

CHAPTER 89
AQUACULTURE DEVELOPMENT

Authority

N.J.S.A. 4:27-1 et seq.

Source and Effective Date

R.2009 d.388, effective November 25, 2009.
See: 41 N.J.R. 2752(a), 41 N.J.R. 4700(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 89, Aquaculture Development, expires on November 25, 2016. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 89, Emergency Drought Relief Program, was adopted as Special New Rules by R.1999 d.437, effective November 24, 1999. See: 31 N.J.R. 4331(a). Chapter 89, Emergency Drought Relief Program, expired May 24, 2000.

Chapter 89, Aquaculture Development, was adopted as new rules by R.2004 d.202, effective June 7, 2004. See: 36 N.J.R. 628(a), 36 N.J.R. 2718(a).

Chapter 89, Aquaculture Development, was readopted as R.2009 d.388, effective November 25, 2009. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 2:89-1.1 Purpose and scope
2:89-1.2 Definitions

SUBCHAPTER 2. AQUATIC FARMER LICENSE

- 2:89-2.1 Aquatic Farmer License requirements
2:89-2.2 Preexisting aquatic farms
2:89-2.3 Exemptions to the license requirement
2:89-2.4 Aquaculture application
2:89-2.5 Approval process

SUBCHAPTER 3. EFFLUENT TREATMENT

- 2:89-3.1 Exemptions
2:89-3.2 Minimum impact aquatic farms

SUBCHAPTER 4. IDENTIFICATION OF AQUACULTURED STOCK

- 2:89-4.1 Sale or distribution
2:89-4.2 Label requirements
2:89-4.3 Shellfish dealer certification
2:89-4.4 Food license

SUBCHAPTER 5. AQUATIC ORGANISM HEALTH MANAGEMENT

- 2:89-5.1 Notice or existence of disease of concern
2:89-5.2 Quarantine
2:89-5.3 Depopulation

SUBCHAPTER 6. IMPORT OF AQUATIC ORGANISMS FOR THE PURPOSE OF AQUACULTURE

- 2:89-6.1 Health Certificate
2:89-6.2 Release of finfish

SUBCHAPTER 7. COMPLIANCE MONITORING

- 2:89-7.1 Compliance
2:89-7.2 Inspection protocol

SUBCHAPTER 8. VIOLATIONS AND ENFORCEMENT

- 2:89-8.1 Violations and enforcement

APPENDIX A

APPENDIX B

SUBCHAPTER 1. GENERAL PROVISIONS

2:89-1.1 Purpose and scope

(a) These rules establish a program for licensure of the possession and ownership of aquacultured organisms.

(b) Aquacultured plants and animals shall be considered to be agricultural crops and animals.

(c) Pursuant to 7 U.S.C. § 2204(g), licensed aquatic farmers are required to provide annual production information for the census of agriculture.

2:89-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Act” means the Aquaculture Development Act, N.J.S.A. 4:27-1 et seq.

“Applicant” means a person who is in or is seeking to enter into aquaculture and who submits an application for a license to the NJDA.

“Aquaculture” is a form of agriculture involving the propagation, rearing and subsequent harvesting of aquatic organisms in controlled or selected environments, and the subsequent processing, packaging and marketing, and shall include, but is not limited to, activities to intervene in the rearing process to increase production such as stocking, feeding, transplanting and providing for protection from predators. Aquaculture is a water dependent activity. Aquaculture shall not include the construction of facilities and appurtenant structures that might otherwise be regulated pursuant to any State or Federal law or regulation.

“Aquaculture system” means any tank, raceway, contained pond or closed recirculating system or any waters of the State into which aquatic organisms are placed for the purposes of aquaculture.

“Aquatic farm” means any leased or privately owned water system and associated facilities and appurtenant structures capable of holding and/or producing cultured aquatic stock. It

may also refer to more than one facility and may include both hatchery and grow-out components, multi-species farms, processing, packaging and marketing.

“Aquatic farmer” means any person who operates and maintains an aquatic farm.

“Aquatic Farmer License” means the formal license issued by the NJDA for the possession and ownership of aquacultured organisms by a person, partnership or corporation.

“Aquatic organism” means an animal or plant of any species or hybrid thereof and includes gametes, seeds, eggs, sperm, larvae, juvenile and adult stages any of which is required to be in water during that stage of its life. This definition does not include birds and mammals.

“Aquatic species” means any species of fish, mollusk, crustacean, other aquatic invertebrate, amphibian, reptile or aquatic plant but is not limited to fish and fishes.

“Closed system” means an aquatic farm with discharges that do not connect in any way to the waters of the State prior to filtration or percolation in order to prevent cultured aquatic stock from escaping and generally recirculates its system discharges.

“Cultured aquatic stock” means privately owned aquatic organisms lawfully acquired, held and grown in an aquatic farm.

“Department” or “NJDA” means the New Jersey Department of Agriculture.

“Fee fishing” means paying a fee to engage in the removal of cultured, licensed aquatic stock from a farm for recreation or sporting purposes.

“Native species” means any species of any plant or animal that naturally occurs in the water of the State and is capable of surviving in the wild for 12 consecutive months.

“NJDEP” means the New Jersey Department of Environmental Protection.

“NJDHSS” means the New Jersey Department of Health and Senior Services.

“Non-native species” means any species of plant or animal that does not occur naturally in the waters of the State.

“Person” shall mean individuals, public or private corporations, companies, associations, societies, firms, partnerships, and joint stock companies.

“Producer” shall mean any person, firm, partnership, association or corporation that intervenes in the rearing process of aquatic organisms listed in the North American Industrial Classification System under Animal Aquaculture 1125 or Greenhouse, Nursery and Floriculture 1114 to enhance production and receives sales revenues from those organisms.

“Public hatchery” means any hatchery run by the State of New Jersey for the culture of aquatic organisms. Such facilities shall be exempt from all of the provisions of this chapter.

“Secretary” means the Secretary of the New Jersey Department of Agriculture.

“Waters of the State” means all surface and groundwaters of the State but does not include the waters in a closed system.

SUBCHAPTER 2. AQUATIC FARMER LICENSE

2:89-2.1 Aquatic Farmer License requirements

(a) All producers of cultured aquatic stock who anticipate production of aquacultured products worth \$2,500 or more annually shall obtain an Aquatic Farmer License from the New Jersey Department of Agriculture.

1. In order to obtain the benefits provided by the Aquatic Farmer License, it is strongly recommended that all aquaculturists, even those with lower levels of production, obtain a License.

(b) Issuance of said Aquatic Farmer License will be based upon submission to and approval by the NJDA of a properly completed “Aquatic Farmer License Application” containing all information required by these rules. An applicant whose aquatic farm was not in operation as of June 7, 2004 must also show that he or she possesses all State and Federal permits and approvals required for the operations and activities of the aquatic farm.

1. A copy of the application is attached hereto as Appendix A and is hereby adopted and incorporated by reference as part of this rule.

(c) Aquatic Farmer Licenses will be effective for a period of five years from June 30 of the year of issuance, provided the licensee complies with the terms of the license and the requirements of State and Federal permits governing the operation. All Aquatic Farmer Licenses will expire on June 30 five years from the calendar year of issuance.

(d) Each licensed aquatic farmer shall be issued a number by the NJDA to be used as a reference for marketing, transport and sale documents.

(e) The Aquatic Farmer License for the possession and ownership of aquacultured organisms is transferable upon approval by the NJDA of a formal written request made within 14 days of the change in ownership, provided that there is no significant change in operations such as a change in genus, system capacity or type of system.