

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENT, GREAT
LAKES, AND ENERGY

PESTICIDE APPLICATION
TO SURFACE WATERS OF THE STATE OF MICHIGAN

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

GENERAL PERMIT NUMBER ANC9720000
AQUATIC NUISANCE CONTROL ACTIVITIES FOR PONDS

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/or 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 Environment, Great Lakes, and Energy (EGLE). The following information will be identified in the COC:

- COC number
- Date effective/issued
- Expiration date
- Permittee name and address
- Waterbody name and county(ies) 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 EGLE.

All submissions and notifications to EGLE as required by this General Permit shall be accomplished through the MiWaters permitting database.

For additional information or questions regarding this General Permit, please contact EGLE's Aquatic Nuisance Control (ANC) Program at EGLE, Water Resources Division, P.O. Box 30458, Lansing, Michigan 48909-7958; 517-284-5593; egle-wrd-anc@michigan.gov; or www.michigan.gov/anc.

This permit takes effect on January 1, 2020. The provisions of this General Permit are severable. This permit shall expire on December 31, 2023.

Issued: November 1, 2019



Sylvia N. Heaton, Supervisor
Water Quality and Aquatic Nuisance Control
Permits Unit
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Section A. Annual Fee for Certificates of Coverage that Cover More than One Year

In accordance with Section 3309 of Part 33, the permittee shall make payment of an annual fee to EGLE by April 1 or prior to the first treatment for each year covered by a multi-year COC issued under this General Permit. The annual fee is equal to the initial COC application fee. The annual fee shall be submitted through the "ANC Annual Fee" Schedule of Compliance in the MiWaters permitting database.

Initial COC Application Fee: \$75.00

Section B. Qualified Sites

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

- Has an intermittent or controllable discharge, or no discharge
- Has a surface area of less than ten (10) acres
- Has no contiguous wetlands associated with it
- Does not discharge to 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 EGLE as being able to receive an appropriate level of protection under this general permit
- Is listed in the document titled "Ponds currently eligible for authorization under a COC"

The current list of ponds approved for treatment under this General Permit is available from EGLE upon request or at www.michigan.gov/anc; select "Application & Permit Information," then select "General Permits and Pre-Approved Lists of Specific Waterbodies Eligible for Certificates of Coverage (COC)," and then select "Ponds currently eligible for authorization under a COC."

Section C. 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 to areas delineated on the approved treatment map attached to the COC, or through an expansion due to an infestation of an adjacent area in accordance with Section 3311 of Part 33.

Prior to issuance of the COC under this General Permit, areas where chemical treatment for control of nuisance aquatic plants and algae is approved must be either under the legal control of the permittee or the party(ies) who has/have granted the permittee authority to treat 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 and includes requirements for the safe and effective use of the pesticide; and may suggest ways to avoid unintended impacts to human health and the environment. Pesticide labels are federally approved legal documents and their requirements are enforced under both federal and state laws.

The permittee may apply only those specific chemical products that are approved by EGLE and listed on the chemical table titled "Chemicals Approved for Use Under the Aquatic Nuisance Control General Permit for Ponds." This chemical table is available from the ANC Program upon request or at www.michigan.gov/anc; select "Application & Permit Information", then select "General Permits and Pre-Approved Lists of Specific Waterbodies Eligible for Certificates of Coverage (COC)," and then

select "Chemicals approved for Ponds." 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 federal product label).

Some chemical products may require special applicator certifications. Refer to the federal product label for applicator certification requirements.

3. Treatment Intervals

With few exceptions, the products approved for use in Section C.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. Further restrictions are outlined in Section C.4. of this permit.

4. General Conditions

Multiple products with the same active ingredient are approved by this permit. Do not apply multiple formulations of the same active ingredient that, in combination, exceed 1) either of the product label application rates and/or active ingredient concentration for the target species and site conditions, or 2) the approved application rate on this permit, if it is lower than the maximum label rate.

Application of any herbicide on a per-acre basis in shallow areas may result in a concentration of active ingredient exceeding the federal 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 federal product label to ensure proper application.

For treatment of all waterbodies in Ingham County, the permittee must notify the Ingham County Drain Commission a minimum of two (2) working days prior to application of chemical(s). Notify Mr. Eric Daldos by e-mail at EDaldos@ingham.org. Notification must include the date, time, and location(s) of the proposed chemical use. A copy of the notification shall be uploaded in MiWaters through the "ANC Notification of Ingham County Drain Commissioner" Schedule of Compliance for the associated permit. For general questions to the Ingham County Drain Commissioner, contact the office at 517-676-8381 between 8:00 a.m. and 5:00 p.m., Monday through Friday.

Upon receipt of written notification from EGLE, the permittee may be required to fulfill any of the following requirements:

- Conduct the chemical treatment only when an EGLE representative is present.
- Notify EGLE not less than two (2) working days in advance of chemical treatment.
- Submit an accurate map or written description of the exact locations where each chemical was applied to EGLE within 24 hours of the completion of each treatment.
- In addition to the normally required notification, also notify other person(s) specified by EGLE.
- Satisfy additional reporting requirements (instead of, or in addition to, the requirements listed below in Section D).
- Allow EGLE or its representative to collect a sample of the chemical(s) used before or during any chemical treatment.
- Apply chemicals so that swimming restrictions are not imposed on any Saturday, Sunday, or state-declared holiday.
- Take special precautions to avoid or minimize potential impacts to human health and safety, the environment, and nontarget organisms.
- Perform water residue analysis to verify the chemical concentrations in the waterbody according to a frequency, timing, and methodology approved by EGLE.
- Any other requirements determined by EGLE as necessary to protect the natural resources or the public health and safety, to prevent economic loss or impairment of recreational uses, to protect non-target organisms, or to help ensure control of the aquatic nuisance.

Outlet Flow

Do not treat waterbody with algaecides, herbicides, and adjuvants when discharge is greater than 100 gallons per minute. Do not treat pond(s) if more than 1/2 inch of rain is expected within 24 hours, which may inhibit treatment effectiveness and result in pond overflow in the days following the treatment. See further restrictions on water dye use under "Specific Products Restrictions" below.

For all treatments, ensure that the retention time is adequate for the efficacy of the product. Aquatic herbicide and algaecide impacts to vegetation downstream of the treated waterbody in areas not permitted for treatment caused by release of the pesticide from a treated waterbody is a violation of this permit, Part 31, and Part 33.

A person conducting a chemical treatment authorized under this permit shall maintain record of the following information:

- Assessment of outlet structure including the type, size, and location
- Estimates of the water volume, outlet flow, and retention time at the time of treatment

Specific Products Restrictions

Colorants

The use of water dye at the tracer rate is allowed by this General Permit. Tracer amount is defined in Approved Chemical Table referenced in Section C.2. The use of water dye at the colorant application rate is prohibited under this General Permit. Water dyes that are labeled as herbicides (e.g., Aquashade®, Admiral®, Pond Care Algae Blocker®) are prohibited under this General Permit.

Imazapyr and carfentrazone

Application of products containing imazapyr and carfentrazone 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.

Fluridone

Prior to the use of fluridone in pond(s), the permittee shall have an EGLE approved Vegetation Management Plan (VMP) for the COC issued under this General Permit on file with the department. The VMP for the use of fluridone in COC ponds shall include the following information:

- (1) target species
- (2) volume of the treatment area
- (3) retention time of the waterbody
- (4) proposed application rate

To submit the required VMP, the permittee shall notify EGLE a minimum of five (5) business days prior to the proposed treatment by email at egle-wrd-anc@michigan.gov with a request to use fluridone. Upon receiving the notification, a "Vegetation Management Plan (VMP)" Schedule of Compliance will be added to the corresponding COC in the MiWaters Permitting Database. Prior to the initial use of fluridone, the permittee shall complete and submit the VMP Schedule of Compliance.

The permittee shall not use fluridone in the pond(s) until the VMP has been approved by EGLE. Contingent upon the approval of the submitted VMP, the use of fluridone in the pond(s) is approved under this General Permit for more than one year in a three year period.

5. Notification and Posting Requirements

The ANC statute allows a permittee to expand the area of impact, without a formal revision of the treatment area, beyond that authorized in the COC issued under this General Permit to include *adjacent* (as defined in Section F. Definitions) areas of the same waterbody or treatment area that became infested after the application was submitted. These areas allowed for expansion, without a formal revision, include **only infestations of non-native species**, as defined in Section F. Definitions. The expansion treatment must use the same chemicals and application rates as those currently authorized in the permit.

The permittee shall submit: (1) a notification of an impending expansion treatment, and (2) an expansion report.

1. Notification of impending expansion treatment - If expanding the area of impact for treatment of an infestation, the permittee shall notify EGLE prior to the initial treatment of the impending expansion area. This notification may be submitted by telephone at 517-284-5593 or by e-mail at egle-wrd-anc@michigan.gov, except in the following situation:
 - a) The treatment area expansion is proposed in a waterbody or treatment area that is located within or along the shoreline of the Great Lakes or inland waters in a municipality or township on the list in Appendix A; which can be found at www.michigan.gov/anc, select "Application & Permit Information, then select "Appendix A – List of Municipal Waterbodies with Intakes".

In this situation, the permittee shall complete the "ANC Pre-Expansion Notification" Schedule of Compliance in the MiWaters permitting database not less than two (2) full business days before the planned treatment of the expanded area. This notification shall include a map of the proposed expansion area(s), a list of chemical(s) to be applied, the date and time of anticipated treatment, written authorization to treat, and contact information for the on-site chemical applicator. EGLE has two (2) business days to notify the permittee of any specific concerns about the proposal.

2. Expansion Report Form - The permittee shall complete the "ANC Treatment Expansion Report" Schedule of Compliance in the MiWaters permitting database not later than 15 days following the initial expansion treatment.

The permittee is required to notify, in writing, an owner of any waterfront property on the permitted waterbody within 100 feet of the area of impact, not less than seven (7) days, and not more than 45 days, before each initial chemical treatment of the calendar year, in accordance with Section 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 calendar year.

Notice of the chemical application must be posted prior to each chemical application and shall remain posted for a minimum of 24 hours or until all water use restrictions have expired, whichever is later, in accordance with Section 3310(d) of Part 33. Alternate posting locations may be approved on a case-by-case basis by EGLE upon written request from the permittee. The written request must explain the necessity for alternative posting locations and a description of the proposed posting locations, including a map for clarification. An alternate posting request shall be submitted through the MiWaters permitting database as an attachment to the permit application or revision request.

The brand name and water use restrictions listed on the label for the specific product 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; select "Application & Permit Information" and then select "Posting Sign."

Section D. Reporting and Recordkeeping

1. Environmental Impacts

The permittee is required to immediately contact EGLE's ANC Program at 517-284-5593 and complete the "ANC Notification of Human or Resource Impacts" Schedule of Compliance in the MiWaters permitting database if any fish or wildlife damage or significant non-target plant impacts occur in association with any chemical application.

2. Treatment Report

A complete treatment report including date(s) of application, chemical name(s), EPA registration number(s), application rate(s), amount(s) of chemical(s) applied, weather conditions at time of application, and treatment map(s) indicating the area(s) of impact shall be submitted via the "ANC Treatment Report" Schedule of Compliance in the MiWaters permitting database not later than November 30 of each year that this permit is in effect, even if treatment is not undertaken.

3. Record Retention

The permittee shall 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 two (2) calendar days to EGLE upon request, or within a time frame agreed upon by EGLE and the permittee.

The permittee shall obtain and maintain written permission from each bottomland owner, as described in Section E.6, in the area of impact for a minimum of one (1) year from the expiration date of the COC issued under this General Permit, unless exempt under Section 3308 of Part 33.

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

Section E. 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 of the General Permit shall be cause for the modification, suspension, or revocation of the COC, in whole or in part. Further, EGLE 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 EGLE 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 (Title 16 of the United States Code, Section 1531 et seq.), or Part 365, Endangered Species Protection, of the NREPA.

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 EGLE 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
- To inspect equipment for use under this permit
- To sample chemicals, discharges, chemical products

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 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. All records shall be made available within two (2) calendar days to EGLE upon request, or within a time frame agreed upon by EGLE and the permittee.

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 calendar year that the COC issued under this permit is in effect, prior to chemical treatment. It is the responsibility of the permittee to ensure that all permissions within the permitted treatment area are up to date each calendar year, per Section 3308 of Part 33.

Section F. Definitions

Adjacent: An area of impact, contiguous to an approved treatment area, permissible for expansions for an infestation per Section 3311(3) of Part 33.

Infestation: Any non-native invasive species that have grown into dense, monotypic stands causing ecological or economic harm.

Initial Chemical Treatment: The first treatment of each calendar year at approved treatment areas, as

well as at expanded treatment areas, for infestations.

Native: An indigenous species to the ecosystem of Michigan prior to European settlement necessary for environmental health, habitat production, and economic development of fisheries and wildlife recreation.

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 habitat, environmental, or economic harm, or harm to human health.

Shoreline: The line marking the edge of a body of water.