

Right to Farm 101 for Aquaculture Stakeholders in Oklahoma

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Commercial aquaculture operations, like traditional agricultural operations, sometimes face legal challenges from neighbors raising concerns about farm operations. Nuisance lawsuits filed against agricultural operations often involve allegations by neighboring property owners that the odor, dust, or noise associated with farming is interfering with their ability to enjoy and use their property. In general, “right-to-farm” legislation protects agricultural operations from such nuisance claims when certain conditions are satisfied. This document examines Oklahoma’s right-to-farm legislation and how it applies to commercial aquaculture. For a more comprehensive explanation of right-to-farm laws and their significance, please refer to the National Sea Grant Law Center’s document entitled “Aquaculture and the Right to Farm,” which can be found at <http://nsglc.olemiss.edu/projects/ag-food-law>.

State right-to-farm laws usually contain the following key elements:

- **Time in Operation Requirements** designating how long agricultural operations must be in existence before any statutory nuisance defense becomes available;
- **Preemption Clauses** ensure that municipal laws do not diminish nuisance protections for farmers;
- **Legal Presumptions or Complete Defenses** for farmers operating in conformance with applicable laws;
- **Exceptions** for recovery of damages due to injury; for public health, safety, and/or welfare; and/or for improper or negligent operation of farms; and
- **Best Management Practices (BMPs)** that farmers must adhere to for nuisance protections to apply.

The second page of this fact sheet provides a snapshot summary of Oklahoma’s right-to-farm legislation with respect to these key elements. While the following information encompasses the state’s statute as it exists in 2018, it is important for aquaculture stakeholders to remember that, because the industry is developing, states may alter or add to their right-to-farm legislation in the future. The outcome of related court cases could also alter applicable provisions of a state’s right-to-farm law. Aquaculture stakeholders should consult an attorney or another outside source before taking any action based on the following information. Interested parties might first contact one of the land-grant Extension programs at either Oklahoma State University or Langston University.

For more information about these programs:

Oklahoma State University Cooperative Extension Service: <http://www.oces.okstate.edu>

Langston University’s Goat Research Center: <http://www2.luresext.edu>



Wheat field in Oklahoma, courtesy of Gagan Moorthy.

Summary of Oklahoma's Right-to-Farm Legislation

- Oklahoma's Right to Farm legislation was passed in 1980 and can be found in the Oklahoma Statutes at Title 50, Section 1.1.
- Oklahoma's definition of "agricultural activities" includes aquaculture as well as improvements or expansion of activities such as the feeding of aquatic animals.
- In Oklahoma, agricultural activities that have lawfully been in operation for two years or more are not nuisances.
- Oklahoma's legislation carries a time in operation requirement of two years or more.
- Oklahoma's legislation does not contain any provisions related to preemption.
- In Oklahoma, an agricultural activity is presumed to be reasonable and not a nuisance if consistent with good agricultural practices and established prior to nearby nonagricultural activities unless the activity has a substantial adverse effect on public health and safety. Furthermore, agricultural activities undertaken in conformity with federal, state, and local laws and regulations are presumed to be good agricultural practices.
- Oklahoma's right-to-farm legislation contains one exception. Agricultural activities having a substantial adverse effect on public health and safety are not presumed to be reasonable.
- Oklahoma requires that farms conduct activities consistent with good agricultural practices to preserve nuisance protection.
- Oklahoma has not yet produced a BMP manual related to aquaculture.