3) Creation of a 15-foot-wide boating pathway utilizing a direct route from the dock to open water;

(4) Adherence to the requirement to leave the vegetation in place or collect and compost it on land that is owned, leased or otherwise subject to use by the dock permittee and is adjacent to the removal area; and

(5) Removal of the vegetation by hand-cutting, hand-pulling, hand-raking or mechanical cutting devices, excluding automated plant control devices that disturb the bottom substrate.

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