

The Department of Natural Resources (DNR) is seeking public input on a proposal to:

1. Clarify permit application processing for conducting rotenone treatments on private ponds.
2. Clarify the proper requirements for reporting the use of rotenone in private ponds.

The DNR is being proactive in notifying the potential 2014 applicants now about these anticipated changes so that they can better plan for the treatment season. The DNR has authority through s. 227.11(2)(a) and interpreting s. 281.17(2) to establish procedures for the management of aquatic plants and other organisms. Chapter NR 107 of Wisconsin Administrative Code outlines the permitting process. However, ponds that meet the definition of a licensed fish farm under s. 95.60, stats., or waste treatment facilities which received approval under s. 281.41 or 283.31, Stats., are exempt from these requirements.

A. Why Are We Doing This?

- Improve consistency in the administration of NR 107 in waters of the State.
- Improve efficiencies in the permitting process.
- Improved customer service.

B. Background. Historically there have not been many treatments that utilize piscicides such as rotenone to control unwanted fish populations in private ponds. However, a few applications are submitted every year where fish control is requested. Most controls are designed to eliminate an overabundance of a specific species and/or stunted fish.

The permit application does not specifically mention fish as a nuisance so there is not a clear process for review. Moreover, the DNR Rotenone Team may provide technical assistance for treatments, thus identifying that fish are a target organism and having a defined process for review, will lead to better customer service and environmental stewardship with our partners in the industry.

C. Summary of Proposed Changes.

- 1. Identification on the permit application that fish will be the target organism.** By adding this in Section IV of the Chemical Aquatic Plant Control Application, Central Intake staff can immediately forward the application to the appropriate staff for review.
- 2. Incorporate Fish Management staff in the review process.** The local Aquatic Plant Management coordinator will forward to the local fish biologist for review. The fish biologist will determine if the Rotenone Team should be included for the review. Central Intake Staff will not review rotenone permit applications.
- 3. Reporting use of Rotenone.** Treatment records will be submitted as per NR 107.08(8) and will include Rotenone as the product, the trade name and approximate number and weight of organisms killed.

D. Remaining Steps. Once the 21-day comment period is complete, all comments will be considered, revisions will be made to this draft guidance document as warranted, a *Response Summary* will be prepared, then both the *Response Summary* and *Final Guidance* will be made available using the existing DNR Program Guidance web page (<http://dnr.wi.gov/news/input/guidance.html>) and will be posted on the DNR Aquatic Plants webpages.

Please forward your comments about this proposed policy no later than April 29, 2014, to:	Name: Scott Provost, Acting Statewide Aquatic Plant Management Coordinator Scott.Provost@wisconsin.gov	Phone: (715) 421-7881
---	--	---------------------------------

Aquatic Plant Management Handbook

CHAPTER xx

Rotenone Treatment in Private Ponds

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.

Rotenone Treatment in 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.*

Private ponds are exempt from certain requirements of NR 107 under NR 107.11(3). The requirements that apply include:

- Application for a permit and permit fee (NR 107.04(1) and (2));
- Notice to affected entities, if any (NR 107.04(4)) and DNR notice to interested entities, if any (NR 107.04(5));
- Standard permit issuance and review (NR 107.05);
- DNR supervision, if required (NR 107.07);
- DNR authority to stop or limit application (107.08(1));
- Application in accordance with label directions, existing pesticide use laws, and permit conditions (NR 107.08(2));
- Control report submitted to DNR (NR 107.08(8));
- Possible cancellation or loss of permit for noncompliance (NR 107.08(9));
- Field use evaluation permits (NR 107.10).

A permit application for a rotenone treatment of a private pond must be submitted to DNR APM Central Intake for review and processing unless the applicant is a private fish hatchery licensed under s. 95.60, stats. All requirements outlined in NR 107 must be complied with.

WPDES permits are not needed for private ponds provided there is no outfall or if the outflow can be controlled. The local wastewater engineer can make the determination whether flow can be controlled if needed.

Proper processing and permitting of rotenone treatment permit applications for private ponds

1. The permit application shall have the “other” box checked for the Goal of Aquatic Plant Control and state “fish” as a target organism in Section IV of the Chemical Aquatic Plant Control Application.
2. If the application lists a rotenone herbicide and the above step is not followed, the entire application will be considered incomplete.
3. Once received by Central Intake, the application will be forwarded to the local APM Coordinator, who will route to the local Fish Biologist for review.
4. The APM Coordinator and Fish Biologist will work with the Rotenone Team as needed.
5. Central Intake will not approve rotenone treatments for private ponds.

Proper submission of a treatment record for rotenone treatments

1. Treatment records will be reported as per NR107.08(8) with Rotenone as the product and also the trade name of the product used.
2. All species of fish and other aquatic species killed shall be reported with approximate number and weight.