



# ENVIRONMENTAL PERMITS FOR WISCONSIN FISH FARMS

PUB-FH-059 2014

## What You Need to Know

This factsheet describes the types of environmental permits and approvals for fish farms that are reviewed by the Department of Natural Resources ([DNR](#)-*double underline indicates a hyperlink*) including:

- NR 19 Natural Waterbody Permits
- Chapter 30 Waterway Permits
- Chapter 31 Dam Permits
- Water Quality Wetland Permits
- WPDES Discharge Permits
- Water Use Registration and Permits
- High Capacity Well Approvals
- Importation Permit

Other permits may be required by the local municipality (city, village, town, county) and by the [Army Corps of Engineers](#) (ACOE). The [Department of Agriculture, Trade and Consumer Protection](#) (DATCP) handles fish farm registration and fish health issues. The types of environmental permits required are determined on a case by case basis and dependent on the location, design and operation of the fish farm facility.

Please check with your DNR Regional Fish Farm Environmental Permit Coordinator listed on page 4 of this publication to determine which permits may apply to your facility

## INSIDE THIS FACTSHEET

- 1 Overview of DNR Regulations
- 2 Existing Fish Farms
- 2 Starting a New Fish Farm
- 3 Glossary (*single underlined words*)
- 4 Frequently Asked Questions
- 4 Whom to Contact

## Overview of DNR Regulations

The DNR is responsible for implementing a number of permits applicable to fish farms as required by Wisconsin State Statutes including the following.

**NR 19 Natural Waterbody Permit:** This permit (Form 3600-227) was first required in January 2000 by new laws (s. [29.733](#) Wis. Stats. and NR 19 Wis. Adm. Code). The DNR is responsible for permitting the use of natural bodies of water as fish farms. Natural bodies of water that are permitted under Ch. [30.19](#) (dredging, grading, or enlarging), [30.195\(a\)](#) (changing a stream course), or [31.04](#) (dams) are exempt from a Natural Waterbody permit requirement. See the [Natural Waterbody Permits for Fish Farms](#) factsheet for more information (PUB-FH-060 2013).

**Permit renewals:** The DNR will usually renew your pre-existing Natural Waterbody permit unless your fish farm has substantially impacted the public interest, or conditions surrounding your fish farm have changed. A fee of \$50 is required and a permit renewed after August 16, 2012 has no expiration date.

**New “Initial” fish farms** are required to be freeze-out ponds and have insignificant public interest. A non-refundable application fee of \$500 is required and the permit has no expiration date.

**Importation of Non-Native Fish:** The DNR is required to review and permit all introductions of non-native fish or fish eggs into the state (s. 29.735 Wis. Stats.). You should contact the DATCP who will work with the DNR to determine if a species is non-native and if a DNR permit is required. You will also have to work with DATCP to meet the [health requirements](#) for any fish imported into the state.

## Chapter 30 Permits

s. [30.12](#) **Structure Permit:** You may need a structure permit if you plan to construct a structure below the ordinary high water mark of a public waterway (i.e. a waterway determined to be navigable under s. 30.10 Wis. Stats.). This would include [intake structures](#), [culverts](#), [bridges](#), and most [shore protection practices](#) ([rip-rap](#), [bio-logs](#), etc.).

s. **30.18 Withdrawal Permit:** All [withdrawals](#) from any stream or lake for purposes of agriculture or irrigation are required to be authorized by the DNR. Currently, for the purposes of s. 30.18 Wis. Stats, aquaculture is not defined as agriculture and therefore a permit is required only if the withdrawal results in an average loss of 3.09 cubic feet per second during any 30-day period, or if a water level has been set on the stream or lake that you are withdrawing from.

s. **30.19 Enlargements, Ponds and Grading:** This section of the statutes requires [permits](#) for four activities.

- 1) Ponds without outlets constructed within 500 feet of a public waterway require a permit. These ponds are private ponds unless prescribed public by a condition of the ch. 30 permits.
- 2) All ponds with open or closed (i.e. piped) outlets that [connect with navigable waterways](#), regardless of the distance to a public waterway, require a pond permit. These ponds are private ponds unless prescribed public by a condition of the ch. 30 permit.
- 3) All ponds [connected to navigable waterways](#) by a navigable channel or any enlargement of any public waterway require a permit. These ponds and enlargements are public waters and require a public notice and an environmental assessment (EA).
- 4) Any grading in excess of 10,000 square feet on the bank of a public waterway requires a grading permit *only* if no stormwater permit or local shoreland zoning permit is needed. A public notice is required for these types of permits.

s. **30.20 Dredging:** [Permits](#) are required to [dredge](#) or “remove bed material” from both public and non-navigable streams and from all lakes. Permits are not required for maintenance dredging to permitted dimensions of ponds considered private under s. 30.19 Wis. Stats.

**Chapter 31 Dams Construction:** [Permits](#) are required to construct dams or impoundments on all waterways in Wisconsin. Small dam plan approvals may be obtained for dams constructed on non-navigable streams under s. 31.33. Dams on public waterways require extensive permitting under s. 31.06.

**Wetland Permits:** Depending on the type of project a wetland general permit or individual permit will be required if any [impacts to wetlands are proposed](#) ([s.281.36](#)). If a wetland permit is required, the project will have to meet all of the eligibility standards and permit conditions that are applicable to the wetland permit that is required. A wetland general or individual permit issued by the DNR constitutes water quality certification as required by the Army Corps of Engineers 404 wetland permits for federal wetlands.

**Water Use Registration and Permits:** If you plan to withdraw water for a new or existing fish farm, [Water Use Registration](#), reporting and permitting may apply to you. A withdrawal is the taking or redirection of water from its natural  
*(Continued on page 3)*

## Existing Fish Farms

You'll find it easy to work with your regional Fish Farm Environmental Permit Coordinator to determine if you have obtained the necessary environmental permits. Two of the most common permits that apply to fish farm facilities include:

**Natural Waterbody Permit:** If the fish farm meets the definition of a [Natural Waterbody](#) and has not been permitted under Ch. 30.19, 30.195(a), or 31.04, you will need this permit. See the Natural Waterbody Permits for Fish Farms Factsheet for more information (PUB-FH-060-2013).

**Chapter 30 or 31 Permits:** Many fish farm ponds were constructed before permits were required by the DNR. However, fish farmers may find it advantageous to obtain Ch. 30 or 31 permits after the work is done (“after the fact” permits). A permit was likely required if the pond was built after 1961 and it is within 500 feet of a public water or is connected to a public water.

**Other permits:** Check to see if any of the other permits highlighted in this factsheet apply. ❖

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*Work with your regional Fish Farm  
Environmental Permit Coordinator to determine if  
you have obtained the necessary environmental  
permits.*

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## Starting a New Fish Farm

If you are looking at using an existing waterbody or constructing a new waterbody for a fish farm that was not registered a 1997 DNR licensed hatchery, you will have to work closely with DNR staff to make sure the fish farm can comply with the permitting requirements.

**Step 1. Collect Information** Collect the following information to help determine which permits are required and what restrictions might apply:

- [Location](#) of the waterbody, nearby waterways and wetlands
- Previous DNR permits or licenses issued for the waterway
- Historical maps of the waterway prior to any modifications
- Any proposed modifications to waterway (dredging, culverts, structures, outflow modifications, etc.)
- Proposed fish farm operation plan (species, annual production, etc.)
- Location of fish farm inflow and outflow
- Location of floodplain and shoreland boundaries
- Riparian ownership of the waterway  
*(Continued on page 3)*

course (surface water or groundwater), making it unavailable for other purposes, even if only temporarily.

Persons with registered withdrawals must annually report their monthly water use to the Department (s. [281.346](#) Wis. Stats., [NR 856](#)).

If your fish farm is located in the Great Lakes Basin and you withdraw water in quantities that average 100,000 gallons per day or more in any 30-day period, you will need to apply for a Water Use Permit (s. [281.346\(5\)](#) Wis. Stats., [NR 860](#)).

**High Capacity Well Permit:** If the well or withdrawal sources on your property will have a combined withdrawal capacity of 70 gallons per minute ( $\approx$  100,000 gallons per day), you will need to obtain a high capacity well approval from the DNR. Specific well design requirements are also required (See Chapters [280](#) and [281](#) Wis. Stats. and chapters NR 812 and 820, Wis. Adm. Code).

**WPDES Discharge Permit:** [The Wisconsin Pollutant Discharge Elimination System](#) (WPDES) is a federally mandated program and required under ss. [281](#) and [283](#). At the current time, the law requires the DNR to issue discharge permits for fish farms with annual production levels greater than 20,000 pounds of coldwater fish species or 100,000 pounds of warmwater fish species; or facilities that feed more than 5,000 pounds of food during the calendar month of maximum feeding. A WPDES permit is not required for a fish farm that discharges less than 30 days per year. WPDES permits may be required for fish farms that are determined to be significant pollutant contributors. The type and amount of discharge determine WPDES permit fees and water quality monitoring is required. ❖

### ***Starting a New Fish Farm*** (continued from page 2)

Schedule a meeting with your regional DNR Fish Farm Environmental Coordinator to review the information and determine which permits are required and what restrictions might apply. Since there may be multiple DNR permits required for each waterway, you will likely work with multiple DNR staff.

- Natural Waterbody permit: District Fisheries Supervisor
- Ch. 30 & 31 permits: Water Management Specialist
- Well approvals: Regional Water Supply Specialists
- Water Use permits: Water Use Staff
- Discharge permits: Basin Wastewater Specialists

### **Step 3. Obtain DNR Permits Prior to Operation**

Once you have identified which permits may be required and discussed the general concept of your project with DNR staff, you'll need to complete and submit the permit application forms and the appropriate permit fees. Many of the application forms and applicable guidance can be found on the DNR website (<http://dnr.wi.gov/>) or you can work through your Environmental Permit Coordinator.

After a complete application has been submitted, DNR staff will determine if the permit standards can be met. In many instances this requires a site visit and a permit review by the DNR fisheries, wildlife, and water quality managers. The next step is to comply with any public notice requirements specified by statute or administrative rule. Once the permit decision has been issued, there is an appeal period where you or other members of the public may challenge the DNR decision. ❖

## GLOSSARY

**CONNECTS WITH A NAVIGABLE WATERWAY:** means any artificial water attached by means of enlargement or by a natural or artificial drainage course, or an open or closed conduit, any of which tend to confine and direct flow in to the existing navigable waterway (NR 343.03(3))

**DREDGING:** means any part of the process of the removal of material from the beds of waterways and the transport of the material to a disposal site (NR 347 Wis. Adm. Code).

**FREEZE-OUT POND:** means a natural, self-contained body of water in which freezing or anoxic conditions prevent the body of water from naturally sustaining a fish population at least twice every 5 years (s. 29.001(29) Wis. Stats.).

**NATURAL BODY OF WATER (NATURAL WATERBODY):** means any spring, stream, pond, lake or wetland that was historically present in a natural state but may have been physically altered over time. Waterways permitted as private by a ch. 30 or 31 permit are exempt from this definition (NR 19.91(3) Wis. Adm. Code).

**ORDINARY HIGH-WATER MARK (OHWM):** means the point on the banks or shore up to which the presence and action of water is so continuous as to have a distinct mark either by erosion, destruction of terrestrial vegetation or other easily recognized characteristics (NR 320.03(12) Wis. Adm. Code).

**PUBLIC WATERWAY:** means any waterway declared navigable under s. 30.10 Wis. Stats. In order to protect public rights in these waters, permits are required to modify or alter these waterways.

**UNCONNECTED POND:** means any waterway that does not have an open or closed outlet that discharges to another waterbody.

**WPDES:** This acronym stands for Wisconsin Pollutant Discharge Elimination System. This permitting system is a federally mandated program that requires the DNR to issue WPDES to develop Water Quality Standards (see NR 102-106 and 217 Wis. Adm. Code) for the discharge of regulated fish farms.

## FREQUENTLY ASKED QUESTIONS

### How do I know if my fish farm requires a Natural Waterbody permit?

Historical information is critical to be able to determine if the pond is a natural waterbody. By definition, if the fish farm waterway existed in a natural state as a wetland, pond, stream, or lake, then it will be considered a natural waterbody. If your pond was constructed in an area “high and dry,” it is not a natural waterbody, regardless if you had to obtain ch. 30 or 31 permits. Historical information like air photographs, county maps and the original governmental survey of 1848 can help.

### Can I construct my new fish pond in a wetland?

With most DNR permits, each permit decision is determined on a case by case basis. Remember, that ponds constructed in wetlands meet the definition of natural body of water and will require a NR 19 permit – unless they are exempt by certain ch. 30 or 31 permits being issued. Probably more importantly, there are many practical reasons not locate your fish farm in a wetland. Although the wetland will provide a water source, typically that water source is very nutrient rich which can lead to excessive weed growth, toxic algae blooms and anoxic conditions – none of which are favorable to growing fish. Introducing fish into a system that naturally does not contain fish (like shallow wetlands) can significantly damage the populations of amphibians and reptiles. This may seem like a “small” price to pay, but the cumulative impact of habitat loss and habitat shifts will reduce or even eliminate these precious species.

### When will I likely obtain a permit to construct a new fish farm?

All permit applications under ch. 30 are reviewed on a case by case basis. DNR resource managers are trained to examine the potential impacts of a proposed project on the public rights and interests associated with the waterway. However, fish farms meeting the following design recommendations may be more likely permitted:

- Raceways placed outside of wetland boundaries, fed by a high capacity well where the raceways discharge to a non-public warm-water stream or wetland.
- Ponds constructed adjacent to, or on non-public (i.e. non-navigable) warmwater streams that do not impact wetlands and that are properly approved as a pond by ch 30 and 31 permit and not declared public by condition of the permit. ❖

**DNR Contacts:** The DNR has identified a Fish Farm Environmental Permit Coordinator for each of the four DNR districts. The Coordinator does not handle each of the different types of permits, but can direct you to the appropriate DNR staff to assist you with your permit or answer your question.

**Southern District:** Columbia, Dane, Dodge, Fond du Lac, Grant, Green, Iowa, Jefferson, Kenosha, Lafayette, Ozaukee, Racine, Richland, Rock, Sauk, Sheboygan, Walworth, Washington, Waukesha counties

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2300 N Martin Luther King Jr. Drive  
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**Eastern District:** Brown, Calumet, Door, Green Lake, Kewaunee, Manitowoc, Marinette, Marquette, Menominee, Milwaukee, Oconto, Outagamie, Shawano, Waupaca, Waushara counties

Randy Schumacher  
2300 N Dr Martin Luther King Jr Drive  
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**Western District:** Adams, Buffalo, Chippewa, Clark, Crawford, Dunn, Eau Claire, Jackson, Juneau, La Crosse, Marathon, Monroe, Pepin, Portage, Trempealeau, Vernon, Wood counties

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**Northern District:** Ashland, Barron, Bayfield, Burnett, Douglas, Florence, Forest, Iron, Langlade, Lincoln, Oneida, Pierce, Polk, Price, Rusk, Sawyer, St. Croix, Taylor, Vilas, Washburn counties

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### Other Contacts:

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