

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1515

6 By: DeWitt

7 COMMITTEE SUBSTITUTE

8 An Act relating to agriculture; amending 2 O.S. 2001,  
9 Sections 9-201, 9-210.1 and 9-210.3, as renumbered by  
10 Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.  
11 2006, Sections 20-2, 20-19 and 20-21), which relate  
12 to the Oklahoma Concentrated Animal Feeding  
13 Operations Act; eliminating certain setback  
14 requirements; providing certain considerations for  
15 certain classification; eliminating certain location  
16 limitation for certain facilities; repealing 82 O.S.  
17 2001, Section 1020.11a, as last amended by Section  
18 105, Chapter 3, O.S.L. 2003 (82 O.S. Supp. 2006,  
19 Section 1020.11a), which relates to permits for swine  
20 feeding operations; and providing an effective date.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. AMENDATORY 2 O.S. 2001, Section 9-201, as  
23 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.  
24 2006, Section 20-2), is amended to read as follows:

Section 20-2. A. Sections ~~9-201~~ 20-2 through ~~9-215~~ 20-29 of  
this title shall be known and may be cited as the "Oklahoma  
Concentrated Animal Feeding Operations Act".

1 B. The purpose of the Oklahoma Concentrated Animal Feeding  
2 Operations Act is to provide for environmentally responsible  
3 construction and expansion of animal feeding operations and to  
4 protect the safety, welfare and quality of life of persons who live  
5 in the vicinity of an animal feeding operation.

6 SECTION 2. AMENDATORY 2 O.S. 2001, Section 9-210.1, as  
7 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.  
8 2006, Section 20-19), is amended to read as follows:

9 Section 20-19. A. ~~Except as otherwise provided by Section 9-~~  
10 ~~210.2 of this title, the state shall be divided east and west based~~  
11 ~~on the Indian Meridian for the purpose of determining setback~~  
12 ~~requirements from occupied residences for animal feeding operations~~  
13 ~~using a liquid animal waste management system where swine are~~  
14 ~~primarily housed in a roof covered structure and which were~~  
15 ~~established between September 1, 1997, and June 1, 1998:~~

16 ~~1. No new or expanding licensed managed feeding operation with~~  
17 ~~a capacity of two thousand (2,000) or more animal units:~~

18 a. ~~located in the eastern half of the state shall be~~  
19 ~~constructed where its closest waste facility is within~~  
20 ~~a distance of one half (1/2) mile of any occupied~~  
21 ~~residence not owned or leased by the owner or operator~~  
22 ~~of the licensed managed feeding operation, or~~

23 b. ~~located in the western half of the state shall be~~  
24 ~~constructed where its closest waste facility is within~~

1           ~~a distance of three fourths (3/4) mile of any occupied~~  
2           ~~residence not owned or leased by the owner or operator~~  
3           ~~of the licensed managed feeding operation.~~

4           ~~2. No new or expanding animal feeding operation with a capacity~~  
5           ~~of less than two thousand (2,000) animal units but more than one~~  
6           ~~thousand (1,000) animal units:~~

7           ~~a. located in the eastern half of the state shall be~~  
8           ~~constructed where its closest waste facility is~~  
9           ~~located within a distance of one fourth (1/4) mile of~~  
10           ~~any occupied residence not owned or leased by the~~  
11           ~~owner of the animal feeding operation, or~~

12           ~~b. located in the western half of the state shall be~~  
13           ~~constructed where its closest waste facility is~~  
14           ~~located within a distance of one half (1/2) mile of~~  
15           ~~any occupied residence not owned or leased by the~~  
16           ~~owner of the animal feeding operation.~~

17           ~~3. No new or expanding animal feeding operation with a capacity~~  
18           ~~of more than three hundred (300) animal units but having one~~  
19           ~~thousand (1,000) animal units or less shall be constructed where its~~  
20           ~~closest waste facility is located within a distance of one fourth~~  
21           ~~(1/4) mile of any occupied residence not owned or leased by the~~  
22           ~~owner of the animal feeding operation.~~

23           ~~B. Except as otherwise authorized by this subsection, no liquid~~  
24           ~~animal waste shall be land applied within five hundred (500) feet of~~

1 the nearest corner of an occupied residence not owned or leased by  
2 the owner of the animal feeding operation.

3 ~~C.~~ B. Except as otherwise provided by Section ~~9-210.2~~ 20-20 of  
4 this title, no concentrated animal feeding operation shall be  
5 established ~~after September 1, 1997,~~ which is within one (1) mile of  
6 ten or more residences which are occupied residences at the time of  
7 the establishment of the concentrated animal feeding operation.

8 ~~D.~~ C. The proscription contained in subsections ~~A, and B and C~~  
9 of this section shall not apply if the applicable property owner  
10 executes a written waiver with the owner or operator of the animal  
11 feeding operation, under such terms and conditions that the parties  
12 negotiate. The written waiver becomes effective upon recording of  
13 the waiver in the offices of the recorder of deeds in the county in  
14 which such property is located. The filed waiver shall preclude  
15 enforcement of the setback requirements contained in subsections ~~A,~~  
16 and B and C of this section. A change in ownership of the  
17 applicable property or change in the ownership of the property on  
18 which the animal feeding operation is located shall not affect the  
19 validity of the waiver.

20 ~~E.~~ D. No liquid animal waste shall be land applied within three  
21 hundred (300) feet of an existing public or private drinking water  
22 well.

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1 ~~F.~~ E. Except as otherwise provided by Section ~~9-210.2~~ 20-20 of  
2 this title, no concentrated animal feeding operation shall be  
3 established ~~after September 1, 1997,~~ which is located:

4 1. Within three (3) miles of a state park or resort;

5 2. On land within three (3) miles of the incorporated limits of  
6 any municipality;

7 3. Within three (3) miles of the high water mark of a surface  
8 public water supply if the concentrated animal feeding operation is  
9 located within the drainage basin for the public water supply.

10 ~~G.~~ F. All distances between occupied residences and animal  
11 feeding operations shall be measured from the closest corner of the  
12 walls of the occupied residence to the closest point of the nearest  
13 waste facility, as determined by the State Department of  
14 Agriculture. The property boundary line of the real property is not  
15 used unless it coincides with the closest point of the waste  
16 facility or occupied residence.

17 SECTION 3. AMENDATORY 2 O.S. 2001, Section 9-210.3, as  
18 renumbered by Section 25, Chapter 292, O.S.L. 2005 (2 O.S. Supp.  
19 2006, Section 20-21), is amended to read as follows:

20 Section 20-21. A. Except as otherwise provided by Section ~~14~~  
21 20-19 of this ~~act~~ title and subsection F of this section, animal  
22 feeding operations using liquid animal waste management systems  
23 where swine are housed in roof-covered structures shall not be  
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1 located within the following applicable distances from an occupied  
2 residence:

- 3 1. More than 4000 animal units.....2 miles;
- 4 2. 2001 to 4000 animal units.....1 1/4 miles;
- 5 3. 1001 to 2000 animal units.....3/4 mile;
- 6 4. 601 to 1000 animal units.....1/2 mile;
- 7 5. 300 to 600 animal units.....1/4 mile; and
- 8 6. Less than 300 animal units.....no setback.

9 B. Except as otherwise provided by this section, ~~no~~ licensed  
10 managed feeding ~~operation~~ operations which ~~applies~~ apply for a new  
11 ~~or expanding~~ concentrated animal feeding operation license ~~after~~  
12 ~~March 9, 1998,~~ shall not be located within ~~three (3) miles of the~~  
13 following applicable distances from the outside boundary of any area  
14 or facility owned or operated as a camp or recreational site by a  
15 nonprofit organization established prior to application ~~of~~ for the  
16 initial license of the concentrated animal feeding operation:

- 17 1. More than 4000 animal units.....2 miles;
- 18 2. 2001 to 4000 animal units.....1 1/4 miles;
- 19 3. 1001 to 2000 animal units.....3/4 mile;
- 20 4. 601 to 1000 animal units.....1/2 mile;
- 21 5. 300 to 600 animal units.....1/4 mile; and
- 22 6. Less than 300 animal units.....no setback.

23 C. In determining whether any such area or facility is a camp  
24 or recreational site, the Board shall consider:

1        1. Whether a reasonable person, after considering the totality  
2 of the circumstances, would determine that the area or facility is  
3 predominately used for camping or recreational purposes;

4        2. The type of permanent structures or fixtures of a  
5 recreational nature located on the land;

6        3. The frequency with which the site is used for recreational  
7 purposes;

8        4. The types of activities which are conducted or engaged in on  
9 the site; and

10       5. Any other factors the decision-making body deems directly  
11 relevant to the question of whether a site is recreational in  
12 nature.

13       D. The setback requirements contained in subsections A and B of  
14 this section shall not apply to any property owner who executes a  
15 written waiver with the owner or operator of the animal feeding  
16 operation, under such terms and conditions as are agreed to by the  
17 parties. The written waiver shall be effective upon recording of  
18 the waiver in the office of the county clerk in the county in which  
19 such property is located. The filed waiver shall preclude  
20 enforcement of the setback requirements of subsections A ~~or~~ and B of  
21 this section with regard to property described in the waiver and  
22 owned by the person executing such waiver. A change in ownership of  
23 the applicable property or change in ownership of the property on  
24

1 which the animal feeding operation is located shall not affect the  
2 validity of the waiver.

3 D. No licensed managed feeding operation established after the  
4 effective date of this act which applies for a new or expanding  
5 license after March 9, 1998, shall be located:

6 1. Within three (3) miles of any designated scenic river area  
7 as specified by the Scenic Rivers Act; or

8 ~~2. Within three (3) miles of the outside boundary of any~~  
9 ~~historic property or museum owned by the State of Oklahoma;~~

10 ~~3. Within three (3) miles~~ three hundred (300) feet of a public  
11 drinking water well;

12 ~~4. Within one (1) mile of a waterbody specified as Outstanding~~  
13 ~~Resource Waters that has recreational or ecological significance as~~  
14 ~~outlined by the most current Water Quality Standards promulgated by~~  
15 ~~the Oklahoma Water Resources Board; or~~

16 ~~5. Within three (3) miles of a national park designated by the~~  
17 ~~United States Department of the Interior National Park Service.~~

18 E. All distances between occupied residences and animal feeding  
19 operations shall be measured from the closest corner of the walls of  
20 the occupied residence to the closest point of the nearest waste  
21 facility, as determined by the State Department of Agriculture. The  
22 property boundary line of the real property is not used unless it  
23 coincides with the closest point of the waste facility or occupied  
24 residence.

1 F. The provisions of this section shall not apply to any animal  
2 feeding operation which has been licensed by or which had submitted  
3 an application to the State Department of Agriculture on or prior to  
4 March 9, 1998. In addition, the provisions of this section shall  
5 not apply to any animal feeding operation with a capacity of 2000  
6 animal units or less which was established prior to June 1, 1998.

7 SECTION 4. REPEALER 82 O.S. 2001, Section 1020.11a, as  
8 last amended by Section 105, Chapter 3, O.S.L. 2003 (82 O.S. Supp.  
9 2006, Section 1020.11a), is hereby repealed.

10 SECTION 5. This act shall become effective November 1, 2007.

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