

Emergency Rule

Comments due no later than 8:00 a.m. on 12/10/18

Send written comments to andrea.bair@ag.ok.gov

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 17. WATER QUALITY SUBCHAPTER 5. REGISTERED POULTRY FEEDING OPERATIONS

35:17-5-3.1 Setbacks for New or Expanding Construction of Poultry Barns [NEW]

(a) New or expanding poultry feeding operations, including but not limited to poultry barns, composters and other carcass disposal areas, litter sheds and other buildings associated with the operation, shall not be located within the following applicable distances:

- (1) Occupied residences:
 - (A) More than 30,000 birds shall be ¼ mile; and
 - (B) 30,000 or fewer birds shall be 1000 feet.
 - (C) All distances between occupied residences and poultry feeding operations shall be measured from the closest corner of the walls of the occupied residence to the closest point of the poultry feeding operation, excluding land application sites;
- (2) Public school shall be ½ mile;
- (3) Incorporated city limits shall be ½ mile;
- (4) Public highways shall be 150 feet;
- (5) Property line shall be 150 feet;
- (6) Streams as identified on a current USGS 7.5 minute topographic map shall be 200 feet;
- (7) Private wells not owned or used for the poultry feeding operation shall be 100 feet;
- (8) Public wells shall be 500 feet; and
- (9) The 100-year flood plain as designated by FEMA.

(b) The setbacks contained in subsections (a)(1), (2) and (3) of this section shall not apply if the applicable property owner, city governing body, or school district executes a written waiver with the owner or operator of the poultry feeding operation, under the terms and conditions that the parties negotiate. The written waiver becomes effective upon recording of the waiver in the offices of the recorder of deeds in the county where the property is located. The filed waiver shall preclude enforcement of the setback requirements contained in subsections (a)(1), (2), and (3) of this section. A change in ownership of the applicable property or change in the ownership of the property on which the poultry feeding operation is located shall not affect the validity of the waiver.

(c) As a part of the application for a new or expanding poultry feeding operation, the applicant shall provide the following in a detailed scaled map showing the facility geographic location provided with the application:

- (1) Specific location of the poultry barns, composters and other carcass disposal areas, litter sheds and other buildings associated with the poultry feeding operation; and
- (2) Identification of all locations listed in subsection (a) within one mile of the facility.

(d) Prior to approval of any application for a new or expanding poultry feeding operation, the Department shall conduct a presite inspection of the proposed facility and review and confirm compliance with all setback requirements contained in this section.

(e) Any proposed poultry feeding operation that completed a bank closing on or before October 8, 2018 for the purpose of construction a poultry feeding operation and affected by the State Board of Agriculture October 8, 2018 “Suspension on Acceptance and Processing of Applications for New or Expanding Poultry Operations” shall not be subject to the requirements contained in this section.