



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Matthew J. Frank, Secretary

101 S. Webster St.
Box 7921
Madison, Wisconsin 53707-7921
Telephone 608-266-2621
FAX 608-267-3579
TTY Access via relay - 711

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Owners of Fish Farms Registered with DATCP

As the owner of a fish farm registered with the Department of Agriculture, Trade and Consumer Protection (DATCP) you may be affected by a recently enacted state law pertaining to protection of water resources in the Great Lakes Basin. This letter contains information regarding the new legislation and explains the requirements as they may apply to aquaculture facilities.

In May 2008, the Wisconsin Legislature ratified the Great Lakes—St. Lawrence River Basin Water Resources Compact (Compact) and enacted legislation to implement the Compact in Wisconsin (2007 Wisconsin Act 227). Due to unexpectedly swift ratification by the U.S. Congress, the Compact will become effective in Wisconsin and the other Great Lakes States on December 8, 2008.

Act 227 addresses water quantity management in Wisconsin's portions of the Great Lakes Basin—that is, within the land area in Wisconsin that eventually drains to Lake Michigan or Lake Superior. The legislation sets out requirements for water withdrawals including registration, reporting, and permitting. According to Act 227, effective December 8, 2008, a person may not make a water withdrawal (surface water or groundwater) from the Great Lakes basin that averages 100,000 gallons per day or more in any 30-day period unless the withdrawal is covered under a water use permit. Within the next two years, the Department of Natural Resources will promulgate administrative rules to implement a water use permit program. In the meantime, persons with existing, approved water withdrawals that are registered with the Department and that annually report water usage are entitled to an interim approval for their approved water withdrawal. These requirements will apply to existing and future aquaculture facilities if they meet the 100,000 gallon per day water withdrawal threshold.

According to records obtained from DATCP, you own a facility that is registered as a fish farm and appears to be located within either the Lake Superior basin or the Lake Michigan basin. As such, your facility may be subject to regulation under the Compact legislation. As a first step in implementing the provisions of the Compact, the DNR must identify which facilities are subject to the registration and permitting requirements discussed above.

The purpose of this letter is to request owners of aquaculture facilities within the Great Lakes basin to indicate if they withdraw water in excess of an average of 100,000 gallons per day (equivalent to pumping continuously at approximately 70 gallons per minute) over any 30 day period.

Act 227 defines *withdrawal* in part as “the taking of water from surface water or groundwater”. The meaning of this term in regard to groundwater is fairly obvious – water removed from the ground via a well, including a flowing well, is considered a withdrawal. However, its meaning as applied to use of surface water may not be as apparent. For purposes of this initial phase of Compact implementation, the Department interprets the terms *withdraw* and *withdrawal* to include the removal or redirection of water from its natural course of flow through any structural means, including but not limited to a diversion dam or weir, pipe, pump, gravity chute, manmade channel, or flume. Water does not have to be “consumed” in order for its removal to be considered a withdrawal. Water that is removed or redirected from a stream or lake will be considered a withdrawal, even if essentially all of the water is returned to the same stream or lake. As the Department develops administrative rules over the next few years, it is possible this interpretation of what constitutes a withdrawal will be refined and additional aquaculture facilities may need to register in the future.

Use of a facility in the headwaters of a stream will not be considered a withdrawal as long there is no redirection of flow and the only sources of water to the facility are precipitation, surface runoff and natural groundwater inflow. If your facility consists solely of a spring-fed pond or a pond that is not connected to a navigable waterway and you do not have the capacity to add 100,000 gallons per day of water to your facility, you do not need to register. It is likely that most fish farms registered with DATCP will fall into this category and therefore will not need to register with the DNR under the Compact. Further, you do not need to register if the water in your facility is supplied entirely by a public water supply system. **Please refer to the enclosed list of questions to help you determine if you need to register your facility.**

If you believe that the sum of all water withdrawals for your facility exceeds an average of 100,000 gallons per day (70 gallons per minute) for any 30-day period, please complete and return the enclosed form to register your withdrawal so that your facility is in compliance with the Compact. Include all surface water and groundwater sources. If there are high capacity wells on your property, you will receive a separate letter from the Department addressing registration of your groundwater withdrawal. While you do not need to respond to that letter, please include information about the groundwater withdrawal on the enclosed form.

If you are not sure if your facility must be registered, the Department recommends that you register now, and if it is subsequently determined that you did not need to register, you will not need to proceed through the permitting process. There are no fees associated with filing a registration for facilities in existence prior to December 8, 2008. If you are confident that your facility does not withdraw water, or withdraws water below the threshold regulatory level of an average of 100,000 gallons per day over any 30-day period, **you do not need to complete or return the enclosed form**

Requirements for registration and water use permitting are separate and distinct from other DNR permitting programs such as those implemented under Ch. NR 19 (formerly NR 16) for use of a natural waterbody as a fish farm, Ch. 30, Stats., pertaining to activities in or near navigable waterways and Ch. NR 812 related to high capacity wells. If you are subject to regulation under those or other regulatory programs, any existing conditions or restrictions imposed on your facility through those permits or approvals will remain in force.

Department staff will present a summary of the Compact requirements at the Wisconsin Aquaculture Association Rules Compliance Training Workshop to be held in Madison on December 5th and they will be available to answer your specific questions. You may also contact one of the UW Extension Aquaculture Outreach Specialists listed below for more information:

Southern Wisconsin
Jim Held
920-648-2902

Central Wisconsin
Sarah Kaatz
715-346-3037

Northern Wisconsin
Ron Johnson
715-779-3189 (NADF)

Thank you for your cooperation. If you have questions please call Larry Lynch at (608) 267-7553 or Eric Ebersberger at (608) 266-1722.

Sincerely,

Eric K. Ebersberger
Water Use Section Chief
Bureau of Drinking Water and Groundwater

Enclosures