

Agricultural Pond Development

Frequently Asked Questions

- 1. If my proposed pond qualifies for an agricultural exemption from Corps of Engineers permitting, is it necessary to apply for a 401 water quality certification?** *No, since no 404 permit is required, neither is a 401 certification required.*
- 2. If I want to excavate an agricultural pond in a wetland that involves disturbance of more than 1 acre, do I have to submit a sedimentation and erosion control plan?** *Since the pond is for agricultural purposes, it is exempt from requirements to submit a sediment and erosion control plan.*
- 3. I need a pond for livestock watering. Is it a requirement that livestock be excluded from the pond to qualify for the agricultural exemption?** *No, livestock exclusion is not required, but it is recommended to protect the structural integrity of the pond and to provide a higher quality watering source.*
- 4. Can I qualify for an exemption for a pond to water my horses? To irrigate my ornamental nursery stock?** *No, the pond must be needed for the production of food or fiber to qualify for an exemption from the Corps of Engineers (COE). Neither horses nor nursery crops meet this definition. The customer may choose to apply for a permit from the COE for this activity.*
- 5. Can I qualify for an ag exemption to construct a pond for aquacultural production?** *No, due to a March 15, 2010 EPA letter to the COE Wilmington District Engineer.*
- 6. Can I qualify for an ag exemption to construct a pond to supply water to replenish my aquacultural operation?** *No. A permit is required. See #5 above.*
- 7. Beavers have created a pond on my property. Am I required to get a permit or request an exemption to retain and use this pond?** *Neither permit nor exemption is needed, since the pond was created naturally. However, if the customer intends to do any filling to reinforce the dam, then a permit may be required.*
- 8. I want a fish pond on my property, but I do not intend to use the pond for irrigation or livestock watering. I understand that this pond does not qualify for the agricultural exemption, but can the district or NRCS provide assistance with screening potential pond sites.** *Yes, the district and NRCS can provide a preliminary site assessment for any pond. However, it may be considered a lower priority than an assessment for a pond needed for irrigation or livestock.*
- 9. Is a professional engineer required to design my pond?** *No. However, any pond structure that requires a dam safety permit must be designed and supervised by a professional engineer. Customers should be advised to review the **Fact Sheet: Planning & Permitting Requirements Associated with Pond Construction** to determine whether additional federal, state, and local laws*

and permit requirements apply. The NC Chapter of the American Consulting Engineers Council website can be a good resource to find a consulting engineer.

- 10. How do I determine if my proposed pond location is in a FEMA designated floodway?** *For most locations the FEMA designated floodway can be found at NCFloodmaps.org or NCOneMap.org. You should also advise the customer to confirm with the local/county planning or emergency management office that the site is not in the designated floodway.*
- 11. Who determines if a low-flow device is required for a pond?** *Only the Corps of Engineers can make the determination of whether a low-flow device is required based on expected low-flow conditions of the stream. The need for a low-flow device is determined by a case-by-case assessment of the site.*
- 12. How can I find a private engineer with experience in designing ponds?** *Go to the Board of Registration for Professional Engineers website (ncbels.org). Search for engineers with experience in ponds and dams. Check their references.*
- 13. Where can I get a copy of the NRCS Standards for ponds?** *The standard can be downloaded from the Electronic Field Office Technical Guide at <http://efotg.sc.egov.usda.gov/references/public/NC>.*
- 14. How can I access the GIS tools demonstrated in the workshop?** *The soils information can be accessed by the general public through the web soil survey. ArcMap is installed on all federal computers at the local field office. Utilize county templates to access LIDAR and other geodata.*
- 15. What constitutes a disturbance in a water quality buffer for DWQ? In a trout buffer for DLR?** *Any clearing of vegetation within 50 feet of the stream may be considered a disturbance. Contact the DWQ for a site-specific determination. For trout buffers, any activity that will impact more than 10% of the trout buffer length will require a waiver from the Division of Land Resources as part of an erosion and sediment control plan.*
- 16. How do I determine the height of the dam?** *The height is measured from the highest point on the crest (top) of the dam to the lowest point on the downstream toe of the dam (normally at the stream channel).*
- 17. How often will my dam be inspected by the Division of Land Resources?** *Low- and Intermediate-hazard – at least once every 5 years, High-hazard – at least once every two years. Dams that are not subject to Dam Safety permitting do not require inspections.*
- 18. My farm is in the Neuse River Basin, but currently my stream has no buffer due to existing use provision. If I install an exempt agricultural pond on the stream, will I be required to install a buffer around the pond?** *Yes, since the pond represents a change in use.*
- 19. Who is responsible for maintaining a dam structure for a pond that is owned by multiple landowners.** *Generally, all parties who own land covered by the pond are responsible for maintaining the portion of the dam located on their property.*

- 20. Do I need a permit to remove or breach a dam?** *Yes, if the pond is under the jurisdiction of the Dam Safety Law of NC. A COE permit is potentially required if the removal will result in a discharge of fill material (including a sediment plume). This (COE permit) is also true for removing beaver dams.*
- 21. Does NRCS do stream determinations?** *No, NRCS does wetland determinations for Food Security Act purposes. The Corps of Engineers and DWQ does stream and wetland determinations for Clean Water Act and buffer rule purposes*
- 22. What should I do if my dam fails from a natural event.** *Contact the COE immediately to declare your intent to restore the dam. If the dam is under the jurisdiction of the Dam Safety Law of NC, the Division of Land Resources should be notified of the failure and additional actions and permit requirements discussed. In any event, emergency measures should be taken to prevent additional loss of sediment from the dam.*