

CHAPTER 62C-52 AQUATIC PLANT IMPORTATION, TRANSPORTATION, NON-NURSERY CULTIVATION, POSSESSION AND COLLECTION

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62C-52.001 Purpose.

(1) The Department of Environmental Protection, Bureau of Aquatic Plant Management shall administer the aquatic plant management program of the state as may be necessary for the eradication, control, or prevention of the introduction and dissemination of noxious or prohibited aquatic plants through the importation, transportation, non-nursery cultivation, collection, sale, or possession of aquatic plants.

(2) The bureau shall, pursuant to s. 369.25(2), F.S., and the memorandum of agreement with the Division of State Lands, (effective date 28 May 1992, which is incorporated by reference in Rule 62C-20, F.A.C., and is available from the bureau), protect sovereignty lands from the improper and excessive collection of native aquatic plants for purposes of sale, revegetation, restoration, or mitigation.

Specific Authority 369.25, 369.251 FS. Law Implemented 369.25, 369.251 FS. History--New 8-11-86, Amended 6-13-93, Formerly 16C-52.001.

62C-52.002 Definitions.

(1) "Applicant" means any person who applies for a permit pursuant to this chapter.

(2) "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 s. 369.251, F.S.

(3) "Beneficial aquatic plants" means indigenous aquatic plant species that provide fish and wildlife habitat, water quality protection, and shoreline stabilization.

(4) "Bureau" means the Bureau of Aquatic Plant Management, an administrative subdivision of the Department of Environmental Protection, located at 2051 E. Dirac Drive, Tallahassee, Florida 32310-3760, telephone (850) 488-5631.

(5) "Collection" means the removal or gathering of any aquatic plant, including any part or seed thereof, from the place in which it is growing in the natural environment.

(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.

(7) "Cultivation or culture" means to grow or cause to reproduce any aquatic plant.

(8) "Department" means the state of Florida Department of Environmental Protection.

(9) "Excessive collection" means the taking of native aquatic plants from a wild collection site to the extent there is no longer a reasonable assurance of the continued maintenance of a self sustaining native aquatic plant specie population within that site.

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

(11) "Importation" means the transportation of aquatic plants into the geographical limits of the State of Florida from outside the geographical limits of the State of Florida.

(12) "Landowner" means a person who possesses fee title to the property specified in a permit application.

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

(14) "Natural dispersion" means movement of an aquatic plant by meteorological, biological, hydrological, or any other natural process.

(15) "Natural waters" means those surface waters created through geological and biological processes whether or not subsequently modified by man.

(16) "Non-native" means any aquatic plant not indigenous to the state of Florida, as determined by the department.

(17) "Non-nursery cultivation" means the tending of aquatic plant species for harvest in the natural environment.

(18) "Non-prohibited aquatic plant" means all aquatic plants except those listed in Rule 62C-52.011, F.A.C.

(19) "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 aquatic plants, to interfere with irrigation or navigation, or to adversely affect the public welfare or the natural resources of this state.

(20) "Permit" means a license issued by the department pursuant to this chapter.

(21) "Permittee" means any person to whom a permit is issued under this chapter.

(22) "Person" means individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

(23) "Prohibited aquatic plant" means any of the aquatic plants designated by the department on the prohibited aquatic plant list in Rule 62C-52.011, F.A.C., or in an emergency order issued under Rule 62C-52.012, F.A.C.

(24) "Revegetation" means the intentional placing of any native aquatic plant, including any seed or part thereof, into waters for the purpose of establishing that plant as a constituent of those waters. Revegetation includes activities associated with mitigation, restoration, transplanting and habitat enhancement.

(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) "Synonym" means a scientific or common name, other than the approved name, which applies to the same plant.

(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) "Wild collection site" means an area where aquatic plants are naturally occurring and in which the department has permitted collection activities.

Specific Authority 369.25, 369.251 FS. Law Implemented 369.25, 369.251 FS. History--New 8-11-86, Amended 6-13-93, Formerly 16C-52.002.

62C-52.003 Permit Requirements.

(1) No person shall engage in any business activity involving the non-nursery cultivation, or collection of any aquatic plant species without a permit issued by the department unless expressly exempted by Rule 62C-52.010, F.A.C. No person, except aquatic plant nurseries regulated by the Department of Agriculture and Consumer Services, shall engage in any business activity involving the importation, transportation, sale or possession of any aquatic plant species without a permit issued by the department unless expressly exempted by Rule 62C-52.010, F.A.C. Collection activities exempted from permitting requirements under this chapter, when undertaken on private or sovereignty lands, must be authorized by the landowner.

(2) No person shall possess any Class I prohibited aquatic plant listed in Rule 62C-52.011, F.A.C., without a permit issued by the department. No person shall possess any Class II prohibited aquatic plant listed in Rule 62C-52.011, F.A.C., without a permit issued by the department, or the Department of Agriculture and Consumer Services, unless expressly exempted by Rule 62C-52.010, F.A.C.

(3) No collection of native aquatic plants, including any part or seed thereof, from aquatic preserves, state parks, or sovereignty lands under lease to other entities, shall be permitted pursuant to this chapter.

(4) Only native aquatic plants cultured in a nursery regulated by the Department of Agriculture and Consumer Services or collected from an approved wild collection site, shall be used for the revegetation, restoration, or mitigation of wetlands in sovereignty lands. No prohibited or non-native aquatic plant shall be placed in, or knowingly be distributed for use in natural waters, or waters connected to natural waters. Non-native plants not on the prohibited plant list may be used in artificially created ponds and water gardens that are not connected to natural waters.

(5) No person shall knowingly cause the dissemination of any prohibited plant listed in Rule 62C-52.011, F.A.C.

(6) The collection of aquatic plant material from sovereignty lands is prohibited unless a permit is issued by the bureau. This permit shall constitute permission from the Division of State Lands and authorization for such collection. Collection may be permitted for nursery stock which is to be used for propagation and cultivation purposes. Collection may also be permitted for habitat enhancement or restoration projects in sovereignty lands that are directed by a state agency, local government, or water management district. Cuttings may be permitted to be taken for sale when taken in a manner that assures the survival of the plant and the roots are not disturbed. *Vallisneria americana*, *Sagittaria kurziana* and *Sagittaria subulata/graminea* may be permitted to be collected for sale from approved wild collection sites in sovereignty lands until October 1, 1995.

(7) Persons engaged in wild collection activities shall carry a copy of the permit. Permittees shall be responsible for the acts, or omissions, of their employees or agents.

(8) An aquatic plant permit issued pursuant to this chapter is non-transferrable and is valid only for the person and activities for which the permit is issued.

(9) Issuance of an aquatic plant permit does not relieve the permittee of the responsibility of complying with all applicable federal, state, county, and municipal laws, ordinances, or rules, and the permittee is not relieved of the responsibility of obtaining other required licenses or permits.

(10) An aquatic plant permit does not constitute permission to collect endangered, threatened, or otherwise protected plant species.

(11) A permit is required for each individual wild collection site. However, more than one site may be approved on the same permit. When collection activities are undertaken, a copy of the permit must be available on site.

(12) Permits shall be effective for a period not to exceed three years based on criteria and standards referenced in Rule 62C-52.004, of this chapter, proposed activities, and unresolved violations of this chapter. The effective period shall be set forth in the permit.

Specific Authority 369.25, 369.251 FS. Law Implemented 369.25, 369.251 FS. History—New 8-11-86, Amended 6-13-93, Formerly 16C-52.003.

62C-52.004 Criteria for Permit Issuance.

(1) Permit applications shall be evaluated and issued on the following criteria and standards:

(a) The ability of native aquatic vegetation in wild collection sites in sovereignty lands to maintain self-sustaining growth.

(b) No adverse impacts upon fish and wildlife resources including endangered species, threatened species, non-game species, species of special concern, and their habitat.

(c) No impairment of the public's access to, or use of, the waterbody.

(d) No adverse cumulative impacts upon the natural resources or the environment of the state.

(2) No permit shall be issued which may result in the introduction or spread of any noxious aquatic plant species, any prohibited aquatic plant as listed in Rule 62C-52.011, F.A.C., or any non-native aquatic plant into natural waters or any waters connected to natural waters.

(3) Permits for the transportation, non-nursery cultivation, collection, or possession of any prohibited aquatic plants listed in Rule 62C-52.011, F.A.C., may only be issued to government agencies, research institutions, and wastewater treatment facilities approved by the Department of Environmental Protection. The applicant shall supply information regarding the species name, source, amounts of plant material, duration of research, quarantine facilities, and method of plant destruction and disposal upon the conclusion of the research. The department is authorized to grant a variance, by permit, when those special purpose activities would not promote the dissemination of prohibited aquatic plants, and when the activity would serve an educational, humane, or research purpose. Except for research purposes conducted under an approved permit, no plant on the prohibited plant list shall be imported into the state.

(4) Applicants for a permit to collect aquatic plants from a wild collection site in non-sovereignty lands must provide:

(a) Evidence of ownership of the proposed wild collection site or evidence that the landowner has provided the applicant with consent of use for the property.

(b) A description of the proposed wild collection site which shall state the location, the size of the proposed site and the dimensions or description of the boundaries. A diagram shall be included. Directions to the proposed wild collection site using county, state and U.S. highway names and route numbers shall be included.

(c) A plan which will provide reasonable assurance that the removal of aquatic plants from the wild collection site will not result in the dissemination of any noxious or prohibited aquatic plant species listed in Rule 62C-52.011, F.A.C.

(5) Applicants for a permit to collect aquatic plants for purposes other than research from a wild collection site in sovereignty lands must provide:

(a) A plan which will provide reasonable assurance that the removal of aquatic plants from the wild collection site in sovereignty lands will not result in the dissemination of any noxious plant, or any prohibited aquatic plant species listed in Rule 62C-52.011, F.A.C.

(b) A plan which will provide reasonable assurance of the continued maintenance of self sustaining native aquatic plant populations within the wild collection site in sovereignty lands.

(c) Directions to the proposed wild collection site in sovereignty lands using county, state and U.S. highway names and route numbers. A map shall be included.

(d) A description of the proposed wild collection site in sovereignty lands which shall state: the location of the proposed site; the size of the proposed site including boundary dimensions; the size and location of plant communities within the site; and legends that explain all symbols and patterns used. A map shall be included.

(6) Applications for aquatic plant permits shall be made on DEP form 50.002, (Application For The Importation, Transportation, Non-Nursery Cultivation, Possession and Collection of Aquatic Plants, effective date 6-13-93, which is hereby incorporated by reference and is available from the bureau).

Specific Authority 369.25, 369.251 FS. Law Implemented 369.25, 369.251 FS. History—New 8-11-86, Amended 6-13-93, Formerly 16C-52.004.

62C-52.008 Enforcement and Penalties.

(1) Following proper notice, the department is authorized to modify, revoke, suspend, annul, or withdraw any permit granted by it, or deny or modify any permit application, if the department determines that the following actions were committed by the permittee or applicant:

(a) Submission of false or inaccurate information in the permit application, requests for modifications, or records maintained pursuant to Rule 62C-52.0045, F.A.C.

(b) Violation of the permit, permit conditions, Chapter 62C-52, F.A.C., s. 369.25, or 369.251, F.S.

(c) Failure to file a required report within the specified period.

(2) The department shall initiate the appropriate corrective action to prevent the spread of noxious or prohibited aquatic plants, and to protect sovereignty lands from the excessive collection of native aquatic plants including the following:

(a) The department is authorized to issue a written notice of violation, and issue instructions as to the manner and time in which the violation shall be rectified.

(b) The department is authorized to order a quarantine of plants from a permitted wild collection site to prevent the dissemination of any prohibited aquatic plant. The quarantine order shall state the provisions of the quarantine and the conditions under which the quarantine may be lifted.

(c) The department is authorized to seize, without compensation, any prohibited aquatic plant regulated under this chapter which the department has determined is reasonably likely to be introduced into waters.

(d) The department is authorized to take the necessary action to destroy prohibited aquatic plants which threaten waters of the state without compensation to the owner.

(e) The department is authorized to require the revegetation of a site in sovereignty lands where excessive collection has occurred.

(3) Any person who violates the provisions of this Chapter, s. 369.25 or 369.251, F.S., may be guilty of a misdemeanor of the second degree punishable as provided in s. 775.082, or 775.083, F.S. All law enforcement officers of the state and its agencies with power to make arrests for violations of state law are authorized to enforce the provisions of this chapter.

(4) All permittees shall, upon request, provide to the department samples of any aquatic plant for identification at no compensation.

Specific Authority 369.25, 369.251, 370.021 FS. Law Implemented 369.25, 369.251, 370.021, 370.028 FS. History--New 8-11-86, Amended 6-13-93, Formerly 16C-52.008.

62C-52.010 Exemptions and Exclusions.

(1) Any person transporting noxious or prohibited aquatic plants for disposal under a permit for aquatic plant management pursuant to Chapters 62C-20 or 62C-54, F.A.C., shall not be required to possess a permit pursuant to this chapter. However, disposal shall be in such a manner that no waterbody of the state is contaminated.

(2) The collection, possession, transportation, sale, or cultivation of mangroves, mangrove seeds (fruits) or propagules, plants restricted by Rule 46-42.001, F.A.C., or the trimming of mangroves are not regulated by this chapter and shall not be permitted pursuant to this chapter.

(3) The importation, transportation, non-nursery cultivation, possession, collection, or sale of non-prohibited wetland tree species, including but not limited to ash, bay, cypress, gum, mangrove, maple, tupelo, etc., are not regulated by this chapter and shall not be permitted pursuant to this chapter.

(4) Herbaria of educational or research institutions shall not be required to possess a permit for its preserved specimens, however a permit shall be required for the collection or importation of live specimens.

(5) Any florist, or other person, who sells dried native aquatic plants, parts, or propagules thereof, shall not be required to possess a permit under this rule. No dried, reproductive parts of prohibited aquatic plants shall be used.

(6) If the possession of a prohibited aquatic plant has resulted from natural dispersion, and there is neither danger of or intent to further disperse the plant through any sales, transportation, or other action, or when a small amount of noxious aquatic plant material incidentally adheres to a boat or a boat trailer operated by a person who is not involved in any phase of the aquatic plant business and if that person is not knowingly violating this act, then no permit shall be required or penalties assessed. However, the department is authorized to quarantine, or confiscate the plant when there is a danger of further dispersal.

(7) Any person conducting revegetation as a condition of a Chapter 62C-20, F.A.C., permit shall not be required to possess a permit under this chapter for use in that specifically permitted site.

(8) Any person conducting reclamation activities under a department approved program pursuant to Chapters 62C-16 or 62C-17, F.A.C., shall not be required to obtain a permit pursuant to Chapter 62C-52, F.A.C. However, reclamation activities must not result in the dissemination of any prohibited aquatic plant species listed in Rule 62C-52.011, F.A.C., nor shall any activities involving aquatic plants be conducted outside of those lands under department approved conceptual plan.

Specific Authority 369.25, 369.251 FS. Law Implemented 369.25, 369.251 FS. History--New 8-11-86, Amended 6-13-93, Formerly 16C-52.010.

62C-52.011 Prohibited Aquatic Plants.

(1) Class I Prohibited Aquatic Plants – Under no circumstances will these species be permitted for possession, collection, transportation, cultivation, and importation except as provided in Rule 62C-52.004, F.A.C.:

SCIENTIFIC NAMES

Alternanthera philoxeroides
Casuarina spp.
Crassula helmsii
Eichhornia spp.
Hydrilla verticillata

COMMON NAMES

Alligatorweed, green lead plant
Australian Pine
Swamp stone crop
Waterhyacinth
Hydrilla, Florida elodea, stargrass, oxygen grass

<i>Ipomoea aquatica</i>	Water spinach
<i>Ipomoea fistulosa</i>	
<i>Lagarosiphon spp.</i>	African elodea
<i>Limnocharis flava</i>	Sawah flowing rush
<i>Lythrum salicaria</i>	Purple loosestrife
<i>Melaleuca quinquenervia</i>	Melaleuca
<i>Mimosa pigra</i>	Giant sensitive plant, cat's claw
<i>Monochoria hastata</i>	
<i>Monochoria vaginalis</i>	
<i>Myriophyllum spicatum</i>	Eurasian watermilfoil
<i>Nechamandra alternifolia</i>	
<i>Oryza rufipogon</i>	Wild Red rice
<i>Pontederia rotundifolia</i>	Tropical pickerelweed
<i>Salvinia spp.</i> , (excluding <i>S. minima</i>)	
<i>Schinus terebinthifolius</i>	Brazilian-pepper
<i>Sparganium erectum</i>	Exotic bur-reed
<i>Stratiotes aloides</i>	Water-aloë, soldier plant
<i>Trapa spp.</i>	Water chestnut
<i>Vossia cuspidata</i>	Hippo grass

(2) Class II Prohibited Aquatic Plants – These species are considered to be highly invasive and noxious in localized areas of the State of Florida. These plants may be cultured in a nursery regulated by the Department of Agriculture and Consumer Services pursuant to s. 581.031, 581.131, and 581.145, F.S., and shall only be sold out of state upon approval by the Department of Agriculture and Consumer Services. These species shall not be imported or collected from the wild. They must be contained in such a manner so as to prevent the dissemination from the nursery premises.

SCIENTIFIC NAMES	COMMON NAME
<i>Hygrophila polysperma</i>	Hygro
<i>Limnophila sessiliflora</i>	Ambulia
<i>Pistia stratiotes</i>	Waterlettuce

(3) The department is authorized to designate additional plants to be prohibited by emergency order as provided in Rule 62C-52.012, F.A.C.

(4) The prohibited aquatic plant list comprises the most recent and accepted scientific and common names of the prohibited aquatic plant species. However, the prohibited status also applies to any synonyms.

(5) The department is authorized to consider a plant for inclusion on the prohibited plant list when it displays, or when there is scientific evidence to believe it could display in the Florida environment, one or more of the following characteristics:

(a) The tendency to spread or become invasive in an ecosystem, sometimes in a rapid manner, so as to impair the ecosystem's ability to function by altering its productivity, decomposition, water fluxes, nutrient cycling and loss, soil fertility, erosion, dissolved oxygen concentrations, or its ability to maintain its existing species diversity.

(b) The propensity to invade and disrupt aquatic and wetland ecosystems in other areas or in other countries with climates similar to that of Florida.

(c) The ability to create dense, monospecific stands or monotypic stands which displace or destroy native plant habitat, destroy fish and wildlife habitats, inhibit water circulation, hinder navigation and irrigation, or severely restrict the recreational use of waterways.

(d) The ability to resist effective management by present technology or available management agents so that only extraordinary efforts, such as repeated chemical treatments at high dosage rates, can bring about effective management.

Specific Authority 369.25, 369.251 FS. Law Implemented 369.25, 369.251 FS. History—New 8-11-86, Amended 6-13-93, Formerly 16C-52.011.