

Aquatic Plant Management Handbook
CHAPTER 9.9
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.

INTRODUCTION

Administrative code requires permits for most aquatic pesticide treatments but is focused on aquatic plants. Rotenone is a piscicide used to eliminate rough and other fish nuisance conditions usually associated with restoration projects and as such is regulated as an aquatic pesticide. The Department is the only applicant for all rotenone treatments in public waters. Occasionally, private parties involved in private pond reclamation use rotenone. This chapter is intended to provide guidance on how to legally comply with WI Administrative Code NR 107 Aquatic Plant Management (APM) for the use of rotenone in private ponds.

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:

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

Wisconsin Pollutant Discharge Elimination System (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 includes:

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 includes:

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.