



SRAP
Socially Responsible
Agriculture Project

Guide to Confronting Concentrated Animal Feeding Operations in

FLORIDA



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A PROJECT BY SOCIALLY RESPONSIBLE AGRICULTURE PROJECT

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.sraproject.org.

SRAP HELP HOTLINE

Facing a factory farm? Contact SRAP for support.

www.sraproject.org/help

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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

Animal agriculture in Florida is dominated by beef, dairy, and poultry operations. It ranks 12th in the nation for beef cows and 18th for total cattle. In Florida, poultry and egg sales account for approximately 16 percent of all agricultural sales in the state; milk sales account for 30 percent of all livestock and product sales, and cattle and calves account for 33 percent of all livestock and livestock product sales.¹ According to the Florida Department of Agriculture, Florida has 21,701 farms with livestock and poultry operations.² Though Florida prides itself on the fact that 81 percent of the farms in the state are family-owned, the state still has its share of large-scale industrial animal agriculture.³ According to the U.S. Environmental Protection Agency (EPA), Florida has 58 concentrated animal feeding operations (CAFOs) that require discharge permits and approximately 42 unpermitted large CAFOs that have Nutrient Management Plans.⁴ Authority over these operations rests with the Florida Department of Environmental Protection (FDEP), which oversees implementation of FL/NPDES permits and the Nutrient Management Program.

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.)

Agencies

Florida Department of Environmental Protection (FDEP)

FDEP is the primary state agency that develops, implements, and enforces state and federally authorized environmental laws and regulations that may apply to livestock

¹Florida Ag Stats,

https://www.nass.usda.gov/Quick_Stats/Ag_Overview/stateOverview.php?state=FLORIDA

² 2017 Florida Census of Agriculture, United States Department of Agriculture,

https://www.nass.usda.gov/Publications/AgCensus/2017/Online_Resources/Rankings_of_Market_Value/Florida/

³ <https://www.farmflavor.com/florida/florida-family-farms/>

⁴ NPDES CAFO Permitting Status Report, U.S. Environmental Protection Agency, (2017) ,

https://www.epa.gov/sites/production/files/2018-05/documents/tracksum_endyear_2017.pdf.

operations. FDEP's Division of Water Resource Management implements the environmental laws and programs that regulate AFOs in Florida.

For more information, see [FDEP's website](#).⁵

Florida Department of Agriculture and Consumer Sciences (FDACS)

The Florida Department of Agriculture and Consumer Sciences (FDACS) works with FDEP's Division of Water Restoration Assistance in the management of the 319 Water Quality Program, (aka Nonpoint Source Program) in Florida with approval and oversight of the U.S. Environmental Protection Agency (USEPA). This federal EPA program provides funds to states, territories and Indian tribes for installing Best Management Practices (BMPs) to stop NPS pollution; providing training, education, and demonstrations; and monitoring water quality. Identifying water quality improvements in the agricultural industry in Florida is a priority. FDEP works with FDACS Office of Agricultural Water Policy as well as universities in the state to identify, develop, and update BMPs for various agricultural activities to reduce NPS nutrient pollution. The Florida Nonpoint Source Program (FL-NPS) is non-regulatory and promotes voluntary, incentive-based solutions. Florida law provides for farmers to reduce their impacts to water quality through the voluntary implementation of BMPs adopted by FDACS. In some cases, agricultural BMPs or water quality monitoring are required.

So, while FDACS may not help stop a developing AFO, FDACS employees can be valuable source for local environmental information.

USDA-Natural Resources Conservation Service (NRCS)

Several U.S. Department of Agriculture (USDA) sponsored programs encourage and reward agricultural producers and landowners practicing environmental stewardship. Authorized by the federal Farm Bill and administered by the USDA Natural Resources Conservation Service (NRCS), these programs provide technical and financial assistance to eligible producers and landowners who voluntarily implement practices to protect soil, water, air, wildlife habitats, and related natural resources.⁶

⁵ FLORIDA DEPARTMENT OF ENVIRONMENT AND CONSERVATION, <https://floridadep.gov/water>

⁶ Cost Share Programs for Florida's Agricultural Producers and Landowners, UNIVERSITY of FLORIDA-IFAS EXTENSION, <https://edis.ifas.ufl.edu/ss485>.

NRCS works with contract livestock growers to effectively manage animal waste. They help the grower to create and implement Nutrient Management Plans (NMPs) and provide agricultural waste management training, as well as publish research and publications to help contract livestock producers understand and follow federal regulations.⁷

NRCS also published an [Agricultural Waste Management Field Handbook](#).⁸

US EPA Region 4

Florida is part of the U.S. EPA Region 4, the Southeast, which also includes Alabama, Georgia, Tennessee, Kentucky, North Carolina, South Carolina and Mississippi. While most AFO regulation happens at the state level, the EPA has some oversight authority regarding the state's implementation of federal laws.

Learn more about EPA Region 4 and its involvement in Florida on its [website](#).⁹

University of Florida Extension

Florida Agricultural Extension service is operated through a partnership between the University of Florida (UF) and Florida A & M University (FAMU) and provides research-based information, educational programs, and technology transfer. They facilitate litter and manure sample analysis and encourage best management practices (BMPs) to reduce the adverse impacts of agricultural waste on the state and its watersheds. They also conduct and publish research that is of importance to contract livestock producers.

For more information, see [UF/IFAS Extension webpage](#).¹⁰

Definitions

⁷ USDA – NATURAL RESOURCES CONSERVATION SERVICE, <https://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/technical/ecoscience/mnm/?cid=stelprdb1044732>.

⁸ Agricultural Waste Management Field Handbook, NATURAL RESOURCES CONSERVATION SERVICE, <https://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/technical/ecoscience/mnm/?cid=stelprdb1045935>.

⁹ EPA Region 4 (Southeast), U.S. ENVIRONMENTAL PROTECTION AGENCY, <https://www.epa.gov/aboutepa/about-epa-region-4-southeast>.

¹⁰ UF INSTITUTE OF FOOD AND AGRICULTURAL SCIENCES EXTENSION, <http://sfyl.ifas.ufl.edu/agriculture/livestock/>.

Animal Feeding Operation (AFO)

FL Admin Code 62-670.200

An AFO is a facility where animals have been or will be stabled or confined and fed or maintained for 45 days or more in a 12-month period and where crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Below are the size distinctions between small, medium and large AFOs.

AFO/CAFO Size Chart

Animal	Large	Medium	Small
Cattle (bull, steer, heifer, or calf)	≥ 1,000	300–999	< 300
Dairy cow	≥ 700	200–699	< 200
Horses	≥ 500	150–499	< 150
Veal	≥ 1,000	300–999	< 300
Swine (≥ 55 pounds)	≥ 2,000	750–2,499	< 750
Swine (< 55 pounds)	≥ 10,000	3,000–9,999	< 3,000
Sheep/lambs	≥ 10,000	3,000–9,999	< 3,000
Ducks (with liquid manure handling)	≥ 5,000	1,500–4,999	< 1,500
Ducks (with dry manure handling)	≥ 30,000	10,000–29,999	< 10,000
Chickens (with liquid manure handling)	≥ 30,000	9,000–29,999	< 9,000
Laying hens (with dry manure handling)	≥ 82,000	25,000–81,999	< 25,000
Chickens (other than laying hens) with dry manure handling	≥ 125,000	37,500–124,999	< 37,500
Turkeys	≥ 55,000	16,500–54,999	< 16,500

Concentrated Animal Feeding Operation (CAFO)

FL Admin Code 67-670.200

A CAFO is a Large AFO or a Medium AFO where pollutants are discharged into waters of Florida either through a ditch, flushing system, or device, or from waters that pass over or through the facility and come into contact with the confined animals. Note: two or more AFOs under common ownership are considered a single AFO if they adjoin one another or use a common system or area for waste disposal.

Florida regulations state that operations that hold animals below the specified animal unit thresholds may be designated CAFOs on a case-by-case basis if those

facilities are found to discharge pollutants into waters of the state directly or through a manmade conveyance. Florida's CAFO definition also specifies that animal feeding operations that are able to contain process wastewater and runoff during a 25-year, 24-hour storm are not considered CAFOs by the state, regardless of the number of animals at the facility.

WATER

Most states are responsible for implementing the Clean Water Act and several other programs and permits that address water quality and availability across the state.

[Tennessee National Pollutant Discharge Elimination System \(TN/NPDES\)](#)

TN Code § 69-3-108(b) Rules and Regulations of Tennessee 0400-40-01,03,04,05

[National Pollutant Discharge Elimination System Permit \(NPDES\)](#)

FDEP only requires individual NPDES permits for CAFOs if they are required under the federal Clean Water Act (33 U.S.C. § 1251 et seq.). A CAFO must apply for an FL NPDES water pollution control permit if the CAFO discharges or proposes to discharge into waters of the state.¹¹ It must also include a Nutrient Management Plan (NMP) with its NPDES permit application. Unsurprisingly, most operations assert that they do not discharge and therefore do not need a permit. Be sure to point out if that's not actually the case if you observe an operation discharging. As of 2017, 58 CAFOs in Florida had NPDES permits.¹²

For more information about the FL NPDES program and permit requirements, see [FDEP's NPDES Application and Forms page](#)¹³ and the applicable regulations.¹⁴

¹¹ FL Admin Code 62-620.100, 62-620.910

¹² NPDES CAFO Permitting Status Report, https://www.epa.gov/sites/production/files/2018-05/documents/tracksum_endyear_2017.pdf

¹³ National Pollutant Discharge Elimination System (NPDES) Individual Permits, FLORIDA DEPARTMENT OF ENVIRONMENTAL PRESERVATION, <https://floridadep.gov/water/industrial-wastewater/forms/application-discharge-wastewater-concentrated-animal-feeding>.

¹⁴ FL Admin Code 62-670.400, FL Admin Code 62-620

Any NPDES permit application is subject to state public notice requirements. The NOI must be published on [FDEP's Permit Review webpage](#)¹⁵ and the most recent version of the NMP will be available for review. From the date of the notice, you have 30 days to submit written comments on the permit application and request a public hearing. A hearing is not automatic—**request one**. FDEP will only hold a hearing if “significant interest” is received.

State Operating Permit (SOP)

FL Statutes § 403.061, FL Admin Code 62-670.200 thru 62-670.600

FDEP has developed wastewater rules for AFOs and provides technical assistance to the livestock industry. AFOs regulated under FDEP's Industrial Wastewater Program include dairies, poultry, horse, and swine operations. CAFOs are regulated under the NPDES program.

Permits are required for poultry layer facilities only if they have a liquid manure system or spray irrigation of egg processing wastewater. Permits are not required for poultry broiler facilities with dry manure systems.

Florida regulations require all dairies in the Lake Okeechobee Drainage Basin to have permits. Dairies outside the Lake Okeechobee Drainage Basin that have more than 1,000 animal units are required to apply for a permit. In certain other environmentally sensitive areas of the state, there may be more stringent permit requirements. It's best to check with the local District Office of FDEP to find out specific AFO permitting regulations for your area.

Certified Nutrient Management Plans

All permitted CAFOs are required to develop and implement a Certified Nutrient Management Plan (CNMP). FDEP-Division of Water Resource Management is the permitting authority in Florida. FDEP does not aid in the development of the CNMP for the CAFO.; the CNMP is developed by a certified nutrient management planner and should include the following:¹⁶

¹⁵Permit Applications Under Review, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, <https://floridadep.gov/sec/sec/content/permits-applications-under-review> .

¹⁶ FL Admin Code 62-640.500

- The number of animals, amounts of manure or litter applied or transferred, an aerial or topographic map, and crop details;
- Adequate storage of manure, litter, and process wastewater;
- Procedures to ensure proper operation and maintenance of storage facilities;
- Proper management of mortalities;
- Diversion of clean water;
- Preventing contact between animals and waters of the state;
- Protocol to manage chemicals;
- Identification of site-specific conservation practices that should be implemented;
- Protocol for testing of manure, litter, process wastewater, and soil;
- Records that must be maintained;
- New soil and manure analyses every three years; and
- Annual reporting requirements.

Most use NRCS services to develop the CNMP. There are cost-share monies available through NRCS for CNMP development. Also, a CNMP is required to acquire a loan through FSA for building the facility.

Note: Currently, Florida does not have any state laws or regulations that govern setbacks for agricultural buildings. Manure, litter, and process wastewater shall be applied no closer than 50 feet to any natural or artificial body of water, in areas where geological formations or other subsurface features will not provide support for the waste, road right of ways, open tile line intake structures, agricultural well heads, or other conduits to surface waters. Manure, litter, and process wastewater shall be applied no closer than 100 feet from any potable well. ¹⁷

Wetlands

FL Statutes § 373.403 – 373.466,

Wetlands are a critically important resource that require strong governmental protections. Florida has more wetlands than any of the other 47 contiguous states.¹⁸ The Florida Department of Environmental Protection's Division of Water Resource Management is the primary state management agency for wetlands. The Department monitors and enforces water-quality standards and regulations that

¹⁷*FL Admin Code 5M-3.004*

¹⁸ Florida Wetland Resources, U.S. FISH AND WILDLIFE SERVICE, <https://www.fws.gov/wetlands/data/Water-Summary-Reports/National-Water-Summary-Wetland-Resources-Florida.pdf> .

directly affect wetlands. The state also has a wetlands preservation program.¹⁹ The Florida Air and Water Pollution Control Act states:

1. The pollution of the air and waters of this state constitutes a menace to public health and welfare; creates public nuisances; is harmful to wildlife and fish and other aquatic life; and impairs domestic, agricultural, industrial, recreational, and other beneficial uses of air and water.
2. It is declared to be the public policy of this state to conserve the waters of the state and to protect, maintain, and improve the quality thereof for public water supplies, for the propagation of wildlife and fish and other aquatic life, and for domestic, agricultural, industrial, recreational, and other beneficial uses and to provide that no wastes be discharged into any waters of the state without first being given the degree of treatment necessary to protect the beneficial uses of such water.

It also establishes the need for permits for alteration of the physical, chemical, radiological, biological, or bacteriological properties of waters of the state. "Waters" include, but are not limited to, rivers, lakes, streams, springs, impoundments, wetlands, and all other waters or bodies of water, including fresh, brackish, saline, tidal, surface, or underground waters. Waters owned entirely by one person other than the state are included only in regard to possible discharge on other property or water. Underground waters include, but are not limited to, all underground waters passing through pores of rock or soils or flowing through channels, whether manmade or natural.²⁰

FDEP's Division of Water Resource Management operates an Environmental Resource Permitting (ERP) Program that regulates activities in, on, or over surface waters or wetlands, as well as any activity involving the alteration of surface water flows. This includes new activities in uplands that generate stormwater runoff from upland construction, as well as dredging and filling in wetlands and other surface waters. Environmental Resource Permit applications are processed by either the department or one of the state's water management districts. The ERP Program is in effect throughout the state.

¹⁹ Submerged Land and Environmental Resources Coordination Program, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination>.

²⁰ *FL Statute § 403.031*

Florida administers an independent state permit program for wetlands that is in addition to the federal dredge and fill permit program of the federal Clean Water Act (CWA). Florida does not operate a U.S. Environmental Protection Agency-approved State Wetland Conservation plan. Florida also regulates alterations of uplands that may affect surface water flows, including issues of flooding and storm water treatment.

Many activities affecting wetlands in the state are regulated under the Army Corps of Engineers nationwide permits. Generally, modification to wetlands, including depositing fill, excavating, or draining, will require a federal 404 permit from the U.S. Army Corps of Engineers (US ACoE). However, Section 401 of the CWA prevents a federal agency from issuing a permit for any activity that may result in a discharge to water (including wetlands) until the state where the discharge would occur has granted or waived Section 401 certification. For activities that do not require a federal Section 404 dredge and fill permit, the state water quality regulations will require an alteration permit approval from FDEP.²¹ During project review, the Division of Water Resource Management attempts to prevent wetland losses by requesting that alternatives be considered. For unavoidable losses, the agency requests mitigation.²² Denial of 401 Certification by FDEP prevents the federal permit or license from being issued. This process ensures that issuance of federal permits will not violate state water quality standards.²³

If a new or existing facility is engaging in or will engage in activities that will impact wetlands, raise the issue. See if the operation has sought the appropriate permits. If they haven't, submit a complaint to the appropriate agency.

Learn more about U.S. ACoE's role in 404 wetland permitting on its [regulatory website](#).²⁴

Locate wetlands in your area using U.S. Fish & Wildlife Service's [Wetlands Mapper](#).²⁵

²¹ Florida Wetlands: What you need to know, BLR, <https://www.blr.com/Environmental/Water/Wetlands-in-Florida>

²² Wetlands Mitigation, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation> .

²³ *FL Admin Code 62-331 (Draft rules)*

²⁴ Regulatory, U.S. ARMY CORPS OF ENGINEERS JACKSONVILLE DISTRICT, <https://www.sqj.usace.army.mil/Missions/Regulatory/>.

²⁵ Wetland Mapper, US FISH AND WILDLIFE SERVICE, <https://www.fws.gov/wetlands/data/Mapper.html>

Water Quality

Water Quality Standards

FL Admin Code 62-302.530, 62-550.310

Impaired Water Bodies

Section 303(d) of the Clean Water Act requires states to perform annual water quality assessments²⁶ and identify waters not meeting the state's water quality standards.²⁷ Since states are supposed to protect waters from further degradation, it may be important to note if a CAFO or large AFO is seeking to discharge into or near an already impaired water of the state. You can find this information in [Florida Integrated Water Quality Assessment](#)²⁸ or [EPA's Florida Water Quality Assessment Report](#).²⁹

Groundwater

FL Statute § 373.016

The Clean Water Act calls for the regulation of discharges to surface waters, but states have varying degrees of protection for groundwater. Florida has implemented [EPA's Groundwater Rule \(GWR\)](#).³⁰ The state acknowledges that groundwater is a precious natural resource and that 90 percent of Florida's drinking water needs are supplied by underground aquifers and thus should be protected. According to the state:

It is the policy of the state that the citizens of Florida shall be assured of the availability of safe drinking water. Recognizing that this policy encompasses both environmental and public health aspects, it is the intent of the Legislature to provide a water supply program operated jointly by the department, in a lead-agency role of primary responsibility for the program, and by the Department of Health and its units, including county health departments, in a supportive role with specific duties and responsibilities of its own.³¹

²⁶ CWA § 305(b).

²⁷ CWA § 303(d).

²⁸ Florida 2018 Statewide 305(b) Water Quality Report, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, https://floridadep.gov/sites/default/files/2018_integrated_report.pdf.

²⁹ Florida Water Quality Assessment Report, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, https://ofmpub.epa.gov/waters10/attains_state.control?p_state=FL.

³⁰ Drinking Water Requirements for States and Public Water Systems, United States Environmental Protection Agency, <https://www.epa.gov/dwreginfo/ground-water-rule>.

³¹ *FL Statute § 403.851*

Groundwater Remediation Program: *FL Admin Code 62-780.700*
Groundwater Protection Plans: *FL Admin Code 62-528*
Groundwater Variances: *FL Admin Code 62-520.500, 62-560.510-520*
Underground Injection Control: *FL Admin Code 62-528*

Construction & Stormwater

FL Statute § 403.927, FL Admin Code 62-330, 62-621.300

While an AFO may not need an NPDES permit to operate, its construction may require an NPDES permit. The federal Clean Water Act calls for the control of pollution generated by runoff from construction activity.³² FDEP administers stormwater construction permits for Florida. Permits are required of operators of construction sites involving clearing, grading or excavation that result in an area of disturbance of one or more acres, and activities that result in the disturbance of less than one acre if it's part of a larger common plan of development or sale. Discharge of stormwater to surface waters of the state or through a municipal storm sewer system to surface waters of the state also requires a permit. Construction of actual structures (e.g., barns) that disturb one acre or more of soil are considered associated with industrial activity and a Construction General Stormwater Permit (CGP) is required. The owner or operator must complete the Notice of Intent for Construction Activity-Stormwater Discharges (**NOI**). **NOI's** must be sent to the appropriate District Office. A site-specific Stormwater Pollution Prevention Plan (**SWPPP**) must be developed and submitted with the **NOI**. The **SWPPP** must be developed, implemented, and updated according to Part 4 of the CGP (Construction General Permit). For more information, application, and forms, see the [FDEP NPDES Stormwater Program webpage](#).³³

Karst

Karst is a geological formation where soluble carbonate rocks such as limestone or dolomite occur at or near the surface and dissolve to create sinkholes, sinking streams, depression, caves, and subterranean drainage. Karst terrain is particularly susceptible to groundwater contamination because it provides a fast and easy route for unfiltered contaminants from the land surface to reach the aquifer. As a result, some states take karst into account when making land use decisions. They may impose additional construction or waste application setbacks from known sinkholes.

³² CWA § 402; 40 C.F.R. §§ 122.26, 450.

³³ NPDES Stormwater Program, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, <https://floridadep.gov/Water/Stormwater>.

Florida is one of the world's major Karst areas. The Floridian Aquifer is one of the most abundant sources of fresh water in the country.³⁴ Florida has limited laws or regulations on the subject. However, an Environmental Resources Permit is required in order to operate a Class V Underground Injection Well, to have Storm-water Discharge, or to modify Karst features in certain areas. Policies and Guidance can be found [here](#).³⁵

AIR

Some states regulate AFO air pollution or odor more than others. Unfortunately, Florida is not one of them.

Air Quality & Odors

FL Statute § 403.021

CAFOs are a significant source of odors and air pollutants like ammonia, hydrogen sulfide, particulate matter, volatile organic compounds, and other contaminants. In theory, animal agriculture may be regulated, but the industry has largely evaded meaningful regulation. While federal air-related laws and regulations do not require much from CAFOs, states may develop their own regulations for CAFO emissions.

The Florida Air and Water Pollution Control Act states:

It is declared to be the public policy of this state and the purpose of this act to achieve and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state, and facilitate the enjoyment of the natural attractions of this state. In accordance with the public policy established herein, the Legislature further declares that the citizens of this state should be afforded reasonable protection from the

³⁴ Karst and Florida Geology, FLORIDA GEOLOGICAL SURVEY, http://publicfiles.dep.state.fl.us/FGS/FGS_Publications/SP/SPPRIDE/SP29PRIDE/FSGS%20Special%20Publication%20No.29.pdf .

³⁵ Florida Karst Resources, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, <https://floridadep.gov/FGS/Sinkholes> .

dangers inherent in the release of toxic or otherwise hazardous vapors, gases, or highly volatile liquids into the environment.³⁶

Unfortunately, Florida does little to regulate air pollution or odors from AFOs. CAFOs are exempted from being required to have an air quality permit.

ZONING & LAND USE

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.

Zoning

FL Statutes § 163.3161-2:

It is the purpose of this act to utilize and strengthen the existing role, processes, and powers of local governments in the establishment and implementation of comprehensive planning programs to guide and manage future development consistent with the proper role of local government.³⁷

Florida has broad authority to regulate land use absent an explicit prohibition. Some states have used similar authority to pass ordinances such as increased setbacks or moratoriums to protect communities from the impacts of industrial livestock operations. However, Florida limits the enactment of zoning ordinances that could impact agricultural operations.

FL Statute § 163.3162 states:

The Legislature finds that agricultural production is a major contributor to the economy of the state; that agricultural lands constitute unique and irreplaceable resources of statewide importance; that the continuation of agricultural activities preserves the landscape and environmental resources of the state, contributes to the increase of tourism, and furthers the economic self-sufficiency of the people of the state; and that the encouragement, development, and improvement of agriculture will result in a general benefit to the health, safety, and welfare of the people of the state. It is the purpose of

³⁶ *Florida Statute § 403.021(3)*

³⁷ *Community Planning Act, FL Statute § 163.3161*

this act to protect reasonable agricultural activities conducted on farm lands from duplicative regulation.

Therefore, local control to enact zoning ordinances related to agriculture is limited in Florida.

Setbacks

It is *recommended* that poultry houses, litter sheds, or compost locations be at least:

- 1,000 feet from a school, public well, public spring, public water intake, or town
- 400 feet from a residential dwelling, retail business, church, or public building
- 150 feet from any property line
- 75 feet from the edge of any public road.

According to Florida Statutes, non-residential farm buildings on a farm are exempt from zoning requirements and land development regulations. However, most poultry industry companies have self-imposed setback guidelines that need to be considered.³⁸

PUBLIC PARTICIPATION

Take advantage of every opportunity to make your voice heard about industrial animal agriculture in your communities. AFO operators and regulators will not take additional steps to check the industry unless the public demands it.

Public Notice

FL Admin Code 62-620.550

Depending on the type of permit, FDEP may be required to issue public notice. In this case, public notice will be published by the permittee in the community where the proposed permit will take effect, generally in a local newspaper. FDEP will also send a notice to interested parties on its mailing list and to any Indian tribes affected.³⁹ Visit [FDEP's Permit Applications Under Review](https://floridadep.gov/sec/sec/content/permits-applications-under-review) webpage to learn about the permitting process and view current permits at public notice.⁴⁰

³⁸ Florida Statute § 604.50

³⁹ Florida Admin Code 62-620.550

⁴⁰ <https://floridadep.gov/sec/sec/content/permits-applications-under-review>

Comments and Requesting a Public Hearing

FL Admin Code 62-620.555, Florida Statute § 120.569-120.57

Community members have limited time (30 days) to submit written comments after publication of notice. The process moves very quickly, so it's important to submit written comments on time and to the correct contact person. Deadlines and contact information will be included in the public notice. When submitting written comments, review the draft permit as well as the permit rationale sheet in order to provide an informed comment. Instructions for obtaining copies of these documents will be included in the public notice. During the public comment period, you should also request a public hearing. You have 14 days from the publication of the notice to request a public hearing. These requests should be directed to FDEP's Division of Water Resource Management as soon as possible to demonstrate "significant interest" in the permit decision.

Permit Appeals

Florida Statute § 120.68

Community members have the right to seek judicial review of the permit approval by filing a notice of appeal under Rule 9.110, Florida Rules of Appellate Procedure, with the clerk of the Department in the Office of General Counsel in Tallahassee, Florida, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days after this order is filed with the clerk of the Department.

NUISANCE & RIGHT TO FARM LAW

When state and federal regulations fail to protect residents from the harmful impacts of industrial livestock facilities, they may consider filing a nuisance lawsuit. Unfortunately, Florida's Right to Farm Law makes this strategy ineffective unless nuisance claim is filed within the first year of operation.

Nuisance Claims

A nuisance is something that interferes with the right to use and enjoy real property. Noise, odors, dust, smoke, pollution, pests, illness, or light could be considered

nuisances. Many individuals and communities describe CAFOs as nuisances. CAFOs can decrease local property values, prevent people from using and enjoying their homes or yards, and can impair human health. While this sounds like a perfect example of a nuisance, many states—including Florida—have enacted laws to shield livestock operations from nuisance liability.

State Right-to-Farm Laws

FL Statute § 823.14

Right to farm laws exist in all states and seek to protect farmers from nuisance suits brought by neighbors and communities experiencing unpleasant effects of agricultural production. **Florida's Right to Farm Act** states:

The Legislature finds that agricultural production is a major contributor to the economy of the state; that agricultural lands constitute unique and irreplaceable resources of statewide importance; that the continuation of agricultural activities preserves the landscape and environmental resources of the state, contributes to the increase of tourism, and furthers the economic self-sufficiency of the people of the state; and that the encouragement, development, improvement, and preservation of agriculture will result in a general benefit to the health and welfare of the people of the state. The Legislature further finds that agricultural activities conducted on farm land in urbanizing areas are potentially subject to lawsuits based on the theory of nuisance and that these suits encourage and even force the premature removal of the farm land from agricultural use. It is the purpose of this act to protect reasonable agricultural activities conducted on farm land from nuisance suits.

FARM OPERATION NOT TO BE OR BECOME A NUISANCE:

(a) No farm operation which has been in operation for 1 year or more since its established date of operation and which was not a nuisance at the time of its established date of operation shall be a public or private nuisance if the farm operation conforms to generally accepted agricultural and management practices, except that the following conditions shall constitute evidence of a nuisance:

1. The presence of untreated or improperly treated human waste, garbage, offal, dead animals, dangerous waste materials, or gases which are harmful to human or animal life.
2. The presence of improperly built or improperly maintained septic tanks, water closets, or privies.

3. The keeping of diseased animals which are dangerous to human health, unless such animals are kept in accordance with a current state or federal disease control program.

4. The presence of unsanitary places where animals are slaughtered, which may give rise to diseases which are harmful to human or animal life.

(b) No farm operation shall become a public or private nuisance as a result of a change in ownership, a change in the type of farm product being produced, a change in conditions in or around the locality of the farm, or a change brought about to comply with Best Management Practices adopted by local, state, or federal agencies if such farm has been in operation for 1 year or more since its established date of operation and if it was not a nuisance at the time of its established date of operation.

(5) WHEN EXPANSION OF OPERATION NOT PERMITTED—This act shall not be construed to permit an existing farm operation to change to a more excessive farm operation with regard to noise, odor, dust, or fumes where the existing farm operation is adjacent to an established homestead or business on March 15, 1982.”

ENFORCEMENT

It's not surprising that industrial agriculture isn't eager to self-report violations of local, state, or federal law. Given Florida's sporadic inspection schedule, it's often up to residents to report violations and push for enforcement. A record of compliance issues demonstrates that penalties or enforcement actions are necessary.

Submitting Complaints & Reporting Violations

If an AFO is violating its permit, NMP, or any other regulation, you can submit a complaint to FDEP by calling (850) 245-2118 and tell the operator that you wish to report an environmental problem or by filling out the Customer Survey and Contact form.⁴¹ You may also call the District Office where the AFO is located.⁴²

⁴¹ Customer Service and Contact Form, Florida Department of Environmental Protection <http://floridadep.customer-survey.sgizmo.com/s3/>.

⁴² District Offices, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, <https://floridadep.gov/contact-us>.

Be sure to properly describe and document the compliance issue you're reporting. Take detailed notes and take photos/videos whenever possible but **do not trespass** in order to do so.

Note: All complaints are public record.

FDEP will investigate complaints and exercise civil, criminal, and administrative laws to compel enforcement when necessary.

Inspections

There are six FDEP Regulatory District offices located in Pensacola, Jacksonville, Orlando, Temple Terrace, West Palm Beach, and Fort Myers. Many NPDES permitting and enforcement activities are handled by staff in the District offices. Each office is autonomous and has unique priorities beyond the baseline. One or more inspections of the NPDES permittee are conducted annually.⁴³ FDEP only requires individual NPDES permits for CAFOs if they are required under the federal Clean Water Act (33 U.S.C. § 1251 et seq.). State Operating Permits (SOPs) are only required of Non-discharging large CAFOs that utilize liquid waste management systems. FDEP inspects registered CAFOs that don't require an NPDES permit only as needed.⁴⁴ EPA Region 4 does not have any direct implementation responsibilities of CAFOs in Florida. The infrequent inspection of permitted facilities and lack of inspection of other CAFOs highlights the importance of understanding AFO regulations and submitting complaints when an operation isn't in compliance.

PUBLIC INFORMATION LAWS

One of the first steps when dealing with a new, expanding, or problematic industrial livestock operation is gathering information by searching online, submitting record requests, and attending public meetings. Fortunately, there are state laws that increase government transparency and provide public access to certain types of information.

Freedom of Information Act

5 U.S.C. § 552

⁴³ Permitting for Environmental Results, NPDES Profile: Florida, U.S. ENVIRONMENTAL PROTECTION AGENCY, https://www3.epa.gov/npdes/pubs/florida_final_profile.pdf.

⁴⁴ Id.

The Freedom of Information Act (FOIA) is federal law that allows individuals to access and request information from government agencies, subject to some restrictions. See the Federal CAFO Guide for more information.

Florida Public Records Act

FL Statute § 119 & 286

The FL Public Records Act is Florida's law covering access to state records according to the federal Freedom of Information Act (FOIA). The FL Public Records Act is intended to provide access to information about the workings of the government, and applies to all state, county, and municipal officers, governing bodies, agencies, departments, boards, commissions, and any other entities created or funded by state or local authority.

For more information, see the state Attorney General's FL [Government in the Sunshine Manual](#).⁴⁵ [The National Freedom of Information Coalition](#) also provides Florida FOIA resources, including governmental contacts and sample letters.⁴⁶

FOIA requests can be submitted orally, in writing, or in person to the FL Attorney General's office. Requests in writing can be sent by US mail or by email at PublicRecordsRequest@myfloridalegal.com. Although no specific form is required to make a FOIA request, a sample FOIA request is available [here](#).⁴⁷ Agencies are required to respond to records requests within a reasonable time period.⁴⁸ The FL FOIA does include an explicit fee waiver provision.

FOIA regulations and procedures can change frequently, so consult the most current laws and regulations before filing a request.

Florida Open Meetings Act

FL Statute § 286.011

⁴⁵ Government In The Sunshine Manual, Office of the Florida Attorney General, [http://myfloridalegal.com/webfiles.nsf/WF/MNOS-B9QQ79/\\$file/SunshineManual.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MNOS-B9QQ79/$file/SunshineManual.pdf) .

⁴⁶ Florida FOIA Resources, NATIONAL FREEDOM OF INFORMATION COALITION, <https://www.nfoic.org/florida-foi-resources#lett> .

⁴⁷ Sample FOIA Request, STUDENT PRESS LAW CENTER, <https://splc.org/lettergenerator/> .

⁴⁸ Government In The Sunshine Manual (p. 161), Office of the Florida Attorney General, [http://myfloridalegal.com/webfiles.nsf/WF/MNOS-B9QQ79/\\$file/SunshineManual.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MNOS-B9QQ79/$file/SunshineManual.pdf) .

The Florida Open Meetings Act legislates how public meetings are conducted. It declares that:

All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, including meetings with or attended by any person elected to such board or commission, but who has not yet taken office, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

For more information about exemptions, notice, meeting minute requirements, and enforcement of the act, see FL Statute § 286.011-286.0114.

PROPERTY TAX APPEAL

Industrial livestock operations have been shown to reduce nearby property values by as much as 80 percent. Unfortunately, local governments often fail to adjust property value assessments accordingly, causing owners of nearby properties to pay more than their fair share of property taxes in addition to enduring other harmful impacts of industrial livestock production. In these cases, property owners may be able to seek a property tax reduction. This may also help convince local government officials that CAFOs aren't as economically beneficial to communities as their proponents claim.

Property Tax Appeal

FL Statutes § 193-194

Florida property owners may file an appeal when they believe that their property assessment does not reflect the market value of the property. If you disagree with the property appraiser's assessment, you can discuss the assessment with the appraiser's office, file a petition with the county value adjustment board (VAB) to appeal the appraiser's assessment, or both. You can also file a lawsuit in circuit court to challenge the property appraiser's assessment or the VAB's decision. The petition

may be filed at any time during the taxable year on or before the 25th day following the mailing of notice by the appraiser. Appeal to the circuit court must be filed within 60 days of the decision of the county Value Adjustment Board (VAB).⁴⁹

Learn more about Florida's property tax assessment process and appeal rules on the [Property Tax Information for Taxpayers webpage](#).⁵⁰

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.srapproject.org, and contact SRAP for support at 503-632-8303 or through our [website](#).⁵¹

State and Nonprofit Organizations

Our Santa Fe River

<https://oursantaferiver.org/>

Phone: (386) 243-0322

Florida Waterkeepers

<https://www.stjohnsriverkeeper.org/blog/florida-waterkeepers-unite-to-protect-floridas-waters/>

Phone: (904) 256-7591

Earth Justice—Florida

<https://earthjustice.org/about/offices/florida>

Phone: (850) 681-0031

⁴⁹ Property Tax Appeal Procedures, FLORIDA DEPARTMENT OF REVENUE, http://floridarevenue.com/property/Pages/Taxpayers_PropertyValueDisagree.aspx.

⁵⁰ Property Tax Oversight, FLORIDA DEPARTMENT OF REVENUE, <http://floridarevenue.com/property/Pages/Taxpayers.aspx>.

⁵¹ Contact, SOCIALLY RESPONSIBLE AGRICULTURE PROJECT, <http://www.srapproject.org/contact/>

Sierra Club—Florida Chapter

<https://www.sierraclub.org/florida>

Phone: (865) 806-0980

Southern Environmental Law Center

<https://www.southernenvironment.org>

Phone: (434) 977-4090

Environment Florida

<https://environmentflorida.org/feature/fle/environment-america-litigation-project>

Phone: (727) 327-3138