

**TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND
FORESTRY
CHAPTER 50. AQUACULTURE**

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. Private Commercial Production [NEW]

Part 1. General Provisions [NEW]

35:50-1-1 [NEW]

35:50-1-2 [NEW]

Part 3. Licensing, Reporting, and Records [NEW]

35:50-1-30 through 35:50-1-38 [NEW]

AUTHORITY:

Oklahoma State Board of Agriculture; Senate Bill 920 passed the 48th Legislature, Second Session. New language to be codified in the Oklahoma Agriculture Code, 2 O.S. § 6-311 et seq. (2002)

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SUPERSEDED EMERGENCY ACTIONS:

Superseded rules:

Subchapter 1. Private Commercial Production [NEW]

Part 1. General Provisions [NEW]

35:50-1-1 [NEW]

35:50-1-2 [NEW]

Part 3. Licensing, Reporting, and Records [NEW]

35:50-1-30 through 35:50-1-38 [NEW]

Gubernatorial approval:

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INCORPORATIONS BY REFERENCE:

N/A

ANALYSIS:

The purpose of the proposed rules is to meet the needs of the new program moved to this agency by Senate Bill 920 that became effective November 1, 2002. The rules lay out a framework for the initial and renewal of aquaculture licenses, expansion requirements, cost of aquatic culture decals, record keeping, technical services, complaints, inspections, annual reporting, and emergency notifications. This rule is needed to promote the continued growth and economic development of the aquaculture industry in Oklahoma.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JUNE 12, 2003:

SUBCHAPTER 1. PRIVATE COMMERCIAL PRODUCTION

PART 1. GENERAL PROVISIONS

35:50-1-1. Purpose

These rules shall regulate the private commercial production of fish, frogs, or other aquatic species within the state of Oklahoma. The rules provide requirements for licensing aquaculture facilities to operate within the state of Oklahoma. These rules specifically prohibit the importation or exportation of minnows and other fish species that are subject to the provisions of Sections 4-105, 4-115, and 7-602 of Title 29 of the Oklahoma Statutes.

35:50-1-2. Definitions

"Aquaculture operation" means a private commercial producer of catfish, minnows, fingerlings, fish, frogs, or other aquatic species.

"Aquatic species" means any species of finfish, mollusk, crustacean, or other aquatic invertebrates, amphibians, or reptiles.

"BMP" means Best Management Practices.

"Fingerling" means a sexually immature fish for a majority of fish species.

"Operator" means the individual who has responsibility for the day to day operations of the facility. The operator may also be the owner.

"Owner" means the individual who has financial responsibility for the aquaculture operation and whose name appears as owner on all legal documents.

PART 3. LICENSING, REPORTING, AND RECORDS

35:50-1-30. Initial licensing requirements

Every aquaculture operation shall obtain a license and aquaculture hauling unit decals from the Department.

(1) A duplicate license may be issued at the cost of five dollars (\$5.00) each.

(2) Licenses are non-transferable.

(3) A license may be revoked pursuant to Title 2, Section 6-316 F1-4.

(4) No license shall be issued prior to an initial inspection by the Department.

(5) Each hauling unit used for the transportation of live aquatic species shall be affixed with each of the following:

(A) No less than two (2) hauler decals.

(i) Each decal shall be replaced every eight (8) years and shall be available from the Department.

(ii) Each decal shall cost One Dollar and Seventy-Five Cents (\$1.75).

(B) No less than two (2) date decals indicating the appropriate year.

(i) The date decals shall each be applied to a separate hauler decal.

(ii) Each date decal shall cost One Dollar and Twenty-Five Cents (\$1.25) and shall be available from the Department.

(6) Prior to issuance of a license, an applicant shall provide the following to the Department:

(A) A license fee of ten dollars (\$10.00).

(B) Proof of identification including the applicant's age or date of birth and current residency information.

(C) A list of all persons with control or decision-making authority at the aquaculture operation, including but not limited to owners, operators, and managers.

(D) If applicable, copies of any permits directly related to the aquaculture operation issued by the Oklahoma Department of Environmental Quality

(including a copy of any BMP submitted to the Oklahoma Department of Environmental Quality), the Oklahoma Water Resources Board, and the Army Corps of Engineers.

(E) A map or aerial photograph showing the aquaculture operation including the facilities and property lines, and specifies the legal description of the property or Global Positioning System (GPS) coordinates.

(F) A catastrophic aquatic species die-off disposal plan that requires immediate notification to the Department and is approved by the Department for emergency purposes.

35:50-1-31. Renewal licensing requirements

Each aquaculture operation shall renew the license and aquaculture vehicle decals by January 15th of each year.

(1) The renewal application shall include the following:

(A) A renewal fee of ten dollars (\$10.00). Any renewal fee received after the annual renewal deadline of January 15th shall be assessed a late fee of ten dollars (\$10.00).

(B) A copy of any modifications, changes, updates, or renewals to the items listed in (6)(B) through (F) of Rule 35:50-1-30.

(C) An annual report.

(2) Each hauling unit used for the transportation of live aquatic species shall be affixed with each of the following:

(A) No less than two (2) hauler decals.

(i) Each decal shall be replaced every eight (8) years and shall be available from the Department.

(ii) Each decal shall cost One Dollar and Seventy-Five Cents (\$1.75).

(B) No less than two (2) date decals indicating the appropriate year.

(i) The date decals shall each be applied to a separate hauler decal.

(ii) Each date decal shall cost One Dollar and Twenty-Five Cents (\$1.25) and shall be available from the Department.

35:50-1-32. Inspections

The Department shall conduct at least one inspection every two (2) years of each licensed aquaculture operation.

35:50-1-33. Annual report

Each licensed aquaculture operation shall file an annual report by January 15th of each year.

(1) The aquaculture operation license shall not be issued or renewed without submission of the annual report.

(2) The annual report shall provide the following information for the 12 month period starting January 1st through December 31st of the same calendar year:

(A) A list of each type of aquatic species propagated and bought for resale.

(B) The total number or pounds of each aquatic species sold, further identified as fingerlings or adults.

(C) The total number of pond acres in production.

(D) The method of aquatic species propagation; i.e. ponds, cages, raceway, or other methods.

(E) A list of each water supply source including but not limited to runoff, well water, stream water, or other sources.

35:50-1-34. Facility expansion requirements

(a) The licensee shall notify the Department on a form provided by the Department of any expansion of an aquaculture operation.

(b) Every licensed aquaculture facility expanding after November 1, 2002, shall provide the following:

(1) A copy of the construction permit issued by the Army Corps of Engineers, if applicable.

(2) A copy of any modifications, changes, updates, or renewals of any permit issued by the Oklahoma Department of Environmental Quality, the operation's BMP, or the catastrophic aquatic species die-off disposal plan.

35:50-1-35. Record keeping

The following records shall be retained on site for three (3) years:

(1) Copies of each annual report.

(2) Copies of all construction permits issued by the Army Corps of Engineers, if applicable.

(3) All Aquaculture Operation Licenses issued by the Department.

(4) Copies of all permits and BMP's required by the Oklahoma Department of Environmental Quality, if applicable.

(5) Copies of inspection reports.

(6) Any laboratory analysis sheets pertaining to the health of the aquatic species.

(7) Any and all documents relating to diseased aquatic species and disposal of carcasses.

35:50-1-36. Emergency notifications

Licensed aquaculture operations shall immediately notify the Department of any abnormal disease outbreak, any catastrophic aquatic species die-off, or any unusual aquatic species mortalities.

35:50-1-37. Technical services

At the owner's request the Department may provide technical assistance recommendations to owners of licensed aquaculture operations at the rate of thirty dollars (\$30.00) per hour. In addition, any costs for supplies, mileage, or other expenses shall be paid by the owner.

35:50-1-38. Complaints

The Department shall investigate all complaints made against an aquaculture operation to determine compliance with the statutes and rules of the state of Oklahoma. Any violations of state law may result in fines, revocation of the Aquaculture Operations License, or criminal prosecution.