

Right to Farm 101 for Aquaculture Stakeholders in Iowa

This fact sheet was prepared by the National Sea Grant Law Center as part of the Agricultural and Food Law Consortium.



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Commercial aquaculture operations, like traditional agricultural operations, sometimes face legal challenges from neighbors raising concerns about farm operations. Nuisance lawsuits filed against agricultural operations often involve allegations by neighboring property owners that the odor, dust, or noise associated with farming is interfering with their ability to enjoy and use their property. In general, “right-to-farm” legislation protects agricultural operations from such nuisance claims when certain conditions are satisfied. This document examines Iowa’s right-to-farm legislation and how it applies to commercial aquaculture. For a more comprehensive explanation of right-to-farm laws and their significance, please refer to the National Sea Grant Law Center’s document entitled “Aquaculture and the Right to Farm,” which can be found at <http://nsglc.olemiss.edu/projects/ag-food-law>.

State right-to-farm laws usually contain the following key elements:

- **Time in Operation Requirements** designating how long agricultural operations must be in existence before any statutory nuisance defense becomes available;
- **Preemption Clauses** ensure that municipal laws do not diminish nuisance protections for farmers;
- **Legal Presumptions or Complete Defenses** for farmers operating in conformance with applicable laws;
- **Exceptions** for recovery of damages due to injury; for public health, safety, and/or welfare; and/or for improper or negligent operation of farms; and
- **Best Management Practices** (BMPs) that farmers must adhere to for nuisance protections to apply.

The second page of this fact sheet provides a snapshot summary of Iowa’s right-to-farm legislation with respect to these key elements. While the following information encompasses the state’s statute as it exists in 2018, it is important for aquaculture stakeholders to remember that, because the industry is developing, states may alter or add to their right-to-farm legislation in the future. The outcome of related court cases could also alter applicable provisions of a state’s right-to-farm law. Aquaculture stakeholders should consult an attorney or another outside source before taking any action based on the following information. Interested parties might first contact Iowa State University’s land-grant Extension.

For more information about this program:

Iowa State University Extension and Outreach: <https://www.extension.iastate.edu>

Summary of Iowa's Right-to-Farm Legislation

- Iowa's right-to-farm legislation was passed in 1993 and can be found in the Iowa Code at Title 9, Section 352.11.
- Iowa includes fish in its definition of "farm products." A "farm operation" is defined as a condition or activity which occurs on a farm in connection with the production of farm products.
- In Iowa, a farm or farm operation located in an agricultural area is not a nuisance regardless of the established date of operation or expansion of the agricultural activities of the farm or farm operation.
- Iowa's legislation carries no time in operation requirement.
- Iowa's legislation contains no provisions related to preemption.
- Iowa's legislation contains no provisions related to rebuttable or irrebuttable presumptions or complete defenses.
- Iowa's legislation contains four exceptions to nuisance protection.
 - Nuisance protection does not apply to actions or proceedings arising from injury or damage to a person or property caused by a farm or farm operation before the creation of an agricultural area.
 - Nuisance protection does not affect or defeat the right of a person to recover damages for an injury or damage sustained by them because of the pollution or change in condition of stream waters, overflow of the person's land, or excessive soil erosion caused by agriculture.
 - Nuisance protection does not apply to nuisances that result from farm operations determined to be in violation of a federal statute or regulation or a state statute or rule.
 - Nuisance protection does not apply if the nuisance results from the negligent operation of the farm or farm operation.
- Iowa does not require that its farms abide by any management practices requirements.
- Iowa has not yet produced a BMP manual related to aquaculture.