

# Right to Farm 101 for Aquaculture Stakeholders in Rhode Island

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



AGRICULTURAL & FOOD  
LAW CONSORTIUM



*The Agricultural & Food Law Consortium, led by the National Agricultural Law Center, is a national, multi-institutional collaboration designed to enhance and expand the development and delivery of authoritative, timely, and objective agricultural and food law research and information.*



*This material is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture.*

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 Rhode Island’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 Rhode Island’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 Rhode Island Sea Grant, housed at the University of Rhode Island, or the University of Rhode Island’s land-grant Extension.

## For more information about these programs:

Rhode Island Sea Grant: <http://seagrant.gso.uri.edu>

University of Rhode Island Cooperative Extension: <https://web.uri.edu/coopext>

## Summary of Rhode Island's Right-to-Farm Legislation

- The Rhode Island Right to Farm Act was enacted in 1982 and can be found in the General Laws of Rhode Island at Sections 2-23-1 – 2-23-7.
- Rhode Island's Right to Farm Act defines "agricultural operations" to include any commercial enterprise that has aquaculture as its primary purpose.
- No agricultural operation can be a nuisance because of alleged objectionable:
  - Odor from livestock, manure, fertilizer, or feed, occasioned by general accepted farming procedures;
  - Noise from livestock or farm equipment used in normal, generally accepted farming procedures;
  - Dust created during plowing or cultivation operations; or
  - Use of pesticides, rodenticides, insecticides, herbicides, or fungicides.
- The Rhode Island Right to Farm Act carries no time in operation requirement.
- Rhode Island's preemption provisions prevent municipal ordinances created to control the construction, location, and maintenance of places for keeping animals from applying to agricultural operations.
  - Furthermore, no rule or regulation of the Department of Transportation can be enforced against any agricultural operation to prevent it from placing a seasonal directional sign or display on the state's right-of-way, on the condition that the sign or display conforms to any local zoning ordinances, and that the sign or display is promptly removed by the agricultural operation upon the conclusion of the season for which the sign or display was placed.
- Rhode Island's legislation contains no references to rebuttable or irrebuttable presumptions or complete defenses.
- Rhode Island's Right to Farm Act carries one exception. Nuisance protections neither apply to agricultural operations conducted in a malicious or negligent manner, nor to operations conducted in violation of federal or state law controlling the use of pesticides, rodenticides, insecticides, herbicides, or fungicides.
- Rhode Island does not require that farms abide by specific management practices.
- Rhode Island has yet to release a BMP manual related to aquaculture.