



MONTANA FISH, WILDLIFE & PARKS

PRIVATE FISH POND PERMITTING

Based on state law first passed in 1945, Montana Fish, Wildlife & Parks (FWP) administers private fish pond licensing. Regulations are intended to allow the stocking of private fish ponds while ensuring that public resources are not adversely affected by unwanted fish or fish diseases, that nuisance aquatic species are not planted into ponds where they can escape or be introduced into state waters, and that habitat of wild fish is not harmed. Most of Montana's streams support wild fish without artificial stocking, and the introduction of unwanted fish species or the diversion of water for artificial ponds could potentially impact the natural ecological balance.

Many streams suffer from de-watering by consumptive water uses that have been legal in Montana for over 100 years. Additional water withdrawals can compound an already serious problem for wild fish and their habitat. Pond builders should be aware of and be sensitive to the fact that water withdrawals for new fish ponds may negatively impact downstream public resources, including wild fish. All private fish ponds consume some water. Every effort should be made to eliminate or minimize the use of stream surface water or alluvial groundwater for ponds.

Following is a brief overview of the private fish pond permitting process:

1. Obtain a private pond application from the internet at fwp.mt.gov or the nearest FWP office. Any additional questions should be directed to your Regional Fisheries Manager.
2. A private fish pond permit applicant must have a water right appropriate for the size and location of the pond. **For existing ponds, the applicant's General Abstract from DNRC must include a "Reservoir Record" that is consistent with the size and location of the pond** (see Abstract examples).
 - For existing ponds that have a valid Reservoir Record and a priority date prior to January 1, 2000 a private pond permit can be issued without a specific "fishery" or "fish and wildlife" purpose for the water body included in the water right.
 - For ponds with a water right priority date of January 1, 2000 or later, the water right must include a "fishery" or "fish and wildlife" purpose to obtain a fish pond permit.
 - Any impoundment created via the "stockwater exemption" in the Water Use Act (85-2-306(3), MCA) must obtain a new water right for fishery purposes if the stockwater exception was issued January 1, 2000 or later.
3. Most private ponds will require acquisition of water rights through application with the state Department of Natural Resources and Conservation (DNRC), 406-444-6610. One of three applications may be required:
 - Beneficial Water Use, Form 600 – **THE WATER RIGHT MUST BE ISSUED BY DNRC BEFORE FWP WILL ISSUE A FISH STOCKING PERMIT.**
 - required if your proposed pond impounds surface water or impounds more than 10 acre-feet of groundwater
 - required if you have a diverted spring or well flow rate into the pond that exceeds 35 gpm or the appropriated volume exceeds 10 acre-feet
 - Notice of Completion of Groundwater Development, Form 602 – **THE FORM MUST BE STAMPED AS RECEIVED BY DNRC OR THE GROUNDWATER CERTIFICATE ISSUED BEFORE FWP WILL ISSUE A FISH STOCKING PERMIT.**

- required if your pond is a groundwater pit with a capacity of less than 10-acre feet
 - any use of groundwater less than 10 acre-feet requires a DNRC 602 Form
 - Application to Change a Water Right – **THE CHANGE IN WATER RIGHT MUST BE AUTHORIZED BY DNRC BEFORE FWP WILL A ISSUE FISH STOCKING PERMIT.**
 - - Required to add a place of storage or a purpose of use (See “Water Rights in Montana” a booklet available from DNRC)
4. FWP cannot issue fish stocking permits until it is certain that legal water rights exist (if needed) for the pond or reservoir. It may take up to 210 days or longer for DNRC to process a correct and complete water right application, and be advised that FWP may file an objection to a requested water right if it is determined that the withdrawal will pose an unacceptable risk to fish in adjacent public/state waters. Please contact DNRC and your local County Conservation District before you begin any construction on your pond. It is recommended that you submit your fish pond application to FWP after you have completed your water right permitting process.
 5. Owners will not be permitted to stock fish ponds that are likely to flood or if they pose an unacceptable risk to game fish or species of special concern.
 6. On stream ponds will not be permitted unless it can be demonstrated that there is no threat to game fish or species of special concern in adjacent waters. You must provide documentation verifying that game fish or species of special concern do not occur in the tributary, spring or stream for your instream (on stream) pond, and that your pond does not pose an unacceptable risk to game fish or species of special concern in adjacent waters. Verification must be in the form of a formal report from an FWP-approved professional fisheries consultant (contact FWP for a current list), or other reliable data and documentation (FWP survey/inventory data, university studies, scientific journal articles). A list of game fish and species of special concern is attached for your information.
 7. Submit your completed pond application and all necessary attachments, including the \$10 application fee, to the regional FWP office. Allow a minimum of 6-8 weeks for processing your application. FWP is required by law to prepare an environmental assessment (EA) of any proposal to introduce fish into a pond and must provide a minimum 14-day public comment period on potentially controversial proposals or proposals which may have impacts that require mitigation. At least one site visit is necessary as part of the EA process.
 8. The FWP regional office will contact you to conduct a pond inspection as part of the environmental assessment process and to ensure that the pond is properly screened to prevent fish from entering or escaping the pond. This inspection is conducted after completion of all pond construction activities and filling of the pond with water.
 9. The Regional FWP office issues private fish pond permits. Permits are issued for 10 years.
 10. Only approved species of fish may be stocked in the pond. Fish may not be stocked until a private pond permit is issued. Only fish species approved and obtained from a lawful source may be stocked. Pond owners are responsible for obtaining the required import permits to obtain fish from out-of-state sources.

Normally, fish approved for stocking will be limited to those species presently occurring in the drainage. In some instances applications to stock ponds with fish will be denied and, in other cases, there may be special restrictions to protect native or sport fish species in an area. Only species that will not pose a threat to any threatened or endangered species, or species of special concern will be approved. To reduce the potential for introduction of fish diseases and exotic aquatic nuisance species, FWP

encourages pond owners to obtain fish for their ponds from private fish hatcheries in Montana. An import permit is required for a pond owner to bring fish into Montana from another state.

Because FWP is funded by general license dollars, department biologists cannot provide technical assistance to private pond owners unless free public access is provided. There are private fisheries consultants who can provide any necessary technical assistance. Contact FWP headquarters (444-2449) for more information and a list of possible consultants.

Submit a completed application form, along with all required attachments to the Fisheries Manager in your region. Tentative approval may be provided before pond construction is completed. A permit will not be issued for any pond prior to final inspection and determination that the pond is in compliance with permit conditions. The statutes regarding private fish ponds are included for your information. Please remember that it is our responsibility to protect Montana's valuable public fisheries. We appreciate your cooperation in this permitting process.

FWP ADMINISTRATIVE REGIONS

STATE HEADQUARTERS
MT Fish, Wildlife & Parks
1420 East 6th Avenue
PO Box 200701
Helena, MT 59620-0701
406-444-2535

TELEPHONE DEVICE
FOR THE DEAF
406-444-1200

REGION 1
490 North Meridian Rd
Kalispell, MT 59901
406-752-5501

REGION 2
3201 Spurgin Rd
Missoula, MT 59804
406-542-5500

**BUTTE Area Res Office
(BARO)**
1820 Meadowlark Ln
Butte, MT 59701
406-494-1953

REGION 3
1400 South 19th
Bozeman, MT 59718
406-577-7900

**HELENA Area Res Office
(HARO)**
930 Custer Ave W
Helena, MT 59620
406-495-3260

REGION 4
4600 Giant Springs Rd
Great Falls, MT 59405
406-454-5840

**LEWISTOWN Area Res
Office (LARO)**
2358 Airport Rd
Lewistown, MT 59457
406-538-4658

REGION 5
2300 Lake Elmo Dr
Billings, MT 59105
406-247-2940

REGION 6
54078 US Hwy 2W
Glasgow, MT 59230
406-228-3700

REGION 7
352 I-94 Business Loop
Miles City, MT 59301
406-234-0900

**HAVRE Area Res Office
(HvARO)**
2165 Hwy 2 East
Havre, MT 59501
406-265-6177



MONTANA FISH, WILDLIFE & PARKS

FWP Use Only

____ New

____ Modification of License

License # _____

NON-COMMERCIAL PRIVATE FISH POND LICENSE FEE \$10/TEN YEARS

If paying by check, send a **Montana** bank/check; no out-of-state checks will be accepted. Nonresidents may pay by money order, cashier's check, or international draft on a US bank made payable to MT Fish Wildlife & Parks.

APPLICATION FORM

Revised May 2009

This application is for a private fishpond that does not sell fish or fish eggs. Permits are issued to the individual applicant and are good for 10 years. These permits are transferable within the term of the permit. When issued, a permit authorizes the permittee to stock approved fish species in the designated pond. A new/transfer application is required when ownership of a pond changes or if the pond is reconstructed. **No sale of fish or fish eggs is allowed with a private pond permit. Please contact your regional FWP office for a commercial pond permit application if you want to sell fish or fish eggs.**

APPLICATIONS LACKING ANY MATERIALS WILL BE RETURNED TO APPLICANT

Modifications to License: If you have already provided all of the information required in this application, you need only complete part A, part D, specify any changes to your current license (i.e. new contact person, new fish species to be stocked) and include your license # in part C:

A. POND OWNERSHIP INFORMATION

Principal Pond Owner's Name (Please Print):

Note: Renewal notices will be mailed to this person.

Date of Birth and ALS# (issued with fishing/hunting license):

(not applicable to Corporations)

Montana Resident: Yes _____ No _____

Mailing Address: _____

City/State/Zip: _____

Phone Number: _____

Email Address:

FWP receives requests for mailing lists. Do you want your name included on lists provided by FWP to requestors?

Yes: _____

No: _____

Local Phone # and Address (if different from above) -- this is the address/phone number of the property where the pond is located:

Phone # _____

Address: _____

Corporations must provide a single contact person who will be responsible for pond maintenance, communications (i.e. property manager) and contact information (Name, Phone Number and Address).
Note: Renewal notices will be mailed to this person.

Phone #: _____

Mailing Address: _____

Co-Owners: _____
(Other property owners who have a legal interest in this property and should be listed on this pond permit.) _____

B. LOCATION AND OWNERSHIP INFORMATION

Legal Description where pond is located.

Township: _____ Range: _____ Section: _____ Nearest ¼ section: _____

County: _____

Do you own or lease the land? Own _____ Lease _____

- Attach a copy of the lease agreement.
- Attach a copy of the U.S. Geological Survey topographic map showing the exact location of this pond. Copies of aerial photos will not be accepted.
- **Draw a map giving detailed directions to this pond here or on a separate piece of paper with your name at the top and attached to your application.**

C. GENERAL INFORMATION

License History: Was this pond previously licensed by FWP? No _____ Yes _____

If yes, license number if known or name of former pond owner: _____

Fish Species requested for stocking in this pond:

NOTE: Species available for stocking are restricted in areas supporting species of special concern (e. g. westslope cutthroat trout, Yellowstone cutthroat trout, bull trout, inland redband rainbow trout, pallid sturgeon, white sturgeon, and sauger).

Pond Information: Has pond been constructed? No _____ Yes _____

Was this pond created by artificial means? No _____ Yes _____

How was it constructed? Dam _____ Excavated _____ Diversion _____ Other _____

Describe: _____

Pond surface area: _____ (Acres)

Note: Ponds larger than 500 acres cannot be licensed and your application will be denied.

Are there any fish in this pond at this time? No _____ Yes _____

List Species:

Water Rights

If you already have a water right for the pond, you must attach a General Abstract (available from DNRC, see examples provided) that includes the reservoir record for the pond. Contact DNRC if your right does not include a reservoir record.

If your water right for this pond does not include a "fishery" or "fish and wildlife" purpose and the water right priority date is January 1, 2000 or more recent, you must apply to add a Fish & Wildlife purpose to your water right (DNRC 606 Form). A "fishery" or "fish and wildlife" purpose is not necessary for ponds with priority dates prior to January 1, 2000.

_____ **600 Form for surface water – DNRC permit must be attached. It will take several months for DNRC to process your application**

_____ **602 Form for groundwater – APPLICATION STAMPED AS RECEIVED BY DNRC OR GROUNDWATER CERTIFICATE MUST BE ATTACHED.**

_____ **606 Form to add a place of storage to a current water right. DNRC AUTHORIZATION TO CHANGE MUST BE ATTACHED.**

FWP will not issue a fish stocking permit for impoundments created with the 1981 stockwater pond exception (MCA 85-2-306(6)) if the stockwater exception was issued after Dec 31, 1999. This exception was created for stock-only reservoirs. Persons desiring ponds for fish should apply to add a fisheries purpose to the stockwater right.

Inlets and Outlets

Are there inlets: No _____ Yes _____

Describe water source and method of delivery to pond and the screening system you will use to prevent escape of stocked fish:

Are there outlets: No _____ Yes _____

Describe where outlet water drains (to what surface water) and the screening system you will use to prevent escape of stocked fish:

On Stream Ponds

Is this an instream (on stream) pond? No _____ Yes _____

Does any tributary spring/stream to the pond support game fish or species of special concern? No _____ Yes _____

Describe normal streamflow: Dry _____ Intermittent _____ Perennial _____

You must provide documentation verifying that game fish or species of special concern do not occur in the tributary, spring or stream for your instream (on stream) pond.

IMPORT PERMIT REQUIREMENTS:

- An import permit is needed to bring any fish into Montana from other states or countries. You must contact FWP to obtain the import permit application. FWP maintains a list of authorized commercial fish growers. Call the FWP Fish Health Lab (406-452-6181) for the current list.

D. CERTIFICATION

I certify that I am the owner or legal lessee of the property on which this pond is located and have secured, applied for, or am exempt from all other necessary permits and water rights for this pond. (A copy of the lease agreement must be attached for all leased property.)

Signature of Applicant

Date

Send completed application with all attachments to the Fisheries Division of your regional FWP office. Incomplete applications will be returned. This application includes four pages.

******* STOP *******

BEFORE MAILING YOUR APPLICATION

Please check that all required attachments are included with your completed application:

- U.S.G.S. topographic map with pond location identified. An 8 ½"x11" photocopy of the area with the pond is acceptable.
- Directions and road map to pond site with local address and phone number.
- Lease agreement unless you own the property on which the pond is located.
- Copy of general abstract for the pond water right or copy of water right permit or change application is acceptable. Water rights for irrigation, livestock and/or domestic use will not be accepted without a reservoir record.
- For instream (on stream) ponds: verification of presence/absence of fish species of concern in tributaries to the pond and adjacent waters.
- \$10.00 Application fee. If paying by check, send a **Montana** bank/check; no out-of-state checks will be accepted. Nonresidents may pay by money order, cashier's check, or international draft on a US bank made payable to MT Fish Wildlife & Parks.

**Private pond applications without all required information
will be returned to you.**

Montana Private Fish Pond Laws

87-4-603. Fish pond license for private fish pond -- records. (1) A person who owns or lawfully controls a private fish pond may apply to the department for a fish pond license. The licensee may stock the fish pond with fish procured from a lawful source. The department may designate the species of fish that may be released in the pond and otherwise condition the license if there is a possibility of fish escaping from the pond into adjacent streams or lakes. The licensee may take fish from the pond in any manner. Before a licensee may sell fish, eggs, or fry from the pond, the licensee shall furnish a corporate surety bond to the state for \$500, conditioned to the effect that the licensee:

(a) will not sell fish or spawn from any of the public waters of this state or violate the conditions of the license; and

(b) will submit an annual report on transactions to the department pursuant to subsection (6).

(2) A person who owns or lawfully controls a fish pond that does not meet the requirements of subsection (3) but is determined by the department to not pose an unacceptable risk to game fish or fish species of concern in adjacent waters may apply to the department for a temporary fish pond license. The applicant shall abide by any condition of the license and the requirements governing private fish ponds in **87-4-606** and this section. A temporary license is valid for 1 year. An application for renewal must be made annually before the license expires.

(3) (a) "Private fish pond", as used in **87-4-606** and this section, means a body of water that does not exceed 500 surface acres, is determined by the department to not pose an unacceptable risk to game fish or fish species of concern in adjacent waters, and is:

(i) created by artificial means; or

(ii) an instream pond with a tributary spring or stream that does not support game fish or fish species of special concern.

(b) The term does not include all other natural ponds or bodies of water, including streams or rivers and impoundments or reservoirs of or on a natural stream, river, lake, or pond.

(4) An applicant for licensing of an instream private fish pond shall present to the department verification that game fish or fish species of special concern do not occur in the tributary, spring, or stream and that the instream private fish pond does not pose an unacceptable risk to game fish or fish species of special concern in adjacent waters. Verification must be in the form of:

(a) a formal report from a department-approved professional fisheries consultant; or

(b) other reliable data and documentation.

(5) The department may condition a fish pond license to require the construction, implementation, and maintenance of measures or devices to prevent fish in a private fish pond from escaping into adjacent waters.

(6) (a) A licensee who sells fish or eggs shall keep accurate records of:

(i) the species and quantities of fish or eggs sold or purchased;

(ii) dates of sales or purchases;

(iii) names of purchasers or sellers;

(iv) a purchaser's private fish pond license number and verification that the license was valid for the species of fish or eggs purchased; and

(v) locations or addresses to or from which fish or eggs are transferred.

(b) On or before January 31 of each year, a licensee who sells fish or eggs shall file a report with the department, on forms made available by the department, summarizing the records required under subsection (6)(a).

(7) A person who owns or controls a private fish pond may request an inspection by the department to ascertain the presence of disease in fish or the illegal introduction of fish species. Whenever the department has reasonable cause to believe that a fish species in the pond may have been illegally introduced or may have a disease that may affect fish in another body of water, the department shall notify the landowner or landowner's agent by mail or in person of the intention to enter upon the land and shall enter only after notice has been given to the landowner or agent or after every reasonable effort has been made to notify the landowner and receive permission to enter upon the land. Thereafter, the department may enter upon land under the provisions of this subsection for the purposes of inspecting the pond, the species of fish in the pond, the presence of disease in a fish species, the construction of any impoundment, dam, or fish barrier, and the physical connection of a pond to an adjacent natural lake, pond, or body of water, including a stream or river. The department is responsible for actual damages to any property.

(8) If the department finds an illegal introduction of fish or the presence of disease in fish in a licensed private fish pond or a natural lake, pond, or body of water, the department shall consult with the landowner or the landowner's agent to determine the appropriate action unless an emergency exists. In an emergency situation, the department may order or take appropriate action to address any threat to the state's fisheries resources, including quarantine or destruction of fish, eggs, or the source of a disease. Whenever privately owned fish are destroyed and the private owner is not responsible for an illegal introduction or the introduction of fish with a disease, the department may replace the destroyed fish without charge to the private owner. A landowner or agent who has granted permission for the department to enter is not considered responsible for an illegal introduction of fish or disease unless proved otherwise.

History: En. Sec. 14A, Ch. 238, L. 1921; re-en. Sec. 3695, R.C.M. 1921; amd. Sec. 6, Ch. 77, L. 1923; amd. Sec. 1, Ch. 43, L. 1929; re-en. Sec. 3695, R.C.M. 1935; amd. Sec. 1, Ch. 125, L. 1949; amd. Sec. 28, Ch. 511, L. 1973; amd. Sec. 32, Ch. 9, L. 1977; amd. Sec. 13, Ch. 417, L. 1977; R.C.M. 1947, 26-306; amd. Sec. 9, Ch. 376, L. 1989; amd. Sec. 1, Ch. 425, L. 1995; amd. Sec. 1, Ch. 108, L. 1999; amd. Sec. 1, Ch. 277, L. 2019; amd. Sec. 1, Ch. 278, L. 2019.

87-4-606. Term of fish pond license -- fees -- site inspections -- license not transferable -- exception for transfer. (1) Except as provided in subsections (3) and (4), a fish pond license issued pursuant to **87-4-603** is valid for 10 years.

(2) There is a \$10 application fee and a \$10 renewal fee for each fish pond license.

(3) (a) Except as provided in subsections (3)(b) and (4), a fish pond license expires on February 28 of the 10th year succeeding the year of issuance or renewal.

(b) A licensee who sells fish or eggs under **87-4-603** shall renew the license annually. The license expires on February 28 of the year succeeding the year of issuance.

(c) An application for renewal must be made before a license expires. The department shall renew the license if the licensee has not violated any condition upon which the license was granted and if the licensee has met all of the requirements governing private fish ponds in **87-4-603** and this section.

(4) A new license is required when a licensee proposes to plant a new species or stock a pond not designated in the original license.

(5) (a) Except as provided in subsection (5)(b), a fish pond license granted under **87-4-603** is not transferable.

(b) If ownership or control of the private fish pond changes, the new owner or operator shall apply to the department for a license transfer. The transfer must be approved by the department before the new owner or operator may continue operation of the private fish pond.

(c) A transferred license retains the remaining portion of the original license's term.

History: En. Sec. 10, Ch. 376, L. 1989; amd. Sec. 1, Ch. 157, L. 2005; amd. Sec. 2, Ch. 277, L. 2019.

87-4-607. Revocation of fish pond license. (1) A fish pond license or a temporary fish pond license issued pursuant to **87-4-603** may be revoked for failure to operate or use the pond according to the terms or conditions of the license or any statute, rule, or order covering importation, transportation, or introduction of fish or eggs.

(2) If the department discovers a violation under this section, it may institute revocation proceedings after providing reasonable notice and opportunity for a hearing to the licensee. After hearing and upon proof of the violation, the department may revoke the fish pond license.

History: En. Sec. 11, Ch. 376, L. 1989; amd. Sec. 3, Ch. 277, L. 2019.

FISH SPECIES IN MONTANA

<u>Native Species of Special Concern</u>	<u>Native Species</u>	<u>Non-Native Species</u>
<p><u>Game Fish of Special Concern</u></p> <p>Arctic Grayling Paddlefish Pallid Sturgeon (Endangered) Kootenai River White Sturgeon (Endangered) Bull Trout (Threatened) Westslope Cutthroat Trout Yellowstone Cutthroat Trout Columbia Basin Redband Trout Pygmy Whitefish Lake Trout Sauger</p> <p><u>Non-Game Fish of Special Concern</u></p> <p>Sicklefin Chub (Petitioned for Listing) Sturgeon Chub (Petitioned for Listing) Northern Pearl Dace Northern Redbelly Dace X Finescale Dace Northern Redbelly Dace Shortnose Gar Deepwater Sculpin Spoonhead Sculpin Torrent Sculpin Blue Sucker Trout-Perch Iowa Darter</p>	<p><u>Game Fish</u></p> <p>Burbot Channel Catfish Northern Pike Shovelnose Sturgeon Mountain Whitefish Lake Whitefish</p> <p><u>Non-Game Fish</u></p> <p>Bigmouth Buffalo Smallmouth Buffalo River Carpsucker Creek Chub Flathead Chub Lake Chub Longnose Dace Freshwater Drum Goldeye Brassy Minnow Fathead Minnow Plains Minnow Western Silvery Minnow Peamouth Northern Pikeminnow Shorthead Redhorse Columbia Slimy Sculpin Rocky Mountain Sculpin Cedar Sculpin Emerald Shiner Redside Shiner Sand Shiner Brook Stickleback Stonecat Longnose Sucker Mountain Sucker White Sucker Largescale Sucker</p>	<p><u>Game Fish</u></p> <p>Largemouth Bass Smallmouth Bass Northern Pike Tiger Muskie Chinook Salmon Kokanee Lake Trout Brook Trout Brown Trout Golden Trout Rainbow Trout Walleye Yellow Perch Lake Whitefish</p> <p><u>Non-Game Fish</u></p> <p>Rock Bass White Bass Bluegill Sunfish Black Bullhead Plains Killifish Yellow Bullhead Common Carp Utah Chub Cisco Black Crappie White Crappie Goldfish Sailfin Molly Shortfin Molly Western Mosquitofish Central Mudminnow Variable Platyfish Pumpkinseed Golden Shiner Spottail Shiner Rainbow Smelt Green Sunfish Green Swordtail</p>