



**WISCONSIN LEGISLATIVE COUNCIL
ACT MEMO**

2013 Wisconsin Act 75
[2013 Assembly Bill 352]

**Allowing the Placement of Net Pens
in Certain Navigable Waters**

2013 Wisconsin Act 75 requires the Department of Natural Resources (DNR) to issue a general permit¹ that authorizes the placement of a net pen² in a navigable water in a Great Lakes water body or a tributary of a Great Lakes water body. The Act also exempts persons authorized by a general permit from obtaining a permit from the Department of Agriculture, Trade and Consumer Protection (DATCP) or registering the net pen with DATCP as a fish farm.

PLACING STRUCTURES IN NAVIGABLE WATERS

Current Law

Under current law, a person generally could not place a structure upon the bed of any navigable water unless the placement was exempt from regulation or the DNR had issued an individual or general permit allowing the structure. Some exempt structures include fish cribs intended to improve fish habitat, certain piers and wharves, and biological shore erosion control structures not placed in an area of special natural resource interest if they do not interfere with riparian rights.

The Act

The Act requires the DNR to issue a statewide general permit that authorizes the placement of a net pen in a navigable water in a Great Lakes water body or a tributary of a Great Lakes water body, subject to the following conditions:

- A person may place a net pen only for noncommercial purposes.
- The fish must be stocked in the net pen, and released into the water, by the DNR or by a person who has a fish stocking permit.

¹ A general permit is a permit that applies statewide to any person engaging in the activity covered by the permit. The statutes and DNR rules specify procedures for the DNR's review of applications for approval to act under general permits.

² "Net pen" means an enclosure placed in a body of water and used to hold or rear fish.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

- The fish held or reared in the net pen must be released into the same body of water into which the net pen is placed.
- The general permit may not authorize the placement of a net pen for a period of more than eight weeks.
- The general permit may not limit the number of times that a person may place a net pen in a navigable water.

REGULATION OF FISH FARMS BY DATCP

Current Law

Under current law, DATCP administers laws regulating fish farms. A fish farm is a facility at which a person hatches fish eggs or rears fish for the purpose of introduction into the waters of the state or for various other purposes including human or animal consumption. Most individuals who bring fish or fish eggs into this state for the purpose of introduction into the waters of this state are required to obtain a permit from DATCP. Current law also requires a person who operates a fish farm to annually register the fish farm with DATCP.

The Act

The Act exempts a person who is authorized under a general permit to place a net pen in the waters of this state from obtaining a permit from DATCP or registering that net pen with DATCP as a fish farm. Furthermore, the Act provides that after the date on which fish are placed in a net pen under the authority of a general permit, DATCP's authority to regulate fish farms does not apply to fish held in that net pen.

RIPARIAN OWNERSHIP

Current Law

Current law generally prohibits a person from using a natural body of water as a fish farm unless the land that is riparian to the body of water is owned, leased, or controlled by the owners of the fish farm and the body of water is a freeze-out pond, a preexisting fish rearing facility, or a body of water for which DNR has issued a permit for certain other navigable waters activities.

The Act

The Act creates an exemption to the above-mentioned prohibition against using a natural body of water as a fish farm. Under the Act, the exemption applies to a person who places a net pen under the authority of a general permit issued by the DNR.

Effective date: The Act took effect on December 14, 2013.

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