

**Guide to Confronting Concentrated Animal  
Feeding Operations in**

**MISSOURI**

# Guide to Confronting Concentrated Animal Feeding Operations in MISSOURI

**A PROJECT BY SOCIALLY RESPONSIBLE AGRICULTURE PROJECT  
WITH THE ASSISTANCE OF MIDWEST ENVIRONMENTAL ADVOCATES, INC.<sup>1</sup>  
AND MISSOURI COALITION FOR THE ENVIRONMENT<sup>2</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.sraproject.org](http://www.sraproject.org).

## **SRAP HELP HOTLINE**

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[www.sraproject.org/help](http://www.sraproject.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).
  - <sup>2</sup> Missouri Coalition for the Environment (MCE) is Missouri's independent, citizens' environmental organization for clean water, clean air, clean energy, and a healthy environment. Its mission is to educate, organize, and advocate in defense of Missouri's people and their environment. For more information, visit [moenvironment.org/](http://moenvironment.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](http://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: A BRIEF HISTORY OF CAFOs IN MISSOURI

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As in many other states, Missouri has seen a recent rise in large-scale animal agricultural operations. Missouri sits at the southern tip of the hog CAFO belt of the Midwest and the northern tip of the broiler CAFO belt of the south. As a result, animal agriculture in Missouri is jointly dominated by swine and poultry operations. As of the 2017 U.S. Department of Agriculture Census, Missouri ranked in the top 10 states for hog animal units (7<sup>th</sup>) and broiler animal units (10<sup>th</sup>) with 3.15 million hogs and 49.5 million broilers.<sup>1</sup> To address the growing concerns regarding large-scale CAFOs, Missouri has passed legislation that deals with the increased manure and pollution produced by these facilities.

Missouri has strict requirements for CAFOs with over 7,000 animal units (AU), but the vast majority of the CAFOs in the state fall somewhere between 1,000 and 6,999 AU, which allows them to operate without the site-specific permits or extensive quarterly monitoring required for large CAFOs. In fact, over 90% of the CAFOs in Missouri operate under a general permit.<sup>2</sup>

Although CAFOs are a significant source of air pollution, the federal Clean Air Act provides little regulatory oversight of most CAFOs. Some states and local authorities have developed their own air quality requirements for these facilities, but in Missouri, Senate Bill 391 recently revoked the authority of local governments to regulate CAFOs beyond what is required at the state level. For the time being, odor emission standards are still in effect for very large CAFOs.

The Clean Water Commission permits and regulates all potential water polluters. In 2016, House Bill 1713 changed the composition of the Clean Water Commission to a more agribusiness-friendly group by removing the public majority requirement. Previously, the seven-member Commission could have up to two members representing the agriculture or mining industry and was required to include four members of the public. HB 1713 allows up to six members of the Commission to represent the agriculture or mining industry and only requires that the Commission include one member representing the public interest. Missouri Governor Jay Nixon

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<sup>1</sup> 2017 USDA Census of Agriculture, Chapter 2, Table 12. Hogs and Pigs—Inventory and Sales: 2017 and 2012; Table 19. Poultry—Inventory and Sales: 2017 and 2012.

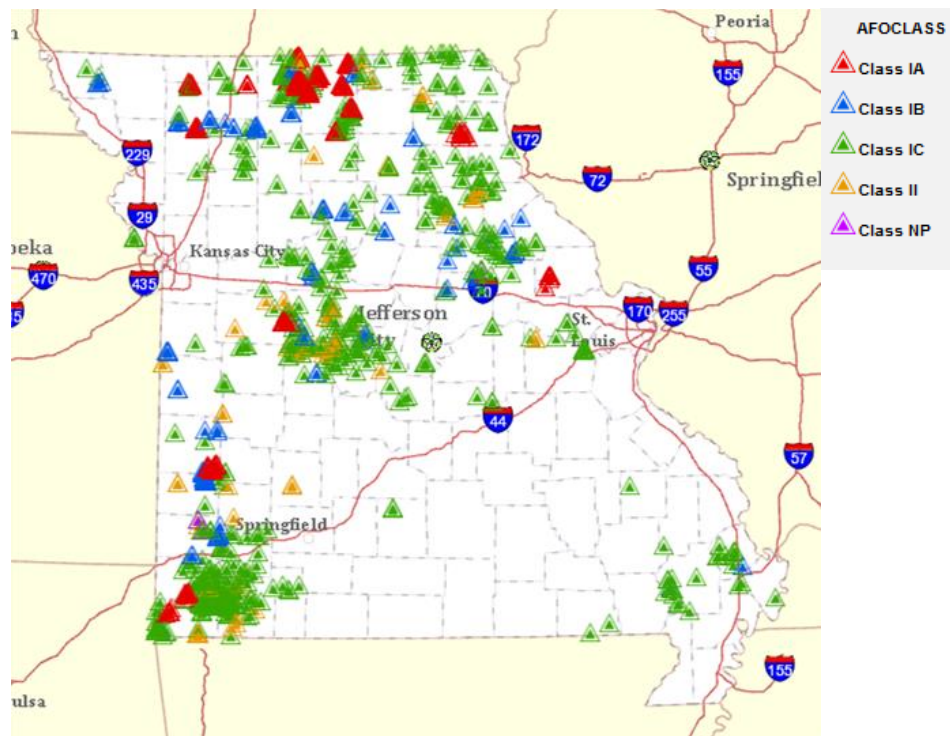
<sup>2</sup> See Missouri NPDES Concentrated Animal Feeding Operations (CAFOs) and Animal Feeding Operations (AFOs), University of Missouri Nutrient Management Planner (2007) and U.S. Environmental Protection Agency, Missouri CAFO/AFO Program Summary.

vetoed the bill in June 2016, but he was outvoted and the bill passed. In 2017, Governor Greitens added four new members all with agriculture industry interests.

Legislation has also been passed that prevents public access to numerous agricultural documents and data; for instance, House Bill 1414 limits public access to data collected for the federal Animal Disease Traceability Program.<sup>3</sup> There’s now a strong push in Missouri to create a more industry-friendly state, and environmental programs and commissions seem to be the first targets. In May 2019, Governor Parson signed Senate Bill 391 despite ongoing opposition. This bill prevents local governments from implementing public health ordinances for CAFOs that are more stringent than state regulations. As you can see, there’s a constant threat in Missouri to shift the balance of power toward CAFOs. These changes could leave residents at risk of increased public health hazards with few opportunities to fight back.

### Maps of CAFOs and AFOs in Missouri

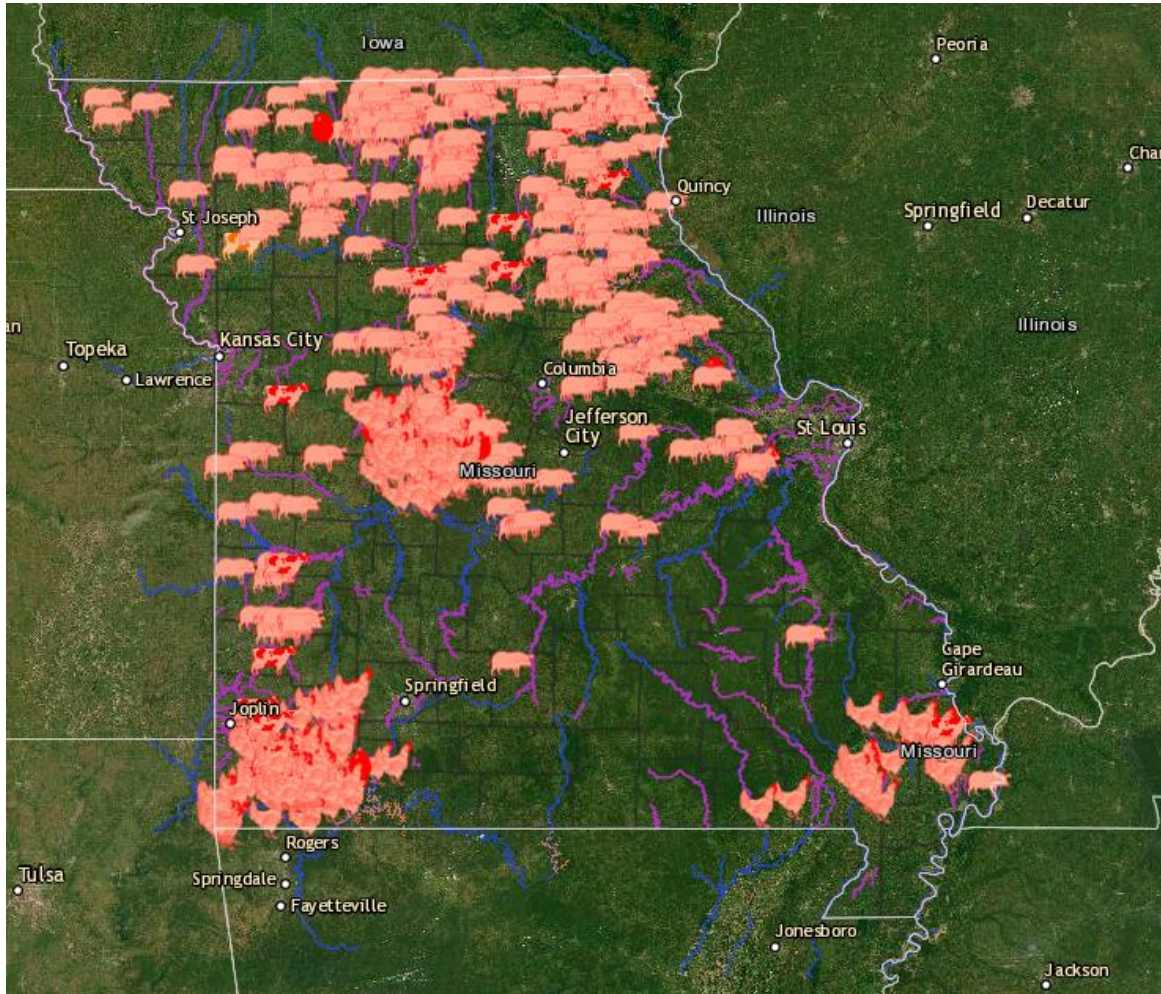
#### Missouri Department of Natural Resources – Animal Feeding Operation Map<sup>4</sup>



<sup>3</sup> Missouri House Bill 1414 <https://house.mo.gov/billtracking/bills161/hlrbillspdf/4766S.04T.PDF>

<sup>4</sup> <https://dnr.mo.gov/env/wpp/afo.htm>

## Missouri Coalition for the Environment—Interactive CAFO Map<sup>5</sup>



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### CAFOs: STATE DEFINITIONS & REGULATORY AGENCIES

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#### What is an AFO

An operation is defined as an animal feeding operation (AFO), if it confines, stables, or feeds animals for 45 days or more in a 12-month period, and a ground cover of vegetation is not sustained over at least 50 percent of the confinement area.<sup>6</sup>

#### What is a CAFO?

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<sup>5</sup> <https://moenvironment.org/interactive-cafo-map/>

<sup>6</sup> Animal Feeding Operation, Missouri Department of Natural Resources, <https://dnr.mo.gov/env/wpp/afo.htm>.

An AFO is designated a CAFO in two situations:

- An operation meets the CAFO threshold by having an operational capacity of at least 1,000 AUs. Once an AFO's capacity exceeds 1,000 AU, it's designated as a Class I CAFO. Animal capacity is the most common method for designating a facility as a CAFO.
- A smaller AFO facility either (I) discharges pollutants directly to waters of the state through a manmade device; or (II) discharges pollutants into waters of the state which originate outside of and pass over, across, or through the production area or come into contact with the animals confined in the operation.<sup>7</sup>

Missouri Natural Resources Department (DNR) will classify an AFO as a CAFO if it determines that the facility contributes significant pollution to waters of the state.

DNR considers the following factors in this determination:

- Size of operation
- Amount of waste reaching waters of the state
- Location of the AFO relative to waters of the state
- Slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes.

In Missouri, waters of the state are:

All waters within the jurisdiction of this state, including all rivers, streams, lakes and other bodies of surface and subsurface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned, leased or otherwise controlled by a single person or by two or more persons jointly or as tenants in common.<sup>8</sup>

Under this definition, no CAFO can contribute to pollution of surface water, groundwater, or wetlands. If DNR determines that a Class II AFO (see definition below) or uncategorized operation is polluting waters of the state, that facility will be considered a Class I CAFO and will need to seek additional permits. DNR Guidance

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<sup>7</sup> Animal Feeding Operation Permits and Regulations in Missouri, Missouri Department of Natural Resources, <https://dnr.mo.gov/pubs/pub2351.htm>.

<sup>8</sup> Missouri Revised Statute § 644.016, <https://revisor.mo.gov/main/OneSection.aspx?section=644.016>













indicates that AFOs may also be designated as CAFOs if they have persistent compliance issues.<sup>9</sup>

In Missouri, all CAFOs are designated “no discharge” facilities.<sup>10</sup> This means that no pollutants or runoff can go from a manmade conveyance to a water of the state. Although the regulations indicate that an operation will be considered a CAFO when discharges occur, the result of a CAFO classification should be resolving all discharges from point sources. Production areas and manure lagoons are two examples of potential point sources that are not allowed to discharge any pollution.

### Missouri CAFO Classes

Missouri’s CAFO program is unique in that it distinguishes CAFOs by size. Above the base CAFO limit of 1,000 AU, Missouri differentiates between CAFO classes based on operational AU capacity.

Animal Class Category		Class IA	Class IB	Class IC
Animal unit equivalent		7,000	3,000 to 6,999	1,000 to 2,999
	Beef cow, feeder, veal calf, cow/calf pair and dairy heifer	7,000	3,000 to 6,999	1,000 to 2,999
	Horses	3,500	1,500 to 3,499	500 to 1,499
	Mature Dairy cows	4,900	2,100 to 4,899	700 to 2,099
	Swine weighing over 55 lbs.	17,500	7,500 to 17,499	2,500 to 7,499
	Swine weighing under 55 lbs.	70,000	30,000 to 69,999	10,000 to 29,999
	Sheep, lambs, and meat and dairy goats	70,000	30,000 to 69,999	10,000 to 29,999
	Chicken laying hens, pullets and broilers with a wet handling system	210,000	90,000 to 209,999	30,000 to 89,999
	Turkeys in growout phase	385,000	165,000 to 384,999	55,000 to 164,999
	Chicken laying hens without a wet handling system	574,000	246,000 to 573,999	82,000 to 245,999
	Chicken broilers and pullets, and turkey poults in brood phase, all without a wet handling system	875,000	375,000 to 874,999	125,000 to 374,999

Class IA CAFOs are required to seek additional, site-specific permits, and DNR is required to perform onsite inspections quarterly.

<sup>9</sup> Missouri Department of Natural Resources, Guide to Animal Feeding Operations, March 2013, <https://dnr.mo.gov/pubs/pub915.pdf>.

<sup>10</sup> See *id.*

Class IB and IC CAFOs are generally not required to seek additional permits. Although DNR differentiates between the two, there are no additional restrictions on Class IB and Class IC operations.

## Common Ownership

Two or more AFOs that are under common ownership are considered a single operation if they “adjoin each other or if they use a common land area for the land application of wastes.”<sup>11</sup> Under this definition, DNR may consider multiple Class II AFOs as a single Class I CAFO, may reclassify a Class I CAFO into a higher subcategory (Class IC to IB or Class IB to IA), or may determine that two unclassified AFOs are significant contributors to waters of the state. In any scenario, it’s important to know who the owners of an operation are and how waste is being handled.

## Responsible Regulatory Agencies

### State Natural Resources Agencies

- Missouri Department of Natural Resources (DNR) issues discharge and no-discharge permits to CAFOs.
- DNR Division of Environmental Quality (DEQ)<sup>12</sup>.
  - Five regional offices.<sup>13</sup>
- DNR Water Protection Program (WPP).<sup>14</sup>
- Clean Water Commission—Created by Missouri Revised Statutes Section 644.021.1, the Commission supervises the administration and enforcement of the Missouri Clean Water Law, helps set and enforce water quality standards aimed at preventing pollution, and adopts regulations and policies to carry out the objectives of the federal Clean Water Act. Since CAFOs are permitted under the Clean Water Act, CWC also reviews their permits. CWC staff work in multiple DNR program offices, including the WPP and DEQ regional offices.<sup>15</sup>

### State Agricultural Agency

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<sup>11</sup> 10 CSR 20-6.300(1)(B)17.

<sup>12</sup> Missouri Department of Natural Resources Division of Environmental Quality, <https://dnr.mo.gov/env/index.html>.

<sup>13</sup> <https://dnr.mo.gov/regions/>

<sup>14</sup> Missouri Department of Natural Resources Water Protection Program, <https://dnr.mo.gov/env/wpp/>.

<sup>15</sup> Missouri Department of Natural Resources Clean Water Commission, <https://dnr.mo.gov/env/wpp/cwc/index.html>.

- Missouri Department of Agriculture (MDA) “is dedicated to the promotion and protection of the state’s agriculture industry. With more than 100,000 farms located on more than 28 million acres of farmland, the state’s Department of Agriculture works to connect farmers with consumers.”<sup>16</sup> While MDA deals with issues like animal health, dead animal disposal, grain inspection, and consumer protection, it’s not involved with AFO regulation, CAFO permitting, or permit compliance.

## State Department of Health

- The Missouri Department of Health and Senior Services (DHSS) has researched the effects of CAFOs on quality of life, respiratory issues, and infectious diseases. DHSS determined that though quality of life may be affected by odors, there’s no consensus as to whether communicable diseases or additional health issues will plague communities neighboring CAFOs. Further, DHSS determined that additional local ordinances on odor will not enhance the public health for neighbors of CAFOs. Overall, it appears DHSS does not regulate CAFOs or AFOs in any way.<sup>17</sup>

## Local Conservation Districts

- Each of the 114 counties in Missouri has a local Soil and Water Conservation District (SWCD).<sup>18</sup>
- Districts are created by Missouri Revised Statutes 278.
- “This Missouri Soil and Water Conservation Program supports a soil and water conservation district in each of Missouri’s 114 counties. Each district provides technical and financial assistance, education and best practices to local farmers and landowners.”<sup>19</sup>
- “Districts are governed by a board of supervisors with five members... Board members are public officials responsible for all district actions, decisions and employees, but districts have no regulatory or taxing authority.”<sup>20</sup>
- Given the local knowledge and expertise of conservation districts, concerned residents should consider using Board Members as a first point of contact.

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<sup>16</sup> Missouri Department of Agriculture, <http://agriculture.mo.gov/aboutMDA.php>.

<sup>17</sup> Missouri Department of Health and Senior Safety, Perspectives on the Health Effects of Concentrated Animal Feeding Operations, Nov. 12, 2009

<http://health.mo.gov/living/environment/hazsubstancesites/pdf/DHSSPerspectiveCAFO.pdf>.

<sup>18</sup> Missouri Soil and Water Conservation Districts, <https://dnr.mo.gov/env/swcp/districts.htm>.

<sup>19</sup> Missouri Soil and Water Conservation Program, <https://dnr.mo.gov/env/swcp/>.

<sup>20</sup> Missouri Soil and Water Conservation Districts, <https://dnr.mo.gov/env/swcp/districts.htm>.

## US EPA Region 7 Contacts

- A description of the U.S. EPA Region 7 CAFO Program, along with contact information, is available on the Program's [website](#).<sup>21</sup>

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## WATER

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### Missouri Pollutant Discharge Elimination System Program

One of the first steps a resident should take if concerned about a livestock operation is to determine the type of permit with which the operation must comply. DNR issues either a State No-Discharge General Permit, a NPDES General Permit (MOG01),<sup>22</sup> or a NPDES Site-Specific Permit to CAFOs. Both general permits cover multiple facilities, whereas an individual permit covers one facility and has more facility-specific terms and conditions with more opportunity for public review and comment.

Regardless of size, all CAFOs must be “designed, constructed, operated and maintained as no-discharge” facilities.<sup>23</sup> CAFOs meet the “no discharge” requirement by having adequate storage for all manure, and land-applying manure and process wastewater. Facilities with “no discharge” permits are not allowed to discharge manure to waters of the state for any reason, including chronic weather events or catastrophic storms.<sup>24</sup>

A CAFO may also opt to apply for a NPDES General Operating Permit. Under the general permit, it must still be designed and operated as a no-discharge facility, but discharges of manure, litter, or process wastewater from the production area and land application areas are allowed under specific circumstances that are barred in no-discharge permits. First, pollutants that have been land-applied in accordance with the operation's Nutrient Management Plan (NMP) and are discharged because of precipitation are considered agriculture stormwater runoff. Therefore, these discharges are exempt from the Clean Water Act. Second, NPDES permits allow for discharges from uncovered liquid manure storage when the structures were properly

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<sup>21</sup> U.S. Environmental Protection Agency, Region 7 CAFO Program, <https://www.epa.gov/aboutepa/epa-region-7-midwest>.

<sup>22</sup> See Missouri Department of Natural Resources, Clean Water Commission, NPDES General Permit, <http://dnr.mo.gov/env/wpp/cafo/docs/G010000.pdf>.

<sup>23</sup> Missouri Department of Natural Resources, Animal Feeding Operation Permits and Regulations in Missouri, Jun., 2014, <http://dnr.mo.gov/pubs/pub2351.pdf>.

<sup>24</sup> See *id.* at 3.

maintained and the criteria for extreme weather events have been met. Although these discharges are allowed, they may not violate water quality standards in 10 CSR 20-7.031(3). Discharges that violate the water quality standards or vary from the two previously listed circumstances are considered a violation.

CAFOs may choose to apply for a NPDES General Permit, but there does not seem to be any requirement for the facility to apply for this permit over the No-Discharge Permit.

Missouri typically issues no-discharge permits—either general or individual permits—to CAFOs, based on a finding that such operations do not intend to discharge or propose to discharge from production areas to waters of the state.<sup>25</sup> DNR Division on Environmental Quality maintains a [website](#) listing CAFO water pollution permits for new or expanding facility applications;<sup>26</sup> permit documents found on this website should clearly indicate whether the permit is an individual or general permit. There's also a [page](#) for permit public notices, but these are only available for facilities applying for NPDES permits. If a facility applies for a state general operating permit, there's no public notice requirement or mandated public comment period (although the operator must still issue neighbor notices). Therefore, it's difficult to learn when, where, and how these facilities plan to operate, making it harder to voice your concerns.

All Class IA CAFOs (CAFOs with 7,000 or more animal units) are required to seek a NPDES site-specific permit from DNR. As of January 1, 2019, there were approximately 19 permitted Class IA CAFOs in Missouri. To protect local water quality, site-specific permits are written with monitoring and reporting requirements that are specific to the operation. There's also a mandatory public notice and comment period before NPDES site-specific permits may be issued.

Regardless of the type of permit, all Class I CAFOs must meet requirements of the Clean Water Commission (CWC). The Missouri Legislature created the CWC to enforce Missouri's Clean Water Act.

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<sup>25</sup> See 10 CSR 20-6.300(2)(B)3 ("State no-discharge permit – Owners or operators of Class I CAFOs that do not intend to discharge or propose to discharge and do not apply for coverage under a state NPDES permit shall obtain and maintain coverage under a state no-discharge operating permit.")

<sup>26</sup> Missouri DNR Division of Environmental Quality, Concentrated Animal Feeding Operations, <http://dnr.mo.gov/env/wpp/cafo>.

The CWC created a set of Clean Water Act permitting regulations 10 CSR 20-6.300 intended to cover all basic requirements for CAFOs as they relate to water quality at the state level. Class I CAFOs in Missouri must:

- Provide notice to neighbors for new Class I facilities or any expanding facility that will qualify for a different Class I subcategory (e.g., IA, IB, IC);<sup>27</sup>
- Have a Nutrient Management Plan<sup>28</sup> and submit corresponding annual reports;
- Implement Best Management Practices (BMPs) to minimize pollutant runoff from fields where animal manure is spread;<sup>29</sup>
- Establish and maintain the following buffer distances between the nearest animal confinement building or storage structure and any existing public building or occupied residence:<sup>30</sup>
  - 1,000 feet for Class IC operations;
  - 2,000 feet for Class IB operations;
  - 3,000 feet for Class IA operations;
- Prevent runoff from the production area into waters of the state except during extreme precipitation events; and<sup>31</sup>
- Maintain records for five years.

**Note: While records must be retained onsite for five years, DNR does not make or retain copies of these documents during routine site inspections. DNR must simply ensure that the records are being kept by the operator.**

### Nutrient Management Technical Standards

All Class I CAFOs are required to have a Nutrient Management Plan (NMP). The Nutrient Management Technical Standard (NMTS) was developed to provide a framework for the protocols and methods for creating an NMP. The protocols listed in the NMTS are not binding, but a facility that elects to use alternative protocols must “demonstrate that such alternative protocols provide both a reliable and a technically valid basis for achieving the nutrient management objectives.”<sup>32</sup>

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<sup>27</sup> 10 CSR 20-6.300(3)(C)

<sup>28</sup> Missouri Department of Natural Resources, Animal Feeding Operation Permits and Regulations in Missouri, Jun., 2014, <http://dnr.mo.gov/pubs/pub2351.pdf>.

<sup>29</sup> 10 CSR 20-6.300(3)(G)

<sup>30</sup> 10 CSR 20-6.300(3)(B)

<sup>31</sup> 10 CSR 20-6.300(4)(A)4

<sup>32</sup> Missouri Department of Natural Resources, Nutrient Management Technical Standard, Mar. 4, 2009 [http://nmplanner.missouri.edu/regulations/Nutrient\\_Management\\_Tech\\_Standard-FINAL\\_3-4-09.pdf](http://nmplanner.missouri.edu/regulations/Nutrient_Management_Tech_Standard-FINAL_3-4-09.pdf).

## Highlights of the Nutrient Management Technical Standard:

- Extensive list of soil sampling protocols including (but not limited to):
  - Number of cores required
  - Average field area sizes
- Land Application Requirements:
  - Nitrogen application limits
  - Phosphorus application limits
  - Timing of manure applications
    - “No surface application of manure is allowed if precipitation, likely to create runoff, is forecasted to occur within 24 hours of the planned application”
    - Manure will not be applied on land with a slope greater than 20 percent
    - Frozen, snow-covered, saturated soils restriction
      - No clause for emergency spreading.

The University of Missouri Extension also provides tools to [create field maps for spreading](#)<sup>33</sup> and [CAFO Best Management Practices](#).<sup>34</sup> These tools may help you determine whether CAFOs are meeting spreading requirements or practicing approved methods for field spreading.

### Public access to NMPs and other permit documents

Missouri’s Sunshine Law was created to provide public access to government records and meetings. Courts are directed to “liberally construe” the law to provide transparency to government actions.<sup>35</sup> The following CAFO documentation may be requested from the DNR under the Missouri Sunshine Law:

- NPDES, General Operating, and site-specific permits and permit applications
- Inspection reports
- Incident reports (manure spills, flooding events, etc.)
- Concern investigations

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<sup>33</sup> University of Missouri Extension, Nutrient Management Tracker, <http://nmplanner.missouri.edu/software/nmtracker.asp>.

<sup>34</sup> Missouri Department of Natural Resources, Concentrated Animal Feeding Operations Best Management Practices, Feb. 24, 2006, <http://dnr.mo.gov/env/wpp/cafo/docs/cafo-bmp.pdf>.

<sup>35</sup> § 610.011, RSMo

- Individuals may call the DNR when they have concerns about a facility; these conversations should be recorded and investigated by DNR staff
- Notices of Violation (NOV)
- Letters of Warning (LOW)

Internal monitoring such as Nutrient Management Plans, manure application records, and lagoon water level records may also be requested under the Sunshine Law. However, since these records are only expected to be retained on-site, the DNR may not have copies. The Missouri Sunshine Law only requires records be made available when they already exist—not when they must be compiled or procured.<sup>36</sup> However, public records do not need to be final, official documents.<sup>37</sup>

## Wetlands

Wetlands impacts may provide another way for residents to review, comment on, and potentially decrease the environmental impacts of large-scale agriculture operations.

The Clean Water Act authorizes states to issue a State Water Quality Certification (401 Certification) for any activity or project that may result in a discharge into waters of the United States.<sup>38</sup> This certification is required before disturbing, filling, or discharging materials in waters of the United States.<sup>39</sup> Projects subject to 401 Certification most commonly include irrigation or filling of wetlands. 401 Certification requires the state to determine that a project will not violate surface water quality standards or adversely impact impaired waters, and that a project complies with applicable state regulations.<sup>40</sup> 401 certification requirements are discussed further in Missouri regulations and on the DNR website.<sup>41</sup>

## Water Quality

### Impaired Water Bodies

<sup>36</sup> Jones v. Jackson County Circuit Court, 162 S.W.3d 53 (Mo. App. W.D. 2005) (“The Sunshine Law does not require a government body to create a new record upon request, but only to provide access to existing records held or maintained by the public governmental body.”)

<sup>37</sup> Missouri Protection and Advocacy Services v. Allan, 787 S.W.2d 291 (Mo. App. W.D. 1990)

<sup>38</sup> Clean Water Act, 33 U.S.C. § 1341 (West 2016).

<sup>39</sup> Missouri Department of Natural Resources, Animal Feeding Operation Permits and Regulations in Missouri, Jun., 2014, <http://dnr.mo.gov/pubs/pub2351.pdf>.

<sup>40</sup> 10 CSR 20-7, Water Quality Standards, <http://sl.sos.mo.gov/cmsimages/adrules/csr/current/10csr/10c20-7a.pdf>.

<sup>41</sup> See *id.*, see also Missouri Division of Environmental Quality, 401 Water Quality Certification, <http://dnr.mo.gov/env/wpp/401/>.



A primary intent of the federal Clean Water Act is to keep clean waters clean and to improve the quality of polluted—also known as impaired—waters. Based on the most recent publicly available Missouri Water Quality Assessment Report from the U.S. EPA, over half of assessed water bodies are impaired.<sup>42</sup> Both the U.S. EPA and [DNR](#) have a database you can use to determine whether a specific water body is impaired.<sup>43</sup>

DNR creates an integrated report for submission to the EPA. Missouri’s Water Quality 305(b) report combines Clean Water Act sections 303(d), 305(d), and 314. The report provides an overview of all of Missouri’s waters and summarizes water quality issues.

DNR places a waterbody on the 303(d) impaired list if the waterbody has “chronic or recurring violations of numeric and/or narrative water quality criteria;”<sup>44</sup> Water Quality Standards are outlined in 10 CSR 20-7. Find the state reports regarding impaired water bodies in Missouri, which the EPA must receive every two years pursuant to 303(d) of the Clean Water Act, [here](#).<sup>45</sup> Note that the public can comment and attend public hearings regarding draft reports. Consult with partner organizations to understand the strengths and weaknesses of proposed impaired waters lists from ADEQ.

<http://dnr.mo.gov/env/wpp/wqstandards/>

### **Considerations for CAFOs with discharge permits**

The quality of the water into which a CAFO, or any permitted facility, discharges is important because the Clean Water Act requires water pollution permits to include limits that incorporate and protect water quality standards.<sup>46</sup> These considerations are complex; if you’re reviewing a water pollution permit and have specific concerns about water quality standards, consider asking scientific experts for assistance. The state organizations listed at the end of this guide may be able to provide information about technical experts and other assistance.

### **Considerations for other livestock operations**

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<sup>42</sup> U.S. Environmental Protection Agency, Missouri Water Quality Assessment Report, [https://iaspub.epa.gov/waters10/attains\\_index.control?p\\_area=MO](https://iaspub.epa.gov/waters10/attains_index.control?p_area=MO).

<sup>43</sup> See *id.*, see also Missouri Division of Environmental Quality, 303(d) Listed Waters, <https://dnr.mo.gov/env/wpp/waterquality/303d/>.

<sup>44</sup> Missouri Department of Natural Resources, Missouri Integrated Water Quality Report and Section 303(d) List, 2016, April 7, 2016 <http://dnr.mo.gov/env/wpp/waterquality/303d/docs/2016-ir-305b-report.pdf>.

<sup>45</sup> Missouri Water Quality (305(b) Report, Missouri Department of Natural Resources, <https://dnr.mo.gov/env/wpp/waterquality/303d/303d.htm>.

<sup>46</sup> See 33 U.S.C. §§ 1311(a), 1342(a) (West 2016); see also 40 C.F.R. § 131.10(b) (West 2015).

Residents with concerns about a new or expanding industrial livestock operation should determine whether the operation is or would be in a watershed with projects that are funded by the U.S. EPA in order to address nonpoint pollution such as runoff from agricultural fields.

Like most states, Missouri receives federal assistance to “protect and improve the quality of the state’s water resources using a collaborative, statewide watershed approach ...to address nonpoint source pollution impairments.”<sup>47</sup> This federal assistance, called 319 funding, encourages states to use a watershed-level approach to identify waterbodies that cannot meet water quality standards without control of nonpoint sources.<sup>48</sup> In addition to 319 funding, Missouri has made nonpoint source a priority for additional state and federal level grants. By using multiple funding sources, Missouri will create partnerships with “local leaders, technical experts and research/educational professionals” to create plans that protect health of a watershed.

The contribution of agricultural and other nonpoint source pollution is a significant factor in defining priority watersheds. As such, residents should argue that it’s an efficient use of taxpayer dollars to study and regulate all water pollution from CAFOs, particularly in priority areas of Missouri. An important component of the 319 program is the requirement to submit annual reports, and DNR makes such reports publicly available.<sup>49</sup> These reports are useful for residents seeking to learn more about the extent and impact of nonpoint source pollution in the state.

DNR maintains several public, electronic maps that detail water quality, water monitoring stations, and water protection programs.<sup>50</sup> These maps allow residents to view data from particular water quality stations. CARES, a Missouri University extension resource, also created the Missouri Watershed Tool, which is intended to be used by residents or watershed groups seeking specific information about their watershed.<sup>51</sup> With these maps, residents can collect significant information to address issues of nonpoint source pollution to impaired or polluted watersheds.

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<sup>47</sup> MISSOURI DEPARTMENT OF NATURAL RESOURCES, Missouri Non-Point Source Management Plan (2015-2019), <https://dnr.mo.gov/env/swcp/nps/mgmtplan/docs/2015-2019-mo-nonpoint-source-management-plan09-28-2015.pdf>.

<sup>48</sup> *See id.*

<sup>49</sup> Missouri Department of Natural Resources, Nonpoint Source Management Program Annual Reports, <https://dnr.mo.gov/env/swcp/nps/319annualreport.htm>.

<sup>50</sup> Missouri Department of Natural Resources, Water Protection Map Gallery, <https://dnr.mo.gov/env/wpp/wpp-map-gallery.htm>.

<sup>51</sup> CARES, Missouri Map Room, <http://cares.missouri.edu/portfolio/item/missouri-map-room/>.

## CAFO Construction

New or expanding Class I CAFO planning for a major modification or new construction that will disturb more than one acre of land must receive a land disturbance permit from DNR.<sup>52</sup>

A DNR-approved professional engineer must design construction of earthen storage for manure. Earthen storage structures and other facilities intended to “hold, convey, contain, store or treat domestic, agricultural or industrial process waste” require design standards in accordance with 10 CSR 20-8.300 and 10 CSR 20-6.300.

Further, any construction of a potential point source must meet permitting requirements found in 10 CSR 6.010, point source construction requirements.<sup>53</sup>

Construction permit applications are submitted at the same time as an operating permit application, along with all permit fees. DNR will review both applications and issue a response once a technical review, neighbor comment period, and public notice (if required) have been completed.<sup>54</sup> Applications must be submitted at least 180-days before starting construction.

Design standards can be extremely technical; consult with an expert if you have questions about them.

## CAFO Inspections

The DNR Clean Water Commission (CWC) has authority to inspect both NPDES-permitted and no-discharge livestock operations in order to “ensure the protection of surface water and wells and help to prevent unauthorized discharges.” Note though that in practice, the degree of oversight is largely influenced by the political climate and the composition of the CWC.

Inspections of smaller facilities with general operating permits are mainly performed by the owner/operator; larger facilities with general operating permits are inspected quarterly by DNR staff.

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<sup>52</sup> Missouri Department of Natural Resources, Animal Feeding Operation Permits and Regulations in Missouri, <https://dnr.mo.gov/pubs/pub2351.htm>.

<sup>53</sup> CARES, Missouri Map Room, <http://cares.missouri.edu/portfolio/item/missouri-map-room/>.

<sup>54</sup> Missouri Department of Natural Resources, Animal Feeding Operation Permits and Regulations, June 2014

Operating permits include several requirements for inspections, recordkeeping, and reporting. All operating permits require an annual report; each permit specifies which information must be included in this report. The CWC then reviews all of the records. Though DNR staff occasionally perform onsite inspections, record reviews are the more prevalent method of oversight on general permits. Any noted deficiencies during an owner inspection or DNR onsite inspection “should be corrected as soon as possible.”

Class IA CAFOs with site-specific NPDES permits receive onsite inspections four times per year.<sup>55</sup> The inspection requires a file review, an onsite inspection, and an exit interview. The onsite inspection includes a review of:

- Solid storage areas
- Production facilities
- Land application sites
- Collection and review of samples.

After completing the inspection, the inspector will submit a report documenting all findings or violations. Under Missouri’s Sunshine Law, all notes from the inspection as well as the final report are available for public review, though you’d need to perform an open record request for the documents to receive them. (Learn more about records requests in the Public Information Laws section below, or in MCE’s [Advocacy Toolkit Against CAFOs](#).)<sup>56</sup> Residents should review the operating permit inspection requirements and the subsequent notes and final report; collecting report data and notes over time may lead to a better understanding of how specific discharges or land spreading may be affecting watersheds.

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## AIR

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- 10 CSR 10-6.062 Construction Permits by Rule
  - “This rule creates a process by which sources can be exempt from 10 CSR 10-6.060 Construction Permits Required, by establishing conditions under which specific sources can construct and operate...It has been

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<sup>55</sup> 640.720 RSMo

<sup>56</sup> <https://moenvironment.org/advocacy-toolkit-cafos/>

determined that these sources will not make a significant contribution of air contaminants to the atmosphere.

- (3)(B)4 Livestock markets and livestock operations.
  - Any livestock market or livestock operation including...concentrated animal feeding operations...is permitted under this rule. Listed requirements:
    - Building cleanliness and ventilation requirements
    - Manure storage practices
    - Wind direction and setback requirements
    - Record keeping.

Missouri must monitor and limit certain air pollutants in order to comply with the Clean Air Act. Missouri has an Air Conservation Commission, which was created as part of the Missouri Air Pollution Control Program. The Commission consists of a seven-member board; the board's primary duty is to "carry out the Missouri Air Conservation Law." Although the Commission's duties include enforcing non-compliance and meeting national air quality standards, livestock operations are considered an insignificant source of air pollutants. Therefore, there's little to no monitoring or regulation of air emissions from CAFOs, though they're known to produce greenhouse gases and other emissions that are typically regulated under the CAA.

10 CSR 10-6.062(3)(B)4 allows CAFOs to construct and operate under a general permit because "it has been determined that these sources will not make a significant contribution of air contaminants." A CAFO must take several actions to be permitted, including:

- Regular cleaning of ventilation fans
- Regular adjustment of ceiling air inlets to provide adequate airflow
- Maintenance of bedding and manure storage
- Consideration of wind and velocity when surface applying manure
- Establishment of setbacks from downwind neighbors.

A CAFO seeking a Construction Permit By Rule only needs to fill out the general notice application and pay the \$700 fee. There's no required explanation of how a CAFO meets the applicable emission standard, simply a yes/no box. If a CAFO operator answers "No" to any of the requirements, they're automatically ineligible for the permit. It's therefore essential to monitor nearby CAFOs to ensure all requirements and emission standards are being met.

In addition to basic air quality permits, extremely large CAFOs are required to meet odor emission standards. The odor emission standards are only in place for Class IA CAFOs (CAFOs consisting of 7,000 or more AU).<sup>57</sup> A critical requirements is the creation of an odor control plan that must be approved by the Air Conservation Commission. The plan must include a list of all odor sources, a list of the odor control options available to the facility, an evaluation of the most effective options, and the odor control methods used.

Combined with Construction and Operation Permits, Class IA CAFOs have more standards to meet than in many other states when it comes to air quality. Not only must the facilities show that emission controls are in place, but they must also have an odor control plan. Further, all facilities must consider wind direction, velocity, and downwind neighbors when spreading manure on fields. Though these requirements may seem minimal, they're more comprehensive than in many other states.

To address the limited air quality oversight of livestock operations, consider analyzing whether a particular operation relies on a manure processing plant or similar facility that accepts waste from the CAFO—these facilities may be subject to the state's air pollution statutes and regulations, the most pertinent being 10 CSR 10.<sup>58</sup> Media and public opinion are also a powerful tool to address odor and other air pollution from CAFOs. (You can also file a public nuisance claim regarding odor and/or air emissions, but note that this approach has often been unsuccessful in Missouri.)

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## ZONING & HEALTH ORDINANCES

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Since local governments are often the first to learn about proposals for CAFOs or other livestock operations, it's crucial to know your local elected officials and to establish a good relationship when possible. In some cases, you and others in your community may be able to work with these officials to establish zoning provisions or ordinances to protect against CAFOs.

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<sup>57</sup> 10 CSR 10-6.165 restricts the emission of odorous material and requires odor control methods to be in place for Class IA CAFOs.

<sup>58</sup> Missouri Department of Natural Resources, Air Conservation Commission, <http://www.sos.mo.gov/adrules/csr/current/10csr/10csr>.

In Missouri, municipalities and class 1 counties have broad authority to establish zoning requirements for large-scale livestock operations. Unfortunately, townships and class 2, 3, and 4 counties are unable to create agricultural zoning provisions.

Note that residents should always compare proposed local ordinances or other efforts against any conflicting requirements in state law. Missouri Municipal League is a good source of information about the zoning and public health regulations that counties and municipalities can put in place. The organization works mainly with governing bodies, but its local government expertise and network of experts may be valuable to residents hoping to learn about local control. Learn more about local government using the following resources:

- **Counties:** <http://www.mo.gov/government/city-county-government/counties/>
- **Cities and Towns:** <http://www.mo.gov/government/city-county-government/cities-and-municipalities/>

## Health Ordinances

In addition to zoning regulations, all counties used to have the authority to adopt public health and safety regulations. However, in 2019 Governor Mike Parson signed Senate Bill 391 into law. The bill dictates that county health ordinances may not place restrictions on livestock that are inconsistent with or more stringent than state or department regulations.

Before SB 391 came into effect, 29 of 114 Missouri counties had additional AFO restrictions (zoning and/or county health ordinances). For more information, see Missouri Extension's [County and Township Restrictions on AFOs](#).<sup>59</sup>

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## PERMITTING & PUBLIC PARTICIPATION

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### Permitting of Liquid Waste Management Systems

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<sup>59</sup> Missouri County and Township Restrictions on AFOs, University of Missouri Extension, <http://nmplanner.missouri.edu/regulations/mocountyrules/>.

10 CSR 20-6.020 is the Clean Water Commission's permitting regulation, which sets guidelines for the permitting process. In addition to 6.020, 6.300 and 8.300 create siting requirements for operations with liquid waste management systems.

Any new or expanding facility must notify neighbors and follow the public notice procedures of 10 CSR 20-6.300 and 8.300. An expanding facility means any modification that increases the capacity of the operation so that a change in class is necessary.

The site must adhere to the design requirements set in 6.300, 8.300, and the Nutrient Management Technical Standard. Depending on the size of the operation, different setbacks from occupied dwellings are required.

- Operations between 1,000 and 2,999 AU (Class IC) must maintain a 1,000 ft. buffer distance between public buildings or occupied dwellings and animal confinement areas or waste storage structures;
- Operations between 3,000 and 6,999 AU (IB) must maintain a 2,000 ft. buffer distance; and
- Operations above 7,000 AU (IA) must maintain a 3,000 ft. buffer distance.

If a CAFO expands to a higher class, it must meet the larger buffer distance.

An operation's waste management plan must be developed according to Missouri DNR's Nutrient Management Technical Standard. Waste and wastewater must be distributed over the application sites according to the nutrient management plan. The NMTS provides a list of spreading requirements including setbacks from water, nutrient sampling techniques, and slope limitations.

### **Permitting for "Discharging" CAFOs**

No CAFO is allowed to discharge to waters of the state, except in instances of extreme precipitation or catastrophic events. All production areas must maintain and store pollution in a way that does not discharge to waters. The "no discharge" requirement only applies to production areas and doesn't cover land application of manure. Restrictions on land application can be found in the Nutrient Management Technical Standard.

### **Public Notices**



While there is no extensive outline of administrative procedures for permit renewal and public notice, 10 CSR 20-6.020 and 640.715 of RSMo cover most applicable administrative procedures for public notice and comments for CAFO permits. The CAFO applicant is required to provide “neighbor notices” to all adjacent property owners within three times the buffer distance of the facility. A facility is also required to provide neighbor notices before submitting a construction permit application. The notices should include the following information:

- The number of animals
- Brief summary of the waste handling plan
- General layout of the facility
- Location and number of acres of the operation
- Name, address, and telephone number of registered agent or owner
- Notice that the operation and the department will accept written comments for a 30-day period, which begins the day the construction permit application is received
- Address of the department office receiving comments

CWA and construction permit notices are sent to the Department’s Water Protection Program, the county governing body, and all adjoining property owners within three times the buffer distance of the facility.

10 CSR 20-6.020(1)(D) presents public notice requirements for notice of intent for a CAFO’s general permit. This notice must include the name and business address of applicant; name, address, and telephone number of department reviewing the application and any other place where an interested person may obtain further information; brief description of the applicant’s activities; name of watercourse to which the applicant will discharge; and tentative determination to issue a permit. Under 6.020(4)(A)1., anyone may request a public hearing regarding a permit application. The request must be made during the comment period, and should include the interest of the party filing the request and the reasons why a hearing is needed. The department will only hold a hearing if there’s “significant technical merit” related to the Missouri Clean Water Law, though any uncertainty about the merit of the request is decided in favor of having a hearing.

The department must give notice by mail of date, time, and place of hearing to all persons or groups who timely filed written requests for a public hearing. The department must also publish this information in at least one newspaper circulated in the area. During the public hearing, the department will receive oral public

comments from all parties that submitted a request no later than seven days before the hearing. The Presiding Officer may allow additional oral comments if it's convenient, but anyone can submit written comments up to seven days after the public hearing. 644.032(2) RMO

Find a calendar for the Missouri Clean Water Commission meetings [here](#).<sup>60</sup>

## Permit Appeals

Pursuant to 640.013 1. RMO, the Administrative Hearing Commission (AHC) hears all final permitting decisions made by DNR.

According to 621.250, an appeal must be filed with AHC within 30 days after the date the DNR Director's decision was mailed or the date it was delivered, whichever date was earlier. The notice of appeal must state the action appealed; specify grounds of appeal, including law and fact; and may contain other pertinent allegations or denials of fact. The appeal process may include a trial-type hearing. AHC will make a final recommendation to the Clean Water Commission, which has the authority to make a final decision.

## Submitting an Environmental Concern to the Water Protection Program

The Water Protection Program accepts environmental concerns via phone, mail, and online complaint form.<sup>61</sup> The Department also houses an after-hours emergency line.<sup>62</sup> The online complaint form for water pollution allows users to ask questions or notify DNR officials of potential pollution or environmental issues. Residents can file the complaint anonymously or provide contact information, and may request to be notified of the outcome of the investigation. Learn more about [documenting](#) and [reporting](#) concerns in MCE's [Advocacy Toolkit Against CAFOs](#).<sup>63</sup>

Note that Missouri Sunshine Law requires the department to maintain records of all complaints received and information gathered during the investigation. Anyone may request the complaint history for a CAFO and any investigation that accompanied those complaints.

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<sup>60</sup> <http://dnr.mo.gov/env/wpp/cwc/>

<sup>61</sup> Environmental Concern Form, Missouri Department of Natural Resources, <http://dnr.mo.gov/concern.htm>.

<sup>62</sup> Environmental Emergency Response, Missouri Department of Natural Resources, <http://dnr.mo.gov/env/esp/esp-eeer.htm>.

<sup>63</sup> <https://moenvironment.org/advocacy-toolkit-cafos/>

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## RIGHT TO FARM & NUISANCE LAWS

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Missouri's Right to Farm Law was created to "forever guarantee" the rights of farmers and ranchers in the state and insulate agricultural practices from nuisance claims.

Though the Missouri Bill of Rights was amended to include a Right to Farm provision, the primary statute that protects farmers is Mo. Rev. Stat. 537.295, which prohibits nuisance claims against agricultural operations.

Highlights of the Right to Farm Statute:

- Allows an agricultural operation to "reasonably" expand acreage or number of animals while maintaining protected status against nuisance claims.
- If a nuisance claim is raised that the court finds frivolous, the defendant can recover costs incurred due to litigation.
- An agricultural operation is protected by law if it has been in operation for more than a year, when the facility was not a nuisance at the time the operation began.
- The protection is inheritable and is not waived if farming stops temporarily (i.e., a farm could stop farming, be sold years later, and continue practices or expand with the Right to Farm protection remaining in place).

Right to Farm laws ultimately discourage residents from bringing nuisance claims against neighboring farms, even for legitimate grievances (e.g., CAFO pollution preventing neighbors from using and enjoying their property). As a result, alternatives to a nuisance claim against an agricultural operation are more likely to succeed.

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## ENFORCEMENT

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[Where to Find Data](#)

Enforcement actions are public noticed on a DNR website, and DNR maintains monthly and annual enforcement reports. DNR also provides enforcement reports by county and by facility.<sup>64</sup>

EPA has noted the difficulty in comparing states or compiling information between state and federal databases since many states use different systems to track and enforce non-compliance. DNR's [Letters of Warning and Notices of Violation](#) database might be useful.

DNR seems to recognize that additional funding and staff is needed to address compliance and enforcement issues. The department currently reviews facility type, size, and compliance history to better target facilities that require inspection.

### **Fines/Penalties**

The Clean Water Commission's main enforcement method is "conference, conciliation, and persuasion." This is a 90-day process that seeks to resolve the violation quickly. If CC&P doesn't work, the department may use formal enforcement actions, including: "Settlement Agreements, Abatement Orders, Abatement Orders on Consent, Consent Judgments and Court Orders."

If the violation is still not resolved, DNR may refer the case to the Missouri Attorney General to pursue legal action.

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## **PUBLIC INFORMATION LAWS**

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The Missouri Sunshine Law, codified in §610 RSMo, gives residents access to public records and public meetings (with some exceptions), and is intended to provide increased transparency.

The Missouri Attorney General website's "Sunshine Law: Top 10 things you should know" page includes the following:

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<sup>64</sup> Missouri Department of Natural Resources, Compliance and Enforcement Water Protection Program, <https://dnr.mo.gov/env/wpp/enf/index.html>.

1. When in doubt, a meeting or record of a public body should be opened to the public.
2. The Sunshine Law applies to all records, regardless of what form they are kept in, and to all meetings, regardless of the manner in which they are held.
3. The Sunshine Law allows a public body to close meetings and records to the public in some limited circumstances, but it almost never requires a public body to do so.
4. A public body generally must give at least 24 hours' public notice before holding a meeting. If the meeting will be closed to the public, the notice must state the specific provision of the law that allows the meeting to be closed.
5. Each public body must have a written Sunshine Law policy and a custodian of records whose name is available to the public upon request.
6. The Sunshine Law requires a custodian of records to respond to a records request as soon as possible but no later than three business days after the custodian receives it.
7. The Sunshine Law deals with whether a public body's records must be open to the public, but it generally does not state what records the body must keep or for how long. A body cannot, however, avoid a records request by destroying records after it receives a request for those records. For more information concerning records retention schedules, please visit the Missouri Secretary of State's Website.
8. The Sunshine Law requires a public body to grant access to open records it already has, but it does not require a public body to create new records in response to a request for information.
9. When responding to a request for copies of its records, the Sunshine Law limits how much a public body can charge for copying and research costs.
10. There are special laws and rules that govern access to law enforcement and judicial records.

The Attorney General also published a Sunshine Law outline including relevant statutes, caselaw, Attorney General Opinions, and Frequently Asked Questions. The Missouri Sunshine Coalition created an index of resources and guides to requesting information and determining whether the Sunshine Law is being followed. MCE also includes a [Sunshine Law request template](#) and other records request information as part of its [Advocacy Toolkit Against CAFOs](#).<sup>65</sup>

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<sup>65</sup> <https://moenvironment.org/advocacy-toolkit-cafos/>

Note that although public entities like municipalities must comply with FOIA, each local government may have a unique way of accepting and providing public records. Contact your government officers for more information, keeping in mind that absent a specific exception, the presumption of almost all open records laws is to provide information and provide reasonable accommodations when doing so.

## **DNR**

The Missouri Department of Natural Resources Open Record/Sunshine Law webpage provides online records request forms, pricing information, and contact information for the Department Record Custodian, who receives record requests, and can answer questions about available records. DNR also provides its own [Sunshine Law Policy](#) and provides information on how to receive a fee waiver for requested records.

## **EPA Region 7**

Each EPA Regional Office has a FOIA officer who acts as a first point of contact for FOIA Requests.<sup>66</sup> Contact information for the EPA Region 7 FOIA Officer is:

### **Region 7 (States: IA, KS, MO, NE)**

Regional Freedom of Information Office  
U.S. EPA, Region 7  
11201 Renner Boulevard  
Lenexa, KS 66219  
(913) 551-7003<sup>67</sup>

See the Federal Guide for more information on FOIA. Several EPA websites include summaries of the FOIA request process, response time guidance, and other information.<sup>68</sup> Note that requesters may be 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

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<sup>66</sup> U.S. Environmental Protection Agency, Organization Chart for EPA’s Region 7 Office, <https://www.epa.gov/aboutepa/organization-chart-epas-region-7-office>.

<sup>67</sup> U.S. Environmental Protection Agency, Regional FOIA Contact Information, <https://www.epa.gov/foia/forms/contact-us-about-freedom-information-act-and-foia-requests#r7>.

<sup>68</sup> See, e.g., U.S. Environmental Protection Agency, The FOIA Request Process, <https://www.epa.gov/foia/foia-request-process>.

interest of the requester.”<sup>69</sup> EPA will only consider waiver requests that are submitted at the same time as the FOIA request.<sup>70</sup>

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## CAFO PROPERTY TAX APPEAL GUIDELINES

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Neighbors of CAFOs may also be harmed if local governments fail to account for the harmful presence of a CAFO when assessing a property for tax purposes. Without knowing how to challenge an uninformed assessment, neighbors can end up overpaying property taxes in addition to enduring other damages caused by a CAFO.

Missouri Revised States prescribes an avenue of relief for aggrieved property owners under RSMo §§ 137.180, 137.245; 12 Mo. CSR § 30-3.010. Under these Statutes, upon reviewing their tax assessment, any property owner may have an informal meeting with their local tax assessor to discuss how the assessment was made—many disagreements are settled this way.

However, if the aggrieved person didn’t attend an informal meeting or a dispute remains after the meeting, they can appeal to the County Board of Equalization (BOE). Most counties have an appeal deadline of the second Monday in July, though some differ. *Check your local BOE before applying; some first-class counties have an earlier deadline.* First-class counties require an appeal in writing; for all other counties, the appeal may be in person, by agent or attorney, or in writing. Once an appeal is submitted, BOE will schedule an appeal hearing.

At the hearing, BOE decides the merits of the property owner’s application. If the property owner isn’t satisfied with the results of the hearing, they may appeal to STC.

An aggrieved property owner (or, wary property owners should note, the county assessor) may appeal to the STC within 30 days of BOE’s decision, or September 30<sup>th</sup> of that year, whichever is later. The appeal petition is available on the [STC website](#),<sup>71</sup> there is no fee for filing. Once STC receives the appeal form, they’ll send a notice of the time, date, and place of the hearing. If a property owner needs to delay the hearing, the request should be made in writing, five days prior to the hearing. A property owner and assessor can agree to a settlement any time before the hearing.

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<sup>69</sup> U.S. Environmental Protection Agency, Fee Waivers, <https://www.epa.gov/foia/foia-request-process#wavers>.

<sup>70</sup> See *id.*

<sup>71</sup> <http://stc.mo.gov/file-an-appeal/>

An STC hearing is similar to a trial. Both sides present their side of the case, and the property owner can make a closing statement. After the hearing, STC will issue a decision in writing within 60 days.

STC's final decision is subject to judicial review and can be appealed to the Circuit Court. The deadline for filing for judicial review is 30 days after STC's final decision.

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## OTHER RESOURCES

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*Protecting your community from factory farms can be 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 industrial livestock operations. 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>72</sup>

### **State Organizations**

**Missouri Coalition for the Environment (MCE)** is Missouri's independent, citizens' environmental organization for clean water, clean air, clean energy, and a healthy environment. Its mission is to educate, organize, and advocate in defense of Missouri's people and their environment. MCE has also produced a useful [toolkit](#) for CAFO advocacy in Missouri.<sup>73</sup>

**Missouri Rural Crisis Center (MRCC)** is a statewide farm and rural membership organization devoted to preserving family farms, promoting stewardship of the land and environmental integrity, and striving for economic and social justice by building unity and mutual understanding among diverse groups, both rural and urban.

### **State Pro-Bono Clinics**

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<sup>72</sup> Contact, SOCIALLY RESPONSIBLE AGRICULTURE PROJECT, <http://www.sraproject.org/contact/>

<sup>73</sup> <https://moenvironment.org/advocacy-toolkit-cafos/>



Washington University Law School's [Interdisciplinary Environmental Clinic](#)<sup>74</sup> provides pro bono technical and legal assistance to Missouri communities and can provide referrals to other legal resources. University of Missouri–Columbia Law School doesn't have a pro bono environmental clinic, but its Environmental Law Society or its Clinical Services may also provide referrals.

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## RELEVANT STATUTES & REGULATIONS

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### Statutes

Find a complete list of the Missouri Revised Statutes at:

<http://www.moga.mo.gov/mostatutes/statutesAna.html>

- County Planning and Zoning, § 64 RSMO
- Assessment and Levy of Property Taxes, § 137 RSMO
- Missouri Open Records (Sunshine Law), § 610 RSMO
- Administrative Hearing Commission, § 621 RSMO
- Department of Natural Resources, § 640 RSMO
  - § 640.013 Appeals from environmental decisions
  - §640.700 Concentrated Animal Feeding Operations (Hog Bill)
- Air Conservation, § 643 RSMO
  - § 643.040 Creation of Air Conservation Commission
  - Water Pollution, §644 RSMO.

### Rules/Regulations

Title 10–Department of Natural Resources Regulations:

- 10 CSR 10, Air Conservation Commission
  - 10 CSR 10–6.165 Restriction on Odor Emissions
- 10 CSR 20, Clean Water Commission
  - 10 CSR 20–3 Enforcement
  - 10 CSR 20–6.015 No Discharge Permits
  - 10 CSR 20–6.020 Public Participation
  - 10 CSR 20–6.300 Concentrated Animal Feeding Operations
  - 10 CSR 20–7.031 Water Quality Standards.

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<sup>74</sup> Washington University Law, Interdisciplinary Environmental Clinic, <https://law.wustl.edu/intenv/>.