

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 895
FOX CHAIN O' LAKES AQUATIC PLANT MANAGEMENT

Section

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AUTHORITY: Implementing and authorized by Section 7 of the Rivers, Lakes, and Streams Act [615 ILCS 5/7], and by Sections 1-15, 1-20, 1-150, 5-5 and 20-35 of the Fish and Aquatic Life Code [515 ILCS 5/1-15, 1-20, 1-150, 5-5 and 20-35].

SOURCE: Adopted at 25 Ill. Reg. 9031, effective July 3, 2001.

Section 895.10 Summary and Purpose

This Part is established to implement the management of aquatic plants within the Fox Chain O' Lakes (FCOL) public waters. The intent is to minimize the risks that citizens utilizing the public waters may be unwittingly exposed to aquatic herbicides and that threatened or endangered species of plants and animals may be harmed or destroyed, a balanced aquatic plant community being recognized to be a vital and necessary component of a healthy aquatic ecosystem. The Department may allow the management of nuisance-causing aquatic plants with chemicals registered and labeled for aquatic use by the United States Environmental Protection Agency (USEPA). Other non-chemical methods, determined to be effective by the Department, may also be authorized.

Section 895.20 Applicability

Any person sponsoring or conducting chemical or non-chemical treatment for the management of aquatic plants in the FCOL public waters shall obtain a Letter of Permission (LOP) from the Department.

Section 895.30 Definitions

"Applicant" - The person, company, or organization that proposes to apply aquatic herbicides or non-chemical treatments to the FCOL public waters.

"Client" - The person who contracts with the pest control operator for the described aquatic plant management treatment.

"Chemicals" - All USEPA approved and registered aquatic herbicides.

"Chemical treatment" - The single, one-time use of a USEPA approved and registered aquatic herbicide to destroy or limit the growth of aquatic plants.

"Department" - The Illinois Department of Natural Resources.

"FCOL public waters" - Channel Lake, Lake Catherine, Lake Marie, Bluff Lake, Spring Lake, Petite Lake, Grass Lake, Fox Lake, Dunn's Lake, Nippersink Lake, Pistakee Lake, Redhead Lake, Lake Mathews, Lake Jerilyn, Lac Louette (Mud Lake) and all navigable channels directly connected to these lakes that are under the jurisdiction of the Fox Waterway Agency.

"Fox Waterway Agency" - A special unit of local government created by State of Illinois statute in September 1983 and approved by referendum in November 1984 by a majority of voters residing within the agency's voting district of Lake and McHenry Counties.

"Letter of Permission" - Document drafted by the Department that specifies the location, date, and method of treatment.

"Navigable channel" - All natural and manmade channels/ponds that are connected to the public waters and are under the jurisdiction of the Fox Waterway Agency.

"Non-chemical treatment" - Utilization of plant screens, sediment covers, bottom barriers, blanketing materials that are gas-permeable, or mechanical cutting or removal

to destroy or limit the growth of aquatic plants. A non-chemical treatment may consist of a series of actions in the case of mechanical cutting or removal of aquatic plants.

"Non-target organisms" - Any plant, other than nuisance-causing aquatic plants specified on the application, or animal species within the treatment area or adjacent areas that may be adversely affected by the chemical or non-chemical treatment.

"Sensitive area" - Areas of aquatic vegetation identified by the Department as offering critical or unique fish and wildlife habitat, including seasonal or life stage requirements, or offering water quality or erosion control benefits to the body of water. This also includes areas included by the Department on the Illinois Natural Areas Inventory, or registered or dedicated pursuant to the Illinois Natural Areas Preservation Act [525 ILCS 30/1].

Section 895.40 Application for Letter of Permission

An application for a LOP is a form provided by the Department. The completed application shall be submitted to the Division of Fisheries, Springfield, IL. Any amendment or revision to an application shall be treated by the Department as a new application. The application shall contain:

- a) One copy of a detailed map or sketch of the body of water with the proposed treatment area dimensions clearly shown and with pertinent information necessary to locate those properties, by name of owner, riparian to the treatment area, which may include street address, fire number where available and local telephone number;
- b) A description of the uses being impaired by plants and reason for treatment;
- c) A description of the plant community within the area to be treated that includes approximate percentage of abundance by species;
- d) Product names of chemicals proposed for use, the method of application, and proposed date of treatment;

- e) Name of the person or commercial applicator and applicator certification number of the person conducting the treatment;
- f) A description of the non-chemical treatment, including type of material, product name if applicable, and proposed date of treatment;
- g) A certification to the Department that a copy of the application has been provided to any affected property owners' association and to any riparian property owners adjacent to and within the treatment area;
- h) A statement of alternative control methods considered for use on the proposed treatment site and their feasibility.

Section 895.50 Issuance of Letter of Permission

- a) The Department shall issue or deny issuance of the requested LOP within 45 days after receipt of a complete application.
- b) The LOP shall be issued for a non-chemical method or the single, one-time, use of a USEPA approved and registered aquatic herbicide to remove, destroy or limit the growth of aquatic plants. Exception: In instances where a chemical treatment is proposed to be at reduced application rates with a not-to-exceed dosage limit, over multiple applications, this will be viewed as a one-time application.
- c) New applications for a LOP will be reviewed with consideration given to the cumulative effect of applications already approved for the body of water.
- d) The Department may deny issuance of the requested LOP if:
 - 1) The proposed chemical is not labeled and registered for the intended use by the USEPA;
 - 2) The Fox Waterway Agency recommends to the Department that a LOP not be granted;
 - 3) The Department determines the proposed treatment will result in a hazard to humans, animals or other non-targeted organisms, or will not provide

nuisance relief;

- 4) The Department determines that the proposed treatment will result in a significant adverse effect on the body of water or will place unreasonable restrictions on existing water uses;
- 5) The proposed treatment is for waters beyond 75 feet from the shore except where approval is given by the Department to maintain navigation channels, piers or other facilities used by organizations or the public, including commercial facilities;
- 6) The Department determines that the proposed treatment will significantly injure non-target organisms within the treatment area or adjacent areas either directly or through habitat destruction;
- 7) The proposed treatment is in a location known to have endangered or threatened species as determined by the Department; or
- 8) The proposed chemical application is in a location identified by the Department as a sensitive area, except when the applicant demonstrates to the satisfaction of the Department that treatments can be conducted in a manner that will not alter the ecological character or reduce the ecological value of the area.

Section 895.60 Supervision

Supervision by a Department representative may be required for any chemical treatment. Supervision may include inspection of the proposed treatment area, chemicals and application equipment before, during, and after treatment. The inspection may result in the determination that treatment is unnecessary or unwarranted in all or part of the proposed area, or that another chemical or non-chemical method of treatment may be more appropriate.

Section 895.70 Conditions of Letter of Permission

- a) The Department may stop or limit the application of chemicals or non-chemical treatments to a body of water if at any time it determines that the treatment will be

ineffective, will result in unreasonable restrictions on current water uses, or will produce unnecessary adverse side effects on non-targeted organisms for any of the reasons set forth in Section 895.50.

- b) Chemical treatments shall be performed in accordance with label directions, existing pesticide use laws, and LOP conditions.
- c) Chemical treatment shall be performed by an applicator currently certified by the Illinois Department of Agriculture in the aquatic category.
- d) The LOP holder will be responsible for posting those areas treated in accordance with water/fishing use restrictions stated on the chemical label. Signs shall be posted at the beginning of each treatment by the LOP holder to remain up for the period of time stated on the chemical label for water use restrictions. Posting of signs shall be in brilliant yellow background with black lettering, and conspicuous to the non-riparian public intending to use the treated water from both the water and shore, and shall state applicable label use restrictions of the chemical being used, the name of the chemical and the date of treatment.
- e) The LOP applicant will be responsible for obtaining a permit from Illinois EPA in adherence with 35 Ill. Adm. Code 652.601, where applicable.
- f) Failure to comply with the conditions of the LOP may result in loss of privileges for subsequent chemical and non-chemical treatments for aquatic plants in the Illinois public waters of FCOL in addition to any other remedies set out by law.

Section 895.80 Exemptions

An individual property owner who has title to a portion of the FCOL lake bottom and wishes to initiate an aquatic plant management treatment of 0.25 acre or less of the titled lake bottom need not apply for a LOP from the Department. The individual, however, is not exempt from any other applicable laws and/or ordinances.