

The Vermont Statutes Online

Title 10: Conservation and Development

Chapter 50: AQUATIC NUISANCE CONTROL

10 V.S.A. § 1455. Aquatic nuisance control permit

[Section 1455 effective July 1, 2010.]

§ 1455. Aquatic nuisance control permit

(a) No person may use pesticides, chemicals other than pesticides, biological controls, bottom barriers, structural barriers, structural controls, or powered mechanical devices in waters of the state to control nuisance aquatic plants, insects, or other aquatic nuisances, including lamprey, unless that person has been issued a permit by the secretary.

(b) Notwithstanding other requirements set forth in chapter 47 of this title to the contrary, the secretary may issue permits under this section.

(c) Persons desiring a permit under this section shall make application to the secretary on a form prescribed by the secretary.

(d) The secretary shall issue a permit for the use of pesticides in waters of the state for the control of nuisance aquatic plants, insects, or other aquatic life, including lamprey, when the applicant demonstrates and the secretary finds:

(1) there is no reasonable nonchemical alternative available;

(2) there is acceptable risk to the nontarget environment;

(3) there is negligible risk to public health;

(4) a long-range management plan has been developed which incorporates a schedule of pesticide minimization; and

(5) there is a public benefit to be achieved from the application of a pesticide or, in the case of a pond located entirely on a landowner's property, no undue adverse effect upon the public good.

(e) A landowner applying to use a pesticide on a pond located entirely on the landowner's property is exempt from the requirement of subdivision (d)(4) of this section.

(f) The secretary shall issue a permit for the control of aquatic nuisances by biological controls, bottom barriers, structural barriers, structural controls, powered mechanical devices, or chemicals other than pesticides when the secretary finds:

(1) there is acceptable risk to the nontarget environment;

(2) there is negligible risk to public health; and

(3) there is either benefit to or no undue adverse effect upon the public good.

(g) The use of bottom barriers, structural barriers, structural controls, powered mechanical devices, and copper compounds as an algaecide in waters with a surface area of one acre or less located entirely on a person's property and with an outlet where the flow can be controlled for at least three days is exempt from the permit requirements of this section.

(h) The secretary shall adopt procedures under 3 V.S.A. chapter 25 which will provide an opportunity for public review and comment on permit applications. The procedures shall classify permit applications by degree of environmental risk involved and establish appropriate opportunities for public notice and comment for each class.

(i) An aquatic nuisance control permit issued under this section shall:

(1) specify in writing the secretary's findings under subsection (d) or (f) of this section;

(2) specify the location, manner, nature, and frequency of the permitted activity;

(3) contain additional conditions, requirements, and restrictions as the secretary deems necessary to preserve and protect the quality of the receiving waters, to protect the public health, and to minimize the impact on the nontarget environment. Such conditions may include requirements concerning recording, reporting, and monitoring;

(4) be valid for the period of time specified in the permit, not to exceed five years for chemical control, and not to exceed ten years for nonchemical control.

(j) An aquatic nuisance control permit issued under this chapter may be renewed from time to time upon application to the secretary. The process of permit renewal will be consistent with the requirements of this section.

(k) An applicant for a permit under this section shall pay an application fee as required by 3 V.S.A. § 2822. The agency of natural resources shall be exempt from this fee requirement.

(l) No permit shall be required under this section for mosquito control activities that are regulated by the agency of agriculture, food and markets, provided that:

(1) Prior to authorizing the use of larvicides or pupacides in waters of the state, the secretary of agriculture, food and markets shall designate acceptable control products and methods for their use and issue permits pursuant to 6 V.S.A. § 1083(5); and

(2) On an annual basis, the secretary of agriculture, food and markets shall notify the secretary of the location of all authorized mosquito control applications to the waters of the state that took place during the reporting year and the type and quantity of larvicide and pupacide used at each location.

(m) The secretary may issue general permits for the use of nonchemical aquatic nuisance control activities provided that the secretary makes the findings required in subsection (f) of this section. A general permit issued under this subsection is not required to specify the exact location or the frequency of the permitted activity. (Added 2009, No. 46, § 1, eff. July 1, 2010.)
