



STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY

**PESTICIDE APPLICATION
TO SURFACE WATERS OF THE STATE OF MICHIGAN**

Permits are required by Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), and Part 33, Aquatic Nuisance Control, of the NREPA (Part 33).

**GENERAL PERMIT NUMBER ANC9610000
AQUATIC NUISANCE CONTROL ACTIVITIES FOR CANALS AND MARINAS
LOCATED ON THE GREAT LAKES AND CONNECTING WATERS**

Date Issued: December 19, 2014
Date Modified: February 13, 2015
Date Expires: December 31, 2018

In compliance with the provisions of Part 33 of the NREPA, pesticides are authorized to be applied to waters of the state (waterbody) for the control of nuisance aquatic plants and algae in accordance with the requirements and conditions set forth in this Aquatic Nuisance Control General Permit.

The applicability of this General Permit shall be limited to chemical treatment of a waterbody which will not negatively impact human health and will have no more than minimal short-term adverse impacts on the natural resources and environment.

In order to have authorization to chemically treat waters of the state under this General Permit, the permittee must be issued a Certificate of Coverage (COC) by the Michigan Department of Environmental Quality (DEQ). The following information will be identified in the COC:

- COC number
- date effective/issued
- expiration date
- permittee name and address
- waterbody name and location where chemical treatment is authorized
- an approved treatment map specifying where treatment will take place

The terms and conditions of this General Permit shall apply to the permittee for the identified waterbody on the effective date of a COC issued by the DEQ.

The provisions of this General Permit are severable.

All contact with the DEQ as required by this General Permit shall be with the staff of the Aquatic Nuisance Control Program (ANC), Permits Section, Water Resources Division (WRD), located at DEQ, P.O. Box 30458, Lansing, Michigan, 48909-7958, telephone 517-284-5593 and/or e-mail at deq-wrd-anc@michigan.gov.

Section A. Qualified Sites

A canal or marina qualifying for approval to be chemically treated under this General Permit must meet all of the following criteria:

- an individual canal system or marina facility (commercial or municipal) contiguous to a Great Lake or the connecting waters (Detroit River, Lake St. Clair, St. Clair River or St. Mary's River)
- dredged from uplands or leased state bottomlands enclosed by a breakwater
- minimal to no flow conditions expected within the canal or marina
- has no contiguous wetlands associated with the canal or marina

- is not associated with a designated trout stream
- does not have federal or state endangered, or threatened species pursuant to Part 365 of the NREPA, or critical habitat, associated with it
- has been identified by the DEQ as being able to receive an appropriate level of protection under this general permit, and
- is listed in the “Canals and/or Marinas currently eligible for authorization under a COC.”

The current list of canals and marinas approved for treatment under this General Permit is available upon request or at www.michigan.gov/anc. Scroll down to Applications & Permit Information, click on “General Permits and Pre-Approved Lists of Specific Waterbodies Eligible for Certificates of Coverage (COC),” and then click on “Canals and/or Marinas currently eligible for authorization under a COC.”

Section B. Authorizations and Coverage Provisions

1. Authorized Areas

Chemical treatment for control of nuisance aquatic plants and algae is authorized only to waters of the state as defined by this General Permit, specified by the issued COC, and identified on the approved treatment map(s) on file with the DEQ or through an expansion due to an infestation of an adjacent area in accordance with Section 324.3311 of Part 33. Authorized areas do not include areas of native plants and native algae that have not been approved on the treatment map.

Areas where chemical treatment for control of nuisance aquatic plants and algae is undertaken must be either under the legal control of the permittee or the party(ies) who has/have granted the permittee permission or otherwise under legal control as specified in Section 3308 of Part 33.

2. Chemical Application

The permittee shall comply with this permit and all pesticide label instructions to protect self, others, and the environment. The label is provided with the pesticide container. It explains how to use the pesticide safely, effectively, and may suggest ways to avoid unintended impacts to human health and the environment. Read and understand the label before mixing or applying any pesticide. Most labels list a toll-free number for consumers. Pesticide labels are federally-approved legal documents and their requirements are enforced under both federal and state laws. Non-compliance with the label is a violation of this permit.

The permittee may apply only those specific chemical products that are approved by the DEQ. Consult the chemical table titled “Chemicals Approved for Use Under the Aquatic Nuisance Control General Permit for Canals and Marinas Located on the Great Lakes and Connecting Waters.” If only an active ingredient is listed in the table, consult the list of DEQ-approved aquatic pesticides and related products to determine if the brand name product you wish to use is approved. These lists are available upon request or at www.michigan.gov/anc. Scroll down to Applications & Permit Information, click on “General Permits and Pre-Approved Lists of Specific Waterbodies Eligible for Certificates of Coverage (COC),” and then click on “Chemicals approved for canals and/or marinas.”

The application of chemical products to the qualified sites is restricted to the products at the stated maximum application rates listed in the table titled “Chemicals Approved for Use Under the Aquatic Nuisance Control General Permit for Canals and Marinas Located on the Great Lakes and Connecting Waters.” The necessary application rate may be lower than the maximum rate listed in the table, and may depend on the target species, the timing of the treatment, the use of additives such as surfactants, and various site conditions (refer to the product label).

See the product label for applicator certification requirements.

3. Treatment Intervals

With few exceptions, the products approved for use in Section B(2) of this General Permit have a minimum length of time required between each treatment in the same area(s) of impact, in accordance with the federal product label. Some of the federal product labels also have limits on the total amount of chemical applied annually per treatment area. Follow the federal treatment interval and annual limits.

4. General Conditions

General

Do not chemically treat within **50** feet of any outlet or opening to the Great Lakes or connecting waters.

Multiple products with the same active ingredient are approved by this General Permit. Consult the federally-approved product labels to ensure that the total amount of the active ingredient applied does not exceed the amount allowed by label application rates and/or active ingredient concentration for the target species and site conditions.

Upon receipt of written notification from the DEQ, the permittee may be required to do any of the following:

- Conduct the chemical treatment only when a DEQ representative is present.
- Notify the DEQ a minimum of three working days prior to application of chemical(s).
- Submit an accurate map or written description of the exact locations where each herbicide was applied to the DEQ within 24 hours of the completion of each treatment.
- In addition to the normally required notification, also notify other person(s) specified by the DEQ.
- Satisfy additional reporting requirements (instead of, or in addition to, the requirements listed below in Section C).
- Allow the DEQ or its representative to collect a sample of the chemical(s) used before or during any chemical treatment
- Apply chemicals so that swimming restrictions and fish consumption restrictions are not imposed on any Saturday, Sunday, or state-declared holiday.
- Take special precautions to avoid or minimize potential impacts to human health, the environment, and non-target organisms.
- Perform lake water residue analysis to verify the chemical concentrations in the waterbody according to a frequency, timing, and methodology approved by the DEQ.
- Any other requirements determined by the DEQ as necessary to protect the natural resources or the public health, to prevent economic loss or impairment of recreational uses, to protect non-target organisms, or to help ensure control of the aquatic nuisance.

With few exceptions, the federal labels for aquatic pesticides require setback distances from active surface water intakes used for potable drinking water. Such intakes exist in inland lakes and along the Great Lakes and connecting waters and serve as drinking water sources for some communities. Refer to the specific product label for setback requirements or guidelines prior to application of these products. Contact your local water authority if you are unsure about the local drinking water source.

Application of any herbicide on a per acre basis in shallow areas may result in a concentration of active ingredient exceeding the label maximum, which could result in unacceptable impacts to non-target organisms. The per-acre chemical amount must be adjusted to the depth of water being treated. Consult the product label to ensure proper application.

Specific Products

Chelated Copper

Treatment of wild celery (*Vallisneria americana*) with a chelated copper herbicide product may occur no more than two times per year.

Colorants

The use of tracer dyes allowed by this General Permit excludes water dyes that are labeled as herbicides (e.g., Aquashade®, Admiral®, Pond Care Algae Blocker®).

Diquat Dibromide

Diquat dibromide products are designated as restricted use by the Michigan Department of Agriculture and Rural Development and are only available to certified applicators.

2,4-D and Endothall

Do not apply granular endothall or granular 2,4-D products within 75 feet of any active drinking water well or within 250 feet of wells less than 30 feet deep. Distances are measured from the well location not from the shoreline. Wells and isolation distances are not necessarily shown on the treatment map. Prior to treatment, locate the water wells and observe the appropriate isolation requirements. If well location and/or depth are unknown, then assume the full 250-foot isolation distance.

The use of Hydrothol 191 Granular to control submerged macrophytes is restricted to a one-time only treatment after July 15. Treatment shall not exceed a total maximum area of 10 percent of the canal or marina, and shall also not exceed 20 feet of canal frontage per residentially developed parcel, or no more than 30 percent of the near-shore frontage for marinas. Near-shore frontage is defined as areas less than 5 feet deep.

The use of Hydrothol 191 Granular herbicide has been approved at a rate in excess of 0.3 parts per million (ppm), and may be toxic to fish under certain conditions. The federal product label suggests that treatment be conducted by a certified pesticide applicator. Apply product evenly in narrow margins or stripes to control target plants so fish are not killed. Apply product from the shoreline out so fish are not trapped.

Imazapyr

Application of products containing imazapyr can be made only by federal or state agencies, such as Water Management District personnel, municipal officials and the U.S. Army Corps of Engineers, or those applicators who are licensed or certified as aquatic pest control applicators and are authorized by the state or local government.

5. Notification and Posting Requirements

For expansion of chemical treatment within or along the shoreline of the Great Lakes or to inland waters where the expansion will occur in the waterbodies in the municipalities or townships listed (refer to Appendix A), the permittee shall notify the DEQ not less than two full business days prior to the application of chemicals. Notification shall be to the Aquatic Nuisance Control Program by email to deq-wrd-anc@michigan.gov. Notification shall include a map of the proposed expansion area(s), list of chemical(s) to be applied, the date and time of anticipated treatment, and contact information for the on-site chemical applicator.

The permittee is required to notify the DEQ, ANC Program prior to expanding treatment into an infested area. Notification shall be made to the ANC general e-mail at deq-wrd-anc@michigan.gov or via telephone at 517-284-5593 if email is impracticable at the time.

The permittee is required to notify, in writing, an owner of any waterfront property within 100 feet of the area of impact, not less than seven days, and not more than 45 days, before each initial chemical treatment of the treatment season, in accordance with Section 324.3310(h) of Part 33. If the owner is not the occupant of the waterfront property or the dwelling located on the property, then the owner is responsible for notifying the occupant. This notification requirement also applies to each new, or expanded, area of impact added during the treatment season.

Notice of the chemical application must be posted prior to each chemical application, in accordance with Section 324.3310(d) of Part 33 and shall remain posted for a minimum of 24 hours or until all water use restrictions have expired, whichever is later. Alternate posting locations may be approved on a case-by-case basis by DEQ upon written request from the permittee. Written request must explain the necessity for alternative posting locations and a description of the proposed posting locations, including a map for clarification.

Water use restrictions listed on the label for the specific product (i.e. trade name) used shall be included on the posting sign. In addition a 24-hour water use restriction for swimming/entry shall be indicated for all chemical applications, except for copper-based algae treatments and dyes when approved for use as a tracer or marker. All signs shall also include a recommendation that swimming/entry in the treatment area be avoided while applicators are applying chemicals. A posting sign template is available at www.michigan.gov/anc under the "Application & Permit Information" header, titled "Posting Sign."

Section C. Reporting and Record Keeping

1. Environmental Impacts

The permittee is required to immediately contact the DEQ, Water Resources Division at 517-284-5593 if any fish or wildlife damage or significant non-target plant impacts occur in association with any chemical application.

2. Retained Self-Monitoring

A person conducting a chemical treatment authorized under this permit shall maintain records of treatment, including treatment date(s), chemical(s) applied, amount(s) applied, and a map(s) indicating the area(s) of impact.

3. Record Retention

The permittee must keep written or electronic records as required in this permit. These records must be accurate, complete, and sufficient to demonstrate compliance with the conditions of this permit. All records shall be made available within 2 calendar days to the DEQ upon request, or a timeframe agreed upon by DEQ.

The permittee shall obtain and maintain written permission from each bottomland owner in the area of impact for 1 year from the expiration date of the COC issued under this General Permit, unless exempt under Section 324.3308 of Part 33.

All other records shall be retained for a minimum of 1 year beyond the expiration date of the COC issued under this General Permit.

4. Electronic Reporting

Upon notice by the Department that electronic reporting tools are available for specific reports and notifications, the permittee shall submit all such reports and notifications as required by this permit, electronically on a form or program required by the Department.

Section D. Liability

1. Noncompliance

Initiation of any work on the permitted project confirms the permittee's acceptance and agreement to comply with all terms and conditions of this General Permit. Noncompliance with these terms and conditions, and/or the initiation of other regulated activities not specifically authorized by this General Permit, shall be cause for the modification, suspension, or revocation of the COC, in whole or in part. Further, the DEQ may initiate criminal and/or civil proceedings to correct deficiencies, protect public health and natural resources, and secure compliance with statutes. Federal pesticide label requirements are incorporated into this permit by reference. Violation of federal pesticide label requirements is considered a violation of this permit.

The issuance of this General Permit does not authorize violation of any federal, state or local laws or regulations, nor does it obviate the necessity of obtaining such permits, including any other DEQ permits, or approvals from other units of government as may be required by law.

Nothing in this permit shall be construed to preclude the initiation of any legal action or relieve any Permittee from any responsibilities, liabilities or penalties to which the Permittee may be subject under the Endangered Species Act of 1973 (16 U.S.C. § 1531 et seq.) or Endangered Species Protection, Part 365 of the Michigan Act.

2. Property Rights

This General Permit does not convey property rights in either real estate or material, nor does it authorize any injury to private property or invasion of public or private rights.

3. Indemnification

The permittee shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, employees, agents and representatives for any and all claims or causes of action arising from acts or omissions of the permittee, or employees, agents, or representatives of the permittee, undertaken in connection with this General Permit. This General Permit shall not be construed as an indemnity by the State of Michigan for the benefit of the permittee or any other person.

4. Right of Entry

The permittee shall allow the Department the following actions upon the presentation of credentials:

- To enter upon the permittee's premises where application equipment is located or in which any records are required to be kept under the terms and conditions of this permit
- To copy any records required to be kept under the terms and conditions of this permit
- At reasonable times to have access to the waterbody approved for treatment under this permit
- To inspect equipment for use under this permit
- To sample chemicals, discharges, chemical products, and waterbodies

5. Laboratory and Analytical

When required by this permit or per the pesticide product label, laboratory analytical methods, practices and product or water sampling techniques shall be performed in accordance with standard laboratory guidelines. The permittee shall periodically calibrate and maintain all monitoring instrumentation at necessary intervals to ensure accuracy of measurements. When outside contractors or volunteers are utilized to perform sampling and analysis, the permittee shall ensure that said contractors or volunteers are sufficiently qualified to perform the required sampling and analysis, and that the quality control measures listed above are properly executed.

6. Permission to Treat

The permittee shall obtain authorization to chemically treat the proposed area of impact by obtaining written permission from each property owner who owns bottomlands in the area of impact. Written authorization from all property owners within the area of impact is required for each season that this permit is in effect, prior to chemical treatment. It is the responsibility of the permittee to ensure all permissions within the permitted treatment area are up to date each season.

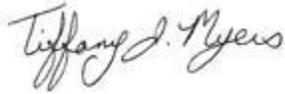
Written authorizations shall be maintained for one year from the expiration date of the permit and shall be made available to the Department upon request. In the event the permittee no longer has permission from the property owner(s) to apply pesticides, while under an active COC, the permittee shall inform the Department in writing: by e-mail at deq-wrd-anc@michigan.gov or by mail at DEQ, Water Resources Division, ANC Program, Constitution Hall, P.O. Box 30458, Lansing, Michigan 48909-7958.

Section E. Definitions

1. Adjacent – an area of impact, contiguous to an approved treatment area, permissible for expansions for an infestation per Section 3311(3) of Part 33.
2. Infestation – includes any non-native invasive species that have grown into dense, monotypic stands causing ecological or economic harm.
3. Initial Chemical Treatment – the first treatment of each season to areas originally permitted, and to each area of expansion or revision, for each year of the life of the permit.

4. Native – an indigenous species to the ecosystem of Michigan prior to European settlement.
5. Non-Native invasive – an introduced species that did not occur in Michigan's ecosystem prior to European settlement and where introduction causes or is likely to cause economic or environmental harm or harm to human, animal and/or plant health.
6. Shoreline - the line marking the edge of a body of water.

Issued By:

A handwritten signature in cursive script that reads "Tiffany J. Myers".

Tiffany J. Myers, Chief
Lakes Michigan and Superior Permits Unit
Water Resources Division

APPENDIX A

List of municipalities for the purpose of notification 2 business days prior to an expansion of chemical treatment due to an infestation of non-native invasive species

| <u>Waterbody</u> | <u>Name</u> |
|---------------------------------|-----------------------------|
| Chippewa River | Union Township |
| Detroit River | City of Ecorse |
| Detroit River | Grosse Ile Township |
| Detroit River | City of Wyandotte |
| Flint River | City of Flint |
| Huron River | City of Ann Arbor |
| Indian River | Hiawatha Township |
| Indian River | City of Manistique |
| Indian River | Manistique Township |
| Lake Adrian | City of Adrian |
| Lake Erie | Frenchtown Township |
| Lake Huron | Alpena Township |
| Lake Huron | City of Alpena |
| Lake Huron | City of Caseville |
| Lake Huron | City of Harbor Beach |
| Lake Huron | Lexington Township |
| Lake Huron | City of Mackinac Island |
| Lake Huron | Port Austin Township |
| Lake Huron | Rubicon Township |
| Lake Huron | Sand Beach Township |
| Lake Huron | City of St. Ignace |
| Detroit River | City of Detroit |
| Lake Huron/Saginaw Bay | Bangor Township |
| Lake Huron/St. Mary's River | Detour Township |
| Lake Michigan | City of Bridgman |
| Lake Michigan | Charlevoix Township |
| Lake Michigan | City of Charlevoix |
| Lake Michigan | City of Grand Haven |
| Lake Michigan | Grand Haven Township |
| Lake Michigan | Lake Township |
| Lake Michigan | City of Ludington |
| Lake Michigan | City of New Buffalo |
| Lake Michigan/Big Bay de Noc | Fairbanks Township |
| Lake Michigan/Green Bay | City of Escanaba |
| Lake Michigan/Green Bay | City of Menominee |
| Lake Michigan/Green Bay | Menominee Township |
| Lake Michigan/Little Bay de Noc | City of Gladstone |
| Lake St. Clair | City of Grosse Pointe Farms |
| Lake St. Clair | Harrison Township |
| Lake St. Clair | Ira Township |
| Lake St. Clair | City of New Baltimore |
| Lake Superior | Baraga Township |
| Lake Superior | Carp Lake Township |
| Lake Superior | Eagle Harbor Township |
| Lake Superior | Houghton Township |

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| Lake Superior | City of Marquette |
| Lake Superior/Keweenaw Bay | L'Anse Township |
| Lake Superior/Scott Bay | Drummond Township |
| Lake Superior/Upper St. Mary's River | City of Sault Ste Marie |
| Pine River | City of Alma |
| Pine River | Arcada Township |
| River Raisin | Blissfield Township |
| River Raisin | Deerfield Township |
| River Raisin | City of Monroe |
| River Raisin | Riga Township |
| St. Clair River | City of Algonac |
| St. Clair River | Clay Township |
| St. Clair River | East China Township |
| St. Clair River | City of Marine City |
| St. Clair River | City of Marysville |
| St. Clair River | City of Port Huron |
| St. Clair River | City of St. Clair |