

6116.0020 PERMIT.

Subpart 1. **Required.** All aeration systems installed and operated in protected waters require a permit issued by the commissioner of the Department of Natural Resources, unless the system is used exclusively for and is no larger than the minimum size adequate to keep dams, structures, or mooring areas free of ice. No permit issued pursuant to this part shall be construed to satisfy the need for permits required by other governmental entities.

Subp. 2. **Issuance prohibited.** No aeration permit shall be issued:

A. for the purpose of attracting or delaying the migration of wild waterfowl, except for waterfowl management practices approved by the United States Fish and Wildlife Service or the Minnesota Department of Natural Resources, Division of Fish and Wildlife;

B. for protected waters designated for wildlife management under Minnesota Statutes, section 97A.101, subdivision 2, unless the aeration system is included as part of the management plan;

C. for protected waters proposed by the commissioner for designation for wildlife management purposes under Minnesota Statutes, section 97A.101, subdivision 2, until the designation process is terminated or completed;

D. for protected waters designated as scientific and natural areas under Minnesota Statutes, section 84.033; or

E. for protected waters without a management plan, unless:

(1) the protected waters are designated for use under a fish farm or hatchery license issued by the commissioner; or

(2) the protected waters do not have public access.

Subp. 3. **Winter operation.** An aeration permit shall not be issued for winter operation of a system where the diffusers are placed in a configuration where more than one open water area is created during ordinary winter weather unless:

A. there is no public access; and

B. the permittee owns all land riparian to the protected water, or all of the possessory rights to the land riparian to the protected water, or has leased all access rights to the protected water; or

C. the commissioner has first determined that such a system will provide substantial benefit to the lake resource.

Statutory Authority: *MS s 378.22*

History: *13 SR 1235*

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