

NEW JERSEY

Summary Table of State Agency Authorities:

State Agency	Scope of Authority	Explicit Authority to Enter Private Land without Consent	Process Required	Relevant provisions
Department of Environmental Protection	Potentially Dangerous Fish	No	N/A	N.J. ADMIN. CODE §§ 7:25-6.1, 7:25-6.2
Department of Agriculture	Diseased Plants	NJDA has authority to examine all nurseries and other establishments or places where plants are grown for sale or from which plant material is distributed. NJDA may also enter upon lands open or enclosed to make inspections, investigations, and examinations.	None stated, although all notices, orders, or directions issued by NJDA shall be in writing and served personally upon the owner or manager of the establishment where the diseased plants are found.	N.J. STAT. ANN. §§ 4:7-4 to 4:7-14
	Prohibited and restrictive noxious weed seeds	NJDA has the authority to enter upon any public or private premises to gain access to regulated seeds.	None. Access is limited to business hours. Seeds not in compliance with NJ law may be seized pursuant to a court order.	N.J. STAT. ANN. §§ 4:8-17.26-17.27

Explanatory Notes:

New Jersey does not have an comprehensive aquatic invasive species law, but does have legal provisions that address threats from particular species. The New Jersey Invasive Species Council, established by executive order in 2004,⁴⁹ completed a comprehensive invasive species management plan for the state in 2009.⁵⁰

New Jersey Department of Environmental Protection

⁴⁹ State of New Jersey, Exec. Order #97 (Feb. 27, 2004) <http://nj.gov/infobank/circular/eom97.htm>.

⁵⁰ New Jersey Strategic Management Plan for Invasive Species, <http://www.nj.gov/dep/njisc/docs/Final%20NJ%20Strategic%20Management%20Plan%20for%20Invasive%20Species%2011.09.pdf>.

The New Jersey Department of Environmental Protection (NJDEP) prohibits possession and live release of listed “potentially dangerous fish,” which are primarily aquatic invasive species.⁵¹ Potentially dangerous fish encountered when angling must be destroyed.⁵² The NJDEP has also developed criteria governing the possession of potentially dangerous species, which are “exotic mammals, birds, reptiles or amphibians or nongame species which, in the opinion of the [NJDEP], is capable of inflicting serious or fatal injuries or which has the potential to become an agricultural pest or a menace to the public health or indigenous wildlife populations.”⁵³

The NJDEP does not have explicit authority to enter on private land to inspect for the presence of potentially dangerous fish or to undertake control measures. However, the Commissioner “is authorized to conduct periodic inspections in order to determine compliance with the rules and regulations” promulgated by the NJDEP to limit the possession of nongame species.⁵⁴ The inspections may consist of examination of exotic mammals, birds, reptiles or amphibians or nongame species, their food, facilities, holding pen and exhibit area, and a review of relevant records pertaining to these species.⁵⁵

New Jersey Department of Agriculture

The New Jersey Department of Agriculture (NJDA) is responsible for managing plants and plant pests in New Jersey. State law prohibits importation or distribution of any plant material, cuttings, seeds, bulbs, tubers, trees, shrubs or vines known to be infested with any disease which could cause death or mutilation to the latter.⁵⁶ The NJDA has a right of entry into all nurseries and other establishments or places where plants are grown for sale or from which plant material is distributed to examine those premises for the presence of dangerous plant diseases, dangerously injurious insects, and plants infested with insects that are likely to spread.⁵⁷ The NJDA can order abatement of nuisance plants and, upon noncompliance, can obtain a court order directing an officer to seize or destroy them.⁵⁸ Any order issued by the NJDA must be in writing, served upon the owner, manager or location of the establishment where the diseased plants are found, and specify a time of not less than three days for compliance with the order.⁵⁹

The State Seed Analyst may enter onto private premises during regular business hours to access regulated seeds and records.⁶⁰ The state can seize shipments containing unlawful amounts of prohibited or restricted species upon a complaint by the Seed Analyst in state court.⁶¹ While this authority is not expected to be used regularly for aquatic plants, purple loosestrife (*Lythrum salicaria*) is a prohibited noxious weed seed, and other aquatic and riparian plants could be listed in the future.⁶²

⁵¹ N.J. ADMIN. CODE § 7:25-6.2.

⁵² *Id.* § 7:25-6.1.

⁵³ *Id.* § 7:25-4.8.

⁵⁴ N.J. STAT. ANN. § 23:2A-5.

⁵⁵ N.J. ADMIN. CODE § 7:25-4.6.

⁵⁶ N.J. STAT. ANN. § 4:7-5.

⁵⁷ *Id.* §§ 4:7-7, 4:7-13.

⁵⁸ *Id.* § 4:7-8.

⁵⁹ *Id.* § 4:7-9.

⁶⁰ *Id.* § 4:8-17.26.

⁶¹ *Id.* § 4:8-17.27.

⁶² N.J. ADMIN. CODE § 2:21-4.1.