

MDEQ Proposes New Aquatic Nuisance Control Rules

The Michigan Department of Environmental Quality (MDEQ) has proposed new rules that would substantially revise and update the state's regulations regarding aquatic nuisance control measures.

Among other changes, the proposed rules would:

- Require a person proposing chemical treatment of any waters of the state for the purpose of aquatic nuisance control to obtain an MDEQ permit if the area in which the target organisms may be adversely affected or destroyed (area of impact) contains visible water at the time of chemical treatment.
- Require a permit for chemical treatment of the Great Lakes and Lake St. Clair where the area of impact is exposed bottomland and below the ordinary high water mark.
- Exempt from the permit requirement waterbodies that do not have an outlet; do not have a record of a state or federal endangered or threatened species; have a surface area of less than ten acres; and where the bottomlands are owned by either one person or by more than one person and written permission for the proposed chemical treatment is obtained from each owner.
- Require all pesticides used in the waters of the state for aquatic nuisance control to be registered with the U.S. Environmental Protection Agency and the Michigan Department of Agriculture for the nuisance control activity for which it is proposed.
- Streamline the permit process by allowing applicants to apply for a "certificate of coverage" to be covered under a general permit issued by MDEQ.
- Greatly expand the information required to be included in an application for an individual permit or for a certificate of coverage under a general permit, including a requirement for a

detailed lake management plan if a whole lake treatment is proposed or under certain other circumstances.

- Require MDEQ to issue or deny a certificate of coverage within 15 working days, or an individual permit within 30 working days, after receipt of a complete application. If denied, MDEQ would be required to explain in writing the reasons for the denial.
- Require applicants to obtain written permission for the proposed chemical treatment from each person who owns bottomlands in the area(s) of impact. Such permission is not required if the applicant is providing chemical treatment for a properly established lake board or for a state or local government acting under authority of state law to conduct lake improvement projects or to control aquatic vegetation.
- Authorize MDEQ to require, as permit conditions, the permittee to take certain actions, including: (1) notify MDEQ in advance of chemical treatment; (2) proceed with chemical treatment only if an MDEQ representative is present; (3) allow MDEQ to collect a sample of the chemical(s) used; (4) post signs around the area of impact before chemical treatment; (5) publish notice of the treatment in a local newspaper or make an announcement about it on local radio; (6) notify waterfront owners in the area of impact; (7) avoid treatments that would interfere with swimming or fishing on weekends or state holidays; (8) take special precautions to avoid or minimize potential impacts to human health, the environment, and nontarget organisms; (9) file treatment reports with MDEQ; (10) test the treated water to verify the chemical concentrations in the water; and (11) perform aquatic vegetation surveys.
- Impose special conditions on the use of the chemical known as fluridone as a spring treatment to control eurasian milfoil.

- Authorize MDEQ to make minor revisions to a permit, upon request of the permittee, if the proposed revisions do not involve a change in the scope of the project.

In addition, the rules propose relatively minor revisions to already-existing provisions governing MDEQ's denial and revocation of permits.

[Lynn: include a sentence here about the rules' current status and the likely timing of final promulgation; also a website address – if you can find one – where readers can access the proposed rules.]

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