

 <p>P.O. Box 99 • Ray Brook, New York</p> <p>www.apa.state.ny.us</p>	<p>APA General Permit 2008G-1A</p>	<p>Effective Date: April 2011</p>
<p>In the Matter of the Issuance of a General Permit for the Management of Aquatic Invasive Plants Using Benthic Barriers and Hand Harvesting Techniques</p>		

SUMMARY AND AUTHORIZATION

This amended general permit is issued to the NYSDEC, Adirondack Park Invasive Plant Program (APIPP), local municipalities, and qualified lake associations or other qualified organizations, certified lake managers, and experienced lake managers subject to approval by the Agency on conditions, authorizing the use of hand harvesting and benthic barriers, as described herein, to eradicate or reduce population numbers or otherwise control the growth and spread of certain aquatic invasive plant species in wetlands throughout the Adirondack Park.

This amended general permit is issued pursuant to ECL Article 24 and §809(13)(e) of the Adirondack Park Agency Act and 9 NYCRR §572.23.

This amended general permit is issued based on the express understanding that each individual project will be undertaken and completed only as described in the completed application, the Findings of Fact herein, and in compliance with the Conditions herein. In the case of conflict, the conditions control.

All management attempts and methods shall be limited to the five invasive species of concern: Eurasian watermilfoil (*Myriophyllum spicatum*), curlyleaf pondweed (*Potamogeton crispus*), water chestnut (*Trapa natans*), yellow floating heart (*Nymphoides peltata*), and European frog-bit (*Hydrocharis morsus-ranae*), fanwort (*Cabomba caroliniana*), and those other species identified by the Supervisor, Resource Analysis and Scientific Services (RASS) Division.

This general permit is in effect from the date of reissuance unless otherwise modified or revoked by the Agency.

JURISDICTION

Pursuant to ECL 24-0701(2) and 9 NYCRR §578.3(n)(1) and (2), within the Adirondack Park, any form of dredging, excavation, removal of soil, peat, mud, sand and any other activity which substantially impairs the functions served by or the benefits derived from freshwater wetlands is a "regulated activity" which requires a permit from the Agency. Also, pursuant to Executive Law §810, any activity involving wetlands within the Adirondack Park requires a permit from the Agency. The control or removal of invasive plant species from wetlands in order to protect

biodiversity and other functions and values of naturally occurring wetlands may involve the removal of wetland vegetation or soil or otherwise disturb the wetland. Management activities for the removal of aquatic invasive plant species have the potential for adversely affecting wetland function.

PROCEDURES

Permit Application and Review Process:

1. To utilize this APA General Permit, the applicant must fully complete the APA General Permit 2008G-1A Application, including all required attachments. The application may be submitted in person to the Agency or by mail at:
Adirondack Park Agency
Deputy Director, Regulatory Programs Division
Route 86, PO Box 99
Ray Brook, New York 12977
2. Within 15 calendar days of receipt of an application, the APA will review the application for completeness, confirm APA jurisdiction, determine whether the proposed activity meets the eligibility criteria and contact the applicant to arrange a meeting at the site of the proposed activity.
3. If the application is incomplete, the Agency will inform the applicant by certified mail indicating what specific information is missing. On the day the Agency receives the missing information from the applicant, a new 15 calendar-day review period begins for determining completeness. If approvable, within 10 calendar days of the site visit or when the application is deemed complete, whichever is later, the Agency will, by certified mail, issue a signed APA General Permit 2008G-1A Application and Certification approving the activity.
4. Where an application has been determined to be ineligible, the Agency will send a letter by certified mail briefly explaining why the activity was ineligible for coverage under the APA general permit and stating that the activity may be reviewed again upon receipt of a new application for an individual major project permit.
5. Eligibility Criteria:

In order for this permit to apply, upon field verification, the proposed activity must be determined by APA staff to:

- a) be consistent with the information contained in the application;
- b) not have been partially or wholly undertaken;
- c) apply only to the aquatic invasive plant species noted in the Summary and Authorization above using benthic barriers and hand-harvesting techniques;
- d) not require additional detailed engineering or environmental studies to more fully demonstrate no undue adverse impacts on important resources of the Park;

- e) not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park taking into account the project benefits; and
 - f) be capable of meeting the conditions contained within this Permit and as stated in "Section D – General Conditions" of the Application and Certification form.
6. Applicant Certification: By signing the application, the applicant:
- a) confirms that the information contained in the application is true, accurate and complete;
 - b) agrees that a determination of ineligibility for a permit under APA General Permit 2008G-1A by the Deputy Director of Regulatory Programs for any reason is considered final and cannot be appealed;
 - c) agrees that if a jurisdictional activity has been determined to be ineligible for approval under this APA general permit program, the appropriate major permit application must be submitted to the Agency and a permit issued before that activity can be undertaken;
 - d) agrees that the time period for review for completeness of any subsequent application for an individual permit will not begin to run until the Agency has received the individual permit application; and
 - e) agrees that there is no default approval of the APA Permit if the time periods specified herein are not complied with by the APA. The Agency will make every effort to provide timely review, but field visits are weather dependent.
7. Project sponsors must apply for and receive Article 24 approval for their specific project from APA prior to implementation of the management activities to eradicate, or control the growth and spread of aquatic invasive plant species in APA jurisdictional wetlands.
8. Each project sponsor shall submit a completed and signed "Application and Certification for the Management of Aquatic Invasive Plants Using Benthic Barriers and Hand-Harvesting Techniques" to the Deputy Director, Regulatory Programs, New York State Adirondack Park Agency. The "Application" can be used for individual sites or a program of aquatic invasive species management on multiple sites. Agency staff will review the application for completeness, conduct a site visit if determined by APA staff to be necessary, and determine if the proposed project meets the terms and conditions of this general permit. If approvable, an authorized APA Representative will sign the "Application and General Permit Certification" and return it to the applicant by certified mail as provided herein.
9. All work on lands classified as lands underwater owned by the State of New York and not classified as State Forest Preserve requires approval from the NYS Office of General Services. All work on lands classified as Forest Preserve requires approval from NYSDEC.

FINDINGS OF FACT

1. Freshwater wetland covertypes potentially affected by activities involving the management of aquatic invasive plant species include the following as described in the NYS Freshwater Wetlands Act (ECL Article 24): emergent vegetation, rooted, floating-leaved vegetation, free-floating vegetation, bog mat vegetation, and submergent vegetation. These covertypes form the wetlands found in the Agency's Rules and Regulations (9 NYCRR Subtitle Q, §578): emergent marsh and deep water marsh.
2. The wetlands potentially affected by implementation of activities involving management of aquatic invasive plant species provide important benefits valued by society such as flood and storm control and abatement, wildlife habitat, surface and subsurface water resource protection, recreation, erosion control, education and scientific research, open space and aesthetics and nutrient cycling.
3. Invasive species management on Forest Preserve is identified as an approved activity in the March 2010 Inter-Agency Guidelines for Implementing Best Management Practices for the Control of Terrestrial and Aquatic Invasive species on Forest Preserve Lands in the Adirondack Park.
4. Aquatic invasive plant species have demonstrated severe negative effects on native wetland systems including loss of habitat, negative changes in hydrology and nutrient cycling and loss of biodiversity. This general permit is issued to allow certain trained experts to implement activities to eradicate or reduce population numbers or otherwise control the growth and spread of Eurasian watermilfoil (*Myriophyllum spicatum*), curlyleaf pondweed (*Potamogeton crispus*), water chestnut (*Trapa natans*), yellow floating heart (*Nymphoides peltata*), and European frog-bit (*Hydrocharis morsus-ranae*) fanwort (*Cabomba caroliniana*), and those other species identified by the Supervisor, Resource Analysis and Scientific Services (RASS) Division, in wetlands in the Adirondack Park.
5. Implementation management practices to eradicate or reduce population numbers or otherwise control the growth and spread of the noted aquatic invasive plant species in accordance with the Conditions of this general permit will not result in undue adverse impacts on Park resources, will not substantially impair the functions served by or the benefits derived from said wetlands, and will provide economic and social benefits to the affected municipalities.
6. The project as proposed and authorized herein will not cause any change in the quality of "registered," "eligible," or "inventoried" property as those terms are defined in 9 NYCRR §426.2 for the purposes of implementing §14.09 of the New York State Historic Preservation Act of 1980.

