



**SRAP**  
Socially Responsible  
Agriculture Project

## Guide to Confronting Concentrated Animal Feeding Operations in

# KANSAS



# Guide to Confronting Concentrated Animal Feeding Operations in KANSAS

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

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](http://www.srapproject.org).

## **SRAP HELP HOTLINE**

Facing a factory farm? Contact SRAP for support.

[www.srapproject.org/help](http://www.srapproject.org/help)

(503) 362-8303

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<sup>1</sup> 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](http://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](https://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.

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## INTRODUCTION

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### CAFOs in Kansas

Animal agriculture in Kansas is largely dominated by cattle and swine operations.<sup>2</sup> According to the United States Department of Agriculture, Kansas has approximately 59,600 farm operations on approximately 88% of the state's acreage.<sup>3</sup> As of January 2017, Kansas was home to approximately 6,400,000 cattle, 1,910,000 hogs, 50,000 goats, and 68,000 sheep. The state is seventh in the nation for agricultural products sold,<sup>4</sup> third for cattle,<sup>5</sup> and tenth for hogs.<sup>6</sup>

Animal feeding operations pose a myriad of risks to water, air, and soil quality, the local ecosystems, and public health. These risks are a result of the vast amounts of animal waste and wastewater generated by these facilities, and the logistical difficulties of responsibly disposing of so much waste in a relatively small geographic area. One CAFO can produce as much waste as a large U.S. city. However, unlike human waste, which is subject to thorough treatment and processing to remove chemical and biological contaminants, AFO (Animal Feeding Operation) waste is largely untreated and is spread onto land where it can easily seep into groundwater and local surface waters.

The Kansas Department of Health and Environment (KDHE) has regulated feedlots since 1968.<sup>7</sup> KDHE's program includes monitoring sensitive groundwater areas and requiring manure management plans.<sup>8</sup> In the past, KDHE focused its efforts on large-cattle feeding operations, but more recently, the emphasis shifted to large hog

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<sup>2</sup> UNITED STATES DEPARTMENT OF AGRICULTURE National Agricultural Statistics Service (2016), 2016 State Agriculture Overview, USDA National Agricultural Statistics Service Kansas Field Office, available at [https://www.nass.usda.gov/Quick\\_Stats/Ag\\_Overview/stateOverview.php?state=KANSAS](https://www.nass.usda.gov/Quick_Stats/Ag_Overview/stateOverview.php?state=KANSAS).

<sup>3</sup> *Id.*; Farmland Information Center (2014), Kansas Statistics: Census of Agriculture, available at <http://www.farmlandinfo.org/2012-census-agriculture>.

<sup>4</sup> USDA Economic Research Service (2017), FAQs: Which are the top 10 agricultural producing States?, available at <https://www.ers.usda.gov/faqs/#Q1>.

<sup>5</sup> AG Classroom (2012), A Look at Kansas Agriculture: Crops & Livestock, available at <http://www.agclassroom.org/teacher/stats/kansas.pdf>.

<sup>6</sup> Pork Checkoff (2016), Quick Facts: State Rankings by Hogs and Pigs Inventory, available at <http://www.pork.org/pork-quick-facts/home/stats/structure-and-productivity/state-rankings-by-hogs-and-pigs-inventory/>.

<sup>7</sup> U.S. ENVIRONMENTAL PROTECTION AGENCY (2002), U.S. EPA State Compendium—Region 7: Programs and Regulatory Activities Related to Animal Feeding Operations, p. 107, available at <https://www3.epa.gov/npdes/pubs/region7.pdf>.

<sup>8</sup> *Id.*

operations.<sup>9</sup> In 1998, a bill was enacted requiring new nutrient management planning for large swine facilities.<sup>10</sup> Although Kansas has implemented various measures and programs to regulate or control the harmful effects of animal agriculture on the environment while also protecting the states' agricultural interests, there remains considerable room for improvement.

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## STATE AGENCIES & REGULATORY DEFINITIONS

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The Kansas CAFO regulations are based on the Environmental Protection Agency's (EPA) standards for regulating AFOs as set forth in the National Pollutant Discharge Elimination System.<sup>11</sup> The applicable definitions and regulatory agencies are described below.

### What is a CAFO?

#### **Animal Feeding Operation (AFO)**

An AFO is a facility where animals are fed and confined for at least 45 days in a year. These facilities do not grow crops or forage where the animals are confined. Being an AFO alone does not prompt state regulation, but it is a necessary component of CAFO designation.

Below are the size distinctions between small, medium, and large AFOs, which may be considered CAFOs depending on facility size, animal quantity, or discharge requirements discussed further in the following sections.

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<sup>9</sup> *Id.*

<sup>10</sup> *Id.* Referring to KDHE (2000), House Bill No. 2950 (Swine Facility Law), see <http://www.kansas.gov/government/legislative/supplemental/1998/SN2950.HTM>.

<sup>11</sup> U.S. ENVIRONMENTAL PROTECTION AGENCY, National Pollutant Discharge Elimination System: Animal Feeding Operations, available at <https://www.epa.gov/npdes/animal-feeding-operations-afos>.

## AFO/CAFO Size Chart<sup>12</sup>

Animal	Large	Medium	Small
<b>Cattle</b> (bull, steer, heifer, or calf)	≥ 1,000	300–999	< 300
<b>Dairy cow</b>	≥ 700	200–699	< 200
<b>Horses</b>	≥ 500	150–499	< 150
<b>Veal</b>	≥ 1,000	300–999	< 300
<b>Swine</b> (≥ 55 pounds)	≥ 2,500	750–2499	< 750
<b>Swine</b> (< 55 pounds)	≥ 10,000	3,000–9,999	< 3,000
<b>Sheep/lambs</b>	≥ 10,000	3,000–9,999	< 3,000
<b>Ducks</b> (with liquid manure handling)	≥ 5,000	1,500–4,999	< 1,500
<b>Ducks</b> (with dry manure handling)	≥ 30,000	10,000–29,999	< 10,000
<b>Chickens</b> (with liquid manure handling)	≥ 30,000	9,000–29,999	< 9,000
<b>Laying hens</b> (with dry manure handling)	≥ 82,000	25,000–81,999	< 25,000
<b>Chickens</b> (other than laying hens) with dry manure handling	≥ 125,000	37,500–124,999	< 37,500
<b>Turkeys</b>	≥ 55,000	16,500–54,999	< 16,500

## Concentrated Animal Feeding Operation (CAFO)<sup>13</sup>

CAFOs are specific types of AFOs in which a discharge of manure, litter, or process wastewater to surface waters does or could occur. CAFOs are divided into the following categories:

- Large AFOs;
- Medium AFOs;
  - with manmade ditches or pipes that carry manure or wastewater to surface water; or
  - in which the animals come into contact with surface water that passes through the area where they are confined;

<sup>12</sup> U.S. ENVIRONMENTAL PROTECTION AGENCY. Regulatory Definitions of Large CAFOs, Medium CAFO, and Small CAFOs., available at [https://www.epa.gov/sites/production/files/2015-08/documents/sector\\_table.pdf](https://www.epa.gov/sites/production/files/2015-08/documents/sector_table.pdf).

<sup>13</sup> K.S.A § 65-171d.

- \*If an operation is found to be a significant contributor of pollutants, the permitting authority may designate a medium-sized facility as a CAFO; or
- Small AFOs;
  - that confine fewer than the number of animals listed in the size chart and have been designated as a CAFO by the permitting authority as a significant contributor of pollutants;

CAFOs must obtain a General Discharge Permit (based on the NPDES permitting system) and must develop a Comprehensive Nutrient Management Plan.

Note: An AFO that makes efforts to remove water from the production area indicates that it proposes to discharge.

### **Swine Concentrated Animal Feeding Operation (Swine CAFO)**

With the uptick in hog farming in Kansas, the state has created a separate category of CAFO for swine. Although the regulations for Swine CAFOs flow from the same CAFO definitions and the size chart as used for Non-Swine CAFOs (seen above), there are new regulations—specific to Swine CAFOs—that require swine facilities with greater than 3,724 animal units to provide plans for facility closure and financial assurance.<sup>14</sup>

The [Swine Feedlot Permit Applications](#) website allows the public to view all complete applications for new or expanding swine facilities which are currently on Public Notice in the Kansas Register.<sup>15</sup> Only after KDHE has determined that an application is complete will the application be placed on public notice.

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<sup>14</sup> LIVESTOCK WASTE MANAGEMENT SECTION (2016), KDHE, available at <http://www.kdheks.gov/feedlots/index.html#links>; U.S. ENVIRONMENTAL PROTECTION AGENCY (2002), U.S. EPA. State Compendium—Region 7: Programs and Regulatory Activities Related to Animal Feeding Operations, p. 108, available at <https://www3.epa.gov/npdes/pubs/region7.pdf>.

<sup>15</sup> LIVESTOCK WASTE MANAGEMENT SECTION (2016), KDHE, available at <http://www.kdheks.gov/feedlots/index.html#links>.



## **Responsible Regulatory Agencies**

### **Kansas Department of Health & Environment<sup>16</sup>**

The Kansas Department of Health and Environment is responsible for protecting and maintaining Kansas' water quality.<sup>17</sup> The Division of Environment within the KDHE is the primary agency involved in issuing permits for a variety of activities that result in a discharge of pollutants into waters of the state.<sup>18</sup>

Each KDHE District Office maintains documentation of livestock facility compliance with Kansas statutes and regulations for facilities located within that district. Each District Office also maintains documentation relating to permitting requirements as well as a fact sheet, which contains a detailed description of the location of each new or expanding facility, a description of the new or expanding facility, a map, and a nutrient utilization plan, if required. For more information, please visit the appropriate district website, which can be found [here](#).<sup>19</sup>

The following Sections conduct services relevant to CAFOs through the Bureau of Water, which is housed within the KDHE.

### **Bureau of Water—Livestock Waste Management Section<sup>20</sup>**

The KDHE Bureau of Water (BOW) Livestock Waste Management Section protects Kansas waters by educating and assisting the regulated community, reviewing and issuing Livestock Waste Management Permits, and ensuring compliance with applicable statutes, regulations, and permitting requirements.<sup>21</sup>

### **Bureau of Water—Technical Services Section**

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<sup>16</sup> KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT (2016), available at <http://www.kdheks.gov/>.

<sup>17</sup> OFFICE OF INSPECTOR GENERAL (1998), Audit Report: Water–Kansas National Pollutant Discharge Elimination System Program, p. 2, available at [https://www.epa.gov/sites/production/files/2015-09/documents/8100089\\_0.pdf](https://www.epa.gov/sites/production/files/2015-09/documents/8100089_0.pdf).

<sup>18</sup> *Id.*

<sup>19</sup> KDHE DISTRICT OFFICES, KDHE, [http://www.kdheks.gov/befs/dist\\_office.html](http://www.kdheks.gov/befs/dist_office.html) (last visited May 11, 2017).

<sup>20</sup> LIVESTOCK WASTE MANAGEMENT SECTION (2016), KDHE, available at <http://www.kdheks.gov/feedlots/> (last visited April 20, 2017).

<sup>21</sup> LIVESTOCK WASTE MANAGEMENT SECTION (2016), KDHE, available at <http://www.kdheks.gov/feedlots/index.html#links> (last visited April 20, 2017); U.S. Environmental Protection Agency (2002), U.S. EPA. State Compendium–Region 7: Programs and Regulatory Activities Related to Animal Feeding Operations, p. 107, available at <https://www3.epa.gov/npdes/pubs/region7.pdf>.

The KDHE BOW Technical Services Section provides engineering and operational surveillance of wastewater facilities; carries out a compliance and enforcement program; carries out the statewide water and wastewater operator certification program; develops statewide surface water quality standards; and issues permits for new or extended systems.<sup>22</sup>

### **Bureau of Water—Watershed Planning, Monitoring, & Assessment Section<sup>23</sup>**

The KDHE BOW Watershed Planning, Monitoring, & Assessment Section implements sections 303(c), (d), (e), 305(b), and 604(b) of the Clean Water Act. In addition, it identifies and prioritizes impaired streams, lakes, and wetlands and develops Total Maximum Daily Loads for high priority waterbodies. To achieve its planning, monitoring, and assessment functions, this section develops statewide surface water quality standards, monitors water quality, and performs compliance monitoring at NPDES permitted facilities.

### **Bureau of Water—Watershed Management Section**

The KDHE BOW Watershed Management Section implements Section 319 of the Clean Water Act, coordinating programs designed to eliminate or minimize pollution that does not come from the end of a pipe. The section develops and reviews strategies, management plans, local environmental protection plans, and county environmental codes intended to control nonpoint source pollution.<sup>24</sup>

### **USDA Natural Resource Conservation Service**

The USDA Natural Resource Conservation Service is a federal office that provides technical assistance for agricultural operations and certifies technical service providers to develop and write Comprehensive Nutrient Management Plans. However, it does not have enforcement responsibilities.

### **Local Conservation Districts**

Each of the 105 counties in Kansas has a local conservation district. Districts are provided for in the applicable provisions of Article 19 of Chapter 2 of the Kansas Statutes Annotated (“Kansas Conservation District Law”).<sup>25</sup> The purpose of these districts is to “engage in educational, scientific and governmental efforts to conserve, develop and improve the use of land, soil, water, plants, animals and other natural

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<sup>22</sup> KDHE (2016), Technical Services Section, available at <http://www.kdheks.gov/water/tech.html>.

<sup>23</sup> KDHE (2016), Watershed Planning, Monitoring, and Assessment Section, available at <http://www.kdheks.gov/tmdl/index.htm>.

<sup>24</sup> KDHE (2016), Watershed Management Section, available at <http://www.kdheks.gov/nps/index.html>.

<sup>25</sup> KANSAS ASSOCIATION OF CONSERVATION DISTRICTS (2015), Bylaws, [http://www.kacdnet.org/KACD\\_By-Laws.pdf](http://www.kacdnet.org/KACD_By-Laws.pdf)

resources within the state of Kansas.”<sup>26</sup> To achieve this purpose the districts “encourage farmers, ranchers, and other owners of land within the state of Kansas to use their land in accordance with its needs for conservation, development and improvement.”<sup>27</sup>

Conservation districts are resources for enhancing farming operations, while also working with various parties and resources to protect soil and water quality. Concerned citizens should consider reaching out to conservation district as a potential informational resource because of their knowledge and expertise on local environmental issues. For more information and contacts, see the Kansas Association of Conservation Districts’ website [here](#).<sup>28</sup>

### **U.S. EPA Region 7**

Kansas is part of U.S. EPA Region 7 (Midwest), which also includes Iowa, Missouri, Nebraska, and Nine Tribal Nations.<sup>29</sup> A [brief description](#) of the U.S. EPA Region 7 CAFO Program is available on the EPA’s website. While a considerable amount of CAFO regulation happens at the state level, the EPA has oversight authority, and citizens and organizations can reach out to their regional office if the state is not performing its duties or is failing to regulate CAFOs under the applicable federal and state environmental laws. Thus, EPA CAFO contacts are important references for concerned citizens who are tracking specific large-scale livestock operations or have more broad questions about Kansas’ CAFOs compliance with federal laws.

The Kansas U.S. EPA Region 7 Headquarters Address:

U.S. EPA  
11201 Renner Blvd.  
Lenexa, KS 66219  
(913) 551-7003

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<sup>26</sup> Policies and Procedures Handbook, KANSAS ASSOCIATION OF CONSERVATION DISTRICTS, p. 3, available at [http://www.kacdnet.org/Policies\\_and\\_Procedures\\_Handbook.pdf](http://www.kacdnet.org/Policies_and_Procedures_Handbook.pdf).

<sup>27</sup> *Id.*

<sup>28</sup> KANSAS ASSOCIATION OF CONSERVATION DISTRICTS (2017), <http://www.kacdnet.org/>.

<sup>29</sup> U.S. ENVIRONMENTAL PROTECTION AGENCY REGION 7 (MIDWEST) (2017), <https://www.epa.gov/aboutepa/epa-region-7-midwest>.

### **Kansas National Pollutant Discharge Elimination System Program**

The U.S. EPA has authorized Kansas to implement the National Pollutant Discharge Elimination System (NPDES), a component of the Clean Water Act, at the state level. The

Kansas Department of Health and Environment is responsible for protecting and maintaining Kansas' water quality.<sup>30</sup> The Division of Environment within the KDHE is the primary agency involved in issuing permits for a variety of activities which result in a discharge of pollutants into waters of the state.<sup>31</sup> These permits may be required for existing facilities, new facilities, or construction activities, and allow for discharge to surface or ground waters under specific circumstances. As of 2017, there were 420 CAFOs in Kansas covered under the NPDES CAFO permitting program.<sup>32</sup> The NPDES permit process is one of the primary requirements CAFOs will need to operate, and therefore, it is particularly important for residents to get involved in the permit process.

Kansas is authorized to administer the NPDES permitting program and issues individual NPDES permits to livestock facilities and CAFOs in the state.<sup>33</sup> In addition to NPDES permits, construction and operating permits are required for any new or expanding livestock operations with the capacity for 300 animal units. Small facilities (less than 300 animal units) are issued certificates of compliance if they do not pose a threat to waters of the state; however, they are not required to be permitted by the state.

### **General Discharge Permits for Animal Feeding Operations**

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<sup>30</sup> OFFICE OF INSPECTOR GENERAL (1998), Audit Report: Water-Kansas National Pollutant Discharge Elimination System Program, p. 2. [https://www.epa.gov/sites/production/files/2015-09/documents/8100089\\_0.pdf](https://www.epa.gov/sites/production/files/2015-09/documents/8100089_0.pdf).

<sup>31</sup> *Id.*

<sup>32</sup> U.S. ENVIRONMENTAL PROTECTION AGENCY (2017), NPDES CAFO Rule Implementation Status—National Summary, available at [https://www.epa.gov/sites/production/files/2018-05/documents/tracksum\\_endyear\\_2017.pdf](https://www.epa.gov/sites/production/files/2018-05/documents/tracksum_endyear_2017.pdf).

<sup>33</sup> U.S. ENVIRONMENTAL PROTECTION AGENCY (2002), U.S. EPA State Compendium—Region 7: Programs and Regulatory Activities Related to Animal Feeding Operations, p. 108, available at <https://www3.epa.gov/npdes/pubs/region7.pdf>.



KDHE issues two types of AFO permits; a state permit and a combined state and federal permit.<sup>34</sup> Two major permitting characteristics include the size of the facility and the distance from habitable structures.<sup>35</sup> The following table<sup>36</sup> demonstrates these major characteristics.

	Animal Units (AUs)	Habitable Structure Separation Distance	Wildlife Refuge Separation Distance (Swine Only)
Non-swine new facility or expansion	300–999	1,320 feet	
Non-swine new facility or expansion	1000–3,724*	4,000 feet	10,000 feet
Swine expansion that will meet or exceed	3,725	4,000 feet**	
New swine facility that will meet or exceed	3,725	5,000 feet	16,000 feet

\* No ceiling for non-swine

\*\*If within original designated expansion boundary, otherwise 5,000 feet.

As indicated in the table, facilities with less than 300 AUs are not bound by these separation distances. Furthermore, these separation distances may be waived, if habitable structure owners agree to a waiver through this [agreement](#) recorded with the county register of deeds.<sup>37</sup>

### **KDHE Permitting Process<sup>38</sup>**

The KDHE permitting process, administered through the Livestock Waste Management Section of the Bureau of Water, includes the following steps:

<sup>34</sup> KDHE (2008), Environmental Regulatory Guidance for Concentrated Animal Feeding Operations (with emphasis on large dairy operations), p. 4, available at <http://www.kdheks.gov/feedlots/download/DairyGuidance04.pdf>.

<sup>35</sup> *Id.*

<sup>36</sup> KDHE (2015), Kansas Water Pollution Control Permit for Agricultural and Related Wastes Permit Application, p. 4, available at [http://www.kdheks.gov/feedlots/download/Permit\\_Application\\_Form.pdf](http://www.kdheks.gov/feedlots/download/Permit_Application_Form.pdf).

<sup>37</sup> KDHE ( ), Environmental Regulatory Guidance for Concentrated Animal Feeding Operations (with emphasis on Large Dairy Operations), p. 4, available at <http://www.kdheks.gov/feedlots/download/DairyGuidance04.pdf>.

<sup>38</sup> *Id.* at 5–7.

Registration: CAFOs that have a capacity for 300 or more animal units, must register with KDHE. The registration form for the Livestock Waster Management Program can be found [here](#). A \$25 registration fee is required.

Site Appraisal: Upon receipt of the registration, KDHE schedules a site visit to determine the suitability of the site. If KDHE determines that no significant water pollution potential exists and there are no issues with separation distances from habitable structures, KDHE may certify that no permit is required. This evaluation will focus on site topography, geology, hydrology, drainage, groundwater, operation, number of animals, soils, stream classifications, and other important factors.

Permit Application: If a permit is required, the CAFO must submit a permit application to KDHE and pay the applicable permit fee. The permit applications, called the Kansas Water Pollution Control Permit for Agricultural and Related Wastes, can be found [here](#). The permit fee for dairy farms is based on animal units as shown in the following table:

Annual Permit Fee by Animal Unit

# of Animal Units	Fee	# of Mature Dairy Cows
0-999	\$25	0-699
1,000-4,999	\$100	700-3,570
5,000-9,999	\$200	3,571-7,142
10,000 or more	\$400	7,143 or more

CAFOs required to obtain a permit will be given a permit application to be completed and returned with detailed plans of the layout and construction details of the proposed CAFO or dairy. For required design standards for a CAFO, please refer to the KDHE publication "[Design Standards for Confined Livestock Feeding Operations](#)." Included in the design standards is an important requirement on depth to groundwater. The facility must show proof of a groundwater investigation or information research that indicates the depth to groundwater is 10 feet or more below all structures.

Permits require the following information:

- Number, sizes, and types of animals to be fed.

- Description of how wastes (wastewater, manure, dead animals, parlor wash down, etc.) are processed to prevent water pollution.
- Facility site maps and detailed drawings of the layout and facilities (buildings, collection pipes and channels, waste storage lagoons, land application areas, etc.) to be developed, constructed, or used.
- Aerial photographs of the site and maps or tables showing distances to habitable structures.
- Maps showing nearby streams, lakes, drainage ways, water and oil and gas wells, buffer areas between land application fields and drainage ways, etc.
- Written description of how determinations were made regarding the sizes of waste controls and land application areas were necessary.
- Copies of any separation distance waivers or agreements signed by any nearby habitable structure owners.
- Construction drawings.
- Design calculations.
- Mailing lists of land owners and habitable structure owners within one mile of the facility and the address of the nearest post office.<sup>39</sup>

Application Review and Approval: KDHE reviews the permit application and accompanying materials and compares it against requirements in statutes and regulations. Each permit application is reviewed in the order it is received. However, KDHE will review other permit applications when waiting on additional information from the permit applicant.

Public Notice of Draft Permit and Reaching Final Decision: KDHE mails a notice to the land owners and habitable structure owners within one mile of the facility. In addition, the general public is notified of the draft permit through the Kansas Register. Those notified, as well as any other interested individuals, have 30 days to give KDHE any comments or information they believe should be considered before KDHE makes a final decision. It is important that interested individuals voice their concerns by submitting public comments and requesting a public hearing within this 30 day window.

KDHE reviews and evaluates the new information, if any, developed through the public notice process to determine if the permit application demonstrates all water pollution control requirements will be met.

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<sup>39</sup> *Id.* at 6.

Permit Renewal and Maintenance.<sup>40</sup> Once issued, permits can be for a term of up to five years. The owner must apply for renewal of the permit unless the facility has closed and no longer has any wastes on site. In addition, the permit holders must fulfill the following requirements:

- Implement a nutrient management plan for Federal Facilities.
- Keep records and submit annual reports to KDHE.
- Keep the permit current until completely closed and the operation removes all manure and wastewater.
- Manage the facility wastes in a manner to prevent water pollution.
- Comply with follow-up inspections.

### **KDA Dairy Facility Permits<sup>41</sup>**

In addition to the above, farms that sell dairy milk must seek special permits from the Kansas Department of Agriculture. Applications for the permit and a summary of the basic dairy farm requirements are available on the [Dairy Inspection Program](#) website.<sup>42</sup>

### **KDA Division of Water Resources Water Permits<sup>43</sup>**

Kansas also requires a permit for water used to water livestock (stockwatering). Stockwatering is the watering of livestock and other uses of water directly related to the operation of a feedlot with the capacity to confine 1,000 or more head of cattle, or any other confined livestock operation or dairy that would divert 15 or more acre-feet of water per calendar year. Additional permitting may be required for the use of water associated with construction and lagoon pre-fill. For more information about this water appropriations program, visit [this](#) site.

### **General Permit for Stormwater Runoff Associated with Construction Activities**

A person planning to engage in construction activity of a certain magnitude must obtain a General Permit for Stormwater Runoff Associated with Construction Activities (SW Permit). For more information about this permit, see [KDHE's website](#).

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<sup>40</sup> *Id.* at 7.

<sup>41</sup> *Id.* at 8.

<sup>42</sup> Dairy Program Inspection, Kansas Department of Agriculture, available at <http://agriculture.ks.gov/divisions-programs/dairy-inspection>.

<sup>43</sup> KDHE, Environmental Regulatory Guidance for Concentrated Animal Feeding Operations (with emphasis on Large Dairy Operations), p. 8, available at <http://www.kdheks.gov/feedlots/download/DairyGuidance04.pdf>.



See [here](#) for a link to the text of the current SW Permit. Parties seeking coverage under the SW Permit are required to submit a [Notice of Intent](#) to KDHE.<sup>44</sup>

Residents should keep an eye out for construction that occurs on proposed or expanding CAFO sites where the operator has not obtained a SW Permit.

### **Kansas Nutrient Management Program<sup>45</sup>**

All CAFOs in Kansas are required to develop and implement an approved nutrient management plan (NMP) as a condition of NPDES Permit coverage. The technical standards for nutrient management, provided below, must be applied to land when applying livestock manure, litter, compost, or process wastewater. The complete list of required technical standards for nutrient management, for both non-swine and swine facilities, can be found [here](#).

The EPA's 2003 CAFO Final Rule required that NPDES permitted facilities develop and implement an NMP addressing nine minimum requirements deemed necessary to achieve effluent limitations and standards. Facilities must submit an NMP for public review prior to obtaining or modifying NPDES Permit coverage. Furthermore, the NMP must cover the entire period of permit coverage, and certain site-specific information and protocols necessary to ensure the nine minimum requirements are met must become terms of the NPDES Permit.<sup>46</sup>

As a result, the KDHE will consider the following site-specific information included in an NMP to be terms of a NPDES Permit:

1. Fields available for land application, including legal locations and spreadable acreages;
2. Land application rate limitations determined in accordance with the Kansas Technical Standard for Nutrient Management ("agronomic N rate", "agronomic P rate", "1.5 X crop P removal", "1.0 X crop P removal", or "none");
3. Mortality management plans;

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<sup>44</sup> KDHE, Notice of Intent, available at <http://www.kdheks.gov/stormwater/download/9.1%20cgp%20NOI%203-2-2012.pdf> (last visited May 11, 2017).

<sup>45</sup> KDHE (2010), Kansas Technical Standards for Nutrient Management – Revised 2010, available at [http://www.kdheks.gov/feedlots/download/KS\\_Tech\\_Standard\\_2010.pdf](http://www.kdheks.gov/feedlots/download/KS_Tech_Standard_2010.pdf) (last visited April 20, 2017).

<sup>46</sup> KDHE (2008). Guidance Document for Nutrient Management Plans, p. 1, available at [http://www.kdheks.gov/feedlots/download/NMP\\_Terms\\_Guidance\\_Document.pdf](http://www.kdheks.gov/feedlots/download/NMP_Terms_Guidance_Document.pdf) (last visited April 20, 2017).

4. Site-specific conservation practices with respect to setbacks, buffers, and equivalent practices; and
5. The approach chosen for developing field-specific application rates and certain factors necessary for determining such rates. The CAFO must choose from two allowable approaches described in the 2008 CAFO Final Rule, the “linear approach” or the “narrative rate approach.” Either approach must be in accordance with the Kansas Technical Standard for Nutrient Management.<sup>47</sup>

## **Wetlands**

Wetlands are a critically important resource requiring strong protections from federal and state government. Wetlands influence groundwater discharge rates, assist with stormwater and flood control, filter pollutants and nutrients from the water, reduce erosion, and provide critical habitat for numerous plant and animal species. There are various federal and state laws designed to protect wetlands from degradation and destruction. See the Federal Guide for a discussion of federal regulation of wetlands. To complement and extend the federal protection of wetlands, the [KDHE BOW Watershed Planning, Monitoring, and Assessment Section](#) has taken the following actions in an effort to develop a Wetland Program Plan (WPP).

### **Wetland Program Development Grant<sup>48</sup>**

Kansas is currently working to develop a Wetland Program Plan (WPP) to aid in the identification and protection of wetlands throughout the state. The effort started with the Wetland Program Development Grant (WPDG) in which they found that the main hurdle to overcome was to locate wetlands within the state, as there has been a loss of approximately 50% of historical wetlands in the state. This project focused on monitoring and assessment and protection and voluntary restoration.

Through these efforts the Kansas Water Office was able to develop the following:

- The first complete watershed-based wetland inventory in the state with a watershed comprising two HUC 11s
- Topographic Wetland Identification Process (TWIP) –a standardized methodology for wetland assessment and prioritization that can be used for protection and restoration efforts

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<sup>47</sup> *Id.*

<sup>48</sup> U.S. ENVIRONMENTAL PROTECTION AGENCY, Kansas Protects and Restores Wetlands, Streams and Riparian Areas, available at <https://www.epa.gov/wetlands/kansas-protects-and-restores-wetlands-streams-and-riparian-areas>.

- A tool to support development of a Kansas WPP
- A working standard for all agencies, watershed planning, and stakeholder groups in the state of Kansas.

For more information regarding these efforts, see [here](#).

## **Water Quality**

### **Water Quality Standards**

Kansas has established water quality standards intended to protect and maintain the quality of the state's surface waters. The water quality standards are developed based on designated uses, water quality criteria, and an anti-degradation policy. An unofficial version of the most currently effective Kansas Surface Water Quality Standards (K.A.R. 28-16-28b through 28-26-28g and 28-16-58) can be viewed [here](#).

### **Designated Uses**

Designated uses form the basis of water quality-based NPDES permits in Kansas. Through its water quality certification process, KDHE identifies the designated uses for receiving streams and determines the appropriate criteria for those uses. The designated uses are divided into the following categories:<sup>49</sup>

- Agricultural water supply use
- Aquatic life support use
- Domestic water supply use
- Food procurement use
- Groundwater recharge use
- Industrial water supply use
- Recreational use

See the following [map of designated uses/classes](#)<sup>50</sup> and [listing of classified streams](#)<sup>51</sup> based on designated use status.

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<sup>49</sup> K.A.R. 28-16-28(d)(2)(C)(b)(1)-(7), Surface Water Quality Standards (2015).

<sup>50</sup> KDHE DIVISION OF ENVIRONMENT BUREAU OF ENVIRONMENTAL FIELD SERVICES, Map of Classified Streams: Designated Use Status (other than Recreational Use) and Use Attainability Analysis Status (2002), available at <http://www.kdheks.gov/befs/download/uqa204statusmaps.pdf>.

<sup>51</sup> KDHE DIVISION OF ENVIRONMENT BUREAU OF ENVIRONMENTAL FIELD SERVICES, Listing of Classified Streams: Designated Use Status (other than Recreational Use) and Use Attainability Analysis Status (2002), available at [http://www.kdheks.gov/befs/download/204\\_listing.pdf](http://www.kdheks.gov/befs/download/204_listing.pdf).

## Water Quality Criteria

Water quality criteria are numeric criteria which set minimum water quality thresholds which must be met in order to achieve the designated use. Water quality criteria is a great reference resource for individuals to understand, in quantifiable terms, what condition the waterbodies should be in, and whether the water bodies are achieving these standards. See the following [tables of numeric criteria](#).<sup>52</sup>

The Planning and Standards Unit is responsible developing and maintaining statewide surface water quality standards and supporting documentation.<sup>53</sup>

Per state and federal regulations, the KDHE is required to hold public hearings at least once every three years to review applicable surface water quality standards and, as appropriate, adopt new or modified standards. This process is called the triennial review process.

## Anti-degradation<sup>54</sup>

The Clean Water Act requires that Kansas adopt and implement an anti-degradation policy to limit discharges and other activities that will negatively impact water quality, impair designated uses, or threaten to impair designated uses of surface waters. The policy, found [here](#), provides a baseline level of protection relative to established water quality criteria to all classified surface waters, and a higher level of protection to those waterbodies recognized as unique ecologically, highly valued for its resources, or having high water quality.

Kansas provides protections, summarized below, to surface waters based on these classifications.<sup>55</sup>

**Outstanding National Resource Water:** If the receiving surface water is classified as an Outstanding National Resource Water (ONRW), new or expanded discharges are not allowed.

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<sup>52</sup> KDHE BOW (2015), Kansas Surface Water Quality Standards: Tables of Numeric Criteria, available at [http://www.kdheks.gov/tmdl/download/SWQS\\_Tables\\_2015.pdf](http://www.kdheks.gov/tmdl/download/SWQS_Tables_2015.pdf).

<sup>53</sup> KDHE BOW Watershed Planning Section: Planning and Standards Unit (2016), <http://www.kdheks.gov/tmdl/kswqs.htm>.

<sup>54</sup> KDHE BOW (2001), Kansas Antidegradation Policy, available at [http://www.kdheks.gov/tmdl/download/Antidegradation\\_Policy\\_08\\_06\\_01\\_Unofficial.pdf](http://www.kdheks.gov/tmdl/download/Antidegradation_Policy_08_06_01_Unofficial.pdf).

<sup>55</sup> *Id.* at 2-3.



**Exceptional State Water:** If the receiving surface water is classified as an Exceptional State Water, the permit limits derived must provide protection to existing uses and existing water quality.

**General Purpose Water:** If the receiving surface water is classified as a General Purpose Water, the permit limits derived must provide protection of existing uses. Where existing water quality in General Purpose Waters exceeds water quality criteria set forth in the regulations, the existing water quality will be maintained and protected. Existing water quality may be lowered only if the Department determines that there is an important social or economic need to lower existing water quality.

When measurable surface water quality degradation is considered, a permit is required. This permit must go through a public notice and comment period. In the event of significant public interest or concern, KDHE will conduct a public hearing on the proposed permitting action.<sup>56</sup>

Furthermore, if the public believes there are certain waters that are deserving of reclassification, then the person(s) must contact KDHE in writing requesting the surface water be reclassified an ONRW. The request should state the exact location of the surface water and the resource, unique ecosystem, or special circumstances that justify the reclassification. If KDHE concludes that a nominated surface water is deserving of the ONRW classification, then the public will have an opportunity to comment on the reclassification during a Public Notice period and, if enough interest or concern is raised, a public hearing will be conducted.<sup>57</sup>

## Impaired Water Bodies

The Clean Water Act requires states to perform annual water quality assessments<sup>58</sup> and identify waters not meeting the state's water quality standards. Kansas compiles and submits this information to the EPA as an [Integrated Water Quality Assessment](#).<sup>59</sup> It can be helpful to for citizens to know about impaired water bodies and their proximity to CAFOs/MAFOs in their region.

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<sup>56</sup> *Id.* at 3.

<sup>57</sup> *Id.* at 4.

<sup>58</sup> KDHE BOW Watershed Planning Section: Monitoring and Analysis Unit (2016), [http://www.kdheks.gov/befs/tech\\_svcs\\_section.html](http://www.kdheks.gov/befs/tech_svcs_section.html) (This unit monitors water quality conditions in streams and publicly owned lakes and wetlands throughout Kansas).

<sup>59</sup> KDHE BOW (2016), 2016 Kansas Integrated Water Quality Assessment, available at [http://www.kdheks.gov/befs/download/2016\\_Kansas\\_IWQA.pdf](http://www.kdheks.gov/befs/download/2016_Kansas_IWQA.pdf).

This information is available to the public. Individuals can access various maps and resources on the EPA's [Kansas Impaired Waters and TMDL Information](#) website.

### **Total Maximum Daily Load<sup>60</sup>**

The Total Maximum Daily Load (TMDL) is the maximum amount of pollution a body of water can receive and still meet water quality standards. For more information regarding TMDL regulations, see the KDHE website on the [TMDL basics](#) as well as the KDHE website on [Kansas TMDLS](#), which provides maps and other resources. For information regarding collected TMDL data, see the website previously referenced under Impaired Water Bodies on [TMDL Information](#).

### **CAFO Construction**

#### **Construction & Stormwater<sup>61</sup>**

A permit is required to authorize the discharge of stormwater runoff from construction activities for sites where the discharge point is located in Kansas. This authorization continues until the site is stabilized and the Notice of Termination (NOT) is accepted by KDHE or the permit is revoked/terminated for cause by KDHE. Construction activities consist of any activity (e.g. clearing, grubbing, excavating, and grading) which will disturb land. For more information about the stormwater runoff authorization as it relates to construction activities, see the description provided on the relevant permit (NPDES Stormwater Runoff from Construction Activities [General Permit No. S-MCST-0312-1](#)).

There are two different classifications of construction projects for stormwater runoff authorization:

- Construction projects that may disturb one or more acres or are part of a larger common plan of development
  - require authorization to discharge stormwater runoff under the above permit.

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<sup>60</sup> U.S. ENVIRONMENTAL PROTECTION AGENCY (2005), Permitting for Environmental Results (PER): NPDES Profile: Kansas and Indian Country, p. 25, available at [https://www3.epa.gov/npdes/pubs/kansas\\_final\\_profile.pdf](https://www3.epa.gov/npdes/pubs/kansas_final_profile.pdf).

<sup>61</sup> KDHE INDUSTRIAL PROGRAMS SECTION STORMWATER PROGRAM (2016), <http://www.kdheks.gov/stormwater/> (last visited April 20, 2017).

- Construction projects that may disturb less than one acre and are not part of larger common plan of development or sale
  - require authorization to discharge stormwater runoff under the above permit only when KDHE notifies the owner or operator that the water quality impact from discharge of stormwater runoff from construction activity warrants consideration because the proposed construction activities constitute a significant pollution potential.

### **Animal Waste Storage Structure Construction**

Operations are required to notify KDHE of any plans to construct animal waste storage structures. If the construction is part of new facility this information should be included in the original NPDES permit (referred to as [the Kansas Water Pollution Control Permit for Agricultural and Related Wastes Permit Application](#)). However, if this construction is part of an existing facility, the operator must modify the existing permit.<sup>62</sup>

### **CAFO Inspections<sup>63</sup>**

The State conducts site visits before applicants submit their permit applications as well as subsequent inspections on new facilities once construction is complete. After these initial inspection hurdles have been met, the State typically inspects CAFOs annually. However, if a facility has a poor waste management record, it will be inspected every six months. On the other hand, if the facility has a history of good waste management practices, it will be inspected every two years.

With regard to Swine Facilities specifically, the KDHE must inspect facilities with more than 3,725 animal units annually. Facilities with 1,000 to 3,725 animal units must be inspected every two years, and facilities with less than 1,000 animal units must be inspected every five years. As stated above, problem facilities must be inspected every six months until the problems are corrected.

Each KDHE District Office has a unit devoted to Livestock Waste Management. These units are responsible for the annual and complaint-related inspections of CAFOs.<sup>64</sup>

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<sup>62</sup> K.A.R. § 28018-12, Design and construction of animal waste management systems (2008).

<sup>63</sup> U.S. ENVIRONMENTAL PROTECTION AGENCY (2002), U.S. EPA State Compendium–Region 7: Programs and Regulatory Activities Related to Animal Feeding Operations, p. 110, available at <https://www3.epa.gov/npdes/pubs/region7.pdf>.

<sup>64</sup> KDHE DISTRICT OFFICES (2016), [http://www.kdheks.gov/befs/dist\\_offices/nc.htm](http://www.kdheks.gov/befs/dist_offices/nc.htm).

Each District Office employees between one and three personnel for these Livestock Waste Management units. Contact information for these District Office employees can be found on their respective websites, which are all available [here](#).

### **Violations and Penalties**<sup>65</sup>

The KDHE penalty policy considers the seriousness of the violation, compliance history, and economic benefit factors in calculating penalties. The KDHE criteria for targeting CAFOs for enforcement includes: continued failure to contain runoff; continued spills; over-application and discharge from land application sites; failure to obtain or modify a permit before initiation or change of operation; and, in some cases, one-time discharges causing significant environmental impact.

When CAFOs do not rectify noncompliance, the KDHE responses range from informal letters of warning to formal administrative orders, depending on the permittee's response to the previous KDHE action. The enforcement guidance allows the KDHE to skip intermediate steps in the enforcement matrix and go directly to more severe enforcement levels, including court action, where necessary, to protect human health and the environment from immediate threats. The KDHE follows federal requirements for the time frame for responding to Significant Noncompliance criteria for major facilities, but occasionally uses schedules of compliance in permits instead of formal enforcement actions when appropriate to accomplish compliance with the permit.

EPA Region 7 uses the Interim Clean Water Act Settlement Penalty Policy to determine the penalty for violations in each enforcement action. Economic benefit is also a factor of consideration that is used in determining how the violator benefitted from its noncompliance. EPA considers economic benefit and the ability to pay in determining penalties on a case-by-case basis.<sup>66</sup>

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<sup>65</sup> *Id.*

<sup>66</sup> U.S. ENVIRONMENTAL PROTECTION AGENCY (2017), Enforcement and Compliance History Online, <https://echo.epa.gov/facilities/facility-search?mediaSelected=indsw>.

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## AIR QUALITY & ODOR

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### Air Quality

Animal agriculture is a significant source of air pollutants like ammonia, hydrogen sulfide, particulate matter, volatile organic compounds, and other contaminants, and animal agriculture, in theory, may be regulated. They are stationary sources that emit pollutants in amounts that jeopardize the environment and public health, but the agricultural industry has largely evaded meaningful regulation. The agricultural industry points to a number of reasons why agriculture should not be regulated—such as monitoring difficulties, variable climates, data collection methods, and so on. In order to respect the air quality for citizens, the EPA has entered into agreements with animal agriculture where CAFOs monitor and collect air emissions data in exchange for immunity for violating air pollution laws. In short, federal law does not require much from CAFOs with respect to addressing their impacts on air quality and public health. See the federal guide for further discussion of the Clean Air Act, air quality agreements, and applicable regulations.

While federal air-regulated laws and regulations do not require much from CAFOs, state may develop their own regulations for CAFO emissions. The state could regulate AFO air emissions as part of its State Implementation Plan (SIP), required by the Clean Air Act, to help the state achieve its air quality standards. However, it does not appear that Kansas regulates animal agricultural operations with regard to air emissions.

For more information on Kansas' policies and procedures regarding air quality, see the following [website](#).

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## ZONING & LAND USE

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### Zoning

Zoning ordinances are established and enforced by your municipality or your county. Zoning ordinances vary in how protective they are of agricultural, residential, or business interests. They specify areas where, and under what conditions, certain activities and development can take place. Engagement in the zoning process can impede new CAFOs looking to come into a community or existing CAFOs seeking to



expand. Unfortunately, Kansas prohibits zoning laws from applying to land used for “agricultural purposes.”<sup>67</sup> See your municipal or county zoning website to research applicable zoning rules and explore if its actions are consistent with the region’s comprehensive plan, discussed below.

## **Comprehensive Planning**

According to K.S.A. 12-747, city planning commissions are authorized to create comprehensive plans for the development of their city and any unincorporated territory lying outside of the city within the same county. The plans shall show recommendations for development or redevelopment of the territory including: a) [t]he general location, extent, and relationship of the use of land for agriculture, residence, business, industry, recreation, education . . . (f) utilization and conservation of natural resources; and (g) any other element deemed necessary to the proper development or redevelopment of the area.<sup>68</sup> At least once each year, the planning commission shall review or reconsider the plan.<sup>69</sup> These plans are significant because local zoning actions must be consistent with the plan’s objectives and recommendations. In addition, these plan presents a meaningful opportunity for public participation and input. Unfortunately, there is no overarching state review of these city or county comprehensive plans. For more information regarding a specific comprehensive plan, interested members of the public should contact their local municipalities and counties.

Beyond the city and county planning commissions, another resource that may be helpful for interested citizens is the [North Central Regional Planning Commission](#) (NCRPC). The mission of this organization is to advance rural Kansas through comprehensive planning and development services. NCRPC services include, but are not limited to, helping cities, counties, rural utilities, and non-profit organizations evaluate and address their respective planning and development needs for infrastructure, housing, technology, and health/safety initiatives.<sup>70</sup>

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<sup>67</sup> Kan. Stat. Ann. § 19-2921.

<sup>68</sup> Kan. Stat. Ann. § 12-747(b).

<sup>69</sup> Kan. Stat. Ann. § 12-747(d).

<sup>70</sup> North Central Regional Planning Commission (2017), <http://www.ncrpc.org/services/> (last visited April 20, 2017).

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## PERMITTING & PUBLIC PARTICIPATION

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### Permit Coverage<sup>71</sup>

CAFOs must register with KDHE if the facility meets any of the following conditions:

- The facility has a capacity of 300 or more animal units.
- KDHE determined that the facility has significant water pollution potential.
- KDHE determined that the facility requires a permit.
- The operator of the facility volunteered to come under state permitting regulations.

CAFO operators must submit a water pollution control permit application to KDHE if their facility meets any of the following criteria:

- Determined by the KDHE Bureau of Water to present a significant water pollution potential, regardless of size.
- Has an animal unit capacity of 300 or more and is determined to present a significant water pollution potential.
- Has an animal unit capacity of 1,000 or more, regardless of water pollution potential.
- Has proposed construction, expansion, modification, or change in operation of an existing permitted confined feeding facility.
- Has proposed construction, expansion, modification, or change in operation of an existing certified confined feeding facility, where KDHE determined that the proposed changes in operation represent a significant water pollution potential.

### **Special circumstances for permitting:**

- Each sale barn, collection center, or transfer station that has an average weekly capacity of more than 300 animal units or that is utilized more frequently than once per week or is determined to have significant water pollution potential.
- Each livestock truck wash facility must be included.
- CAFOs whose operator elects to obtain a permit.

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<sup>71</sup> U.S. ENVIRONMENTAL PROTECTION AGENCY (2002), U.S. EPA State Compendium—Region 7: Programs and Regulatory Activities Related to Animal Feeding Operations, p. 108-09, available at <https://www3.epa.gov/npdes/pubs/region7.pdf>.

For more information about permitting and licensing for a specific species of farms, see the following KSDOA guides below:

- Dairy Farm Licensing Guide;<sup>72</sup>
- Swine Farm Licensing Guide;<sup>73</sup>
- Cattle Feedlot Licensing Guide;<sup>74</sup>
- Poultry Farm & Egg Sales Licensing Guide.<sup>75</sup>

## **Permit Conditions**

### **Approvals<sup>76</sup>**

When CAFOs represents a significant water pollution potential or require a permit, the operator must provide:

- a waste management or pollution control system that should be designed and constructed in accordance with minimum standards of design, construction, and maintenance;
- a waste management plan,<sup>77</sup> which includes how and when the facility plans to manage its waste; and
- a list of all land application sites.

Plans and specifications submitted for new construction or new expansion of CAFOs are not required to be prepared by a professional engineer or a consultant, although they may be.<sup>78</sup>

### **Lagoon Design and Specifications<sup>79</sup>**

Kansas lagoons and earthen basins have seepage limits of ¼ inch per day. However, the Swine Facility Law reduced the allowable seepage limit for swine facilities with

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<sup>72</sup> [https://agriculture.ks.gov/docs/default-source/licensing-guides/dairy-farm0ae0e5002e6262e1aa5bff0000620720.pdf?sfvrsn=db8287c1\\_0](https://agriculture.ks.gov/docs/default-source/licensing-guides/dairy-farm0ae0e5002e6262e1aa5bff0000620720.pdf?sfvrsn=db8287c1_0)

<sup>73</sup> [https://agriculture.ks.gov/docs/default-source/licensing-guides/swine-farm91dee5002e6262e1aa5bff0000620720.pdf?sfvrsn=40bc87c1\\_0](https://agriculture.ks.gov/docs/default-source/licensing-guides/swine-farm91dee5002e6262e1aa5bff0000620720.pdf?sfvrsn=40bc87c1_0)

<sup>74</sup> [https://agriculture.ks.gov/docs/default-source/licensing-guides/cattle-feedlotf4dfe5002e6262e1aa5bff0000620720.pdf?sfvrsn=25bd87c1\\_0](https://agriculture.ks.gov/docs/default-source/licensing-guides/cattle-feedlotf4dfe5002e6262e1aa5bff0000620720.pdf?sfvrsn=25bd87c1_0)

<sup>75</sup> [https://agriculture.ks.gov/docs/default-source/licensing-guides/poultry-farm-and-egg-sales66dee5002e6262e1aa5bff0000620720.pdf?sfvrsn=b7bc87c1\\_0](https://agriculture.ks.gov/docs/default-source/licensing-guides/poultry-farm-and-egg-sales66dee5002e6262e1aa5bff0000620720.pdf?sfvrsn=b7bc87c1_0)

<sup>76</sup> *Id.* at 109.

<sup>77</sup> A form for these plans can be found on the KDHE site for each District Office. For example, [here](#), under the Livestock Waste Management section, you can download the CAFO Waster Management Plan for the North Central District.

<sup>78</sup> U.S. ENVIRONMENTAL PROTECTION AGENCY (2002), U.S. EPA State Compendium–Region 7: Programs and Regulatory Activities Related to Animal Feeding Operations, p. 109, available at <https://www3.epa.gov/npdes/pubs/region7.pdf>.

<sup>79</sup> *Id.*

more than 3,725 animal units to 1/8 inch per day. KDHE is to be notified whenever the freeboard of a lagoon falls below 2 feet. The bottom of waste lagoons must be at least 10 feet above the ground water aquifer, unless measures are taken to ensure that leakage will not reach ground water. A staff gauge or marker is required for all lagoons. Liners and ground water monitoring wells may be required in various circumstances.

### **Discharge Rules<sup>80</sup>**

Animal wastes from a waste-retention lagoon or pond or other storage structure may be discharged to surface waters of the state only if a chronic or catastrophic rain event caused an overflow. However, the system must be designed, constructed, operated, and maintained to contain all wastes, plus the direct precipitation and runoff from a 25-year, 24-hour rainfall for the location of the confined feeding facility.

### **Waste Management Plans<sup>81</sup>**

The KSDOA, requires that swine facilities with a capacity of 1,000 animal units or more submit a manure management plan and a nutrient utilization plan that applies manure or wastewater to land. Moreover, swine facilities with over 1,000 animal units are required to maintain an emergency response plan that identifies potential problems.

### **Public Participation**

As described in previous sections regarding the various permits and plans required by CAFOS, the public may participate in the permitting process.

For each of the above permits, the public has the right to weigh in on the matter. In order to do so, the public must have knowledge of the matter and, then, must participate in the public comment period. Accordingly, the following describes the concept of notice and public comment:

- **Notification<sup>82</sup>**
  - *by direct, individualized notice (mail, e-mail, etc.):* Typically, if a member of the public is likely to be impacted by a permit (i.e., if he or

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<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> U.S. ENVIRONMENTAL PROTECTION AGENCY (2005), Permitting for Environmental Results (PER): NPDES Profile: Kansas and Indian Country, p. 3-4, available at [https://www3.epa.gov/npdes/pubs/kansas\\_final\\_profile.pdf](https://www3.epa.gov/npdes/pubs/kansas_final_profile.pdf).

she owns land or a habitable structure within one mile of a proposed CAFO), then that member of public will be notified by mail of the permit application.

- *by indirect notice (through the [Kansas Register](#), newspapers, etc.):* The general public will be notified of permit applications as well as proposed legislation through the Kansas Register and, depending on the subject, by local or regional newspapers.

- Public Comment:

- Generally, once notified, interested members of the public will have
  - 30 days to submit a public comment or additional information which should be considered before permits are granted; and
  - 60 days to submit a public comment or additional information before old laws are amended or new laws are passed.

It's important that interested individuals voice their concerns by submitting public comments and requesting a public hearing within the comment timeframes.

In addition to this type of public review, the public may also participate on a regional and state level, by submitting complaints and public comments to relevant state departments.

For example, the public may use these sites to contact the following departments:

- Kansas Department of Agriculture
  - This department provides e-forms to submit complaints and public comments:
    - [General Complaint](#)<sup>83</sup>
    - [Public Comment on Proposed Regulation Changes](#)<sup>84</sup>
- Kansas Department of Health and Environment
  - This department provides a list of phone numbers, websites, and email addresses for all the divisions housed within it.
  - [KDHE Contact Us](#).<sup>85</sup>

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<sup>83</sup> <http://agriculture.ks.gov/kda-services/complaint-form>

<sup>84</sup> <http://agriculture.ks.gov/document-services/public-comment>

<sup>85</sup> <http://www.kdheks.gov/contact.html>

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## NUISANCE CLAIMS & RIGHT-TO-FARM LAW

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### **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. Courts may look to the extent of harm, the frequency of the nuisance, if plaintiffs came to the nuisance, or if the nuisance complies with applicable zoning ordinances. 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 contribute to health issues. While this sounds like the perfect example of a nuisance, many states have enacted laws to shield such facilities from nuisance liability—Kansas included. Kansas has enacted legislation to protect farmers from nuisance lawsuits.

### **State Right-to-Farm Laws**

Right-to-farm laws exist in most states and seek to protect farmers from nuisance suits brought by neighbors and communities who experience some of the more unpleasant effects of agricultural production. Kansas' Right-to-Farm Law provides protection for agricultural facilities by giving them presumptive shields if they can demonstrate compliance with applicable laws and regulations.<sup>86</sup> In pertinent part, the Kansas Right-to-Farm Law provides:

Agricultural activities conducted on farmland, if consistent with good agricultural practices and established prior to surrounding nonagricultural activities, are presumed to be reasonable and do not constitute a nuisance, public or private, unless the activity has a substantial adverse effect on the public health and safety. If such agricultural activity is undertaken in conformity with federal, state and local laws and regulations, it is presumed to be good agricultural practice and not adversely affecting the public health and safety.

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<sup>86</sup> Kan. Stat. Ann. §§ 2-3201 to 2-3205. See also Edward L. Robinson, *Can't You Smell That Smell?: Handling Nuisance Cases in Kansas*, J. KANSAS ASSOC. FOR JUSTICE 4, 6 (2014), <http://www.robinsonlawks.com/wp-content/uploads/2015/03/2014-Nuisance.pdf>; The National Agricultural Law Center, *States' Right-to-Farm*

Statutes, available at <http://nationalaglawcenter.org/wp-content/uploads/assets/righttofarm/kansas.pdf> (last visited April 20, 2017).



In 2013, the Kansas legislature expanded the scope of these protections by allowing farmland owners to expand “their agricultural activity, including but not limited to acreage, number of animals, and also allowing them to change or temporarily cease their agricultural activities without losing the statutory protections.”<sup>87</sup> The practical impact of the Law is to make it difficult for citizens to file private nuisance lawsuits against agricultural operations. For example, citizen 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. In addition, until the Right to Farm Law is successfully legally challenged or changed by the Kansas Legislature, alternatives to a nuisance claim against an agricultural operation are more likely to afford restitution to concerned citizens.

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## ENFORCEMENT

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### [Where to Find Data](#)

Individuals can access Kansas AFO compliance information using the EPA’s Enforcement and Compliance History Online (ECHO) search tools, [here](#). Simply search by city or zip code and take a look at applicable permits and compliance information for a number of facilities.<sup>88</sup>

### [Enforcement](#)

#### **U.S. EPA NPDES Enforcement**

Region 7’s NPDES enforcement program includes approximately seven staff positions devoted to NPDES enforcement and one staff position devoted to data entry. These staff members are tasked with a variety of responsibilities including inspection targeting; review and evaluation of inspection reports; oversight of enforcement orders; State program assistance; responding to citizen complaints; oversight of State enforcement programs; enforcement case development; negotiation of enforcement cases; and tracking and evaluation of supplemental environmental projects (SEPs), schedules, and other deliverables required by orders.<sup>89</sup>

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<sup>87</sup> See Robinson, *supra* note 21. See also Kan. Stat. Ann. § 2-3201 et seq.

<sup>88</sup> U.S. ENVIRONMENTAL PROTECTION AGENCY (2017), Enforcement and Compliance History Online, <https://echo.epa.gov/facilities/facility-search?mediaSelected=indsw> (last visited April 20, 2017).

<sup>89</sup> *Id.* at 16.

### **KDHE Enforcement**

Although routine inspections are required, the KDHE staff relies on reports or complaints to conduct enforcement inspections.<sup>90</sup> While KDHE can initiate investigations and report permit violations, officials prefer to work with livestock operators to resolve problems.

Enforcement action against those who over apply wastes to agricultural lands is unlikely to be successful unless it could be demonstrated that water quality problems were clearly attributable to over application. KDHE requires all facilities to report all spills within 2 hours of the discovery and a written report within 3 days of the incident.<sup>91</sup>

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## **HEALTH**

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In Kansas, water quality monitoring and assessment responsibilities rest primarily with the Kansas Department of Health and Environment (KDHE). State law compels the department to “investigate and report upon all matters relating to water supply and sewerage and the pollution of the waters of the state” (Kansas Statutes Annotated (K.S.A.) 65-170).<sup>92</sup>

### **Public Health Ordinances**

Communities can pressure their counties to adopt public health ordinances to address the health impacts of CAFOs.

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<sup>90</sup> U.S. ENVIRONMENTAL PROTECTION AGENCY (2002), U.S. EPA State Compendium—Region 7: Programs and Regulatory Activities Related to Animal Feeding Operations, p. 110, available at <https://www3.epa.gov/npdes/pubs/region7.pdf> (last visited April 20, 2017).

<sup>91</sup> *Id.*

<sup>92</sup> KDHE Statutory Context (2016), [http://www.kdheks.gov/befs/statutory\\_context.htm](http://www.kdheks.gov/befs/statutory_context.htm) (last visited April 20, 2017).

### Freedom of Information Act

The Freedom of Information Act (FOIA) is a 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 on FOIA.

### Kansas Open Records Act

The Kansas Open Records Act (KORA), codified as K.S.A. 42-215 et seq.,<sup>93</sup> obligates public agencies and officials to grant the public access to public records, subject to restrictions. The KORA essentially permits anyone to request public records that are not privileged for a fee (\$.25 per page, unless the record is oversized, larger than 8.5" X 14", then the charge is \$.50 per page). The National Freedom of Information has state-specific resources for Kansas, including a sample records request and useful publications.<sup>94</sup> Although there is no specific provision for a fee waiver, the statute gives the public agency providing the information discretion in fee charges (see K.S.A. 45-218(f) "may charge").<sup>95</sup> However, a data processor contracted with a "public agency is not required to pay any charges when the sole purpose of such data processor is to develop new programs for easier access."<sup>96</sup> This is a powerful tool for individuals seeking information about impending or noncompliant CAFOs in their communities.

For a more thorough discussion of KORA requests, see KDHE's [website on KORA](#),<sup>97</sup> or the [KDHE Bureau of Environmental Remediation \(BER\)](#).<sup>98</sup> This site includes information on what records may be requested and how to request a record (along with the KDHE Open Records Request Form in PDF and Word). If you have questions or need

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<sup>93</sup> Kan. Stat. Ann. § 45-215 et seq. (2012), available at <http://www.krgc.ks.gov/images/stories/pdf/Statutes/KORA%20statutes.pdf> (last visited April 20, 2017).

<sup>94</sup> Kansas Sample FOIA Request. NATIONAL FREEDOM OF INFORMATION COALITION, <http://www.nfoic.org/kansas-sample-foia-request>.

<sup>95</sup> Guide Compare Tool. REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS, <https://www.rcfp.org/guide-compare?outline=1712>.

<sup>96</sup> *Id.*

<sup>97</sup> <https://www.kdhe.ks.gov/1518/Open-Records>

<sup>98</sup> <https://www.kdhe.ks.gov/174/Environmental-Remediation>

assistance, contact KDHE's KORA Officer at [kdhe.KORAOfficer@ks.gov](mailto:kdhe.KORAOfficer@ks.gov), (785) 296-5334, or the [Kansas Attorney General's Office—Open Records](#).<sup>99</sup>

### **Bureau of Environmental Remediation/Remedial Section Public Information Program**

The Bureau of Environmental Remediation's (BER) Public Information Program<sup>100</sup> possesses a variety of tools and procedures available to the public for seeking information regarding environmental interests. These tools and procedures include the following:

**KDHE Environmental Interest Finder:**<sup>101</sup> The KEIF is a web-based mapping application for identifying sites or facilities in Kansas that have or could potentially impact the environment.

**Identified Sites List:**<sup>102</sup> The ISL is a record of environmentally-contaminated sites, excluding underground and above-ground tank sites. Each ISL record has a link to photos and BER reports, if they are available for that site.

**Environmental Audit Request:**<sup>103</sup> Members of the public may request an ERA to receive detailed information about known environmental issues within a mile of a specified address. This information is collected not only from BER, but also from other bureaus within the Division of Environment. The report will specifically include the site identification numbers and information you can then use to submit or update a KORA request.

To request an ERA, email a request to [Jayson.Massey@ks.gov](mailto:Jayson.Massey@ks.gov) in the Division of Environment. The following information should be included in an ERA request:

Name

Company's name

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<sup>99</sup> <https://www.ag.ks.gov/open-government>

<sup>100</sup> KDHE BUREAU OF ENVIRONMENTAL REMEDIATION, [http://www.kdheks.gov/ber/file\\_review\\_procedures.html](http://www.kdheks.gov/ber/file_review_procedures.html).

<sup>101</sup> KDHE Environmental Interest Finder, KDHE BUREAU OF ENVIRONMENTAL REMEDIATION, <https://maps.kdhe.state.ks.us/keif/>.

<sup>102</sup> KDHE BUREAU OF ENVIRONMENTAL REMEDIATION, Identified Sites List, [http://kansas.kdhe.state.ks.us/plsISL/ISL\\_Pub\\_Search](http://kansas.kdhe.state.ks.us/plsISL/ISL_Pub_Search).

<sup>103</sup> KDHE BUREAU OF ENVIRONMENTAL REMEDIATION, Environmental Audit Request, [http://www.kdheks.gov/ber/file\\_review\\_procedures.html](http://www.kdheks.gov/ber/file_review_procedures.html).

Phone number

E-mail address

Mailing address: street, city, state, and zip code\*

\*If a street address is not accurate, as for some rural locations, latitude/longitude data or a section/township/range designation are acceptable.

## **Public Records**

### **Public Records Directory**

It is generally a good idea for concerned citizens to learn as much as possible about the operation they are seeking to challenge—size, property value, number of employees, land records, etc. The public can look up property and tax information at the Tax Appraiser’s Office in each Kansas County and at [this online directory](#).<sup>104</sup>

Anyone can search for all kinds of Kansas public records using Kansas’ Online Free [Public Records Directory](#).<sup>105</sup>

### **EPA Region 7**

Each EPA Regional Office has a FOIA Officer who acts as a first point of contact for FOIA Requests. Contact information for the EPA Region 7 FOIA Officer is as follows:

Regional Freedom of Information Officer  
U.S. EPA, Region 7  
11201 Renner Boulevard  
Lenexa, KS 66219  
(913) 551-7003 or (913) 551-7860

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.<sup>106</sup> Of significant note, concerned citizens are potentially 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.”<sup>107</sup> The EPA will only consider

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<sup>104</sup> <https://www.publicrecords.onlinesearches.com/kansas/property-records/deeds>

<sup>105</sup> <http://publicrecords.netonline.com/state/KS/>

<sup>106</sup> FOIA Request Process, U.S. ENVIRONMENTAL PROTECTION AGENCY, <https://www.epa.gov/foia/foia-request-process>.

<sup>107</sup> Fee Waivers, U.S. ENVIRONMENTAL PROTECTION AGENCY, <https://www.epa.gov/foia/foia-request-process#waivers>.

waiver requests that are submitted at the same time as the corresponding FOIA request.<sup>108</sup> Additionally, there are a variety of maps, reports, and databases available through the EPA to locate information and documents about regulated facilities. For example, the EPA's [MyProperty database](#)<sup>109</sup> can provide information about a facility without have to file a FOIA request for the same records. While poking around on the EPA's websites may prove helpful, state or federal FOIAs will produce more records and information.

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## CAFO PROPERTY TAX APPEALS

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Neighbors of CAFOs may also be harmed by government inaction on another front: failure to account for the potentially detrimental presence of a CAFO in assessing a property for tax purposes. Without knowledge of how to challenge an uninformed assessment, individuals can find themselves paying too much in property taxes on top of the other issues they face. However, Kansas does prescribe an avenue of relief for aggrieved property owners under § 79-1448.<sup>110</sup>

Upon reviewing his or her tax assessment, any taxpayer may appeal to the county appraiser for an adjustment on the county appraiser's assessment of his/her property value by giving notice to the county appraiser within 30 days from the date the valuation notice was mailed. The county appraiser shall arrange to hold an informal meeting with the aggrieved taxpayer. At the meeting, the county appraiser shall offer evidence to substantiate the valuation and shall afford the taxpayer an opportunity to review data of comparable sales used in the appraiser's determination. If the final determination regarding value is not favor of the taxpayer, the final determination must be accompanied by a written explanation for this determination.

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<sup>108</sup> See *id.*

<sup>109</sup> <https://enviro.epa.gov/facts/myproperty/>

<sup>110</sup> Kan. Stat. Ann. § 79-1448. Appeals by taxpayers from classification or valuation or property; adjustments in classification or valuations by hearing officers or panels.  
<http://law.justia.com/codes/kansas/2013/chapter-79/article-14/section-79-1448>.



The appeals process is governed by K.S.A. § 79-1611.<sup>111</sup> Taxpayers may appeal the final determination to the hearing officer or panel. If “just cause” is demonstrated, the hearing officer or panel is authorized to change the valuation. In lieu of appealing to a hearing officer or panel, any aggrieved taxpayer, except with regard to land devoted to agricultural use whose property value, as reflected in the valuation notice, is less than \$2,000,000, or the property constitutes single family residential property, may appeal to the small claims and expedited hearings division of the state court of tax appeals. Additionally, taxpayers aggrieved by the final determination of a hearing officer or panel may appeal to the state court of tax appeals.

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## OTHER RESOURCES

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*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](http://www.sraproject.org), and contact SRAP for support at 503-632-8303 or through our [website](#).<sup>112</sup>

### **State Organizations**

- Sierra Club Kansas Chapter<sup>113</sup>
- Kansas Rural Development Council<sup>114</sup>
- Grassland Heritage Foundation<sup>115</sup>
- Kansas Natural Resource Council<sup>116</sup>
- Kaw Valley Heritage Alliance<sup>117</sup>

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<sup>111</sup> K.S.A. § 79-1611. Appointment of hearing officers and panels to hear appeals from valuation and classification of property; qualifications and salary; removal of appointees, when. <http://law.justia.com/codes/kansas/2015/chapter-79/article-16/section-79-1611>.

<sup>112</sup> Contact, SOCIALLY RESPONSIBLE AGRICULTURE PROJECT, <http://www.sraproject.org/contact/>

<sup>113</sup> SIERRA CLUB KANSAS CHAPTER, <http://kansas.sierraclub.org/>.

<sup>114</sup> KANSAS RURAL DEVELOPMENT COUNCIL, <http://www.ksrdc.org/>.

<sup>115</sup> GRASSLAND HERITAGE FOUNDATION, <http://www.grasslandheritage.org/>.

<sup>116</sup> KANSAS NATURAL RESOURCE COUNCIL, <http://knrc.weebly.com/>.

<sup>117</sup> KAW VALLEY HERITAGE ALLIANCE, <http://www.kvha.org/>.

- The Land Institute<sup>118</sup>
- Great Plains Earth Institute<sup>119</sup>

## **State Pro-Bono Clinics**

### **University of Kansas School of Law Legal Aid Clinic**

The University of Kansas School of Law does not host an environmental pro-bono clinic. However, the interested public should consider reaching out to the School's Environmental Law Society or their Clinical Services contacts for referrals.<sup>120</sup>

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## **LIST OF STATUTES & REGULATIONS**

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

<b>Statute</b>	<b>Subject</b>
<a href="#">KSA 65-166a</a>	Permits and Fees for Confined Feeding Facilities
<a href="#">KSA 65-171d</a>	Separation Distances
<a href="#">KSA 65-1,178</a>	Definitions
<a href="#">KSA 65-1,179</a>	Swine – Permit application, public notice, comment, hearing
<a href="#">KSA 65-1,180</a>	Swine – Required distances from water
<a href="#">KSA 65-1,181</a>	Swine – Manure Management Plan, lagoon standards, monitoring wells
<a href="#">KSA 65-1,182</a>	Swine – Nutrient Utilization Plan – <i>Effective July 1, 2009</i>
<a href="#">KSA 65-1,183</a>	Swine – Standards for operators and notification of unplanned release
<a href="#">KSA 65-1,184</a>	Swine – Emergency Response Plan

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<sup>118</sup> THE LAND INSTITUTE, <https://landinstitute.org/>.

<sup>119</sup> GREAT PLAINS EARTH INSTITUTE, <http://www.gpei.org/home.html>.

<sup>120</sup> Environmental Law & Natural Resources. <https://law.ku.edu/environmental#>. See also Clinics, UNIVERSITY OF KANSAS SCHOOL OF LAW, <https://law.ku.edu/clinics>.

<a href="#">KSA 65-1,185</a>	Swine - Retention of facility records and plans
<a href="#">KSA 65-1,186</a>	Swine - Operator Certification
<a href="#">KSA 65-1,187</a>	Swine - Odor Control Plan
<a href="#">KSA 65-1,188</a>	Swine - Dead Animal Handling Plan
<a href="#">KSA 65-1,189</a>	Swine - Facility Closure Plan and demonstration of financial ability
<a href="#">KSA 65-1,190</a>	Swine - Lagoon Closure Plan and demonstration of financial ability
<a href="#">KSA 65-1,191</a>	Swine - Inspection schedules
<a href="#">KSA 65-1,192</a>	Swine - Pre-existing facilities; application of separation distances
<a href="#">KSA 65-1,193</a>	Swine - Denial, suspension or revocation of permit
<a href="#">KSA 65-1,194</a>	Swine - Expansion of large facilities
<a href="#">KSA 65-1,195</a>	K-State duties
<a href="#">KSA 65-1,196</a>	Standards and requirements; application; powers of Secretary
<a href="#">KSA 65-1,197</a>	Advisory committee
<a href="#">KSA 65-1,198</a>	Rules and regulations; reports to legislature
<a href="#">KSA 65-1,199</a>	Adopting rules and regulations for composting
<a href="#">KSA 2-3302</a>	Chemigation safety - Definitions
<a href="#">KSA-2-3305</a>	Chemigation safety - Functional anti-pollution devices, requirements
<a href="#">KSA 2-3307</a>	Chemigation safety - Access to premises and inspections
<a href="#">KSA 2-3318</a>	Nutrient utilization - application of swine waste - <i>Effective July 1, 2009</i>
<a href="#">KSA 17-5903</a>	Agricultural corporations - definitions
<a href="#">KSA 17-5908</a>	Swine production facilities; establishment in county, procedure
<a href="#">KSA 47-1219</a>	Unlawful disposal of dead animals and penalties
<a href="#">KSA 79-32,204</a>	Tax credits