

Aquatic Plant Management Handbook
CHAPTER 4.0

NOTIFICATION OF PROPOSED PESTICIDE TREATMENT APPLICATION

GUIDANCE PURPOSE AND DISCLAIMER

This document is intended solely as guidance for the Aquatic Plant Management (APM) program, and does not contain any mandatory requirements except where requirements found in statute or administrative rule apply. This guidance does not establish or affect legal rights or obligations, and is not finally determinative of any of the issues addressed. This guidance cannot be relied upon and does not create any rights enforceable by any party in litigation with the State of Wisconsin or the Department of Natural Resources (Department). Any regulatory decision made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes, common law and administrative rules to the relevant facts.

INTRODUCTION

Administrative code requires public notification as part of the NR 107 application for some aquatic pesticide treatments. This chapter is intended to provide guidance on how to legally comply with the public notification requirement for different types of pesticide treatment outlined in the WI Administrative Code NR 107 Aquatic Plant Management.

Applicable Administrative Code Language

NR107.04(3) In addition to the information required under sub. (2), when the proposed treatment is a large-scale treatment exceeding 10.0 acres in size or 10% of the area of the water body that is 10 feet or less in depth, the application shall be accompanied by:...

(f) Evidence that a public notice of the proposed application has been made, and that a public informational meeting, if required, has been conducted.”

1. Notice shall be given in 2 inch x 4 inch advertising format in the newspaper which has the largest circulation in the area affected by the application.
2. The notice shall state the size of the proposed treatment, the approximate treatment dates, and that the public may request within 5 days of the notice that the applicant hold a public informational meeting on the proposed application.

NR 107.04(4) The applicant shall certify to the department that a copy of the application has been provided to any affected property owners' association, inland lake district, and, in the case of chemical applications for rooted aquatic plants, to any riparian property owners adjacent to and within the treatment area.

NR 107.04(5) A notice of the proposed treatment shall be provided by the department to any person or organization indicating annually in writing a desire to receive such notification.

NOTIFICATION OF PESTICIDE PERMIT APPLICATIONS GUIDANCE

Private Ponds

Private Ponds are defined according to NR 107.11(3)(a) as, *a body of water located entirely on the land of an applicant, with no surface water discharge or a discharge that can be controlled to prevent chemical loss, and without access by the public.*

Those waters that meet this definition are not exempt from notification (NR 107.04(4)) according to NR 107.11(3). However, an applicant must own all the land around the pond according to NR 107.11(3)(a) to be considered a private pond.

Steps for proper notification by the applicant:

1. Private pond owners are not required to give notice to adjacent property owners under most circumstances because they do not by definition have adjacent riparian property owners.
2. Private pond owners are not required to provide notice to unaffected inland lake districts.
3. If the private pond is owned by a property owners association or other private entity for which multiple parties share ownership, the applicant is required to follow NR 107.04(4) and notify the property owners association of a proposed treatment. A notification card summarizing permit application must be sent.
4. The notification must include:
 - a. Pesticide product(s) to be applied
 - b. Size of proposed treatment
 - c. Approximate treatment date(s)
 - d. Map of proposed treatment areas (if not the whole pond) and
 - e. Any additional application materials at the request of the department.
5. Private pond applications are not exempt from NR 107.04(5), thus notice of treatment shall continue to be provided by the Department to any person or organization indicating annually in writing a desire to receive such notification. This notice will be provided for treatments of rooted plants or algae.

Small-scale Shoreline Treatments

Small-scale treatments are those not considered large-scale under NR 107.04(3). However, even small-scale treatments can have whole-lake impacts in small lakes. If the proposed treatment will result in lakewide impacts, then the whole-lake treatment guidance in section V below must be followed. Waters of the State not including private ponds shoreline treatments include all treatments within 150 feet from shore. The 150 foot limit as a definition of shoreline treatments is consistent with the Department's authority to deny treatments greater than 150 feet from shore according to NR 107.05(3)(f). Also, this section makes no differentiation between invasive and native species treatment, or whether there is an approved plan; notification is required regardless of the situation. NR 107.04(4) clearly states that any riparian owner adjacent to and within a treatment area must be provided a copy of the APM application.

Steps for proper notification by the applicant:

1. A copy of the permit application must be provided as a notification to riparian owners adjacent to or within the area to be treated.
 - a. The notification must include the treatment map.
 - b. The notification does not need to include a list of riparian landowners. However, the list of riparian owners must be included as part of the permit application to DNR.
 - c. The copy of the application may be sent in its entirety or;
 - d. Sent as a hyperlink or website address containing an electronic copy of the permit application. The application or website address may be sent via US mail or email and a return receipt is recommended for the email method.
2. Notice of treatment shall be provided by the Department to any person or organization indicating annually in writing a desire to receive such notification. This notice will be provided for treatments of rooted plants or algae.

Small-scale Offshore Treatments

For the purpose of this guidance, any water not meeting the definition of Private Pond per NR 107.11(3)(a) **and** greater than 150 feet from shore will be considered Off-Shore Treatment. Small-scale treatments are those not considered large-scale under NR 107.04(3). These types of treatments are occasionally conducted for navigational lanes or for control of invasive aquatic plants. Notification of “adjacent riparian owner” is currently undefined for off-shore treatments. However, if the proposed treatment will result in whole-lake impacts, then the whole-lake treatment guidance in section V below must be followed.

Steps for proper notification:

1. A notification summarizing the permit application must be sent to all riparian landowners, affected property owners association, or inland lake district, or
2. Posted in two of the following ways:
 - a. At all public access points
 - b. At all adjacent town halls
 - c. In the lake district or association newsletter or website
 - d. In the local newspaper following NR 107.04(3)(f)
3. The notification must include:
 - a. Pesticide product(s) to be applied,
 - b. Size of proposed treatment,
 - c. Approximate treatment date(s),
 - d. Map of proposed treatment areas,
 - e. Proposed pesticide concentration for the treatment area and whole-lake, and
 - f. Instructions detailing how to obtain a complete copy of the application.
4. No off-shore pesticide applications are exempt from NR 107.04(5), thus notice of treatment shall continue to be provided by the Department to any person or organization indicating annually in writing a desire to receive such notification. This notice will be provided for treatments of rooted plants or algae.

Large-scale Treatments

Large-scale treatments are defined in NR 107.04(3) as exceeding 10 acres in size or 10% of the area of the water body that is 10 feet or less in depth. The appropriate guidance for notification will be determined by location of the treatments (e.g. five acres of treatment along the shore combined with 5 acres of treatment greater than 150 feet from shore, both shoreline and off shore treatment notification procedures should be followed). However, if the proposed treatment will result in whole-lake impacts, then the whole-lake treatment guidance must be followed.

Steps for proper notification:

1. A copy of the permit application must be given as a notification to all affected riparian owners if the treatment will be within 150 feet of the riparian shoreline.
2. If treatment includes off-shore treatment area(s) the off-shore guidelines for notification must also be followed.
3. If it is known that pesticide concentrations will be great enough to prompt the label's water use restrictions across an entire bay of a lake, notification must be given to all riparian property within this area.
4. The notification must include:
 - a. Large-scale treatment worksheet,
 - b. Map outlining treatment areas, and
 - c. Proposed pesticide concentration for the actual treatment area.
 - d. The notification does not need to include a list of riparian landowners contacted. However, the list of riparian owners contacted must be included as part of the permit application to DNR.
 - e. The copy of the application may be sent in its entirety or sent as a hyperlink or website address containing an electronic copy of the permit application. The application, hyperlink or website address may be sent via US mail or email and a return receipt is recommended for the email method.
5. Public notification requirements of NR 107.04(3)(f) must be followed. Proof of the public notice must be included as part of the permit application to DNR.
 - a. In addition, the applicant must hold a public informational meeting if properly requested to do so under NR 107.04(3)(f)2. If a public informational hearing is to be held, the applicant is required to provide notice of the hearing as specified in NR 107.04(3)(f)2.b.
6. Notice of treatment shall be provided by the Department to any person or organization indicating annually in writing a desire to receive such notification. This notice will be provided for treatments of rooted plants or algae.

Whole Lake Treatments or Impacts

Whole-lake treatments are considered treatments in which the concentration of pesticide after complete dissipation will impact aquatic plants lakewide, based on the most recent pesticide residual/plant data. These treatments may be shoreline, off-shore or a combination of both. Small scale treatments may have whole lake impacts. Generally, treatments exceeding 5% of the lake area may have whole-lake impacts. Determination

of whole lake impacts will be made in consultation with the Department Aquatic Plant Management Coordinator.

“Adjacent riparian owner” is currently undefined for whole-lake treatments, but it is reasonable to conclude that under these treatment circumstances “adjacent riparian owners” include everyone with riparian property on the lake.

Steps for proper notification:

1. A copy of the permit application must be given as a notification to all riparian owners.
2. The notification must include:
 - a. Large-scale treatment worksheet,
 - b. Map outlining treatment areas, and
 - c. Proposed target pesticide concentration for the actual treatment area and whole-lake
 - d. The notification does not need to include a list of riparian landowners contacted. However, the list of riparian owners contacted must be included as part of the permit application to DNR.
 - e. The copy of the application may be sent in its entirety or sent as a hyperlink or website address containing an electronic copy of the permit application. The application or hyperlink may be sent via US mail or email and a return receipt is preferred for the email method.
3. Public notification requirements of NR 107.04(3)(f) must be followed. Proof of the public notice must be included as part of the permit application to DNR.
 - a. In addition, the applicant must hold a public informational meeting if properly requested to do so under NR 107.04(3)(f)2. If a public informational hearing is to be held, the applicant is required to provide notice of the hearing as specified in NR 107.04(3)(f)2.b.
4. Notice of treatment shall be provided by the Department to any person or organization indicating annually in writing a desire to receive such notification. This notice will be provided for treatments of rooted plants or algae.

Aquatic Plant Management Handbook
CHAPTER 5.1
CAUTION/WARNING SIGN POSTING FOR PESTICIDE TREATMENTS

GUIDANCE PURPOSE AND DISCLAIMER

This document is intended solely as guidance, and does not contain any mandatory requirements except where requirements found in statute or administrative rule apply. This guidance does not establish or affect legal rights or obligations, and is not finally determinative of any of the issues addressed. This guidance cannot be relied upon and does not create any rights enforceable by any party in litigation with the State of Wisconsin or the Department of Natural Resources. Any regulatory decision made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes, common law and administrative rules to the relevant facts.

INTRODUCTION

Administrative code requires the permit applicant to post caution/warning signs following chemical treatments. This chapter is intended to provide guidance on how to legally comply with the caution/warning sign posting requirement for different types of pesticide treatment outlined in the WI Administrative Code NR 107 Aquatic Plant Management.

Applicable Administrative Code Language

NR107.08(7). The permit holder shall be responsible for posting those areas of use in accordance with water use restrictions stated on the chemical label, but in all cases for a minimum of one day, and with the following conditions:

(a) Posting signs shall be brilliant yellow and conspicuous to the nonriparian public intending to use the treated water from both the water and shore, and shall state applicable label water use restrictions of the chemical being used, the name of the chemical and date of treatment. For tank mixes, the label requirements of the most restrictive chemical will be posted;

(b) Minimum sign dimensions used for posting shall be 11 inches by 11 inches or consistent with s. [ATCP 29.15](#). The department will provide up to 6 signs to meet posting requirements. Additional signs may be purchased from the department;

(c) Signs shall be posted at the beginning of each treatment by the permit holder or representing agent. Posting prior to treatment may be required as a permit condition when the department determines that such posting is in the best interest of the public;

(d) Posting signs shall be placed along contiguous treated shoreline and at strategic locations to adequately inform the public. Posting of untreated shoreline located adjacent to treated shoreline and noncontiguous shoreline shall be at the discretion of the department;

(e) Posting signs shall be made of durable material to remain up and legible for the time period stated on the pesticide label for water use restrictions, after which the permit holder or representing agent is responsible for sign removal.

CAUTION/WARNING SIGN POSTING GUIDANCE

Pesticide treatment posting guidance is outlined below for the different types of pesticide treatments described in the WI Administrative Code NR 107 Aquatic Plant Management. NR 107.08(7) makes the permit holder responsible for complying with posting requirements. The Department considers proper posting by contractors to meet this requirement, as posting may be accomplished by a “representing agent.” In addition to DNR authority under WI Admin Code NR 107, permittees may be required to post additional signs under WI Admin Code [ATCP 29.52](#) or if required by the product label.

Private Ponds

Private Ponds are defined according to NR 107.11(3)(a) as, *a body of water located entirely on the land of an applicant, with no surface water discharge or a discharge that can be controlled to prevent chemical loss, and without access by the public.* Those waters that meet this definition are exempt from posting according to NR 107.11(3), however permit applicants may still be required by DATCP or label directions to post warning signs.

Steps for proper posting:

1. DNR does not require posting of private pond treatments.
2. Signs will not be provided by the department free of charge for private pond treatments.
3. Applicants may request standard pesticide treatment signs from the department at code rates.

Small-scale Shoreline Treatments

Small-scale treatments are those not considered large-scale under NR 107.04(3). However, even small-scale treatments may have whole-lake impacts in small lakes. If the proposed treatment will result in lakewide impacts, then the whole-lake treatment guidance below must be followed. Small-scale Shoreline Treatments would include all treatments within 150 feet from shore, based on the language of NR 107.05(3)(f). Also, this section makes no differentiation between invasive and native species treatments.

Steps for proper posting:

1. Signs shall be posted at each property along treated shoreline and at each riparian property immediately adjacent to treated properties.
2. Signs may be required at all commercial and public boat landings and beaches at the discretion of the Department.

Small-scale Off-Shore Treatments

For the purpose of this guidance, any water not meeting the definition of Private Pond per NR 107.11(3)(a) **and** greater than 150 feet from shore will be considered an Off-Shore Treatment. Small-scale treatments are those not considered large-scale under NR 107.04(3). These types of treatments are occasionally conducted for navigational lanes or for control of invasive aquatic plants. Posting is currently undefined for off-shore

treatments, but left to the discretion of the Department. If the proposed treatment will result in whole-lake impacts, then the whole-lake treatment guidance below must be followed.

Steps for proper posting:

1. Signs shall be posted at each riparian property directly inshore (to the nearest shoreline) from the treatment area at the discretion of the Department if the chemical is expected to move that distance.
2. Signs may be required at all commercial and public boat landings and beaches at the discretion of the Department.

Large-scale Treatments

Large-scale treatments are defined in NR 107.04(3). The appropriate guidance for posting will be determined by location of the treatments (e.g. five acres of treatment along the shore and 5 acres of treatment greater than 150 feet from shore follows guidance for near shore and off shore treatments). However, if the proposed treatment will result in whole-lake impacts, then the whole-lake treatment guidance must be followed.

Steps for proper posting:

1. If the treatment is to occur within 150 feet of shore then the posting requirement for small-scale shoreline treatments above will be followed.
2. If the treatment is to occur beyond 150 feet from shore then the posting requirement for small-scale off-shore treatments above will be followed.
3. If it is known that concentrations will be great enough to prompt the label's water use restrictions across an entire bay of a lake, signs will be posted on each riparian property within this area.

Whole-lake Treatments

Whole-lake treatments are considered treatments in which the concentration of chemical after complete dissipation will impact aquatic plants lakewide, based on the most recent chemical residual/plant data. They may or may not be intentional. These treatments may be shoreline, off-shore or a combination of both. Small scale treatments may have whole lake impacts. Generally, treatments exceeding 5% of the lake area may have whole-lake impacts. Determination of whole lake impacts will be made in consultation with the DNR Aquatic Plant Management Coordinator.

“Adjacent riparian owner” is undefined for whole-lake treatments, but under these treatment circumstances it is reasonable to consider “adjacent riparian owners” to include everyone with riparian property on the lake.

Steps for proper posting:

1. If concentrations will be great enough to prompt water use restrictions throughout the lake, signs will be posted at each riparian property.
2. Signs will be posted at all commercial and public boat landings and beaches.