



New York State 2008 Aquaculture Grant Program Application and Agreement

THIS AGREEMENT, made and entered into by and between the *New York State Department of Agriculture and Markets*, and

1. Name of Producer:	2. Producer Identification Numbers: a. Individual: Social Security #: _____ b. Not an Individual: Federal tax ID #: _____ DUNS# : _____	
3. Address of Producer:	4. Phone Number:	5. Fax Number:
5. Primary Contact:	6. Primary Contact Address if different:	
7. E-mail:		
8. DEC Permit # _____		
9. APPLICABLE SPECIES OF AQUACULTURE: <input type="checkbox"/> Trout <input type="checkbox"/> Bass <input type="checkbox"/> Tilapia <input type="checkbox"/> Other _____		
10. Are you an aquaculture producer in another state: <input type="checkbox"/> Yes <input type="checkbox"/> No If you answered yes to the above question, list all states applicable: _____		
11. <input type="checkbox"/> Check if applying for more than the \$100,000 payment limit. The payment limitation shall be applied to an applicant based on the applicant's business structure as it existed during calendar year 2008.		
12. 2008 Feed Costs: Attach copies of invoices for feed purchased in 2008 <u>or</u> signed verification letter from feed provider certifying 1) tons of feed by species applicant purchased in 2008; and 2) average price per ton, by species, producer paid in 2008. Sample letter attached.		
<u>Species (2003-2007 Average</u>	<u>2008 Average Feed Cost Per Ton</u>	<u>Tons of Feed Purchased in 2008</u>
<u>Feed Cost Per Ton)</u>		
i) Trout (\$686.10)	\$ _____	_____
ii) Bass (\$859.90)	\$ _____	_____
ii) Tilapia (\$609.54)	\$ _____	_____
<u>Other (also complete Section 13)</u>		
iv) _____	\$ _____	_____
v) _____	\$ _____	_____
vi) _____	\$ _____	_____
vii) _____	\$ _____	_____

13. Provide the following data if claiming other species feed costs for which an average feed price for 2003-2007 has yet to be established. This data will be combined with other growers' data, and an average price computed.

2008 Aquaculture Grant Program Application Supplement to Report Feed Costs by Species
 New York State

Producer: _____

Species	2003		2004		2005		2006		2007		Total 2003-2007	
	Tons	Total Cost	Tons	Total Cost	Tons	Total Cost	Tons	Total Cost	Tons	Total Cost	Tons	Total Cost

This information only needs to be supplied for feed costs claimed for species for which a five year average cost has not been established.

TERM OF AGREEMENT

Beginning with the date this agreement is approved by NYSDAM through September 30, 2010.

COMPLIANCE WITH PROGRAM

PRODUCER agrees to comply with the terms and conditions of the 2008 AGP as specified by the STATE.

RECORDS AND AUDITS

PRODUCER agrees to maintain, for a period of 3 years after September 30, 2010, all records pertaining to the aquaculture operation during the term of this agreement. PRODUCER agrees to furnish such information and reports relating to this Agreement as may be requested by the STATE. Periodically, the STATE may require PRODUCER to forward to the STATE copies of any and all records that support the PRODUCER'S receipt of assistance under the 2009 AGP. The records required to be maintained by PRODUCER shall be available at all reasonable times for an audit or inspection by authorized representatives of the STATE or of the United States Department of Agriculture, or the Comptroller General of the United States. Failure to keep, or make available, such records will result in termination of this Agreement by STATE and refund to STATE of all benefits received, plus interest thereon, as determined by the STATE.

PRIMARY STATE CONTACT

Should any dispute or question arise concerning the implementation of this Agreement or the 2008 Aquaculture Grant Program, PRODUCER should contact the STATE official listed below:

Larry Emminger
Manager, Business Development and Support Services
Ph: 518.457.5907
Fax: 518.457.2716

APPLICABLE LAWS

The provisions of this Agreement are subject to all applicable laws and authorities, including section 102(d) of the Economic Recovery Act of 2009.

SCHEME OR DEVICE

If the PRODUCER is suspected by STATE to have knowingly: (1) adopted any scheme or device which violates this Agreement; (2) made any fraudulent representation; (3) misrepresented any fact affecting a determination under this Agreement; or (4) otherwise violated the terms and conditions of the 2008 AGP, the STATE will notify the appropriate investigating agencies of the STATE and the United States Department of Agriculture and may terminate the Agreement with a full refund of all benefits received there under, plus interest, and the PRODUCER will be subject to penalties under applicable civil and criminal laws.

TERMINATION OF AGREEMENT

This Agreement will continue in force unless terminated in writing by STATE or by the mutual agreement of the parties. The STATE may terminate this Agreement without prior written notice when required to do so by programmatic requirements, expiration of authorizing legislation or authority, or the exhaustion of funds.

PRODUCER CERTIFICATIONS AND SIGNATURES

PRODUCER hereby certifies as follows:

- a. This agreement and all supporting documents (as required) are submitted in accordance with the 2008 AGP;*
- b. For 2009, PRODUCER is raising the applicable aquaculture species in a controlled environment, maintain such eligible species for commercial use as part of a farming operation, and have a risk in the production of such eligible species;*
- c. For 2008, PRODUCER raised the applicable aquaculture species in a controlled environment, maintained such eligible species for commercial use as part of a farming operation, and had risk in the production of such eligible species; and*
- d. Feed costs represented at least 25 percent of the total input costs for such aquaculture operation;*
- e. PRODUCER had at least a 25 percent feed price increase in 2008 above the previous five year average;*
- f. PRODUCER has not received and will not receive assistance under section 531 of the Federal Crop Insurance Act or section 901 of the Trade Act of 1974 for any losses in 2008 relating to the applicable aquaculture Species. These programs include the Emergency Assistance for Livestock, Honey Bees, and Farm-Raised Fish (ELAP), Livestock Forage Disaster Program (LFP), Livestock Indemnity Program (LIP), Supplemental Revenue*

Assistance Program (SURE), and Tree Assistance Program (TAP);

- g. Form CCC-526 (Average Adjusted Gross Income Certification) from tax years 2005-2007 is on file with my county FSA office demonstrating AGI is less than \$2.5 million;
- h. Form AD-1026 (Highly Erodible Land Conservation (HELC) and Wetland Certification demonstrating compliance with conservation provisions is on file with my county FSA office;
- i. I am a principal in the PRODUCER and I am fully authorized to make and sign this Agreement on behalf of PRODUCER;
- j. Funds received under the 2008 AGP will be used for costs associated with such aquaculture operation;
- k. My aquaculture business is in operation as of the application date;
- l. The statements made on this application and all 2008 AGP documents are true and correct; and
- m. I have read and understand all the provisions of this Agreement and agree to the terms and conditions herein. I further agree that any false statements made as a part of the 2008 AGP application, or any other documents pertaining to the 2008 AGP documents, can be the subject of substantial civil and/or criminal liability and sanctions.

Signature of Authorized Representative

Date

Title

STATE APPROVAL

This Agreement is executed by the STATE and shall be effective on the date indicated below:

On Behalf of State

Effective Date

SIGNED AGREEMENT

A signed copy of this agreement shall be sent to the following STATE contact on or before November 6, 2009.
State official to receive agreement:

Larry Emminger
New York State Department of Agriculture and Markets
Division of Agricultural Protection and Development Services
10B Airline Drive
Albany, NY 12235

State Guidelines

Section I. General

- a. The New York State Department of Agriculture and Markets will carry out a 2008 Aquaculture Grant Program to provide assistance to eligible aquaculture industries in the State. Assistance provided under this program will be equivalent to the amount of funds provided the State by a grant from the United States Department of Agriculture, made in accordance with section 102(d) of the American Recovery and Reinvestment Act of 2009 (the "Act").
- b. Assistance will be provided to eligible aquaculture producers of eligible aquaculture species through the provision of checks issued to such producers by the State of New York. Such checks will be allocated to eligible aquaculture producers by the State and to be used by such producers for costs associated with their current aquaculture operation. Failure to comply with the terms and conditions of this program will subject the producer to a refund of any amounts received, plus interest, and to other penalties under applicable civil and criminal law.
- c. All producers that are not individuals are required to establish a Dun and Bradstreet Universal Numbering System (DUNS) number or update an existing DUNS record, and register in the Federal Central Contractor Register (CCR). A DUNS number may be obtained at www.dnb.com. Applicants may register in the CCR at www.ccr.gov.

Section II. Definitions

The following words shall have the following meanings when used in these guidelines:

- a. **Controlled Environment** means an environment in which everything that can practicably be controlled with structures, facilities, growing media (including but not limited to water or nutrients) by the producer, is in fact controlled by the producer, as determined by industry standards.
- b. **Eligible Aquaculture Species** means a species of aquaculture produced in the State for which feed is at least 25 percent of the total input costs associated with producing such species, as determined by the State.
- c. **Substantial Price Increase of Feed** means an increase in the average price of feed sold to the producer of eligible aquaculture species that is 25 percent above the previous 5-year average, as determined by the State.
- d. **Eligible Aquaculture Producer** means an individual or entity that:
- (1) During 2009, raises an eligible aquaculture species in a controlled environment, maintains such species for commercial use as part of a farming operation, and has a risk in the production of such species.
 - (2) Produced an eligible aquaculture species during calendar year 2008.
 - (3) Has been determined by the New York State Department of Agriculture and Markets to have experienced a 25 percent price increase of feed costs in 2008.
 - (4) Enters into a 2008 Aquaculture Grant Program Agreement with the New York State Department of Agriculture and Markets and agrees to abide by the terms and conditions of the 2008 Aquaculture Grant Program.
 - (5) Certifies that funds received by the producer under the 2008 Aquaculture Grant Program will be used for costs associated with their current aquaculture operation.

Section III. Implementation Agreements

In order to participate in the 2008 Aquaculture Grant Program, Eligible Aquaculture Producers must enter into a 2008 Aquaculture Grant Program Agreement with the New York State Department of Agriculture and Markets. The New York State Department of Agriculture and Markets will not allocate any grant payments to any aquaculture producers within the State unless such producer has submitted an executed 2008 Aquaculture Grant Program Agreement to the New York State Department of Agriculture and Markets by November 6, 2009.

Section IV. Records and Audits

- a. Eligible Aquaculture Producers that participate in the 2008 AGP shall –
- (1) Maintain, for a period of 3 years after September 30, 2010, all records pertaining to the aquaculture operation during the calendar year 2009.
 - (2) Furnish such information and reports relating to the program as may be requested by the New York State Department of Agriculture and Markets.
 - (3) Forward to the New York State Department of Agriculture and Markets copies of any and all records that support the receipt of assistance under the 2008 AGP.
 - (4) Make such records available at all reasonable times for an audit or inspection by authorized representatives of the New York State Department of Agriculture and Markets, or of the United States Department of Agriculture, or the Comptroller General of the United States.
- b. Failure to keep, or make available, such records will result in a termination of eligibility under the program and any funds received under the program shall be refunded to the New York State Department of Agriculture and Markets, plus interest thereon, as determined by the New York State Department of Agriculture and Markets.



**New York State
Department of Agriculture and Markets**

**Aquaculture Grants Program
Agreement Application Instructions & Checklist**

The following items must be submitted to the New York State Department of Agriculture and Markets not later than 4:30 pm EST on Friday, November 6, 2009 in order to constitute a complete Aquaculture Grants Program Agreement Application:

- Checked Instructions and Checklist (this document).
- Completed Aquaculture Grants Program Application and Agreement.
- Copy of invoices or other verification from a feed mill or broker, reflecting the cost of fish feed that was purchased during calendar year 2008.
- Completed Section 13 for feed costs claimed for species for which a 5-year average cost **has not** been established (any species other than trout, bass, tilapia).

The following forms must be on file with your county office of USDA Farm Service Agency (FSA):

- Applicants must have on file with FSA forms AD-1026 and CCC-526 to be eligible to receive reimbursement funding. Contact your county FSA Office to see if you are on file. To access forms on line: <http://forms.sc.egov.usda.gov/eForms/searchaction.do>

For eligibility requirements, program rules, and links to the above forms, refer to the New York State Department of Agriculture and Markets website at www.agmkt.state.ny.us. Click on the left-hand side under "funding opportunities," and then click on "Aquaculture Grants Program."

Please note that incomplete forms will delay or deny reimbursement. If you have questions, please call Larry Emminger at 518.457.5907. If you would like paper copies of the Agreement Application and/or instructions and checklist, please call Meg McCabe at 518.457.2195.

All of the above items must be submitted **not later than 4:30 pm EST on Friday, November 6, 2009** to:

New York State Department of Agriculture and Markets
Attn: Larry Emminger
10B Airline Drive
Albany, NY 12235

Please be advised: Knowingly providing false information on this application could lead to the immediate cancellation of the grant and a legal process to recover funds already paid.

SAMPLE FEED VERIFICATION LETTER FROM FEED PRODUCER

(Cost should NOT include transportation or labor costs)



Big Fish Feed Company
555 Fish Lane
Fishtown, NY 11111
(555) 555-5555

September 8, 2009

To Whom It May Concern:

This letter is to verify that John Doe, John's Fish Farm, Inc., purchased a total of 4.75 tons of aquaculture feed for the species listed below at a total cost of \$4,324.94 from the Big Fish Feed Company during the 2008 calendar year.

Species	Tons	Average Price per Ton
Trout	1.0	\$ 900.51
Bass	.5	\$1,100.25
Tilapia	3.25	\$ 805.75
Total	4.75	

Sincerely,

/s/

Michael Fish
Big Fish Feed Company