



SRAP
Socially Responsible
Agriculture Project

Guide to Confronting Concentrated Animal Feeding Operations in

ARKANSAS



Guide to Confronting Concentrated Animal Feeding Operations in ARKANSAS

**A PROJECT BY SOCIALLY RESPONSIBLE AGRICULTURE PROJECT
WITH THE ASSISTANCE OF MIDWEST ENVIRONMENTAL ADVOCATES, INC.¹**

For more than 20 years, Socially Responsible Agriculture Project (SRAP) has served as a mobilizing force to help communities protect themselves from the damages caused by industrial livestock operations and to advocate for a food system built on regenerative practices, justice, democracy, and resilience. Our team includes technical experts, independent family farmers, and rural residents who have faced the threats of factory farms in their communities. When asked for help, SRAP offers free support, providing communities with the knowledge and skills to protect their right to clean water, air, and soil and to a healthy, just, and vibrant future. For more information, visit www.srapproject.org.

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¹ Midwest Environmental Advocates is a nonprofit environmental law center that works for healthy water, air, land, and government for this generation and the next. For more information, visit midwestadvocates.org.



CAFO Guide Overview

This guide outlines CAFO laws, regulatory processes, and useful resources for advocates. Below is an overview of actions communities can take if a CAFO is being built, expanding, or violating regulations.

EDUCATE YOURSELF

Learn how CAFOs harm communities at sraproject.org. Use this guide to find state agencies that regulate CAFOs; state permitting requirements for zoning, construction, etc.; and public open meetings and records laws. Use SRAP's Federal Guide to learn relevant federal laws like the Clean Water Act, Clean Air Act, and Endangered Species Act.

LOOK FOR PUBLIC NOTICES

Look for public notices of CAFOs in newspapers, state agency websites, and at government buildings. The window for public participation is often brief. Find rules and deadlines for public comment, hearing requests, and appeals. Respond before deadlines.

REQUEST AND REVIEW PUBLIC RECORDS

Search for public records related to the CAFO; if necessary, make a public records request.

NEW OR EXPANDING CAFOS

REVIEW ZONING ORDINANCES

Review municipal or county codes and zoning ordinances to determine if any requirements must be met at the local level.

REVIEW PERMIT APPLICATIONS

Determine if any local, state, or federal permit applications are required; review application materials to make sure all requirements are met.

COLLECT DATA

Test water before the CAFO siting or expansion to establish a baseline. This may show that new pollution came from the CAFO.

EXISTING CAFOS

REVIEW CAFO DOCUMENTS

Review permits, applications, manure management plans, nutrient management plans, monitoring reports, etc. Familiarize yourself with permit and plan provisions so you can spot violations.

COLLECT DATA

Conduct well, soil, water, and/or air testing to establish a connection between the facility and harmful pollution. Keep a log of odor and other impacts.

MONITOR CAFOS AND BUILD A RECORD

Submit complaints to regulators if you observe violations. Take photos and keep a log. Don't trespass!

FOLLOW UP ON AGENCY RESPONSE TO COMPLAINTS

Did the agency take action? If a state agency isn't complying with state or federal environmental laws, contact your U.S. EPA Regional Office.

ORGANIZE A COMMUNITY GROUP

Organize your group and develop a public presence.

Consider forming a nonprofit if you plan long-term advocacy.

SEEK LEGAL ADVICE

Consider contacting law firms or pro-bono clinics for help with legal matters related to CAFOs.

IDENTIFY IMPAIRED WATER BODIES

Determine if impaired waters may be impacted by discharge from the existing or proposed CAFO.

CONTACT STATE OR LOCAL HEALTH DEPARTMENT

The Health Department may monitor or oppose the CAFO due to public health impacts.

CHECK FOR PUBLIC FINANCING

If the CAFO received government-backed loans, see if an Environmental Assessment was conducted.

TRACK PUBLIC NOTICES

CAFO permits come up for renewal, so look for public notices and comment opportunities.

REVIEW STATE RIGHT-TO-FARM LAW

Find exceptions to the law's nuisance liability shield (e.g., compliance with laws and permits is often a prerequisite to nuisance claim protection).

AGENCIES & STATE DEFINITIONS

Familiarize yourself with your state's livestock operation definitions, and with the agencies that regulate the industry. (Definitions and relevant agencies vary by state.)

SEEK PROPERTY TAX ADJUSTMENT

Neighbors may be able to reduce their property taxes due to CAFOs' negative impact on property values.

ENGAGE IN RULEMAKING PROCESSES

Attend regulatory meetings and share your concerns. If your state allows it, develop local ordinances to protect communities.

INTRODUCTION

Agriculture in Arkansas is dominated by poultry operations, primarily chickens and to a lesser extent, turkeys.² Despite the presence of large-scale agriculture in the state, Arkansas has permitted very few operations as CAFOs subject to the federal Clean Water Act³ and its protections, which are detailed more thoroughly in the federal supplement to this Guide. Part of this under-permitting may result from the state's late creation of a statewide agricultural department.⁴ As of 2005, the Arkansas Agriculture Department exists⁵ but has little oversight of the water quality or other environmental impacts of CAFOs and other large-scale agriculture.⁶

According to the Arkansas Farm Bureau, poultry is the largest agricultural product in Arkansas, accounting for almost forty percent of agricultural production.⁷ The state is home to more than 2,400 broiler farms and is second in the nation for total pounds of broiler meat produced.⁸ Not surprisingly, the state is home to a number of poultry companies,⁹ including one of the world's largest meat and poultry producers—Tyson. Tyson alone generates approximately 55 million tons of manure annually and a portion of that waste is produced and disposed of in Arkansas.¹⁰ This poultry company—only one of many operating in the state—allows livestock manure to

² National Agricultural Statistics Service, 2015 State Agriculture Overview, https://www.nass.usda.gov/Quick_Stats/Ag_Overview/stateOverview.php?state=ARKANSAS (last visited Jun. 15, 2016).

³ Michele Merkel, *EPA and State Failures to Regulate CAFOs Under Federal Environmental Laws*, ENVIRONMENTAL INTEGRITY PROJECT, Sep. 11, 2006, http://www.environmentalintegrity.org/pdf/publications/EPA_State_Failures_Regulate_CAFO.pdf, citing EPA,

CAFO Rule Implementation Status: National Summary (Feb. 28, 2005).

⁴ ARKANSAS PUBLIC POLICY PANEL, STATE AGRICULTURAL SERVICES AND PROGRAMS: POLICY OPTIONS FOR ARKANSAS (2001), <http://static1.squarespace.com/static/55afb880e4b039b081c51cbc/t/55ba8419e4b02216429c5923/1438286873347/Final+Agri+Report+2001.pdf>.

⁵ Arkansas Agriculture Department, <http://aad.arkansas.gov/Pages/default.aspx> (last visited Jun. 15, 2016).

⁶ U.S. Environmental Protection Agency, Arkansas CAFO/AFO Program Summary, https://www3.epa.gov/npdes/pubs/afo_arkansas_profile.pdf (last visited Jun. 15, 2016).

⁷ Arkansas Farm Bureau, <http://www.arfb.com/pages/arkansas-agriculture/commodity-corner/poultry/>.

⁸ *Id.*

⁹ Tyson, George's, Cargill, OK Industries, Twin River Foods, North Arkansas Poultry, Simmons, Butterball, Huntsville, and Peterson Farm. Pilgrim's Pride, while not headquartered in Arkansas, operates one of its processing plants in the state.

¹⁰ John Rumpler, Environment America Research & Policy Center, Corporate Agribusiness and the Fouling of America's Waterways, 2016, p 14.

runoff into Arkansas' waterways and has directly discharged toxic pollutants into waterways in Hope, Nashville, Waldron, and Grannis, Arkansas.¹¹ This example demonstrates the importance of having water pollution discharge regulations within the state.

CAFO permitting in Arkansas increased as a topic of public discourse in 2015 and 2016 when the state's general non-stormwater discharge permit for CAFOs came up for renewal.¹² This occurred around the same time that the state deemed complete an application for a large hog farm intending to locate in an environmentally sensitive area.¹³ Partially in response to this controversial decision, the state approved regulations to impose a five-year ban on the siting of new hog farms in the Buffalo River Watershed.¹⁴

The geology, topography, and other specific environmental conditions of the Buffalo River Watershed were a tipping point in this significant, albeit temporary and watershed-specific, ban on new hog operations.¹⁵ The Buffalo River Watershed's karst-dominant topography, with its "Swiss cheese" resemblance, allows runoff, manure, and corresponding pollutants to more rapidly reach water resources without filtration or other natural environmental protections. Arkansas residents should take heart and guidance from the organizations that spearheaded the temporary hog CAFO ban.¹⁶

¹¹ see *Id.* at P 16.

¹² See Arkansas Department of Environmental Quality, General Non-Stormwater NPDES Permits, <https://www.adeq.state.ar.us/water/permits/npdes/nonstormwater/> (last visited Jun. 14, 2016).

¹³ Arkansas Department of Environmental Quality, 30-Day Notice of Intent for ARG590000, https://www.adeq.state.ar.us/water/permits/npdes/nonstormwater/noi/p_arg590000.aspx (last visited Jun. 16, 2016); see also David Ramsey, *Hog farm by the Buffalo raises questions about CAFO permit*, ARKANSAS BLOG, Aug. 16, 2013, <http://www.arktimes.com/ArkansasBlog/archives/2013/08/16/hog-farm-by-the-buffalo-raises-questions-about-cafo-permit>.

¹⁴ See Arkansas Pollution Control and Ecology Commission, Regulation 5: Liquid Animal Waste Management Systems, August 28, 2015, https://www.adeq.state.ar.us/regs/files/reg05_final_150918.pdf; see also The City Wire Staff, *Five-year ban placed on new hog farms near the Buffalo River*, THE CITY WIRE, Aug. 31, 2015, <http://talkbusiness.net/2015/08/five-year-ban-placed-on-new-hog-farms-near-the-buffalo-river/>.

¹⁵ The City Wire Staff, *Five-year ban placed on new hog farms near the Buffalo River*, THE CITY WIRE, Aug. 31, 2015, <http://talkbusiness.net/2015/08/five-year-ban-placed-on-new-hog-farms-near-the-buffalo-river/>.

¹⁶ See Arkansas Public Policy Panel, <http://www.arpanel.org/> (last visited Jun. 16, 2016); see also The Ozark Society, <http://www.ozarksociety.net/> (last visited Jun. 16, 2016).

In addition to guidance available from Arkansas organizations that are already analyzing and responding to the impacts of large-scale livestock operations, this Guide provides a legal and policy framework for understanding the landscape of Arkansas agriculture.

CAFOs: STATE DEFINITIONS & REGULATORY AGENCIES

What is a CAFO?

Arkansas distinguishes between Animal Feeding Operations (AFOs) and CAFOs based on the number of animals at a particular operation, as well as whether the state has identified an operation as a significant contributor of pollutants to surface water. AFOs are facilities that confine animals for 45 days or more in any 12-month period and do not sustain crops or vegetation in the normal growing season over any portion of the facility.¹⁷

Thresholds in the table below apply only to non-liquid waste management systems. All Arkansas CAFOs using liquid animal waste disposal systems must obtain NPDES permit.¹⁸

	Large CAFOs	Medium CAFOs	Small CAFOs
Sheep or Lambs	10,000 or more	3,000–9,999	< 3,000
Horses	500 or more	150–499	< 150
Ducks	30,000 or more	10,000–29,999	< 10,000
Cattle or cow/calf pairs	1,000 or more	300–999	< 300
Mature dairy cattle	700 or more	200–699	< 200
Veal calves	1,000 or more	300–999	< 300
Swine (>55 lbs.)	2,500 or more	750–2,499	< 750
Swine (<55 lbs.)	10,000 or more	3,000–9,999	< 3,000
Laying hens or broilers	82,000 or more	25,000–81,999	< 25,000
Chickens other than laying hens	125,000 or more	37,500–124,999	< 37,500

¹⁷ See 40 C.F.R. 122.23(b)(1) (2012).

¹⁸ See Arkansas Pollution Control and Ecology Commission, Regulation 5: Liquid Animal Waste Management Systems, August 28, 2015, https://www.adeq.state.ar.us/regs/files/reg05_final_150918.pdf.

AFOs are not regulated by the Arkansas Department of Environmental Quality (ADEQ), whereas CAFOs are regulated by ADEQ based on whether the CAFO discharges pollutants to waters of the state. “Large” or “Medium” CAFOs that discharge to the waters of the state must obtain a National Pollutant Discharge Elimination System (NPDES) permit. Further, any operation, regardless of size, that is deemed to be a “significant contributor of pollutants to surface water” must obtain a permit.¹⁹

In Arkansas, “Waters of the State” means:

[A]ll streams, lakes, marshes, ponds, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of this state.²⁰

Under this definition, no CAFO can contribute to pollution of surface water, groundwater, or wetlands. If ADEQ determines that an AFO is polluting waters of the state, that facility will be considered a small CAFO.

AFOs that are under common ownership and either: 1) adjoin each other or 2) use a common area or system for waste disposal are considered a single AFO by ADEQ.²¹ ADEQ will also examine the total number of animals from all facilities, which could convert an AFO to a “Medium” or “Large” CAFO. By considering multiple AFOs together, ADEQ can also determine whether the combined facilities are a “significant contributor of pollutants to surface water” and classify the commonly owned facilities as a single “Small” CAFO if necessary.

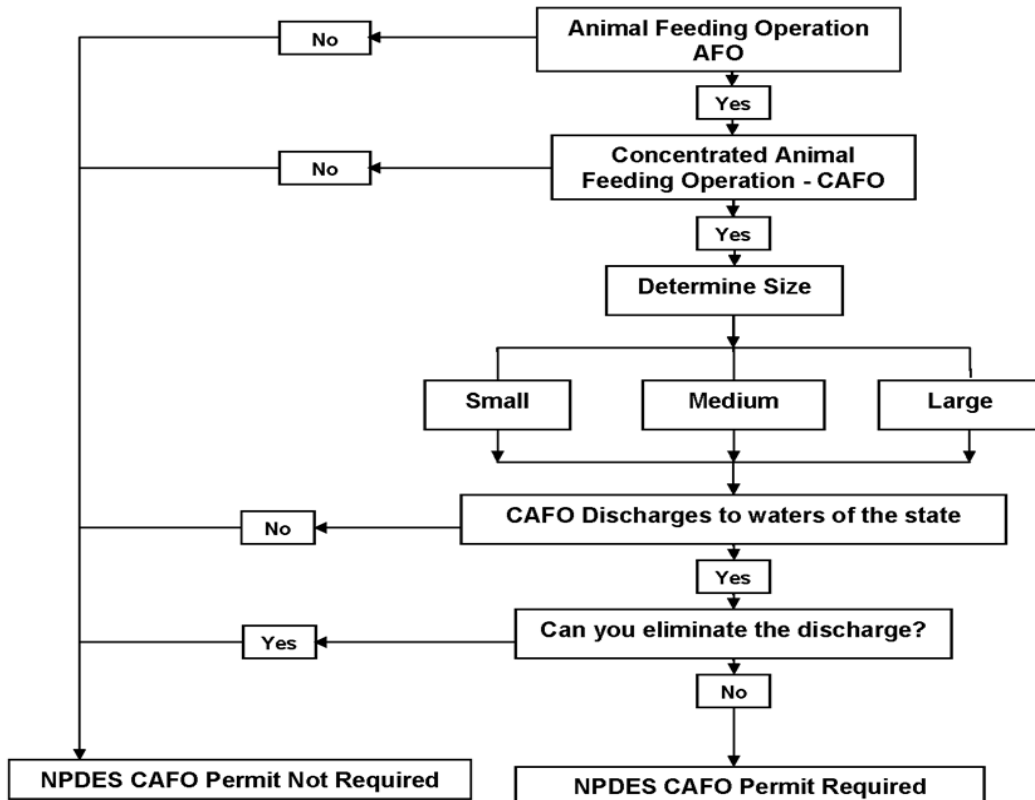
¹⁹ See 40 C.F.R. 122.23(c) (2012).

²⁰ See Arkansas Pollution Control and Ecology Commission, Regulation 5: Liquid Animal Waste Management Systems, August 28, 2015, https://www.adeq.state.ar.us/regs/files/reg05_final_150918.pdf.

²¹ See *id.*

CAFO PERMIT REQUIREMENTS FLOW CHART

See Table Below This Chart for Size and Definitions



Please note that the flowchart and table above are available on ADEQ's website.²²

Responsible Regulatory Agencies

One of the most important steps in figuring out how to deal with a CAFO in the area is to understand which state agencies play a role in CAFO and CAFO-related regulation issues. Knowing which agency to reach out to with your concerns is a more efficient and effective use of everyone's time. Below is an outline of the various agencies in Arkansas which could play a role in a fight against a new, expanding, or existing CAFO in your community. This list is not meant to be exhaustive. There may be other departments, federal agencies, or local groups which you may want to contact but the entities below may be a general starting point.

²²

https://www.adeg.state.ar.us/water/permits/npdes/nonstormwater/pdfs/arg590000/flow_chart_and_definitions.pdf.

State Natural Resources Agency

ADEQ issues CAFOs no-discharge permits²³ and general and individual permits to discharge pollutants into waterbodies.²⁴ Note that as of 2013, only one CAFO had a water pollutant discharge permit.²⁵

The [Arkansas Pollution Control and Ecology Commission](#) “is the environmental policy-making body for Arkansas” and ADEQ implements those policies

ADEQ collaborates with [Arkansas Natural Resources Commission \(ANRC\)](#) on funding and other CAFO-related issues. The ANRC is involved in keeping records of poultry operations. Poultry CAFOs register with ANRC annually regarding nutrient management plans and number of birds.

State Agricultural Agency

Arkansas Agriculture Department “is dedicated to the development and implementation of policies and programs for Arkansas agriculture and forestry to keep its Farmers and Ranchers competitive in national and international markets while ensuring safe food, fiber and forest products for the citizens of the state and nation.”²⁶

The Arkansas Agriculture Department has four agencies or divisions;²⁷ the most pertinent may be the Arkansas Livestock and Poultry Commission (ALPC).²⁸ ALPC regulations largely focus on animal health, but if you’re concerned about carcass disposal, consult these regulations.²⁹

²³ Arkansas Department of Environmental Quality, No-Discharge Permit Program, <https://www.adeq.state.ar.us/water/permits/nodischarge/> (last visited Jun. 16, 2016).

²⁴ See Arkansas Department of Environmental Quality, General Non-Stormwater NPDES Permits, <https://www.adeq.state.ar.us/water/permits/npdes/nonstormwater/> (last visited Jun. 16, 2016).

²⁵ U.S. Environmental Protection Agency, Arkansas CAFO/AFO Program Summary, https://www3.epa.gov/npdes/pubs/afo_arkansas_profile.pdf (last visited Jun. 16, 2016).

²⁶ Arkansas Agriculture Department, <http://aad.arkansas.gov/Pages/default.aspx> (last visited Jun. 16, 2016).

²⁷ See *id.*

²⁸ Arkansas Livestock & Poultry Commission, <http://alpc.arkansas.gov/Pages/default.aspx> (last visited Jun. 16, 2016).

²⁹ See Arkansas Livestock & Poultry Commission, Regulations, <http://alpc.arkansas.gov/regulations/Pages/default.aspx> (last visited Jun. 16, 2016).

According to United States Environmental Protection Agency (US EPA) Region 6, which oversees Arkansas, the “Arkansas Agriculture Department is not involved in NPDES permitting or compliance activities.”³⁰

State Department of Health

The Arkansas Department of Health may regulate AFOs. Pursuant to Arkansas Pollution Control and Ecology Commission Regulation 5, applicable to Liquid Animal Waste Management Systems, applications of waste or wastewater cannot be made where they are prohibited by the Department of Health regulations for protecting public water supplies.³¹

Local Conservation Districts

Each of the 75 counties in Arkansas has a local conservation district.³² Districts are created by Arkansas Statute, specifically by Title 14 of the Arkansas Code.

“Conservation districts are local governments at work and their specific responsibility is management of our soil and water resources. The idea behind their formation is to keep decision making on soil and water conservation matters at the local level.”³³

Arkansas Association of Conservation Districts, a statewide organization, provides assistance to each county district.³⁴

Consider using conservation district employees as a first point of contact because of their knowledge and expertise on local environmental issues.

³⁰ U.S. Environmental Protection Agency, Arkansas CAFO/AFO Program Summary, https://www3.epa.gov/npdes/pubs/afo_arkansas_profile.pdf (last visited Jun. 16, 2016).

³¹ See Arkansas Pollution Control and Ecology Commission, Regulation 5: Liquid Animal Waste Management Systems, August 28, 2015, https://www.adeq.state.ar.us/regs/files/reg05_final_150918.pdf; see also Arkansas Department of Environmental Quality, No-Discharge Section Permit Procedures: Liquid Animal Waste Management System, https://www.adeq.state.ar.us/water/permits/pdfs/reg_5_permit_procedures.pdf (explaining permitting process for new facilities or permit modifications to land application sites); see also U.S. Environmental Protection Agency, State Compendium – Region 6: Programs and Regulatory Activities Related to Animal Feeding Operations, <https://www3.epa.gov/npdes/pubs/region6.pdf> (last visited Jun. 16, 2016).

³² Arkansas Association of Conservation Districts, Welcome to AACD!, <http://aracd.org/default.htm> (last visited Jun. 16, 2016).

³³ *Id.*

³⁴ See *id.*

U.S. EPA Region 6 Contacts

A brief description of the United States Environmental Protection Agency (EPA) Region 6 CAFO Program, along with contact information, is available [online](#).³⁵ Note that the majority of states, including Arkansas, have authority to issue water pollution permits to regulated industries in their respective states;³⁶ however, the EPA retains oversight authority to take enforcement and related action when states fail to meet federal requirements like those outlined in the Clean Water Act.³⁷ For this reason, EPA CAFO contacts are important reference points for those who are tracking specific large-scale livestock operations or have more broad questions about a state CAFO program's compliance with federal laws. See the corresponding federal supplement to this Guide for more information on the interplay between states and the US EPA.

WATER

Arkansas Pollutant Discharge Elimination System Program

Discharging versus “no discharge” CAFOs

One of the first determinations you should make if concerned about a particular livestock operation is the type of permit with which the operation must comply. ADEQ issues no-discharge and more traditional water pollution permits to CAFOs. Within each permit category, the ADEQ issues either an individual or a general permit. A general permit covers multiple facilities, whereas an individual permit covers one facility and has more facility-specific terms and conditions with a broader opportunity for public review and comment.³⁸ The Arkansas Pollutant Discharge Elimination System Program is authorized pursuant to the Arkansas Water and Air Pollution Control Act.³⁹

Per the ADEQ, “NPDES permits are issued by ADEQ in agreement with the U.S. Environmental Protection Agency. The purpose of NPDES permits is to control the discharge of treated wastewater into streams, rivers, and other waterways. You may

³⁵ U.S. Environmental Protection Agency, Region 6 CAFO Program, <https://www3.epa.gov/region6/water/npdes/cafo/> (last visited Jul. 6, 2016).

³⁶ See *id.*

³⁷ See *id.*

³⁸ See, e.g., Arkansas Department of Environmental Quality, General Non-Stormwater NPDES Permits, <https://www.adeq.state.ar.us/water/permits/npdes/nonstormwater/> (last visited Jun. 16, 2016).

³⁹ Arkansas Water and Air Pollution Control Act, ARK. CODE ANN. §§ 8-4-101–208 (West 2016).

need an NPDES permit if your facility pretreats or discharges wastewater, is a construction site, or is required to manage stormwater runoff.”⁴⁰

CAFOs that have a water pollution discharge permit are exempt from Regulation 5, discussed below, but are subject to regulation by ADEQ. Water pollution discharge also invokes oversight by EPA and corresponding federal Clean Water Act requirements that apply to more “traditional” point sources like power plants or wastewater treatment facilities. Arkansas issues permit coverage to these “discharging” CAFOs under either a general permit, ARG5900,⁴¹ or, less frequently, an individual permit. Public notice requirements for issuing coverage under general permit AR5900 are contained in Regulation 6 at 6.207.⁴²

Under the general permit, CAFOs that discharge pollutants to waters of Arkansas must:

- Have a [Nutrient Management Plan](#)⁴³ and submit corresponding annual reports;
- Implement Best Management Practices (BMPs) to minimize pollutant runoff from fields where animal manure is spread;
- Prevent runoff from the production area into waters of the state except during extreme precipitation events; and
- Monitor any runoff from waste storage structures based on certain parameters and submit said data to ADEQ.⁴⁴

Although Arkansas has the option to issue discharge permits, it typically issues no-discharge permits—either general or individual permits—to CAFOs, based on a finding that such operations constitute “waste disposal system[s] that do[] not discharge directly into the waters of the state (and, consequently, [are] not under

⁴⁰ Arkansas Department of Environmental Quality, NPDES Permits, <https://www.adeq.state.ar.us/water/permits/npdes/> (last visited Jun. 16, 2016).

⁴¹ See Arkansas Department of Environmental Quality, General Non-Stormwater NPDES Permits, <https://www.adeq.state.ar.us/water/permits/npdes/nonstormwater/> (last visited Jun. 16, 2016).

⁴² Arkansas Pollution Control and Ecology Commission, Regulation 6: Regulations for State Administration of the National Pollutant Discharge Elimination System (NPDES), August 28, 2015, https://www.adeq.state.ar.us/regis/files/req06_final_150918.pdf.

⁴³ See Melony Wilson et al., *An Overview of Regulations for Nutrient Management on Livestock Farms in Arkansas*, UNIVERSITY OF ARKANSAS COOPERATIVE EXTENSION SERVICE, <http://www.uaex.edu/publications/pdf/FSA-9523.pdf> (last visited Jun. 14, 2016); see also Mike B. Daniels et al., *Nutrient Management Planning for Livestock Operations: An Overview*, UNIVERSITY OF ARKANSAS COOPERATIVE EXTENSION SERVICE, <http://www.uaex.edu/publications/PDF/FSA-9515.pdf> (last visited Jun. 14, 2016).

⁴⁴ See Arkansas Department of Environmental Quality, General Non-Stormwater NPDES Permits, <https://www.adeq.state.ar.us/water/permits/npdes/nonstormwater/> (last visited Jun. 16, 2016).

the [NPDES] permit program).⁴⁵ ADEQ maintains a searchable database with water pollution permits that are on public notice;⁴⁶ permit documents found using this tool should clearly indicate whether the permit is an individual or general permit.

“No-discharge” CAFOs that generate liquid waste must comply with Regulation 5,⁴⁷ which establishes practices to minimize pollutant runoff and odors from any CAFOs that use “liquid animal waste management systems.”⁴⁸

Highlights of Regulation 5 include, but are not limited to:

- Permit requirement for a new or majorly modified construction or operation of a liquid waste system;
 - These permits are public noticed, with opportunity for public comment and hearing.
- Setback from residences of at least 1,320 feet for “large operations;”
- State-approved waste management plan;
- Limitations on when and where animal waste can be applied to land;
 - For example, permittees cannot apply animal waste on frozen ground or near the time of a “significant precipitation event.”
- CAFOs must submit an annual report to ADEQ.⁴⁹

Nutrient Surplus Areas

Livestock operations, regardless of size, may also need nutrient management plans if located in a “nutrient surplus area” (NSA) as defined by the state of Arkansas.⁵⁰ NSAs are described in Arkansas statute at Ark. Code Ann. § 15-20-1104 and at ANRC Regulation 22. These areas have “been designated by the Arkansas General Assembly as having such high concentrations of one or more nutrients that

⁴⁵ Arkansas Department of Environmental Quality, No-Discharge Permit Program, <https://www.adeq.state.ar.us/water/permits/nodischarge/> (last visited Jun. 16, 2016).

⁴⁶ Arkansas Department of Environmental Quality, Draft Water Permits at Public Notice, https://www.adeq.state.ar.us/water/permits/drafts_pn.aspx (last visited Jun. 14, 2016).

⁴⁷ Arkansas Pollution Control and Ecology Commission, Regulation 5: Liquid Animal Waste Management Systems, August 28, 2015, https://www.adeq.state.ar.us/regs/files/reg05_final_150918.pdf.

⁴⁸ See *id.*

⁴⁹ See *id.*, see also Karl VanDevender, *Regulation No. 5: Liquid Animal Waste Management Systems*, UNIVERSITY OF ARKANSAS COOPERATIVE EXTENSION SERVICE, <http://www.uaex.edu/publications/pdf/FSA-3004.pdf> (last visited Jun. 14, 2016).

⁵⁰ Arkansas Natural Resources Commission, Nutrient Management Planning, <http://anrc.ark.org/divisions/conservation/nutrient-management-program/nutrition-management-planning> (last visited Jul. 20, 2016).

continued unrestricted application of the nutrient could negatively impact soil fertility and waters of the state.”⁵¹ See ADEQ’s [map](#)⁵² of all state NSAs.

At a minimum, any proposed or expanding large-scale livestock operations in the following NSAs should have a nutrient management plan:

- The Illinois River watershed, included within Benton, Washington, and Crawford counties;
- The Spavinaw Creek watershed, included within Benton County;
- The Honey Creek watershed, included within Benton County;
- The Little Sugar Creek watershed, included within Benton County;
- The upper Arkansas River watershed, which includes Lee Creek within Crawford and Washington counties, and Massard Creek within Sebastian County;
- The Poteau River watershed, included within Scott, Sebastian, and Polk counties;
- The Mountain Fork of the Little River watershed, included within Polk County; and
- The upper White River watershed above its confluence with Crooked Creek.⁵³

Public access to NMPs and other permit documents

The public records requirements, discussed further below, do not always apply to monitoring, data, or other information submitted in order to comply with state CAFO regulations. For example, records kept by owners, operators, or nutrient management planners to comply with Regulation 5,⁵⁴ which applies to liquid waste management systems, are not classified as public records by ADEQ. You should closely review permits and related documentation to ensure that government is affording access to information to the full extent required by state open records laws.

⁵¹ Arkansas Department of Environmental Quality, Nutrient Management Planning, <http://anrc.ark.org/divisions/conservation/nutrient-management-program/nutrition-management-planning> (last visited Jul. 20, 2016).

⁵² Arkansas Department of Environmental Quality, Nutrient Surplus Area, https://static.ark.org/eeuploads/anrc/nas_area.pdf (last visited Jul. 20, 2016).

⁵³ See Section 2202.1 Ark. Code R. § 138.00.05-004 (2005), available at <http://170.94.37.152/REGS/138.00.05-004F-7714.pdf>.

⁵⁴ See Section 2203.6 Ark. Code R. § 138.00.05-004 (2005), available at <http://170.94.37.152/REGS/138.00.05-004F-7714.pdf>.

Wetlands

Wetlands impacts, depending on the project details of a new or expanding CAFO, may provide another way to review, comment on, and potentially decrease the environmental impacts of large-scale livestock operations.

The Clean Water Act authorizes states to issue a State Water Quality Certification (401 Certification) for any activity or project that may result in a discharge into waters of the United States.⁵⁵ Projects subject to 401 Certification most commonly include irrigation or filling of wetlands. 401 Certification requires the state to determine that a project will not violate surface water quality standards or adversely impact impaired waters, and that a project complies with applicable state regulations including, but not limited to Regulation 2.⁵⁶ 401 certification requirements are discussed further in Arkansas regulations and on the ADEQ website.⁵⁷ For a detailed description of wetland management in Arkansas, please view this [Arkansas State Wetland Program Summary](#).⁵⁸

Poultry-Specific Regulations

Several Arkansas regulations illustrate the state's targeted efforts to address the volume of waste generated by the state's large-scale poultry operations. The prevalence of poultry operations in Arkansas⁵⁹ may, in part, explain the following regulations.

Arkansas Natural Resources Commission Rules Governing the Poultry Feeding Operations Registration Program (Title 19, ANRC-138.00)

- Applies to "poultry feeding operations where 2,500 or more poultry are housed or confined on any given day."⁶⁰

⁵⁵ Clean Water Act, 33 U.S.C. § 1341 (West 2016).

⁵⁶ Arkansas Pollution Control and Ecology Commission, Regulation 2: Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas, Feb. 28, 2014, https://www.adeq.state.ar.us/regs/files/reg02_final_140324.pdf.

⁵⁷ See *id.*, see also Arkansas Department of Environmental Quality, Instream 401 Certification and Short Term Activity Authorization, <https://www.adeq.state.ar.us/water/planning/instream/> (last visited Jul. 20, 2016).

⁵⁸ Association of State Wetland Managers, Arkansas State Wetland Program Summary, http://www.aswm.org/pdf_lib/state_summaries/arkansas_state_wetland_program_summary_083115.pdf (last visited Jul. 28, 2016).

⁵⁹ National Agricultural Statistics Service, 2015 State Agriculture Overview, https://www.nass.usda.gov/Quick_Stats/Ag_Overview/stateOverview.php?state=ARKANSAS (last visited Jul. 20, 2016).

⁶⁰ 19 Ark. Code R. § 138.00.05-001 (2005), available at https://static.ark.org/eeuploads/anrc/title_19-rules.pdf.

- Imposes a minor annual fee and annual reporting requirements for “assembling and maintaining information on the number, composition, and practices of poultry feeding operations in the state.”⁶¹

Arkansas Natural Resources Commission Surplus Poultry Litter Removal Incentives Cost Share Program (Title 11, ANRC-138.00)⁶²

- “[P]rovides financial incentives to encourage the removal of excess poultry litter from Arkansas’s nutrient surplus areas.”⁶³
- “[A]llows up to \$15 per ton for the purchase and transportation of surplus litter.”⁶⁴
- “Poultry litter is marketed online through a non-profit organization called BMP, Inc., that coordinates ‘clean-out, loading, hauling and spreading of litter for poultry growers and litter buyers’”⁶⁵

Water Quantity

Arkansas CAFOs, depending on an operation’s water use, may need to comply with water use regulations in addition to surface water pollution requirements discussed in this Guide. Water quantity reporting and permitting provide another opportunity to direct questions and violations to appropriate state authorities.

Under the Arkansas Groundwater Protection and Management Act, the Arkansas Natural Resources Commission has the authority to limit groundwater withdrawals in critical groundwater areas. Non-domestic groundwater withdrawal is regulated when the well has a potential flow rate of more than 50,000 gallons per day.⁶⁶ Water users must report monthly to the Arkansas Natural Resources Commission between October and March if they have the potential to withdraw 50,000 gallons per day of groundwater or they withdraw 325,851 gallons or more per year of surface water.⁶⁷

⁶¹ See *id.*

⁶² 11 Ark. Code R. § 138.00.07-001 (2007), available at https://static.ark.org/eeuploads/anrc/title_11-rules.pdf.

⁶³ U.S. Environmental Protection Agency, Arkansas CAFO/AFO Program Summary, https://www3.epa.gov/npdes/pubs/afo_arkansas_profile.pdf (last visited Jul. 20, 2016).

⁶⁴ See *id.*

⁶⁵ See *id.*

⁶⁶ Ark. Code Ann. § 15-22-905.

⁶⁷ Arkansas Natural Resources Commission, Water-use Registration, <http://anrc.ark.org/divisions/conservation/water-use-registration/> (last visited Jul. 28, 2016). See also, Arkansas Natural Resource Commission, Water Law in Arkansas, 2011, https://static.ark.org/eeuploads/anrc/arkansas_water_law_2011_draft-new.pdf.

Water Quality

Impaired Water Bodies

A primary intent of the federal Clean Water Act is to keep clean waters clean and to improve the quality of polluted—also known as impaired—waters. Based on the most recent, publicly available Arkansas Water Quality Assessment Report from the EPA, just under half of assessed water bodies are impaired.⁶⁸ Both the EPA and the ADEQ have databases that allow you to see whether a specific water body is impaired, and if so, the likely source of impairment.⁶⁹

ADEQ states that: “A waterbody is considered impaired and placed on the 303(d) List if it does not meet water quality standards⁷⁰ and/or designated uses⁷¹ as described in [] [Regulation 2](#).”⁷² ADEQ publishes [state reports](#)⁷³ regarding impaired water bodies in Arkansas, which the EPA must receive every two years pursuant to 303(d) of the Clean Water Act. Note the opportunity for the public to comment and to attend public hearings regarding draft reports. Consult with partner organizations like the Arkansas Public Policy Panel to understand the strengths and weaknesses of proposed impaired waters lists from ADEQ.⁷⁴

⁶⁸ U.S. Environmental Protection Agency, Arkansas Water Quality Assessment Report, https://iaspub.epa.gov/waters10/attains_index.control?p_area=AR (last visited Jul. 20, 2016).

⁶⁹ See *id.*, see also Arkansas Department of Environmental Quality, Arkansas’s Final/Draft Impaired Waterbodies – 303(d) List by Year, <https://www.adeq.state.ar.us/water/planning/integrated/303d/list.aspx> (last visited Jul. 20, 2016).

⁷⁰ Arkansas Pollution Control and Ecology Commission, Regulation 2: Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas, Feb. 28, 2014, https://www.adeq.state.ar.us/regs/files/reg02_final_140324.pdf.

“Water quality standards are designed to enhance the quality, value, and beneficial uses of the surface waters of Arkansas. They aid in the prevention, control, and abatement of water pollution; provide for the protection and propagation of fish and wildlife; and ensure that recreation in and on the water is safe. Standards must consist of three elements: designated uses, criteria to protect those uses, and an anti-degradation policy.”

⁷¹ See *id.* “Designated uses are appropriate water uses to be achieved and protected for specific water bodies. Designated uses can include public water supply; the protection and propagation of fish, shellfish, and wildlife; recreational, agricultural, industrial, and navigational purposes; and ecological and aesthetic value.”

⁷² <https://www.adeq.state.ar.us/water/planning/reg2/>

⁷³ <https://www.adeq.state.ar.us/water/planning/integrated/303d/list.aspx>

⁷⁴ Letter from Anna Weeks, Environmental Policy Associate, Arkansas Public Policy Panel, to Jim Wise, Arkansas Department of Environmental Quality (Mar. 16, 2016), *available at* <http://static1.squarespace.com/static/55afb880e4b039b081c51cbc/t/5715205e2fe131760ca5c687/1461002341389/APPP+comments+on+2016+Proposed+303d+list.pdf>.

- **Considerations for CAFOs with discharge permits**

The quality of the water into which a CAFO, or any permitted facility, discharges is important because the Clean Water Act requires water pollution permits to include limits that incorporate and protect water quality standards.⁷⁵ These considerations are complex; if you're reviewing a water pollution permit and have specific concerns about water quality standards, consider contacting scientific experts for assistance. Consider seeking advice from state organizations listed toward the end of this guide for information about technical experts and other assistance.

- **Considerations for other livestock operations**

Residents with concerns about a new or expanding livestock operation should determine whether it is or would be in a watershed with EPA-funded projects designed to address nonpoint pollution such as runoff from agricultural fields.

Like most states, Arkansas "receives federal assistance each year . . . to fund projects associated with the abatement, reduction or control of [nonpoint source] . . . pollutants."⁷⁶ This federal assistance, called 319 funding, encourages states to utilize a watershed-level approach reflecting the reality that the health of a watershed⁷⁷ is dependent upon practices of all local industries, whether a large-scale farm or a power plant. 319 funding goes toward projects in "priority watersheds" listed on the Arkansas Natural Resources Commission website.⁷⁸

The presence of agricultural and other nonpoint source pollution is a significant factor in defining a priority watershed. As such, you should argue that it's an inefficient use of taxpayer dollars to allow unregulated water pollution from CAFOs, particularly in priority areas of Arkansas. An important component of the 319 program is the requirement to submit annual reports, and ADEQ makes such reports available to the public.⁷⁹ These reports are important sources of information for

⁷⁵ See 33 U.S.C. §§ 1311(a), 1342(a) (West 2016); see also 40 C.F.R. § 131.10(b) (West 2015).

⁷⁶ UNIVERSITY OF ARKANSAS DIVISION OF AGRICULTURE RESEARCH AND EXTENSION, Watershed Prioritization for Managing Nonpoint Source Pollution in Arkansas, <https://www.uaex.edu/publications/pdf/FSPPC116.pdf> (last visited Jul. 20, 2016).

⁷⁷ See *id.*

⁷⁸ Arkansas Natural Resources Commission, Nonpoint Source Management, <http://anrc.ark.org/divisions/water-resources-management/nonpoint-pollution/> (last visited Jul. 20, 2016).

⁷⁹ Arkansas Natural Resources Commission, Annual Reports, <http://anrc.ark.org/news-publications/annual-reports> (last visited Jul. 20, 2016).

Arkansas residents seeking to learn more about the extent and impact of nonpoint source pollution in the state.

ADEQ maintains a public, electronic map that details water quality⁸⁰ and allows you to view data from particular water quality stations when they have the appropriate station number and other necessary information.⁸¹

CAFO Construction

ADEQ automatically extends stormwater permit coverage for construction sites between one and five acres.⁸² Although residents and potential neighbors do not have an opportunity to comment on ADEQ's automatic reissuance of these permits for specific construction activities, note that permittees must post all required forms at a construction site before starting any construction.⁸³ These posted forms should include details about recent discharges⁸⁴ and other pertinent information that you can use to contact the government with concerns. Failure to prevent certain stormwater discharges and provision of any false information can be the basis of fines and other responsive action.⁸⁵

Construction sites over five acres must obtain a general construction stormwater permit, under which ADEQ does not extend automatic coverage.⁸⁶ Similar to smaller construction sites, permittees must prevent certain stormwater discharges and provide accurate information in the permit and corresponding plans order to avoid liability.⁸⁷ Though rare, if ADEQ requires individual stormwater permits for CAFOs, the

⁸⁰ Arkansas Department of Environmental Quality, AquaView, <http://arkansasdeq.maps.arcgis.com/apps/webappviewer/index.html?id=6df7f199aa3e45f99c0a970cb6acf3a2> (last visited Jul. 20, 2016).

⁸¹ Arkansas Department of Environmental Quality, Water Quality Monitoring Data, https://www.adeq.state.ar.us/techsvs/env_multi_lab/water_quality_station.aspx (last visited Jul. 20, 2016).

⁸² Arkansas Department of Environmental Quality, General Stormwater NPDES Permits, <https://www.adeq.state.ar.us/water/permits/npdes/stormwater/> (last visited Jul. 20, 2016).

⁸³ See *id.*

⁸⁴ ARR150000 Inspection Form – Stormwater Pollution Prevention Plan, https://www.adeq.state.ar.us/water/permits/npdes/stormwater/pdfs/construction/arr150000_inspection_form.pdf. (last visited Jul. 20, 2016).

⁸⁵ See, e.g., *id.*

⁸⁶ Arkansas Department of Environmental Quality, General Stormwater NPDES Permits, <https://www.adeq.state.ar.us/water/permits/npdes/stormwater/> (last visited Jul. 6, 2016).

⁸⁷ See, e.g., https://www.adeq.state.ar.us/water/permits/npdes/stormwater/pdfs/construction/arr150000_permit.pdf

applicant must also submit a corresponding EPA Form 2B.⁸⁸ ADEQ posts individual permits on a searchable public [website](#).⁸⁹

CAFO Inspections

The ADEQ Office of Water Quality Compliance inspects both NPDES-permitted and no-discharge livestock operations.⁹⁰ ADEQ's website includes [contact information](#) for compliance staff,⁹¹ along with [inspection and complaint information](#).⁹² This could prove useful if you need monitoring and other pertinent data when considering legal action. Please consult the Federal Guide for more information on data and other requirements for Clean Water Act citizen suits.

According to a 2005 report from EPA Region 6, ADEQ inspects 100% of CAFOs once a year.⁹³ Note that this statistic has likely changed due to newly permitted livestock operations and state regulatory changes that have occurred since 2005.

You should review permit(s) for any facility of concern and understand the owners' obligations related to government monitoring and site visits. (For example, general CAFO permit ARG590000, requires facilities to allow state entry and inspection.)⁹⁴ Searching the ADEQ website for state monitoring and inspection information can save you the time and expense otherwise required to submit open records requests.

⁸⁸ Arkansas Department of Environmental Quality, Individual NPDES Permits, <https://www.adeq.state.ar.us/water/permits/npdes/individual/> (last visited Jul. 20, 2016); *see also* Arkansas Department of Environmental Quality, NPDES Permit Application Form 1, <https://www.adeq.state.ar.us/water/permits/npdes/individual/pdfs/form1.pdf> (last visited Jul. 20, 2016).

⁸⁹ Arkansas Department of Environmental Quality, Draft Water Permits at Public Notice, https://www.adeq.state.ar.us/water/permits/drafts_pn.aspx (last visited Jul. 20, 2016).

⁹⁰ Arkansas Department of Environmental Quality, Water Quality Compliance, <https://www.adeq.state.ar.us/water/inspections/> (last visited Jul. 20, 2016).

⁹¹ *See id.*

⁹² Arkansas Department of Environmental Quality, ADEQ Complaints and Inspections Data, <https://www.adeq.state.ar.us/complaints/searches/> (last visited Jul. 20, 2016).

⁹³ U.S. Environmental Protection Agency, NPDES Profile: Arkansas, https://www3.epa.gov/npdes/pubs/arkansas_final_profile.pdf (last visited Jul. 20, 2016).

⁹⁴ *See* Section 8.7, Arkansas Department of Environmental Quality, ARG590000, <https://www.adeq.state.ar.us/water/permits/npdes/nonstormwater/pdfs/arg590000/draft.pdf> (last visited Jul. 20, 2016).

Arkansas must monitor and limit certain air pollutants in order to comply with the Clean Air Act,⁹⁵ and the state boasts that “Arkansas is one of a handful of states in the country that consistently meets all federal air quality standards for criteria pollutants.”⁹⁶ However, as is the case in many states, air pollution statutes and regulations in Arkansas are not structured to address air quality impacts from large-scale agricultural operations. “Even [though] agricultural production can contribute to poor air quality[,]”⁹⁷ Arkansas grants a blanket air pollution exemption in its environmental laws to all “[a]gricultural operations in the growing or harvesting of crops and the raising of fowl or animals[.]”⁹⁸

The lack of air pollution laws and regulations for CAFOs is understandably concerning for those who are impacted by odors, air pollution, and related nuisances from large-scale livestock operations. The University of Arkansas Division of Agriculture confirms that although “[o]dors from livestock production systems are generally regarded as nuisance pollutants[,] . . . [t]hey are not regulated under the Federal Clean Air Act nor are there Arkansas air quality regulations that specifically address livestock production.”⁹⁹

Instead, the waste management plans required under Regulation 5 are intended to regulate odor from liquid waste management systems.¹⁰⁰ Provisions of Regulation 5 set “minimal distances between animal housing, manure storages, land application sites and neighbors”¹⁰¹ that should, to a limited extent, address odor impacts. For example:

“This regulation specifies that for small farms the minimum distance between animal barns or manure storages and neighbors is 500 feet. For farms with more than 600 beef cows,

⁹⁵ See, e.g., University of Arkansas Cooperative Extension Service, Air Quality Standards in Arkansas, <http://www.uaex.edu/environment-nature/air-quality/standards.aspx> (last visited Jul. 20, 2016).

⁹⁶ See, e.g., University of Arkansas Cooperative Extension Service, Air Quality in Arkansas, <http://www.uaex.edu/environment-nature/air-quality/> (last visited Jul. 20, 2016).

⁹⁷ See *id.*

⁹⁸ See ARK. CODE ANN. §§ 8-4-305-1, (West 2016).

⁹⁹ See, e.g., University of Arkansas Cooperative Extension Service, Air Quality Standards in Arkansas, <http://www.uaex.edu/environment-nature/air-quality/standards.aspx> (last visited Jul. 20, 2016).

¹⁰⁰ See *id.*

¹⁰¹ See *id.*

430 dairy cows, 1,500 finishing hogs, 600 sows, 6,000 nursery pigs, 33,000 turkeys or 130,000 chickens, the minimum distance is 1,320 feet. The regulation also specifies that liquid manure is not to be applied within 50 feet of property lines or 500 feet of neighboring occupied dwellings.”¹⁰²

To help address the limited air quality oversight of livestock operations, consider whether a particular operation relies on a manure processing plant or similar facility that accepts waste from a CAFO and may be subject to the state’s air pollution statutes and regulations, the most pertinent being Regulations 18 and 26.¹⁰³ Media and public opinion are also powerful tools to address odor and other air quality impacts from CAFOs. Arkansas has issued several “good neighbor” guides for livestock operations and non-compliance with recommended practices is a sufficient basis on which to ground complaints and calls for change.¹⁰⁴

Finally, be aware that large releases of certain hazardous substances such as ammonia and hydrogen sulfide trigger the need to control emissions and report data to the state and/or federal government.¹⁰⁵ The threshold for reporting is high and doesn’t apply for most livestock operations but may prove useful in some cases, particularly for operations with egregious, irresponsible practices. For example, if a facility emits more than 100 pounds of ammonia and hydrogen sulfide—pollutants that are commonly emitted from livestock operations—in a 24-hour period, the facility must comply with certain federal reporting regulations.¹⁰⁶ For other pollutant thresholds that apply under the federal Clean Air Act, refer to the federal supplement

¹⁰² Yi Liang and Karl VanDevender, *Managing a Livestock Operation to Minimize Odor*, UNIVERSITY OF ARKANSAS COOPERATIVE EXTENSION SERVICE, <http://www.uaex.edu/publications/pdf/FSA-3007.pdf>; see also Arkansas Pollution Control and Ecology Commission, Regulation 5: Liquid Animal Waste Management Systems, Aug. 28, 2015, https://www.adeq.state.ar.us/regs/files/reg05_final_150918.pdf; see also Karl VanDevender, *Regulation No. 5: Liquid Animal Waste Management Systems*, UNIVERSITY OF ARKANSAS COOPERATIVE EXTENSION, <http://www.uaex.edu/publications/pdf/FSA-3004.pdf> (last visited Jun. 14, 2016).

¹⁰³ Arkansas Department of Environmental Quality, Laws & Regulations, <https://www.adeq.state.ar.us/regs/> (last visited Jul. 20, 2016).

¹⁰⁴ See, e.g., Yi Liang and Karl VanDevender, *Managing a Livestock Operation to Minimize Odor*, UNIVERSITY OF ARKANSAS COOPERATIVE EXTENSION SERVICE, <http://www.uaex.edu/publications/pdf/FSA-3007.pdf>.

¹⁰⁵ University of Arkansas Cooperative Extension Service, Controlling Emissions in Agriculture, <http://www.uaex.edu/environment-nature/air-quality/controlling-emissions.aspx> (last visited Jul. 20, 2016).

¹⁰⁶ See *id.*

to this Guide.¹⁰⁷ Finally, CAFO monitors should also analyze the compliance of industries like manure processing with hazardous substances emissions limits.

As with water pollution complaints, ADEQ tracks air pollution complaints and makes them publicly available.¹⁰⁸

ZONING

Local governments are often the first to know of a proposal for a CAFO or other livestock operation to locate or expand in a community. It's crucial to know who your local elected officials are and to establish a working relationship with them when possible to facilitate a more efficient exchange of information and knowledge.

The balance of state and local power is complex in any state, and the Arkansas Municipal League ("AML") confirms the importance of seeking local legal advice if necessary for guidance on such issues.¹⁰⁹ The AML and the Association of Arkansas Counties are state-level organizations that represent or assist county and municipal governments and publish numerous guides to assist elected officials and residents. For example, an AML publication entitled *Municipal Law in Arkansas, Questions and Answers* has a section on ordinances and voting¹¹⁰ that helps residents understand whether their local officials are properly considering and enacting ordinances, including those that could impact livestock operations.

Counties are responsible for zoning ordinances in "unincorporated areas" of their counties.¹¹¹ Otherwise, the interested public should look to incorporated governments, such as townships, as the local authority to make zoning and other decisions that impact the location and operation of CAFOs. Arkansas municipalities have broad

¹⁰⁷ See also Environmental Integrity, *Raising a Stink: Air Emissions from Factory Farms*, http://environmentalintegrity.org/pdf/publications/CAFOAirEmissions_white_paper.pdf (last visited Jul. 20, 2016).

¹⁰⁸ Arkansas Department of Environmental Quality, Air Pollution Complaint form, https://www.adeq.state.ar.us/complaints/forms/air_complaint.aspx (last visited Jul. 20, 2016).

¹⁰⁹ See page 26, Arkansas Municipal League, *Municipal Law in Arkansas Questions and Answers*, https://static.ark.org/eeuploads/armi/Municipal_Law_in_Arkansas_FAQ_2015_06_WEB.pdf (last visited Jul. 20, 2016).

¹¹⁰ See *id.* at page 28.

¹¹¹ See ARK. CODE ANN. § 14-17-209(a) (2016) (The county planning board shall have authority to prepare, or to cause to be prepared, a zoning ordinance for all or part of the unincorporated area of the county[.]).

authority to regulate in all areas except when explicitly prohibited in statute,¹¹² or when extensive regulation of a particular issue exists at the state level.¹¹³ Regulation of large-scale agriculture is not an explicitly prohibited sphere of local regulation.¹¹⁴ For example, in 2012 the City of Magnolia in Columbia County enacted a ban on swine in city limits and established other setback and acreage requirements for other livestock.¹¹⁵

Because Arkansas state laws leave room for some local control of CAFOs, always compare proposed local ordinances or other efforts against any conflicting requirements in state law. Since there are numerous counties and branches of local government in Arkansas, this Guide doesn't provide specific zoning regulations for each local governing body.

Local action from government and/or organizations can also influence state regulation of large-scale agricultural operations. For example, the Arkansas Pollution Control and Ecology Commission proposed a ban on new CAFOs in the Buffalo National River Watershed in partial response to petitions from the Ozark Society.¹¹⁶ This proposed ban resulted in a 180-day moratorium on new CAFOs in the watershed region.¹¹⁷

In sum, local government decision-making is crucial, particularly for issues such as protecting local public health and safety, which are "traditional" areas of local control. Learn more about your local government here:

- **Counties:** <http://www.arcounties.org/counties>
- **Cities and Towns:** <http://local.arkansas.gov/index.php>

¹¹² ARK. CODE ANN. § 14-43-601(a)(1) (2016).

¹¹³ See page 26, Arkansas Municipal League, *Municipal Law in Arkansas Questions and Answers*, https://static.ark.org/eeuploads/arm/Arkansas_FAQ_2015_06_WEB.pdf (last visited Jul. 20, 2016).

¹¹⁴ ARK. CODE ANN. § 14-43-601(a)(1) (2016).

¹¹⁵ Magnolia Reporter, *City Council: Magnolia sets requirements for keeping livestock in city limits*, http://www.magnoliareporter.com/news_and_business/local_news/article_24f75f1e-82e7-11e1-8a1b-0019bb2963f4.html.

¹¹⁶ David Ramsey, *Commission holds public hearing on banning new large hog farms in Buffalo River Watershed*, June 18, 2014, ARKANSAS TIMES, <http://www.arktimes.com/ArkansasBlog/archives/2014/06/18/commission-holds-public-hearing-on-banning-new-large-hog-farms-in-buffalo-river-watershed>.

¹¹⁷ Thomas Garrett, *State issues new hog farm moratorium*, The Baxter Bulletin, April 24, 2015, <http://www.baxterbulletin.com/story/news/local/2015/04/24/state-extends-hog-farm-moratorium/26319121/>

PERMITTING & PUBLIC PARTICIPATION

Permitting of Liquid Waste Management Systems

[Regulation 5](#), Liquid Animal Waste Management Systems, sets the guidelines for the permitting and siting process for animal operations using liquid animal waste management systems. This regulation serves to protect water quality and public health, while minimizing odor.¹¹⁸

Any new facility or facility making major modifications must notify neighbors and follow the public notice procedures of Regulation 8, discussed below. Major facility modifications include volume of waste increase, addition of application sites, and changes to a waste management plan. Minor modifications include correction of typographical errors, change in ownership, transferred land permits, removal of sites from a permit, changes that don't lead to a significant increase in volume, and removal of educational requirements from a waste management plan.

The site must adhere to the design requirements set forth in the Field Office Technical Guide and the Agricultural Waste Management Field Handbook. Generally, liquid animal waste containment structures with more than 600 beef cattle, 430 dairy cows, 1,500 hogs, 600 hogs, 6,000 nursery pigs, 33,000 turkeys, or 130,000 chickens may not be constructed within 1,320 feet of an occupied dwelling. All other facilities must have a 500-foot buffer from occupied dwellings.

Waste and wastewater must be distributed over the application sites according to a waste management plan, which must be developed according to Regulation 5.402. Specific land application requirements that attempt to minimize impacts on water and neighbors are listed in Regulation 5.406. An example is that waste application may not be made within 100 feet of streams or within 50 feet of property lines or 500 feet from neighbors' homes.

ADEQ must certify the construction of a facility with liquid waste management systems before the facility can actually operate. See [Regulation 5 Permit Procedures](#) for permit application process details.

¹¹⁸ Arkansas Pollution Control and Ecology Commission, Regulation 6: Regulations for State Administration of the National Pollutant Discharge Elimination System (NPDES), Aug. 28, 2015, https://www.adeq.state.ar.us/regs/files/reg06_final_150918.pdf.

Permitting for “Discharging” CAFOs

[Regulation 6](#), Regulations for State Administration of the NPDES Program, governs Arkansas’ implementation of a state water pollution control permitting program that’s as strict as the federal program. This regulation sets requirements and limits for wastewater discharges. Violations of Regulation 6.106 are subject to penalties listed in the Arkansas Water and Air Pollution Act.¹¹⁹

As described in the *Arkansas Pollutant Discharge Elimination System* section of this Guide, a CAFO is permitted as a “discharging” CAFO if it releases water pollutants into streams, lakes, or other waterbodies. Note: discharge permits are much less commonly issued to CAFOs in Arkansas than “no discharge” permits that are not covered under Regulation 6.

Public Notices

[Regulation 8](#), Administrative Procedures, governs administrative procedures for the Arkansas Pollution Control and Ecology Commission and its proceedings.¹²⁰ Regulation 8.205 lists the public notice requirements for permit applications. ADEQ must provide public notice for complete permit applications. The notice must include the name and business address of applicant; type of permit applied for; name of division reviewing the application; the filing date; the city, town, or community nearest to the proposed facility; and a statement that interested parties may request public hearing within 10 days of notice publication. Under Regulation 8.206, any interested party may request a public hearing regarding a permit application. The request must be made within 10 days of the public notification. ADEQ decides whether or not to hold this public hearing, unless the hearing is required by law.

[Regulation 6.207](#) establishes the public notice requirements for notice of intent for a CAFO’s general permit.¹²¹ The permit applicant must provide written notice, by certified mail, to property owners adjacent to the CAFO production site and manure spreading sites, the County Judge where the CAFO is located, mayors of incorporated municipalities within 10 miles of the CAFO production site, and the superintendent of the school district the CAFO is located in. See Regulation 6.207 for specific public notice requirements.

¹¹⁹ *Id.*

¹²⁰ Arkansas Pollution Control and Ecology Commission, Regulation 8: Administrative Procedures, Jan. 23, 2009, https://www.adeq.state.ar.us/regs/files/reg08_final_090228.pdf.

¹²¹ Arkansas Pollution Control and Ecology Commission, Regulation 6: Regulations for State Administration of the National Pollutant Discharge Elimination System (NPDES), Aug. 28, 2015, https://www.adeq.state.ar.us/regs/files/reg06_final_150918.pdf.

Regulation 8.209 governs public hearings for permit applications and draft permitting decisions. ADEQ must give notice by mail of date, time, and place of the hearing to all persons who timely filed written requests for a public hearing. ADEQ must also publish this information in the appropriate newspaper. During the public hearing, ADEQ will receive oral public comments and will continue until all persons wishing to comment have made comments. The Presiding Officer may deny additional oral comments if they will not be useful or are unduly time consuming; the Presiding Officer will receive oral comments from all persons that previously informed Director of intention to speak; and the Presiding Officer may announce an extension of the written comment period for up to 20 days.¹²²

The calendar for the Arkansas Natural Resource Commission meetings can be found [here](#).

Draft Permits

[Regulation 8](#) also governs the public notice and comment process for draft permitting decisions.¹²³ The Director must issue public notice of a draft permitting decision in the county or state's newspaper, depending on the permit's coverage. The public notice should include the name and phone number of the relevant division of ADEQ; the applicant's name and business address; the type of permit; the date of issuance of the draft permitting decision; a statement that the decision is available for copying; a statement that written comments submitted by any person will be accepted during the comment period; and a statement that any interested person may request a public hearing during the public comment period. See Regulation 8.207 for specific instructions for public notice requirements for draft permitting decisions.

The schedule for ADEQ's public hearings and meetings can be found [here](#).

Regulation 8.208 presents guidelines for the public comment process for draft permitting decisions. Any interested party may submit written comments, data, views, or arguments on the draft permitting process to ADEQ during the public comment period. The public comment period begins on the day the notice is published and lasts for 30 days, unless otherwise required. The Director may extend the written comment period for up to 20 days, as directed in Regulation 8.208(B).

¹²² Arkansas Pollution Control and Ecology Commission, Regulation 8: Administrative Procedures, Jan. 23, 2009, https://www.adeq.state.ar.us/regs/files/reg08_final_090228.pdf.

¹²³ See *id.*

Written comments must be submitted by 4:30pm on the last day of the comment period, by mail, facsimile, or email. ADEQ will make the draft permitting decision and other relevant material available for inspection and copying, complying with the Arkansas Freedom of Information Act (discussed further below). During the comment period, ADEQ will consider the written comments received and determine whether to conduct a public hearing.

For guidance on submitting comments and participating in a public hearing, consult the federal and community organizing supplements to this Guide.

Permit Appeals

Under Regulation 8.217, the Commission's final permitting decision is appealable to circuit court in accordance with Ark. Code. Ann. § 8-4-222 – § 8-4-229 and Regulation 8.703. No order of the Director is a final agency action until all procedures for hearing and review have been completed or the time periods have expired.¹²⁴

According to Regulation 8.7.2, an appeal must be filed with the circuit court within 30 days after the Commission serves its final decision. A copy of the notice of appeal shall be served by personal delivery or mail to the Commission Secretary within 10 days of filing with circuit court. The notice of appeal shall state the action appealed from; specify grounds of appeal, including law and fact; and may contain other pertinent allegations or denials of fact.

Submitting Complaints to ADEQ

ADEQ accepts complaints via phone, online complaint forms, and even a mobile reporting application.¹²⁵ ADEQ also houses an after-hours emergency line.¹²⁶ The [online complaint form](https://www.adeq.state.ar.us/complaints/) for water pollution allows residents to submit photographs along with other information necessary to report a particular incident.¹²⁷ For guidance on what information to include when filing a complaint, consult the ADEQ [water pollution complaint form](https://www.adeq.state.ar.us/complaints/forms/water_complaint.aspx)¹²⁸ and review the federal and community organizing supplements to this Guide.

¹²⁴ See *id.*

¹²⁵ Arkansas Department of Environmental Quality, Pollution Complaints, <https://www.adeq.state.ar.us/complaints/> (last visited Jul. 20, 2016).

¹²⁶ See *id.*

¹²⁷ Arkansas Department of Environmental Quality, Water Pollution Complaint Form, https://www.adeq.state.ar.us/complaints/forms/water_complaint.aspx (last visited Jul. 20, 2016).

¹²⁸ See *id.*

Previous complaints are also searchable via an online ADEQ database.¹²⁹ If you're interested in gathering all past complaints about a particular facility, it's useful to specifically request all formats of complaints, including telephone, online, and email.

RIGHT TO FARM & NUISANCE LAWS

The intent of the Arkansas Right to Farm Law, enacted in 1981, is "to reduce the loss to the state of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to be a nuisance."¹³⁰ The law makes it very difficult for residents to file private nuisance lawsuits against agricultural operations. For example, you may be able to file a private nuisance lawsuit for unpleasant odors from a facility that burns garbage, but the same sort of lawsuit is not legally feasible as against a large-scale farm.

According to the University of Arkansas Division of Agriculture:

- The law protects agricultural operations, such as harvesting crops and raising livestock, from pressures of urbanization and nuisance claims from neighbors. Common nuisance claims include complaints of conditions that interfere with one's use or enjoyment of their property.
- The law does not clearly state whether nontraditional agricultural operations are protected, such as agri-tourism.
- An agricultural operation will be protected by the law if it was established before any surrounding nonagricultural uses began; it uses commonly or reasonably used agricultural practices; or it was in operation for one year before a change in the surrounding area's condition that made it seem like a nuisance.
- The law does not protect operations from violating other laws, like the Clean Water Act.

¹²⁹ Arkansas Department of Environmental Quality, ADEQ Complaints and Inspections Data, <https://www.adeq.state.ar.us/complaints/searches/> (last visited Jul. 20, 2016).

¹³⁰ ARK. CODE ANN. § 2-4-101 (West 2016); see also The National Agricultural Law Center, States' Right-to-Farm Statutes, April 26, 2010, <http://nationalaglawcenter.org/wp-content/uploads/assets/righttofarm/arkansas.pdf> (last visited Jul. 20, 2016).

- Finally, the law prohibits any local law that makes agricultural operations a nuisance.¹³¹

The legal result of the Right to Farm Law is to stymie residents who might otherwise work with a private attorney to bring a nuisance claim against a neighboring farm for a threat to use and enjoyment of property, such as air pollution. Until the Right to Farm Law is successfully legally challenged or changed by the Arkansas Legislature, alternatives to a nuisance claim against an agricultural operation are more likely to succeed.

ENFORCEMENT

Where to Find Data

Enforcement actions are public noticed on an ADEQ website, and ADEQ also maintains a searchable “Legal Orders Database” of Consent Administrative Orders, Notices of Violations, and related documentation.¹³²

EPA Region 6 stated as follows in a 2005 profile of Arkansas:

ADEQ informed EPA Region 6 enforcement during a recent audit that citizen complaints have decreased significantly, the farms are doing much better and the public is not as concerned. CAFO enforcement priorities are (1) release discharges and (2) repeat discharges. Enforcement actions on a ‘paperwork violation’ are not issues unless it is a repeat violation.¹³³

Although this seemingly contradicts reports that Arkansas is not sufficiently monitoring or permitting CAFOs,¹³⁴ the EPA’s profile points residents toward

¹³¹ UNIVERSITY OF ARKANSAS DIVISION OF AGRICULTURE RESEARCH & EXTENSION, Arkansas’ Right-to-Farm Law: An Overview. February 2013, <https://www.uaex.edu/publications/pdf/FSPPC118.pdf>.

¹³² Arkansas Department of Environmental Quality, Enforcement Actions, <https://www.adeq.state.ar.us/poa/pi/notices/enforcement.aspx> (last visited Jul. 20, 2016).

¹³³ U.S. Environmental Protection Agency, NPDES Profile: Arkansas, https://www3.epa.gov/npdes/pubs/arkansas_final_profile.pdf (last visited Jul. 20, 2016).

¹³⁴ Michele Merkel, *EPA and State Failures to Regulate CAFOs Under Federal Environmental Laws*, ENVIRONMENTAL INTEGRITY PROJECT, Sep. 11, 2006, http://www.environmentalintegrity.org/pdf/publications/EPA_State_Failures_Regulate_CAFO.pdf.

monitoring the type of violations that may trigger responses more quickly from appropriate local, state, and federal regulators.

Fines/Penalties

ADEQ assesses fines or penalties according to a Uniform Penalty Policy.¹³⁵ The Policy and penalties assessed are based on guidelines in Regulation 7, Section 9.¹³⁶ Since fines and penalties are case-specific, they can't all be described in this Guide. Broadly speaking, ADEQ issues fines according to this model:

1. Calculate a base penalty, usually between \$250 and \$4,000, based on severity of violation;
2. Consider adjustments to the base penalty using factors including but not limited to permittee cooperation and history of violations;
3. Potentially increase penalty for continuing and/or multi-occurrence violations;
4. Consider cap on penalties if the Hazardous Waste Management Act applies; and
5. Analyze whether fine is sufficient to economically deter continued violation.¹³⁷

PUBLIC INFORMATION LAWS

Public Information Laws Generally

The Arkansas Freedom of Information Act (FOIA)¹³⁸ is codified at Ark. Code Ann. § 25-19-101 et seq. The [Arkansas Attorney General website](#) provides the following "FOIA at a Glance:"

- The law gives Arkansas residents access to public records and public meetings, with limited exceptions.
- Governing bodies must comply with the open-meetings section of the law if they are making decisions on the public's behalf.

¹³⁵ Arkansas Department of Environmental Quality, Uniform Penalty Policy, Mar. 1, 2012, https://www.adeq.state.ar.us/uniform_penalty_policy.pdf.

¹³⁶ Arkansas Pollution Control and Ecology Commission, Regulation 7: Civil Penalties, Jul. 24, 1992, https://www.adeq.state.ar.us/regs/files/reg07_final_920831.pdf.

¹³⁷ Arkansas Department of Environmental Quality, Uniform Penalty Policy, https://www.adeq.state.ar.us/uniform_penalty_policy.pdf (last visited Jul. 20, 2016).

¹³⁸ ARK. CODE ANN. § 25-19-101, (West 2016), available at <https://static.ark.org/eeuploads/ag/Arkansas-Freedom-of-Information-Act.pdf>.

- A public record is defined as any writing, sound, or video that reflects the performance or lack of performance of an official function.
- All records maintained by public employees within the scope of their employment are presumed to be public records, though several exemptions may shield a record from disclosure.
- Government entities generally have up to three days to provide a record requested under the FOIA.
- Custodians of records may only charge for the “actual costs” of reproducing public records, plus mailing expenses.
- Notice of public meetings must be provided to anyone who has asked to be notified, and notice of special meetings must be provided to members of the news media who have requested notice of such meetings.
- Governing bodies may only enter into closed sessions for the purpose of considering employment, appointment, promotion, demotion, disciplining, or resignation of an individual officer or employee.¹³⁹

The same website has a great deal of information on open government resources, including searchable, pertinent case law, a handbook, and a related presentation. The Arkansas Municipal League also has a guide to “Municipal Law in Arkansas” that is structured as a useful resource for both elected officials and residents with questions about whether their local government is following open records and meetings laws.¹⁴⁰

The National Freedom of Information Coalition has state-specific resources for Arkansas, including a sample records request and useful publications.¹⁴¹ The [sample records request](#) outlines how to obtain a waiver of processing fees for an open records request made for public interest purposes.¹⁴² Fee reduction or waiver is allowed by the Arkansas Freedom of Information Act:

¹³⁹ Arkansas Attorney General, FOIA, <http://arkansasag.gov/media-center/foia/> (last visited Jul. 20, 2016).

¹⁴⁰ See pages 27–40, Arkansas Municipal League, Municipal Law in Arkansas Questions and Answers, https://static.ark.org/eeuploads/armi/Municipal_Law_in_Arkansas_FAQ_2015_06_WEB.pdf (last visited Jul. 20, 2016).

¹⁴¹ See National Freedom of Information Coalition, Arkansas Sample FOIA Request, <http://www.nfoic.org/arkansas-sample-foia-request> (last visited Jul. 20, 2016); see also National Freedom of Information Coalition, Arkansas FOIA Resources, <http://www.nfoic.org/arkansas-foi-resources> (last visited Jul. 20, 2016).

¹⁴² See National Freedom of Information Coalition, Arkansas Sample FOIA Request, <http://www.nfoic.org/arkansas-sample-foia-request> (last visited Jul. 20, 2016).

Copies may be furnished without charge or at a reduced charge if the custodian determines that the records have been requested primarily for noncommercial purposes and that waiver or reduction of the fee is in the public interest.¹⁴³

Note: although public entities like municipalities must comply with FOIA, each local government may have a unique way of accepting and providing public records. Contact your government officers for more information. Note: unless a specific exception exists, almost all open records laws are designed to provide information and offer reasonable accommodations when doing so.

ADEQ

The [ADEQ Public Information website](#) encourages public review of online information, general in-office records review, and formal FOIA requests.¹⁴⁴ The website provides staff contact information, records request formatting information, and explains the various methods of requesting information from ADEQ.¹⁴⁵

EPA Region 6

Each EPA Regional Office has a FOIA officer who acts as a first point of contact for FOIA Requests.¹⁴⁶ Contact information for the EPA Region 6 FOIA Officer is:

Region 6 (States: AR, LA, NM, OK, TX)

Regional Freedom of Information Officer
U.S. EPA, Region 6
1445 Ross Avenue (6MD-OE)
Dallas, TX 75202-2733
(214) 665-7202¹⁴⁷

¹⁴³ See Ark. Code Ann. 25-19-105(d)(3)(A)(iv) (page 11).

¹⁴⁴ Arkansas Department of Environmental Quality, Public Information, <https://www.adeq.state.ar.us/poa/pi/> (last visited Jul. 20, 2016); see also Arkansas Department of Environmental Quality, Records Management Section, <https://www.adeq.state.ar.us/adminsvs/records/> (last visited Jul. 20, 2016).

¹⁴⁵ Arkansas Department of Environmental Quality, Public Information, <https://www.adeq.state.ar.us/poa/pi/> (last visited Jul. 20, 2016).

¹⁴⁶ U.S. Environmental Protection Agency, Organization Chart for EPA's Region 6 Office, <https://www.epa.gov/aboutepa/organization-chart-epas-region-6-office> (last visited Jul. 20, 2016).

¹⁴⁷ U.S. Environmental Protection Agency, Regional FOIA Contact Information, <https://www.epa.gov/foia/forms/contact-us-about-freedom-information-act-and-foia-requests#Regional> (last visited Jul. 20, 2016).

See the Federal Guide for more information on FOIA. Several EPA websites contain useful summaries of the FOIA request process, response time guidance, and other pertinent information.¹⁴⁸ Note: you're entitled to a waiver of fees if requesting information that is "likely to contribute significantly to public understanding of the operations and activities of the government and is not primarily in the commercial interest of the requester."¹⁴⁹ EPA only considers waiver requests that are submitted at the same time as the corresponding FOIA request.¹⁵⁰

CAFO PROPERTY TAX APPEAL GUIDELINES

Neighbors of CAFOs may also be harmed if the government fails to account for the impact of a nearby CAFO when assessing a property for tax purposes. Without knowing how to challenge an uninformed assessment, individuals can pay too much in property taxes on top of the other issues they face. However, the Arkansas Code includes an avenue of relief for aggrieved property owners under § 26-27-317.

Upon reviewing his or her tax assessment, any property owner may apply for an adjustment on the county assessor's assessment of his/her property value in person, by petition, or by letter to the county equalization board's secretary, on or before the third Monday in August each year. Property owners may appear personally before the equalization board or supply written documentation supporting the desired adjustment. Once the board secretary is notified, he or she must schedule a hearing. The secretary must begin hearing appeals no later than the second Monday in August. At the hearing, the equalization board decides the merits of the property owner's application and must notify him or her of the decision in writing at least 10 business days after the hearing. The written notification must include the board's decision, a declaration of the owner's right to appeal the decision to county court, and a deadline to petition for the appeal.

The appeals process is governed by Ark. Code Ann. § 26-27-318. After the equalization board's decision, an aggrieved property owner may appeal by filing a petition with the county clerk, who gives the appeal a case number. (Note that the

¹⁴⁸ See, e.g., U.S. Environmental Protection Agency, The FOIA Request Process, <https://www.epa.gov/foia/foia-request-process> (last visited Jul. 20, 2016).

¹⁴⁹ U.S. Environmental Protection Agency, Fee Waivers, <https://www.epa.gov/foia/foia-request-process#wavers> (last visited Jul. 20, 2016).

¹⁵⁰ See *id.*

county assessor can also appeal the decision.) The appeal petition must be filed on or before the second Monday in October and there is no fee for filing. A hearing and order are to be given no later than November 15th. Any property owner in the county may be heard in support of or opposition to the appeal.

Arkansas places a high burden of proof on property owners who seek relief from equalization board decisions through the judicial system—the case must be “exceptional,” and the tax as assessed must be “manifestly excessive,” “clearly erroneous,” or “confiscatory”—but for many living near the massive warehouses and manure cesspools of a factory farm, attempting to overcome such a high burden is more than worth it.

The county court must notify the owner of its decision within twenty working days after its hearing; the notification must state the decision and inform the owner of the possibility of appeal to a circuit court. Following this procedure, circuit court decisions may be appealed at the appellate level, and further up to the Supreme Court.

OTHER RESOURCES

Protecting your community from factory farms is difficult. Avoid working alone by building relationships in your community, consulting with experts, and collaborating with groups working on similar issues.

Socially Responsible Agriculture Project (SRAP)

SRAP provides free advice and technical assistance to communities throughout the U.S. facing factory farms. Find additional resources at www.sraproject.org, and contact SRAP for support at 503-632-8303 or through our [website](#).¹⁵¹

State Organizations

- **Arkansas Citizens First Congress:** citizensfirst.org
- **Arkansas Public Policy Panel:** arpanel.org
- **Buffalo River Alliance:** buffaloriveralliance.org
- **Center for Agricultural and Rural Sustainability, University of Arkansas Division of Agriculture:** cars.uark.edu/
- **National Farmers Union, Arkansas:** nfu.org/join/arkansas

¹⁵¹ Contact, SOCIALLY RESPONSIBLE AGRICULTURE PROJECT, <http://www.sraproject.org/contact/>

- **Ozark Society:** ozarksociety.net
- **Secure Arkansas:** securetherepublic.com/arkansas

LIST OF STATUTES & REGULATIONS

Below is a list of relevant statutes and regulations, most of which are discussed in this Guide. The list serves as a starting reference point for additional research or in-depth analysis of environmental authority in Arkansas.

Statutes

The complete Arkansas State Code is publicly available at <http://www.lexisnexis.com/hottopics/arcode/Default.asp>.

- Arkansas Right to Farm, Ark. Code Ann. § 2-4-101
- Hydrogen Sulfide Emission Limits, Ark. Code Ann. § 8-3-103
- Arkansas Water and Air Pollution Control Act, Ark. Code Ann. §§ 8-4-101 et. seq.
 - § 8-4-203, Permit Issuance
 - § 8-4-204 Permit Revocation
 - § 8-4-205 Permit Hearings
 - § 8-4-305 Inapplicability of Certain Provisions
- County Government Powers, Ark. Code Ann. § 14-17-209(a)
- Municipal Government Affairs, Ark. Code Ann. § 14-43-601(a)(1)
- Municipal Ordinance Purposes, Ark. Code Ann. § 14-55-102
 - “Municipal corporations shall have power to make and publish bylaws and ordinances, not inconsistent with the laws of this state, which as to them, shall seem necessary to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of such corporations and inhabitants thereof.”

Rules/Regulations

- ADEQ Regulations: All ADEQ regulations are publicly available at <https://www.adeq.state.ar.us/regs/>. Applicable regulations include the following:
 - Regulation 2: Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas, as revised
 - Regulation 5: Liquid Animal Waste Management Systems
 - Regulation 6: Regulations For State Administration Of The National Pollutant Discharge Elimination System (NPDES)

- Regulation 7: Solid Waste Management Rules
 - Regulation 8: Administrative Procedures
- ANRC Rules: current ANRC rules are publicly available at <http://anrc.ark.org/rules/current-rules/>. Applicable rules include the following:
 - Title 19: Rules Governing the Poultry Feeding Operations Registration Program
 - Title 20: Rules Governing the Arkansas Nutrient Management Planner Certification Program
 - Title 21: Rules Governing the Arkansas Nutrient Management Applicator Certification Program
 - Title 22: Rules Governing the Arkansas Soil Nutrient and Poultry Litter Application and Management Program