



NR 107

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Anthony S. Earl
Secretary

BOX 7921
MADISON, WISCONSIN 53707

IN REPLY REFER TO: _____

STATE OF WISCONSIN)
)
DEPARTMENT OF NATURAL RESOURCES) ss

RECEIVED
MAY 13 1977
4:30 p.m.
REVISOR OF STATUTES
BUREAU *ALP*

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Anthony S. Earl, Secretary of the Department of Natural Resources and custodian of the official records of said Department, do hereby certify that the annexed copy of Natural Resources Board Order No. WQ-5-77 was duly approved and adopted by this Department on February 17, 1977. I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at Pyare Square Building in the Village of Shorewood Hills, this 11th day of May, 1977.

Anthony S. Earl
Anthony S. Earl, Secretary

(SEAL)

STATE OF WISCONSIN NATURAL RESOURCES BOARD

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IN THE MATTER of repealing and recreating
chapter NR 107, Wisconsin Administrative
Code pertaining to aquatic nuisance control
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WQ-5-77

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD

REPEALING AND RECREATING RULES

Pursuant to the authority vested in the State of Wisconsin Natural Resources Board by section 144.025 and chapter 227, Wisconsin Statutes, the State of Wisconsin Natural Resources Board hereby repeals and recreates rules as follows:

Chapter NR 107

AQUATIC NUISANCE CONTROL

- | | |
|----------------------------------|--|
| NR 107.01 Applicability | NR 107.05 Conditions of the permit |
| NR 107.02 Application for permit | NR 107.06 Prohibited chemicals |
| NR 107.03 Issuance of permit | NR 107.07 Field evaluation and
experimental use permits |
| NR 107.04 Supervision | NR 107.08 Exemptions |

NR 107.01 Applicability. Any person sponsoring or conducting the chemical control of aquatic nuisance in waters of the state must obtain a permit from the department of natural resources except as provided in Wis. Adm. Code section NR 107.08.

NR 107.02 Application for permit. (1) Permit applications shall be made on forms provided by the department and shall be submitted to the district director for the district in which the project is located.

District headquarters locations:

1. Southern - 3911 Fish Hatchery Road, Route 4, Madison 53711*
2. Southeast - 9722 W. Watertown Plank Road, Milwaukee 53226
3. Lake Michigan - 812 S. Fisk Street, Box 3600, Green Bay 54303
4. North Central - Box 818, Rhinelander 54501

5. West Central - 1300 W. Clairemont Avenue, Eau Claire 54701

6. Northwest - Box 309, Spooner 54801

* The Southern District Headquarters is temporarily located at Route 1, Wakanda Drive, Waunakee 53597.

(2) The application shall be accompanied by:

(a) A \$5.00 application fee;

(b) A legal description of the body of water proposed for treatment including township, range and section number;

(c) The block, lot and fire numbers of those properties riparian to the treatment area;

(d) One copy of a detailed map or sketch of the body of water with the maximum proposed treatment area outlined;

(e) Purpose of control (swimming, boating, etc.) and identification of target nuisance (weeds, algae, etc.);

(f) The trade names of chemicals proposed for usage.

(3) A notice of the proposed treatment shall be provided by the department to any person or organization indicating in writing their desire to receive such notification within the prior calendar year.

NR 107.03 Issuance of permit. (1) The department shall issue the permit between 10 and 15 working days after receipt of an acceptable application unless:

(a) The proposed chemical is not registered for the intended use by the United States environmental protection agency.

(b) The department determines the chemical(s) the applicant proposes to use will not provide nuisance relief.

(c) The department determines the use of chemicals, as proposed, will result in a hazard to humans, animals or other nontarget organisms.

(d) The department determines the proposed use of chemicals will result in a significant and adverse effect on the body of water.

(e) An environmental impact report or statement is required under section 23.11, Wis. Stats., or section 1.11, Wis. Stats.

(f) A public hearing has been granted pursuant to section 227.075, Wis. Stats.

(2) Public hearing. (a) Subsequent to the granting of a permit but prior to the actual treatment allowed by the permit, the department may grant a public hearing pursuant to section 227.075, Wis. Stats., if no such hearing was previously held.

(b) If a request for a public hearing is received after the permit is issued but prior to the actual treatment allowed by the permit, the department is not required to, but may, suspend the permit or withhold supervision because of the request for public hearing.

(3) If an environmental impact report or statement is required, the department shall notify the applicant within 10 working days of receipt of the application and no action will be taken on the application until the report or statement has been completed.

(4) The department may approve of the application in whole or in part consistent with the provisions of section (1)(a) and (f) above. Denials shall be in writing stating reasons for the denial.

(5) Permits shall be issued for a single treatment season, however, for ponds located on the property owned by a single applicant, permits may be issued for a maximum of 3 treatment seasons.

NR 107.04 Supervision. (1) Unless specifically exempted by this chapter, all applications of chemicals for the control of aquatic nuisances shall be supervised by a department representative, physically present at the time chemicals are applied. The cost of such onsite supervision shall be charged to the sponsor of the project at a rate of \$20 for the first hour, or part thereof, and \$5 per hour for each subsequent hour, or part thereof, on the same day.

(2) The department may waive the onsite supervision requirement for aquatic nuisance control projects which meet all of the following conditions:

(a) The proposed treatment area encompasses a total of one acre or less;

(b) The treatment area is limited to the waters adjacent to the applicant's own shoreline;

(c) Separate applications meeting the conditions in (a) and (b) above collectively do not exceed 10% of the shoreline;

(d) Chemicals used are salts of endothal and granular endothal amine, diquat, 2,4-D (iso-octyl or ethyl-hexyl ester formulation) or granular chelated copper compounds;

(e) Products used are registered by the Wisconsin department of agriculture and the United States environmental protection agency for aquatic use;

(f) The public interest does not require onsite supervision.

(3) The department may waive onsite supervision when the body of water is a pond located totally on the land of the applicant and the discharge can be controlled to prevent chemical loss from the pond.

(4) The department may waive onsite supervision when the body of water is an agricultural drainage ditch and the department determines that the control of aquatic nuisances is conducted to improve agricultural potential of adjacent lands.

(5) The department may waive onsite supervision when the treatment is made for the control of bacteria on swimming beaches with chlorine or chlorinated lime.

(6) The department may waive onsite supervision when the treatment is intended to control algae or other aquatic nuisances that interfere with the use of the water for potable purposes.

NR 107.05 Conditions of the permit. (1) The applicant shall notify the district director 2 working days in advance of the anticipated treatment date so a supervisor may be made available on the date required.

(2) When onsite supervision is waived, the applicant shall submit an aquatic nuisance control treatment report on a form supplied by the department, within 30 days after the treatment.

(3) The department may stop the application of chemicals to a body of water if at any time it determines that chemical treatment will be ineffective or produce unusual environmental damage. The department shall state the reason for such withholding of onsite supervision in writing.

(4) The applicant shall be responsible for posting those areas of public use in accordance with water use restrictions stated on the chemical label including but not limited to the following:

Type of Control	Chemical	Swimming Restriction	Fish Consumption Restriction	Animal Watering, Irrigation and Domestic Use Restrictions
Algae	Chelated copper compounds,	None	None	None
	Copper sulfate	None	None	None
Swimmers' Itch	Copper sulfate + copper carbonate	None	None	None
	Copper sulfate + lime	None	None	None
Rooted Weeds	Endothal amine (granular)	1 day	3 days	7-14 days (see label)
	Endothal, diquat,	1 day	3 days	7 days
	2,4-D (iso-octyl	10 days	10 days	10-14 days (see label)
	or ethyl-hexyl ester formulation)	1 day	3 days	Can't be used (see label)

(5) All chemicals used must be labeled for such use or approved for experimental use by the United States environmental protection agency and the Wisconsin department of agriculture.

NR 107.06 Prohibited chemicals. Silvex (2,4,5-TP) may not be used for aquatic nuisance control in "waters of the state" as defined in section 144.01(1), Wis. Stats.

NR 107.07 Field evaluation use permits. (1) When a chemical product is considered for aquatic nuisance control and does not have a federal label for such use the applicant must apply to the administrator of the United States environmental protection agency for an experimental use permit under section 5 of the federal insecticide, fungicide and rodenticide act as amended October 21, 1972 and November 28, 1975. Upon receiving such permit, the applicant shall obtain a field evaluation use permit from this department and be subject to onsite supervision requirements of Wis. Adm. Code section NR 107.04(1). Such department field evaluation use permits shall be issued for the purpose of evaluating product effectiveness and safety under field conditions and will require in addition to the conditions of the permit specified in Wis. Adm. Code section NR 107.05, the following:

(a) Treatment shall be limited to an area specified by the department;

(b) The applicant shall submit a summary of treatment results at the end of the treatment season. The summary shall include:

1. Total chemical used and distribution pattern, including chemical trade name, formulation and dosage rate in parts per million of active ingredient;

2. Description of treatment areas including the dimensions and the extensiveness of the nuisance present;

3. Effectiveness of the application and when applicable, a summary comparison of the results obtained from past experiments using the same chemical formulation;

4. Other pertinent information of ecological importance;
5. Conclusions and recommendations for future use on a routine basis.

NR 107.08 Exemptions. The use of chemicals in accordance with label instructions is exempt from the provisions of this chapter, when used in:

- (1) Water tanks used for potable water supplies,
- (2) Swimming pools,
- (3) Treatment of public or private wells,
- (4) Private fish hatcheries licensed under section 29.52, Wis. Stats.,
- (5) Waste treatment facilities which have received section 144.04, Wis. Stats., plan approval and are utilized to meet effluent limitations set forth in permits issued under section 147.02, Wis. Stats.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on February 17, 1977.

The rules contained herein shall take effect upon publication.

Dated at Madison, Wisconsin

11 May 1977

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES

By

Anthony S. Earl
Anthony S. Earl, Secretary

(SEAL)