



LEILANI CRAFTS ULRICH
Chairwoman

TERRY MARTINO
Executive Director

MEMORANDUM

TO: Terry Martino, Executive Director

FROM: Richard Weber, Deputy Director-Regulatory Programs

DATE: June 3, 2015

RE: General Permit 2014G-1A Management of Terrestrial Invasive Plant Species In or Within 100 Feet of Wetlands In the Adirondack Park

Please find attached the above-referenced proposed general permit, along with the authorized user application and certification to use Agency General Permit G2014G-1A. Pursuant to 9 NYCRR § 572.23, staff recommend Agency approval of the proposed general permit through adoption of the attached Order.

The 30-day public comment period on General Permit 2014G-1A expired on May 29, 2015. Copies of the public comment letters received in relation to this general permit are attached. Staff do not recommend any changes to the proposed general permit based on the public comments received.


Agency General Permit 2014G-1A is a reissuance of General Permit 2014G-1, approved by the Agency in April 2014. General Permit 2014G-1A allows users to conduct management of terrestrial invasive plant species in wetlands without the need to seek a permit from the Agency for each specific project, so long as the work is done in compliance with specific and defined best management practices and other conditions. Users must provide an annual report to the Agency documenting all activities undertaken pursuant to the general permit in the preceding year.

Currently, the general permit authorizes the New York State Department of Transportation, the New York State Department of Environmental Conservation, the Adirondack Chapter of the Nature Conservancy, the Adirondack Park Invasive Plant Program, and the Regional Inlet Invasive Plant Program to use General Permit 2014G-1A. The reissued general permit continues to authorize the use of the general permit by those entities, but also allows the Deputy Director – Regulatory Programs (DDRP) to add new users through the DDRP's approval of the *Application to Use General Permit 2014G-1A to Manage Terrestrial Invasive Plant Species*. The DDRP may also remove authorized users that are not in compliance with General Permit 2014G-1A at his discretion, after providing notice.

Attachments

**This is not approved by Agency
June 3, 2015**

THIS IS A TWO SIDED DOCUMENT

 <p>NEW YORK STATE OF OPPORTUNITY.</p> <p>Adirondack Park Agency</p> <p>P.O. Box 99 • Ray Brook, New York 12977 Tel: (518) 891-4050 Fax: (518) 891-3938 www.apa.ny.gov</p>	<p>APA General Permit 2014G-1A</p>	Effective Date:
	In the Matter of the Re-Issuance of a General Permit for the Management of Terrestrial Invasive Plant Species In or Within 100 Feet of Wetlands in the Adirondack Park	

SUMMARY AND AUTHORIZATION

Pursuant to Environmental Conservation Law (ECL) Article 24, Executive Law § 809(13)(e), and 9 NYCRR § 572.23, this general permit authorizes the conditional undertaking of regulated activities incidental to the management of terrestrial invasive plant species in or within 100 feet of wetlands in the Adirondack Park by authorized users through the use of management activities intended to eradicate or reduce population numbers or otherwise control the growth and spread of terrestrial invasive plant species.

The Deputy Director – Regulatory Programs (DDRP) shall maintain a list of Authorized Users approved to use GP2014G-1A. Organizations not named in General Permit 2014G-1A will be added to the list through the DDRP’s approval of the *Application to Use General Permit 2014G-1A to Manage Terrestrial Invasive Plant Species In or Within 100 Feet of Wetlands in the Adirondack Park*. Authorized users not in compliance with the conditions in this general permit may be removed from the Agency’s GP2014G-1A Authorized User list at the discretion of and upon notification by the DDRP.

This general permit is issued to the New York State Department of Transportation (NYSDOT), the New York State Department of Environmental Conservation (NYSDEC), the Adirondack Chapter of the Nature Conservancy, the Adirondack Park Invasive Plant Program (APIPP), the Regional Inlet Invasive Plant Program, and other authorized users as designated by the Deputy Director – Regulatory Programs. All activities undertaken pursuant to this general permit shall comply with the conditions in this general permit.

This general permit shall be in effect from the date of issuance unless otherwise modified or revoked by the Agency.

ADIRONDACK PARK AGENCY JURISDICTION

The Agency requires permits for regulated activities conducted in or impacting wetlands in the Adirondack Park pursuant to Executive Law §§ 809 and 810, ECL § 24-0701(2), and 9 NYCRR §§ 578.2(a), 578.3(n)(1) - (2). Any form of dredging, excavation, removal

of soil, peat, mud, or sand, any form of pollution, or any other activity which substantially impairs the functions served by or the benefits derived from freshwater wetlands requires a permit from the Agency.¹ The management of terrestrial invasive plant species in or within 100 feet of a wetland in the Adirondack Park is a regulated activity requiring a permit from the Agency because it impacts wetlands and adversely affects certain wetland functions.

ELIGIBILITY

Only persons named in GP2014G-1A or on the Agency's Authorized Users of GP2014G-1A list are eligible to use GP2014G-1A. In order to be eligible for this general permit, the proposed activity must: (1) apply only to the terrestrial invasive plant species within the NYS DOT right of way, on State land with appropriate approval from the NYS DEC, or on any other land with the permission of the landowner; (2) not require additional detailed engineering or environmental studies; and (3) be able to meet the terms and conditions of this general permit.

PROCEDURES TO BE ELIGIBLE TO USE GP2014G-1A

1. To be eligible to use Agency General Permit 2014G-1A, the person must be named in GP2014G-1A or listed on the Agency's Authorized Users of GP2014G-1A list.
2. A person named in GP2014G-1A or listed on the Agency's Authorized Users of GP2014G-1A list will remain eligible to use GP2014G-1A unless that person is deemed to not be in compliance with the conditions listed in GP2014G-1A. A person may be removed from the list at the discretion of and upon notification by the Deputy Director – Regulatory Programs.

For a person not named as eligible to use GP2014G-1A or listed on the Agency's Authorized Users of GP2014G-1A list, the following procedures apply:

3. The applicant must fully complete and submit to the Agency the *Application to Use General Permit 2014G-1A to Manage Terrestrial Invasive Plant Species In or Within 100 Feet of Wetlands In the Adirondack Park*. 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

¹ Sections 809 and 810 of the Adirondack Park Agency Act do not apply to activities undertaken by the NYS DOT or DEC. Section 814 of the Adirondack Park Agency Act applies to NYSDOT.

4. Within 15 calendar days of receipt of an application, the Agency will review the application for completeness, confirm jurisdiction, and determine whether the applicant meets the eligibility criteria.
5. 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 will begin for determining completeness.
6. Where an applicant has been determined to be ineligible to use this general permit, the Agency will send a letter by certified mail briefly explaining why the applicant is ineligible and stating that the applicant may be reviewed again for inclusion on the Agency's Authorized Users of GP2014G-1A list upon receipt of a new application.
7. The review time periods established in Executive Law § 809 shall not apply to Agency review of an application pursuant to this general permit, except that if the Agency does not issue a certification within ten business days of determining that an organization or individual is eligible for authorization to use General Permit G2014G-1A, the procedures established in Executive Law § 809(6) shall apply.

CONDITIONS

All activities undertaken pursuant to this general permit shall comply with all of the following conditions:

1. The Best Management Practices published by the Adirondack Park Invasive Plant Program at <http://www.adkinvasives.com/> or the 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 shall be followed at all times.
2. For activities undertaken on Forest Preserve Land, the guidelines established in the Memorandum of Understanding between the Adirondack Park Agency and the Department of Environmental Conservation Concerning Implementation of the State Land Master Plan for the Adirondack Park (March 2010) shall be followed at all times.
3. The qualified representative overseeing the management of terrestrial invasive plant species on behalf of the listed authorized user shall be the same as that person designated in the Agency's Application to Use General Permit 2014G-1A to Manage Terrestrial Invasive Plant Species In or Within 100 Feet of Wetlands in the Adirondack Park.
4. All herbicide applications shall be conducted by or under the direct supervision of an applicator licensed by the DEC.

5. All herbicide applications shall be conducted in strict accordance with the labeled application instructions and restrictions.
6. Any invasive plant species biomass collected under this permit shall be disposed of in DOT residencies or DEC approved facilities. For DEC activities on State land, disposal activities shall comply with 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.
7. Any other agents, contractors, project engineers, and other parties responsible for or undertaking an activity authorized herein shall comply with all terms and conditions of this general permit.
8. All work shall be scheduled and conducted to minimize erosion of soils and to completely prevent silts or sediments from eroding into wetlands or surface waterbodies. Silt fence or other erosion control measures shall be used when removal of plant materials will expose more than 25 square feet of soil or will take place on slopes greater than 5%.
9. Nothing contained in this general permit shall be construed to satisfy any obligation of the applicant to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional or local.
10. This permit does not grant the authorized user or his agents the right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work, nor does it authorize the impairment of any rights, title, or interest in real or personal property.
11. All activities undertaken pursuant to this general permit shall be summarized in an annual report prepared by the authorized user or the qualified representative that undertook the activity. This report shall be submitted to the Agency by December 31st of the year in which the activity occurred and include: the species managed, a summary of the best management practices used at each site, the size of each management area, and the geographic coordinates of each activity or a Geographic Information System (GIS) shape file containing the relevant information.

FINDINGS OF FACT

1. Freshwater wetland covertypes potentially affected by the management of terrestrial invasive plant species include the following as described in ECL § 24-0107(1)(a): wetland trees, wetland shrubs, emergent vegetation, rooted, floating-leaved vegetation, free-floating vegetation, wet meadow vegetation, bog mat vegetation, and submergent vegetation. These covertypes form the wetlands defined in 9 NYCRR §§ 578.3(c), (f), (h), (i), (j), (q), and (t): bog, coniferous swamp, deciduous swamp, deep water marsh, emergent marsh, shrub swamp, and wet meadow.

2. The wetlands potentially affected by the implementation of activities involving management of terrestrial 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, aesthetics, and nutrient cycling.
3. Terrestrial 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 authorized users to implement management activities to eradicate or reduce population numbers or otherwise control the growth and spread of terrestrial invasive plant species in wetlands in the Adirondack Park.
4. 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.
5. Implementation of management practices to eradicate or reduce population numbers or otherwise control the growth and spread of terrestrial invasive plant species in accordance with this general permit will not result in undue adverse impacts on Park resources.
6. The activities 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.

CONCLUSIONS OF LAW

The Agency has considered all the statutory and regulatory criteria for project approval as set forth in Executive Law §§ 809(10), ECL § 24-0801(2), and 9 NYCRR § 578.10. The Agency hereby finds that all regulated activities authorized by this general permit and are undertaken as authorized:

- a. will be consistent with the land use and development plan;
- b. will be compatible with the character description and purposes, policies, and objectives of the land use area(s) involved;
- c. will be consistent with the overall intensity guidelines for the land use area(s) involved;
- d. will comply with the shoreline restrictions of Executive Law § 806;
- e. will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the Park or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the economic and social benefits that might be derived therefrom; and
- f. will secure the natural benefits of wetlands associated with the project, consistent

with the general welfare and beneficial economic, social, and agricultural
development of the State.

GENERAL PERMIT issued this day
of , .

ADIRONDACK PARK AGENCY

BY: _____
Richard E. Weber, III
Deputy Director (Regulatory Programs)

STATE OF NEW YORK)
) ss.:
COUNTY OF ESSEX)


On the day of in the year 2015, before me, the undersigned, a
Notary Public in and for said State, personally appeared Richard E. Weber, III,
personally known to me or proved to me on the basis of satisfactory evidence to be the
individual whose name is subscribed to the within instrument and acknowledged to me
that he executed the same in his capacity, and that by his signature on the instrument,
the individual, or the person upon behalf of which the individual acted, executed the
instrument.

Notary Public

June 2015

**This is not approved by Agency
June 3, 2015**

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 <p>Adirondack Park Agency</p> <p>P.O. Box 99 • Ray Brook, New York 12977 Tel: (518) 891-4050 • Fax (518) 891-3938 www.apa.ny.gov</p>	<p>APA General Permit 2014G-1A</p> <hr/> <p>Application to Use General Permit 2014G-1A to Manage Terrestrial Invasive Plant Species In or Within 100 Feet of Wetlands In the Adirondack Park</p>
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Instructions: Please answer all of the questions in each section and submit the application and any attachments in person or by mail to the Deputy Director - Regulatory Programs (DDRP), Adirondack Park Agency at the above address. You may attach additional sheets if necessary.

Section A - Applicability

General Permit 2014G-1A authorizes the conditional undertaking of regulated activities incidental to the management of terrestrial invasive plant species in or within 100 feet of wetlands in the Adirondack Park. The persons authorized to use General Permit 2014G-1A are either named in General Permit 2014G-1A or designated by the DDRP. This application is to be used by persons seeking to become eligible to use GP2014G-1A. The information requested below will allow the DDRP to evaluate an applicant for inclusion on the Agency's Authorized Users of GP2014G-1A list.

Section B - Applicant Information

Name of person seeking to be included on the Agency's Authorized Users of GP2014G-1A list, mailing address, telephone number, fax number, and email address:

Organization officers (if applicable):

Organization mission statement (if applicable):

Application to Use General Permit 2014G-1A

Please describe the applicant's intent and/or purpose for managing terrestrial invasive plants in or within 100 feet of wetlands in the Adirondack Park:

Section C – Qualified Representative Information

The qualified representative is the person responsible for overseeing the management of terrestrial invasive plants on behalf of the applicant. The qualified representative must have satisfactory experience and/or training in the identification and management of terrestrial invasive plant species.

Please be aware that if the applicant is approved to be included on the Agency's Authorized Users of GP2014G-1A list and the person designated as the qualified representative changes, the applicant will need to re-submit this application to the Agency.

Name, mailing address, telephone number, fax number, and e-mail address of qualified representative:

List and document the qualified representative's experience in managing terrestrial invasive plants, especially in regards to the species listed below as targeted for management by the applicant:

List and document the qualified representative's training in managing terrestrial invasive plants. Please include specific certifications, documentation of attendance, and copies of training materials for invasive species/herbicide related trainings as appropriate:

Section D – Non-Chemical Management Activity

List all plant species targeted for management:

Application to Use General Permit 2014G-1A

Provide information on the non-chemical control methods and management equipment to be used:

Section E – Herbicide Applications

List all plant species targeted for herbicide application:

Provide information on the herbicide application methods, herbicide products, and application equipment to be used:

Section F – Applicant Certification

By signing this application, the applicant:


- a. confirms that the information contained in the application is true, accurate and complete;
- b. agrees that if the applicant is determined to be eligible to use APA General Permit 2014G-1A, the applicant is responsible for ensuring the qualified representative listed in the application complies with all of the conditions listed in APA General Permit 2014G-1A, including submission of an annual report to the Agency.
- c. agrees that if the applicant has been determined to be ineligible to use APA General Permit 2014G-1A:
 1. the appropriate major permit application must be submitted to the Agency and a permit issued before that activity can be undertaken;
 2. 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.

Please provide a signature of the applicant indicating that they have read and are responsible for all conditions in General Permit 2014G-1A.

X _____
Signature of Applicant

Date

**THIS IS A TWO SIDED DOCUMENT - This is not approved by Agency
June 3, 2015**

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This certifies that **[insert name of individual or legal entity]** is included on the Adirondack Park Agency's Authorized Users List of Agency General Permit G2014G-1A for the management of terrestrial invasive plant species in or within 100 feet of wetlands in the Adirondack Park.

The qualified representative for **[insert name of authorized user]** is **[insert name of qualified representative contained in application]**.

[Insert name of authorized user] is responsible for ensuring that all of the conditions listed in APA General Permit 2014G-1A are complied with. This includes submission of an annual report, due by December 31st of each year, summarizing the activities undertaken by **[Insert name of authorized user]** pursuant to Condition 11 of Agency General Permit 2014G-1A.


The Deputy Director – Regulatory Programs maintains a list of persons approved to use GP2014G-1A. Authorized Users will remain eligible to use GP2014G-1A unless deemed to not be in compliance with the conditions listed in GP2014G-1A. Authorized users may be removed from the list at the discretion of and upon notification by the Deputy Director – Regulatory Programs.

Richard E. Weber, III
Deputy Director-Regulatory Programs

Date

enclosure: APA GP2014G-1A

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June 3, 2015
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 <p>NEW YORK STATE OF OPPORTUNITY.</p> <p>Adirondack Park Agency</p> <p>P.O. Box 99 • Ray Brook, New York 12977 Tel: (518) 891-4050 Fax: (518) 891-3938 www.apa.ny.gov</p>	Order	Date Issued:
	In the Matter of the Reissuance of General Permit 2014G-1A for the Management of Terrestrial Invasive Plant Species In or Within 100 Feet of Wetlands in the Adirondack Park	

WHEREAS:

1. This document constitutes an Order approving the reissuance of General Permit 2014G-1 as General Permit 2014G-1A;
2. Section 809(13)(e) of the Adirondack Park Agency Act (APA Act) states that the Agency shall have authority, in connection with its project review jurisdiction, “to issue a general permit for any class of projects concerning which the agency determines it may make the requisite statutory findings on a general basis;”
3. Pursuant to Section 572.23(b) of Agency regulations at 9 NYCRR, on April 17, 2015, the Agency proposed reissuance of General Permit 2014G-1 as General Permit 2014G-1A by the adoption of a resolution specifying the applicable geographic area, time period, basis of jurisdiction, activity and probable frequency, and proposed findings of fact, conclusions of law, and mitigating conditions;
4. General Permit 2014G-1A entitled “Management of Terrestrial Invasive Plant Species In or Within 100 Feet of Wetlands in the Adirondack Park” indicates that the permit will:
 - a. be available for use throughout the Adirondack Park;
 - b. be effective from the date of issuance unless otherwise modified or revoked by the Agency;
 - c. authorize jurisdictional activities pursuant to Article 24 of the Environmental Conservation Law, §§ 809(2)(a) and 810(1) of the APA Act, and 9 NYCRR §§ 570.2, 578.2(a), and 578.3(n)(1) and (2); and
 - d. allow for the conditional undertaking of regulated wetland activities incidental to the management of terrestrial invasive plant species;
5. General Permit 2014G-1A includes findings of fact, conclusions of law and mitigating conditions to address potential adverse environmental impacts and the statutory criteria for permit issuance;

6. Pursuant to section 572.23(c) of Agency regulations, General Permit 2014G-1A was publically noticed in the Environmental Notice Bulletin, in newspapers of general circulation both inside and outside the Adirondack Park, and with the Adirondack Local Government Review Board, and was provided for public review and comment, and the minimum thirty day public comment period has expired;
7. Pursuant to section 572.23(d) of Agency regulations, the issuance of a general permit by the Agency constitutes a Type I action for purposes of the State Environmental Quality Review Act (SEQR), and a determination of non-significance with respect to General Permit 2014G-1A was made and filed by the Executive Director pursuant to delegated authority; and
8. The Agency has considered the information set forth above and the text of General Permit 2014G-1A for the “Management of Terrestrial Invasive Plant Species In or Within 100 Feet of Wetlands in the Adirondack Park,” and finds that General Permit 2014G-1A meets the statutory and regulatory criteria set forth in APA Act § 809(13)(3), ECL Article 24, and 9 NYCRR § 572.23 on a general basis.

NOW, THEREFORE, IT IS ORDERED THAT:

- I. General Permit 2014G-1A for the “Management of Terrestrial Invasive Plant Species In or Within 100 Feet of Wetlands in the Adirondack Park” is hereby approved; and
- II. The Deputy Director – Regulatory Programs shall record General Permit 2014G-1A in the County Clerk’s Offices of all counties situated wholly or partly within the Adirondack Park, and shall provide notice of the approval of General Permit 2014G-1A and of the SEQR determination of non-significance in accordance with the requirements of 9 NYCRR 572.23(c).