



SRAP
Socially Responsible
Agriculture Project

Guide to Confronting Concentrated Animal Feeding Operations in

SOUTH CAROLINA



Guide to Confronting Concentrated Animal Feeding Operations in SOUTH CAROLINA

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

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

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



CAFO Guide Overview

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

EDUCATE YOURSELF

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

LOOK FOR PUBLIC NOTICES

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

REQUEST AND REVIEW PUBLIC RECORDS

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

NEW OR EXPANDING CAFOS

REVIEW ZONING ORDINANCES

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

REVIEW PERMIT APPLICATIONS

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

COLLECT DATA

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

EXISTING CAFOS

REVIEW CAFO DOCUMENTS

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

COLLECT DATA

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

MONITOR CAFOS AND BUILD A RECORD

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

FOLLOW UP ON AGENCY RESPONSE TO COMPLAINTS

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

ORGANIZE A COMMUNITY GROUP

Organize your group and develop a public presence.

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

SEEK LEGAL ADVICE

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

IDENTIFY IMPAIRED WATER BODIES

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

CONTACT STATE OR LOCAL HEALTH DEPARTMENT

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

CHECK FOR PUBLIC FINANCING

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

TRACK PUBLIC NOTICES

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

REVIEW STATE RIGHT-TO-FARM LAW

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

AGENCIES & STATE DEFINITIONS

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

SEEK PROPERTY TAX ADJUSTMENT

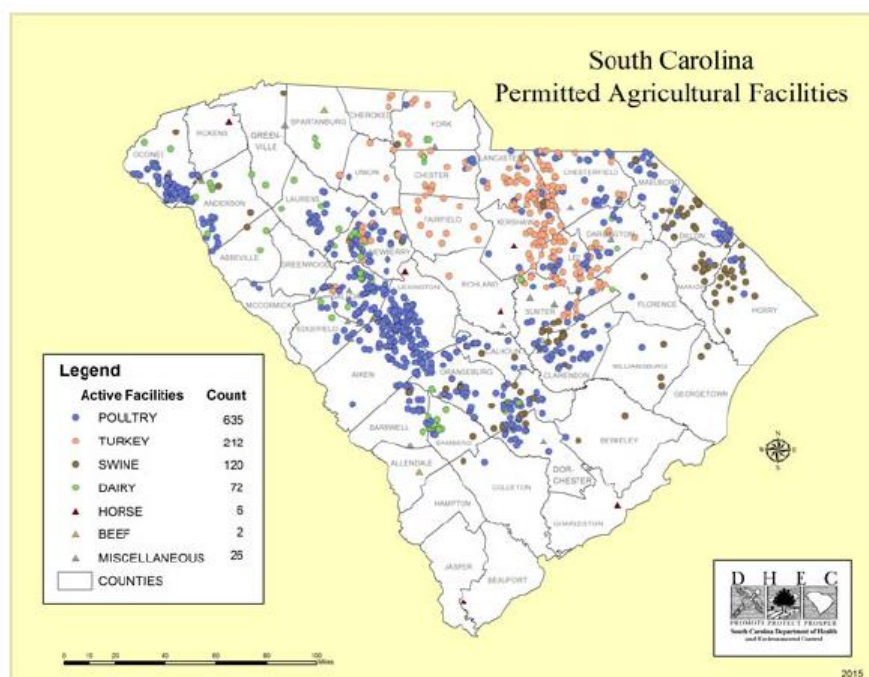
Neighbors may be able to reduce their property taxes due to CAFOs' negative impact on property values.

ENGAGE IN RULEMAKING PROCESSES

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

INTRODUCTION: A HISTORY OF CAFOs IN SOUTH CAROLINA

South Carolina's agriculture is largely dominated by poultry,² which accounts for 80 percent of the state's animal agriculture.³ The state is ranked among the top 10 U.S. states for inventory of broilers and other meat-type chickens, turkeys, and quail.⁴ In 2021, South Carolina's inventory for broiler chickens was 249,400,000.⁵ While South Carolina's poultry industry is growing, its numbers of calves, cows, hogs, and pigs has been declining in recent decades.⁶ The map below shows the current location and type of animal feeding operations in South Carolina.



Source: South Carolina Department of Health and Environmental Control

For many decades, South Carolina had no specific regulations for agricultural facilities, and the Department of Health and Environmental Control used guidelines

² National Agricultural Statistics Service, 2015 State Agriculture Overview, https://www.nass.usda.gov/Quick_Stats/Ag_Overview/stateOverview.php?state=SOUTH%20CAROLINA (last visited Nov. 18, 2016).

³ The South Carolina Poultry Federation, Economic Impact, <http://www.scpoultry.org/ecoimpact/index.cfm> (last visited Dec. 2, 2016).

⁴ National Agricultural Statistics Service, 2021 State Agriculture Overview, https://www.nass.usda.gov/Quick_Stats/Ag_Overview/stateOverview.php?state=SOUTH%20CAROLINA.

⁵ See *id.*

⁶ M.L. Warner, Animal Agriculture in South Carolina, Clemson University Cooperative Extension Service, (June 2001), <http://ageconsearch.umn.edu/bitstream/112904/2/ee199.pdf>.

instead.⁷ The state passed its first CAFO regulations in 1998, and until 2012 South Carolina had some of the strictest CAFO laws in the country. All AFOs had to receive a permit, regardless of size, and construction or expansion of all AFOs was public noticed.⁸ These laws were repealed, however, and the Department of Health and Environmental Control (DHEC) gained more control over the regulatory process than it previously had.⁹ Many of these same regulations exist today, although not all facilities are required to obtain permits.

In addition to guidance available from South Carolina organizations that are already analyzing and responding to the impacts of large-scale livestock operations, this Guide will provide residents with a legal and policy framework for understanding the landscape of the State's agriculture industry.

AGENCIES & STATE DEFINITIONS

What is a CAFO?

South Carolina distinguishes between CAFOs and agricultural facilities based upon whether an operation discharges pollutants to waters of the state. Once DHEC determines that an operation will cause such a discharge, the facility is defined as a small, medium, or large CAFO based upon the number of animals at the operation. These threshold numbers are outlined in the table below, which is also available on [this DHEC website](#).¹⁰

- *Large CAFOs* are AFOs that stable or confine and feed or maintain, for a total of 45 days or more in any 12-month period, the numbers of animals shown in **Table 3-1** below.
- *Medium CAFOs* are AFOs with the numbers of animals described in Table 3-1 and that have a man-made ditch or pipe that carries

⁷ Environmental Protection Agency, Compendium of State AFO Programs, (May 2002), <https://www3.epa.gov/npdes/pubs/statecom.pdf>.

⁸ Emily Kolbe, *Won't You be My Neighbor? Living With Concentrated Animal Feeding Operations*, 99 IOWA L. REV. 415 (2013) <https://ilr.law.uiowa.edu/print/volume-99-issue/wont-you-be-my-neighbor-living-with-concentrated-animal-feeding-operations/>.

⁹ *Id.*

¹⁰ South Carolina Department of Health and Environmental Control (hereinafter "DHEC"), Concentrated Animal Feeding Operations (CAFOs), Click on State Summary: South Carolina, <http://www.scdhec.gov/environment/WaterQuality/Agriculture/Permits/ConcentratedAnimalFeedOperations/> (last visited Nov. 18, 2016).

manure or wastewater to surface water, or the animals come into contact with surface water that passes through the area where they are confined.

- *Small* CAFOs confine fewer than the number of animals designated as a medium CAFO, and have been designated as a CAFO by DHEC as a result of being found to be a significant contributor of pollutants.¹¹

Animal Type	Large	Medium
Mature Dairy Cows (milked or dry)	≥ 700	200–699
Veal Calves	≥ 1,000	300–999
Cattle (other than mature dairy cows or veal)	≥ 1,000	300–999
Swine (≥ 55 pounds)	≥ 2,500	750–2,499
Swine (< 55 pounds)	≥ 10,000	3,000–9,999
Horses	≥ 500	150–499
Sheep or lambs	≥ 10,000	3,000–9,999
Turkeys	≥ 55,000	16,500–54,999
Laying Hens or Broilers (liquid manure handling)	≥ 30,000	9,000–29,999
Chickens (other than laying hens & other than liquid manure handling systems)	≥ 125,000	37,500–124,999
Laying Hens (other than liquid manure handling)	≥ 82,000	25,000–81,999
Ducks (other than liquid manure handling)	≥ 30,000	10,000–29,999
Ducks (liquid manure handling systems)	≥ 5,000	1,500–4,999

Waters of the State are defined by South Carolina statutes and regulations as:

[L]akes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the State, and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction.¹²

AFOs are typically subject to the DHEC State Agricultural Permit, whereas CAFOs are regulated by Clean Water Act National Pollutant Discharge Elimination System

¹¹ See *id.*

¹² See, e.g., S.C. CODE ANN. REGS. 61–9.122.2(b)

(NPDES) permits that might allow discharge of waste to waters of the State. See the *Water* Section below for more information on distinguishing between AFOs, CAFOs, and the corresponding requisite permits.

Responsible Regulatory Agencies

State CAFO Permitting Agency

DHEC is the primary state entity responsible for CAFO permitting.¹³ The most recent data available from this Department shows that approximately 1,073 permitted facilities exist in the State.¹⁴

DHEC's contact information website lists two main agricultural contacts by topic:

- For wastewater treatment regulations, CAFOs, poultry facility permitting, and permitting; contact Bill Chaplin at chapliwp@dhec.sc.gov or (803) 898-3532.
- For questions regarding land application permitting compliance, contact Glenn Trofatter at trofatge@dhec.sc.gov or (803) 898-4233.

South Carolina is somewhat unique in having the State's Department of Health act as the primary CAFO permitting agency. The South Carolina Department of Natural Resources (SCDNR) is a distinct state agency with authority over fishing, hunting, other recreation, wildlife, and water quality issues.¹⁵

State Agricultural Agency

The South Carolina Department of Agriculture, though not the preeminent resource for CAFO regulation, may prove a useful resource for CAFO monitors with questions about other issues such as food grading and inspection.¹⁶

Local Conservation Districts

A link to all 46 county-level Conservation Districts is available [here](#).¹⁷ Consider using conservation district employees as a first point of contact given their expertise on local environmental issues, including soil and water conservation.

¹³ See, e.g., DHEC, Agricultural Permits and Compliance, <http://www.scdhec.gov/environment/WaterQuality/Agriculture/> (last visited Oct. 31, 2016).

¹⁴ See *id.*

¹⁵ South Carolina Department of Natural Resources, Homepage, <http://www.dnr.sc.gov/> (last visited Oct. 31, 2016).

¹⁶ South Carolina Department of Agriculture, Grading & Inspection, <https://agriculture.sc.gov/divisions/agency-services/grading-inspection/> (last visited Oct. 31, 2016).

¹⁷ South Carolina Department of Natural Resources, Conservation Districts, <http://www.dnr.sc.gov/conservation/index.html> (last visited Oct. 31, 2016).

EPA Region 4 Contacts

The United States Environmental Protection Agency (EPA) Region 4 has authority over South Carolina as well as AL, FL, GA, KY, MS, NC, and TN. Useful EPA Region 4 CAFO contacts:

- For NPDES-permitted CAFOs, Molly Davis at davis.molly@epa.gov or (404) 562-9236
- For other water protection related question, call the Water Protection Division at (404) 562-9345.¹⁸

Note that most states, including South Carolina, have authority to issue water pollution permits to regulated industries in their respective states;¹⁹ however, EPA retains oversight authority to take enforcement and related action when states fail to meet federal requirements like those outlined in the Clean Water Act.²⁰ For this reason, EPA CAFO contacts are useful for individuals who are tracking specific large-scale livestock operations or have more broad questions about a state CAFO program's compliance with federal laws. See the Federal Guide for more information on the interplay between states and the U.S. EPA.

WATER

Unpermitted livestock operations

One of the first determinations that a CAFO monitor should make is the type of permit, if any, with which the operation must comply.

In South Carolina, DHEC generally exempts from permitting the following types of operations, with ability for the State to require permits on a case-by-case basis:

- New or expanding facilities with 10,000 lb. of normal production animal live weight or less that do not have a lagoon, storage pond, or other treatment system;

¹⁸ U.S. Environmental Protection Agency, Contacting EPA Region 4 (Southeast), <https://www.epa.gov/aboutepa/forms/contacting-epa-region-4-southeast#npdes-permitting> (last visited Sept. 29, 2016).

¹⁹ See *id.*

²⁰ See *id.*

- New or expanding facilities with more than 10,000 lb. and less 30,000 lb. of normal production animal live weight that do not have a lagoon, storage pond, or other treatment system;
- Facilities permitted prior to June 28, 2002, that haven't closed for more than two years or changed operation; and
- Ranged facilities.²¹

Since this Guide focuses on CAFO regulation, it does not detail the less structured regulatory scheme for these unpermitted operations. However, [this DHEC website](#) includes a public-friendly summary for monitors of smaller facilities. Resident monitors should always document and report to DHEC events that call into question whether a particular operation is complying with size, treatment system, and/or other limitations. Monitors should note that even some unpermitted operations may need to submit Animal Facility Management Plans (AFMPs) to DHEC,²² which could provide a source of data and other information for the interested public.

State Agricultural Permits

DHEC issues state agricultural permits to AFOs as well as CAFOs that have “no potential for any CAFO manure, litter, or process wastewater to be added to the waters of the state under any circumstance or climactic conditions.”²³ Again, resident monitors may prove crucial to notifying DHEC if a particular operation is not complying with this somewhat stringent zero-discharge standard.

Facilities with state agricultural permits still need to comply with a permit and corresponding regulations. These no-discharge facility regulations are found at S.C. CODE ANN. REGS. 61-43 at part 100 for swine facilities, or part 200 for animal facilities with livestock other than swine. A major component of the regulations is the requirement that DHEC receive and approve an AFMP.²⁴ Other common components of state agricultural permits for both swine and other livestock facilities, include the following:

²¹ DHEC, Who Needs an Agricultural Permit and Who Is Exempted, <http://www.scdhec.gov/environment/WaterQuality/Agriculture/Permits/WhoNeedsaPermit/> (last visited Nov. 30, 2016).

²² See *id.*

²³ DHEC, Concentrated Animal Feeding Operations (CAFOs), Click on State Summary: South Carolina, <http://www.scdhec.gov/environment/WaterQuality/Agriculture/Permits/ConcentratedAnimalFeedOperations/> (last visited Nov. 18, 2016).

²⁴ S.C. CODE ANN. REGS. 61-43.100.50, 61-43.200.50.

- Public notice and DHEC decision-making provisions;²⁵
- Location and other requirements for structures such as animal housing, lagoons, treatment systems, and manure storage points;²⁶
- Requirements for manure use, application, and monitoring;²⁷
- Odor and disease control requirements;²⁸ and
- Provisions regarding record keeping, reporting, and permit violation ramifications.²⁹

Public notice and permit violation provisions may be of particular interest to resident CAFO monitors. (These topics are discussed more below.)

South Carolina Pollutant Discharge Elimination System Program

South Carolina CAFOs with NPDES permits fall under the definition of a point source per S.C. CODE ANN. § 48-1-10:

Point source" means any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, **concentrated animal feeding operation** or vessel, or other floating craft, **from which pollutants are or may be discharged**.³⁰

Within this permit category, DHEC issues individual and general permits. Whereas individual permits are facility-specific, multiple facilities receive coverage under a general permit. DHEC has historically issued only general permits to CAFOs and very rarely uses individual permits for CAFOs with a "significant history of noncompliance."³¹ The common general CAFO NPDES permit prohibits discharges from CAFOs, including fields on which animal waste is spread, to waters of the state.³²

²⁵ S.C. CODE ANN. REGS. 61-43.100.60-70, 61-43.200.60-70.

²⁶ S.C. CODE ANN. REGS. 61-43.100.80-90, 61-43.200.80-90.

²⁷ S.C. CODE ANN. REGS. 61-43.100.100-120, 61-43.200.100-120.

²⁸ S.C. CODE ANN. REGS. 61-43.100.150-160, 61-43.200.150-160.

²⁹ S.C. CODE ANN. REGS. 61-43.100.170-200, 61-43.200.170-200.

³⁰ S.C. CODE ANN. § 48-1-10(23) (emphasis added).

³¹ DHEC, Concentrated Animal Feeding Operations (CAFOs), Click on State Summary: South Carolina, <http://www.scdhec.gov/environment/WaterQuality/Agriculture/Permits/ConcentratedAnimalFeedOperations/> (last visited Nov. 18, 2016).

³² See *id.*

Note: CAFOs with NPDES permits invoke oversight by EPA and corresponding federal Clean Water Act (CWA) requirements that apply to more “traditional” point sources like power plants or wastewater treatment facilities. From a resident CAFO monitor perspective, one key result of being permitted as a NPDES facility is the ability to initiate lawsuits pursuant to the citizen suit provision of the federal CWA. (Learn more about the CWA in the Federal Guide.) One pillar of the CWA is that NPDES permits should not cause or contribute to violation of water quality standards that establish acceptable pollutant limits for regulated waters.

DHEC Regulation of NPDES-Permitted CAFOs

In general, NPDES-permitted CAFOs must comply with the requirements below. This list is not all-inclusive; for more information review the State’s statutes and regulations, most significantly at S.C. CODE ANN. REGS. 61-9. NPDES regulations specifically applicable to CAFOs are found at S.C. CODE ANN. REGS. 61-9.122.42(e).

- Any permitted CAFO must have a nutrient management plan (NMP) that complies with S.C. CODE ANN. REGS. 61-9.122.42(e)(1), including but not limited to:
 - Protocols for testing manure and applying manure to fields;
 - Adequate storage of manure as well as operation and maintenance of storage facilities; and
 - Best management practices to prevent pollution from entering waters of the state.
- CAFOs must comply with recordkeeping requirements as well as submittal of annual reports to DHEC.³³
- CAFOs must keep at least five years of records for all manure transferred to other persons and must provide all such persons with “the most current nutrient analysis” of the transferred product.³⁴
- CAFOs must comply with standard terms and conditions for all NPDES-permitted facilities, including: duty to comply with the permit and penalty for non-compliance; duty to provide information to the State; and right of the State to inspect and enter permitted facilities.³⁵

Public access to NMPs and other permit documents

The public records requirements (discussed below) do not apply to all monitoring, data, or other information submitted to comply with the State AFO and CAFO laws. For example, the State may consider as confidential any information regarding

³³ S.C. CODE ANN. REGS. 61-9.122.42(e)(2),(4).

³⁴ S.C. CODE ANN. REGS. 61-9.122.42(e)(2),(4).

³⁵ S.C. CODE ANN. REGS. 61-9.122.41.

ongoing investigations as well as confidential, personal information from permit applicants.

However, in general DHEC will treat as public any information obtained pursuant to the NPDES and State Agricultural permitting programs. Residents interacting with state or local government regarding a CAFO issue should closely review permits and related documentation to ensure government is affording residents access to information to the full extent required by state open records laws.

Wetlands

Wetlands impacts, depending on the project details of a new or expanding livestock operation, may provide another means through which residents can 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.³⁶ Projects subject to 401 Certification most commonly include irrigation or filling of wetlands. 401 Certification requires DHEC to determine that a project at issue will not cause violation of “applicable effluent limits and water quality standards.”³⁷ This certification requirement provides a potentially crucial opportunity for public review and comment on an agricultural project’s impact on wetlands resources.³⁸ A user-friendly overview of the certification process is available on [here](#).³⁹

It’s worth reviewing the DHEC website that discusses the 401 Certification Program.⁴⁰ The site provides contact information, template forms, and explanation documents that make the permitting process easier to understand. DHEC also maintains a [website](#) with pertinent wetlands regulations.⁴¹

³⁶ Clean Water Act at 33 U.S.C. § 1341 (West 2016).

³⁷ See, e.g., DHEC, Water Quality Certification Program (Section 401) – Overview, <https://deq.nc.gov/about/divisions/water-resources/water-resources-permits/wastewater-branch/animal-feeding-operation-permits/afo-program-summary> (last visited Nov. 8, 2016).

³⁸ See, e.g., DHEC, Water Quality Certification (401) Process Explained, <http://www.scdhec.gov/environment/WaterQuality/401Certification/CertificationProcessExplained/> (last visited Nov. 8, 2016).

³⁹ <http://www.scdhec.gov/environment/WaterQuality/401Certification/CertificationProcessExplained/>

⁴⁰ DHEC, Water Quality Certification (Section 401, Clean Water Act), <http://www.scdhec.gov/environment/WaterQuality/401Certification/> (last visited Nov. 8, 2016).

⁴¹ <http://www.scdhec.gov/environment/WaterQuality/401Certification/LawsandRegulations/>

Regulations Applicable to Manure Brokers and Land Applicators

Owners and operators of agricultural facilities that produce large volumes of manure may need to sell or give away manure to ensure proper use of waste produced onsite. DHEC implements several regulations to impose requirements upon parties that accept manure even when those parties do not have AFO or CAFO permits from the State. (References for information in this Section can be found at S.C. CODE ANN. REGS. 61-43, and on the DHEC [Manure Broker and Land Applicator Information website](#).⁴²)

Two regulated entities include manure brokers and land applicators. A manure broker is “any person who accepts or purchases animal manure from animal manure from agricultural facilities and transfers this product to a third party for land application.” A land applicator “purchases animal manure from agricultural facilities ... [and] utilizes the manure on farm land that he/she actually farms without the involvement of a third party.”

A manure broker must:

- Comply with the same requirements—such as an animal facility management plan—as would the owner or operator of an agricultural facility;
- Have a separate permit with DHEC before accepting or land applying any manure; and
- Keep records of transactions to document purchase and sale of manure and have agreements with parties who purchase manure.

Land applicators must:

- Comply with the same requirements—such as an animal waste management plan—as would the owner or operator of an agricultural facility;
- Manure brokers must have a separate permit with DHEC before accepting or land applying any manure;
- Have an agreement with manure producers regarding manure transfer; and
- When a land applicator receives 12 tons or more of manure from one producer, the producer’s animal facility management plan must include the name of the applicator

⁴² DHEC, Manure Broker & Land Applicator Information, <http://www.scdhec.gov/environment/WaterQuality/Agriculture/Permits/ManureBrokersLandApplication/> (last visited Nov. 18, 2016).

Swine-Specific Regulations

The following Section summarizes DHEC regulations that impose more stringent requirements on swine operations compared to other livestock facilities. Though DHEC defines its agricultural industry as “dominated” by poultry operations in the west part of the State, DHEC regulations reflect its intent to regulate the swine industry more strictly.⁴³ Most of these more stringent requirements are thoroughly detailed in other sections of this guide.

Right to Farm

South Carolina’s Right-to-Farm Law does not apply to **new** swine operations.⁴⁴ This definition includes all swine facilities that were not in existence on June 30, 2006.⁴⁵ Local governments therefore remain more capable of regulating against nuisance-type impacts of proposed swine operations or operations built after 2006.

Setbacks

See the *Air* Section below for notes about using setbacks as a buffer to address odor and other air quality impacts of large-scale livestock operations. Note that DHEC increases minimum setbacks for swine operations compared to other types of livestock, and increases setbacks even more for large swine operations.

Public Notices⁴⁶

DHEC will hold a public meeting upon receipt of more than 20 comments regarding a new or expanding animal facility for small swine facilities and facilities with all other types of livestock. DHEC will hold a more formal public hearing after receiving more than 20 comments about a new or expanding swine facility with more than one million pounds of swine.

Note that permit applicants must submit Notices of Intent to Construct an Agricultural Facility to all neighbors within 1,320 feet. This amount is extended to 5,280 feet for swine facilities with more than one million pounds of swine. In addition to a

⁴³DHEC, Concentrated Animal Feeding Operations (CAFOs), Click on State Summary: South Carolina, <http://www.scdhec.gov/environment/WaterQuality/Agriculture/Permits/ConcentratedAnimalFeedOperations/> (last visited Nov. 18, 2016).

⁴⁴ S.C. CODE ANN. § 46-45-60(A).

⁴⁵ S.C. CODE ANN. § 46-45-20(C).

⁴⁶DHEC, Concentrated Animal Feeding Operations (CAFOs), Click on State Summary: South Carolina, <http://www.scdhec.gov/environment/WaterQuality/Agriculture/Permits/ConcentratedAnimalFeedOperations/> (last visited Nov. 18, 2016).

DHEC public hearing, large swine operations must hold at least one public meeting before submitting a water pollution permit application to DHEC.

Permits

As noted above, swine facilities permitted through the state agricultural permitting program need to comply with different regulations than operations that house other livestock. A notable difference is the more stringent penalties that apply to swine facilities that violate permit terms and conditions. For example, DHEC must automatically assess penalties against large swine facilities for certain types of violations and must rescind a permit for a second occurrence of those violations. Assessment of penalties against other types of livestock operations is more discretionary according to penalty provision of the South Carolina Pollution Control Act.

For more information on public notice and other permitting differences as between swine and other livestock operations, see the *Water, Permitting & Public Participation*, and/or *Enforcement* sections of this guide.

Water Quantity

Note that South Carolina CAFOs that use very large quantities of water may need to comply with water use regulations in addition to surface water pollution requirements discussed above. Water quantity reporting or permitting may provide another avenue for residents to direct questions and violations to appropriate state authorities.

Only the largest agricultural users will be impacted by the State's Groundwater Use and Reporting Program. Permitting and registration requirements apply to users who withdraw three million gallons or more of water in a given month.⁴⁷ For these users, requirements vary depending on their location.

Users who reside in a Capacity Use Area must obtain a Ground Water Use Withdrawal Permit. The following counties are located in Capacity Use Areas:

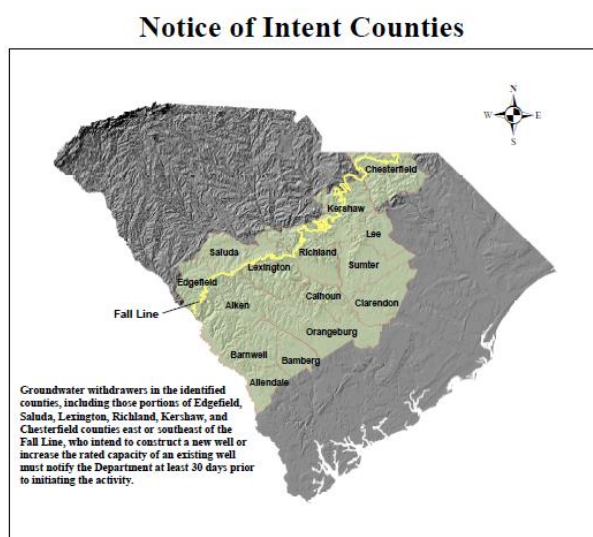
- Low Country Area: Beaufort, Colleton, Hampton, Jasper counties
- Pee Dee Area: Darlington, Dillon, Florence, Marion, Marlboro, Williamsburg counties
- Trident Area: Berkeley, Charleston, and Dorchester counties

⁴⁷ DHEC, Groundwater Use and Reporting in Capacity Use Areas – Overview, <http://www.scdhec.gov/environment/WaterQuality/GroundUseReporting/Overview/> (last visited Nov. 14, 2016).

- Waccamaw Area: Georgetown and Horry counties⁴⁸

To obtain a permit, individuals must submit a permit application to DHEC's Bureau of Water –Groundwater Management Section, along with well construction details for both new wells and existing wells that will increase their rated capacity.⁴⁹ DHEC will give the applicant public notice wording, and the applicant must publish this notice for one day in a newspaper that has general circulation in the area of the proposed withdrawal. Interested parties have 30 days following the public notice to comment on the proposed withdrawal and well construction. DHEC will issue a permit if an applicant shows that the withdrawal is "reasonable and necessary to meet the applicant's requirements and where there are no unreasonable adverse effects on other water users, including public use [...]."⁵⁰

Users who reside in Coastal Plain counties outside of Capacity Use Areas must send a Notice of Intent to the DHEC at least 30 days before drilling a well that will withdraw 3 million gallons or more, or before increasing the rated capacity of an existing well. Coastal Plain counties include all of Aiken, Allendale, Bamberg, Barnwell, Calhoun, Clarendon, Lee, Orangeburg, Sumter, as well as parts of Chesterfield, Edgefield, Kershaw, Lexington, Richland, and Saluda counties located in the Coastal Plain east or southeast of the fall line. A map of these counties and their relation to the fall line appears below:



Source: South Carolina Department of Health and Environmental Control, http://www.scdhec.gov/Environment/docs/gw_NOIm.pdf.

⁴⁸ *Id.*

⁴⁹ DHEC, Groundwater Withdrawal Permit Application Guide for Designated Capacity Use Areas, http://www.scdhec.gov/Environment/docs/gw_cupPermit.pdf (last visited Nov. 14, 2016).

⁵⁰ *Id.* at 8.

Users in South Carolina’s remaining counties who withdraw three million gallons or more of groundwater in any month must register their groundwater withdrawal and its use with DHEC.

Water Quality

Impaired Water Bodies

A primary intent of the federal Clean Water Act is to keep clean waters clean and to improve the quality of polluted, or impaired, waters. Waters in South Carolina become impaired when one of three designated uses—aquatic life support, fish or shellfish consumption, and primary contact recreation⁵¹—are limited or prohibited. Based on the most recent publicly available South Carolina Water Quality Assessment Report from the EPA, 74 percent of all assessed waterbodies are classified as “good waters” and 26 percent are classified as “impaired.”⁵² It should be noted, however, that most water bodies in the state have not been assessed. For example, only 20 percent of all state rivers and 33 percent of all lakes, reservoirs, and ponds have been assessed for impairments.⁵³

Certain water bodies have better water quality for certain designated uses than others. Of the stretches of rivers assessed for primary contact recreation, 62 percent are impaired, and 86 percent of the stretches of rivers assessed for fish consumption are impaired. In contrast, in state lakes, reservoirs, and ponds assessed for primary contact recreation, 0.3 percent are impaired, while 55 percent of the acres assessed for fish consumption are impaired. Causes of impairments vary by waterbody. In the impaired areas of rivers, fecal coliform is the most common cause for the impairment, while phosphorus and pH are the most likely causes behind impaired lakes, reservoirs, and ponds.⁵⁴

EPA has a [tool that shows whether a specific waterbody is impaired](#), and if so, the likely source of impairment.⁵⁵

⁵¹ South Carolina’s water quality standards refer to other designated uses, such as drinking water supply and agricultural use, but EPA and DHEC only refer to the above-listed uses in its impaired waters assessments.

⁵² United States Environmental Protection Agency, South Carolina Water Quality Assessment Report, https://ofmpub.epa.gov/waters10/attains_state.control?p_state=SC, (last visited Nov. 14, 2016).

⁵³ *Id.*

⁵⁴ See My WATERS Mapper, <https://watersgeo.epa.gov/mwm/>.

⁵⁵ See *id.*

DHEC uses a variety of criteria to determine whether a given designated use is impaired. For aquatic life use support, DHEC employs this non-exclusive list of chemical parameters: dissolved oxygen, pH, toxicants, nutrients, and turbidity. If a water body exceeds standards for any of the given parameters, then aquatic life use is not supported, and the body is listed as impaired.⁵⁶ DHEC collects biological data in addition to chemical data, though it is not always able to obtain both datasets. Biological data, obtained through analyzing macroinvertebrates, is considered the deciding factor in an assessment, which means that if a water body exceeds certain chemical criteria, it will not be considered impaired if the biological data shows that the in-stream biological community is not suffering adverse impacts.⁵⁷

For primary contact recreation, DHEC assesses the pathogenic bacteria that are present in a water body. In fresh waters, DHEC looks at measures of *E. coli*, and in tidal waters, the department measures Enterococci.⁵⁸ DHEC determines fish consumption impairments based on whether a waterbody has an advisory for human consumption. An advisory for PCB or mercury in a waterbody is a good indicator that a water body is impaired for fish consumption.⁵⁹

Considerations for CAFOs with discharge permits

The quality of the water into which a CAFO discharges or is located near is important because the Clean Water Act requires water pollution permits to include limits that incorporate and protect water quality standards.⁶⁰ These considerations are complex, so if you're reviewing a water pollution permit and have specific concerns about water quality standards, consider contacting scientific experts for help. Consider seeking advice from state organizations listed at the end of this guide for information about technical experts and other assistance.

Considerations for other livestock operations

Residents with concerns about a new or expanding large-scale livestock operation should determine whether the operation is or would be in a watershed with projects

⁵⁶ DHEC, State of South Carolina Integrated Report for 2014 – Part I: Section 303(d) List of Impaired Waters, http://www.scdhec.gov/HomeAndEnvironment/Docs/tmdl_14-303d.pdf, 4 (last visited Nov. 16, 2016).

⁵⁷ *Id.* at 5.

⁵⁸ *Id.* at 5–6.

⁵⁹ *Id.* at 7.

⁶⁰ See 33 U.S.C. §§ 1311(a), 1342(a) (West 2016); see also 40 C.F.R. § 131.10(b) (West 2015).

that are funded by the EPA in order to address nonpoint pollution, such as runoff from agricultural fields.

Like most states, South Carolina receives federal assistance each year through the Section 319 Grant Program to fund projects associated with the reduction of nonpoint source pollution.⁶¹ South Carolina allocates its funds in a competitive grant process to stakeholders, government entities, and other agencies that develop projects to reduce or prevent NPS pollution. There were 11 ongoing 319 grant projects in 2014, and 5 more were granted funding that year.⁶² For more information on the 319 grant program or to find a current list of 319 projects, contact Scott Hagins, Nonpoint Source Coordinator, at 803-898-1584 or haginsms@dhec.sc.gov, or Jana Baxley, 319 Grant Administrator, at 803-898-4213 or baxleyjs@dhec.sc.gov.

You can and should argue that it's an inefficient use of taxpayer dollars to allow unregulated water pollution from CAFOs in areas receiving funding for water pollution reduction. You can use DHEC contacts and South Carolina's nonpoint source management annual reports⁶³ to learn about the extent and impact of nonpoint source pollution in the state. You can also use these resources to determine whether these projects are in the same location as new, expanding, or non-compliant CAFO, and argue that it's an inefficient use of resources to implement nonpoint source management programs in the same area where CAFOs are not well managed.

CAFO Construction

DHEC indicates that most construction relating to CAFOs will require coverage by a stormwater construction permit for sites one to two acres in size.⁶⁴ Highlights of this permitting scheme include a requirement for projects to have a Stormwater Pollution Prevention Plan (SWPPP),⁶⁵ which requires project mapping and erosion control practices that prevent loss of sediment from a construction site.⁶⁶

⁶¹ DHEC, 319 Nonpoint Source Pollution Grants, <http://www.scdhec.gov/HomeandEnvironment/BusinessesandCommunities-GoGreen/EnvironmentalGrantsandLoans/319NonpointSourcePollutionGrants/> (last visited Nov. 16, 2016).

⁶² DHEC, South Carolina Nonpoint Source Management Program 2014 Annual Report, <http://www.scdhec.gov/HomeAndEnvironment/Docs/319npsannual.pdf> (last visited Nov. 16, 2016).

⁶³ See *id.*

⁶⁴ DHEC, New Compliance Requirements for SC DHEC Stormwater Permits for Confined Agricultural Animal Facilities, <http://www.scdhec.gov/Environment/docs/agswPermits.pdf> (last visited Nov. 10, 2016).

⁶⁵ See *id.*

⁶⁶ See *id.*

This permitting scheme involves submission of a Notice of Intent that does not give the public the same public notice and comment opportunity as CAFO NPDES permits.⁶⁷ However, most of these permits, plans, and reports such as inspection data are available for public use and inspection in order to determine whether a permittee is following permit requirements.

A copy of the general stormwater permit is available for public review on this [website](#).⁶⁸ The permit expires in late 2017,⁶⁹ which will afford the public the opportunity to comment on terms and conditions that apply broadly to CAFOs. From a CAFO monitor's perspective, an important component of the general permit is applicability of the standard conditions required for all NPDES permits,⁷⁰ including a right to facility inspection by the state and civil or criminal penalties for permit non-compliance or provision of false information.⁷¹

Also note that "any interested person" may ask the State to issue an individual rather than a general stormwater construction permit, including in the following instances:

- a) A discharger is not in compliance with the general permit;
- b) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
- c) Effluent limitations are promulgated for the point sources covered by the general permit;
- d) A Water Quality Management plan containing requirements applicable to such point sources is approved after the issuance of this general permit;
- e) Conditions at the permitted site change, altering the constituents and/or characteristics of the discharge such that the discharge no longer qualifies for a General Permit; or
- f) The discharger is a significant contributor of pollutants.⁷²

⁶⁷ See *id.*

⁶⁸ DHEC, NPDES General Permit for Stormwater Discharges from Construction Activities, <http://www.scdhec.gov/Environment/docs/CGP-permit.pdf> (last visited Nov. 10, 2016).

⁶⁹ See *id.*

⁷⁰ See *id.* at Section 9.

⁷¹ S.C. CODE ANN. REGS. 61-9 at § 122.41, available at <http://www.scstatehouse.gov/coderegs/Ch%2061-1%20through%2061-17.pdf>.

⁷² See *id.* § 122.28(b)(3).

Furthermore, agricultural-related construction in certain eight coastal counties of South Carolina may be subject to different or even more stringent construction stormwater requirements.⁷³ Impacted counties include: Charleston, Berkeley, Georgetown, Horry, Jasper, Beaufort, and Colleton.⁷⁴

The [DHEC Stormwater \(NPDES\) Permits website](#) is a useful initial resource for those who have questions or concerns about the stormwater impacts of large-scale agriculture and related industries.⁷⁵ The site includes template applications and forms, overviews of the permitting program, and other useful information. Also consult the [Stormwater – Construction Activities site](#) for information on construction activities that are less likely to apply to CAFOs, such as construction sites under one acre or over two acres.⁷⁶

CAFO Inspections

DHEC inspects both NPDES-permitted CAFOs and livestock operations with state permits. A DHEC website indicates that the Department inspects approximately 1,500 agricultural facilities annually.⁷⁷ Less recent data from the EPA indicates that DHEC inspects “[a]ll agricultural facilities with wet manure operations and 25% of those with dry manure operations” each year.⁷⁸ The Department is responsible for on-site inspections of facilities with new or re-issued permits, as well as compliance and monitoring inspections for facilities with existing permits.

According to a 2005 EPA report, DHEC does inspect at least its NPDES-permitted facilities at a higher rate than the national average.⁷⁹ EPA further indicated that DHEC inspects 50 percent of sites covered by construction stormwater permits, which CAFOs may need to obtain as discussed above. Note that these numbers have likely

⁷³ DHEC, Stormwater – Construction Activities, <http://www.scdhec.gov/Environment/WaterQuality/Stormwater/ConstructionActivities/Overview/> (last visited Nov. 10, 2016).

⁷⁴ See *id.*

⁷⁵ DHEC, Stormwater (NPDES) Permits, <http://www.scdhec.gov/environment/WaterQuality/Stormwater/> (last visited Nov. 10, 2016).

⁷⁶ DHEC, Stormwater – Construction Activities, <http://www.scdhec.gov/environment/WaterQuality/Stormwater/ConstructionActivities/> (last visited Nov. 10, 2016).

⁷⁷ DHEC, Agricultural Facilities – Inspections, Enforcement, <http://www.scdhec.gov/environment/WaterQuality/Agriculture/InspectionsandEnforcement/> (last visited Nov. 10, 2016).

⁷⁸ U.S. Environmental Protection Agency, NPDES Profile: South Carolina, Section III(3), https://www3.epa.gov/npdes/pubs/southcarolina_final_profile.pdf (last visited Nov. 10, 2016).

⁷⁹ See *id.*

changed due to newly permitted livestock operations and other regulatory changes since 2004.

Unfortunately, inspection data for CAFOs does not appear to be compiled and readily available to the public on a DHEC website. That said, open records procedures discussed below will allow access to at least some materials gathered by the State during inspections. This could prove useful for those who need monitoring and other data when considering legal or related action against large-scale livestock operations. See the Federal Guide for more information on data and other necessary precursors to Clean Water Act citizen suits.

The interested public should review permit(s) for any facility of concern and understand the obligation that owners are under with respect to government monitoring and site visits. For example, all NPDES permits require permittees to afford the State with the right to entry and inspection. State monitoring and inspection information available from DHEC can save residents time, expense, and other efforts necessary to submit open records requests and to gather data when considering how to respond to the environmental impacts of CAFOs.

AIR QUALITY & ODOR

As is the case in many states, air pollution statutes and regulations in South Carolina do not effectively address air quality impacts from large-scale agricultural operations. As described below, DHEC intends for odor abatement plans and related requirements contained in agricultural permits to serve as the primary tool for managing odor at agricultural facilities.

Odor Requirements in Animal Facility Management Plans

As mentioned above, an agricultural facility requires Animal Facility Management Plans (AFMPs) regardless of whether the facility is permitted through the NPDES or the alternative state permitting process. All AFMPs must include the following:

- “[A]n odor abatement plan pertaining to the animal facility, lagoon, treatment system, manure storage pond, and manure utilization areas;”⁸⁰ and

⁸⁰DHEC, Concentrated Animal Feeding Operations (CAFOs), Click on State Summary: South Carolina, <http://www.scdhec.gov/environment/WaterQuality/Agriculture/Permits/ConcentratedAnimalFeedOperations/> (last visited Nov. 11, 2016).

- “[T]reatment processes, additional setbacks from property lines, or other appropriate methods” to maintain compliance with “best management practices (BMPs) to ensure that an undesirable level of odor does not exist.”⁸¹

These odor requirements become terms and conditions of an operation’s permit, which the DHEC can enforce if a resident or the State is concerned that an operation is not complying with certain requirements. An audit of the DHEC agricultural program explained the odor complaint process as follows:

If an odor problem is brought to the attention of DHEC through either field surveillance or a complaint, the department will determine if the odor is at an undesirable level, although quantitative values are not specified. If it is determined to be so, the department will require immediate remediation through abatement or control practices including but not limited to removal or disposal of odorous materials, changing methods of handling and storing odorous materials, prescribing standards in the maintenance of premises including options such as filtration of ventilation air, and/or use of Best Available Technology to reduce odorous emissions. If the operation fails to control or abate the odor problems at a land application site within a given time frame, approval for land application of manure can be revoked from the permittee by DHEC.⁸²

DHEC determines whether an odor at an livestock facility is “undesirable” according to factors in S.C. CODE ANN. REGS. 61-43.100.150. Specifically, the Department “consider[s] the character and degree of injury or interference to: 1. The health or welfare of the people; 2. Plant, animal, freshwater aquatic, or marine life; 3. Property; or 4. Enjoyment of life or use of affected property.”⁸³ These same factors should broadly apply to odors from NPDES-permitted CAFOs.

Another key method of avoiding “undesirable” odors is by DHEC enforcement of setback requirements found at S.C. CODE ANN. REGS. 61-43.⁸⁴ The tables below provide

⁸¹ See *id.*

⁸² See *id.*

⁸³ S.C. CODE ANN. REGS. 61-43.100.150(C).

⁸⁴ Information in tables from S.C. CODE ANN. REGS. 61-43; see also DHEC, Concentrated Animal Feeding Operations (CAFOs), Click on State Summary: South Carolina,

a summary of those setback requirements. Note that regulations for large swine operations are more stringent than regulations for small swine operations and animal operations that house livestock other than swine.

Table 4-1
Setbacks for Facilities Other than Swine Facilities

Facility	Setback	Distance
Barns, stables, pens, or growing houses	Human drinking water wells	200 ft
	Animal drinking water wells	50 ft
	Ditches located down-slope	50 ft
	Property lines—nearest residence	1,000 ft
	Property lines—nearest property line for facilities with capacity of <500,000 lb.	200 ft
	Property lines—nearest property line for facilities with capacity of >500,000 lb.	400 ft
	Waters of the State	100 ft
Lagoons or waste storage ponds	Human drinking water wells	200 ft
	Animal drinking water wells	100 ft
	Ditches located down-slope	50 ft
	Property lines—nearest residence	1,000 ft
	Property lines—nearest property line for facilities with capacity of <500,000 lb.	300 ft
	Property lines—nearest property line for facilities with capacity of >500,000 lb.	500 ft
	Waters of the State	100 ft
	Trout waters, ORW, critical habitat for endangered species	500 ft
Manure Utilization Areas	Wells (Human and Animal Drinking Water)	100 ft
	Ditches located down-slope	50 ft
	Property lines (unless waived with consent of property owner)	300 ft
	Water of the State with application method—Spray irrigation	100 ft
	Water of the State with application method—Incorporation	75 ft
	Water of the State with application method - Injection	50 ft

<http://www.scdhec.gov/environment/WaterQuality/Agriculture/Permits/ConcentratedAnimalFeedOperations/> (last visited Nov. 11, 2016).

Table 4-2**Setbacks for Swine Facilities (1M lb. or more)**

Facility	Setback	Distance
Barns, stables, etc.	Wells (human or animal drinking water)	1,750 ft
	Property lines	1,750 ft
	Another large swine facility	25 miles
	Waters of the State	2640 ft or ½ mile.

Setback and separation requirements are also summarized on [this DHEC website](#).⁸⁵

Clean Air Act Reporting

Note that large releases of certain hazardous substances such as ammonia and hydrogen sulfide trigger the need to control emissions and report data to the state and/or federal government.⁸⁶ The threshold for reporting is high and inapplicable for most livestock operations but may prove useful for operations with egregious, irresponsible practices. For example, if a facility emits more than 100 pounds of ammonia and hydrogen sulfide—pollutants that are commonly emitted from livestock operations—in a 24-hour period, the facility must comply with federal reporting regulations.⁸⁷ For other pollutant thresholds that apply under the federal Clean Air Act, see the Federal Guide.⁸⁸ Finally, CAFO monitors should also analyze the compliance of industries like manure processing with hazardous substances emissions limits.

⁸⁵ DHEC, Setback/Separation Requirements, <http://www.scdhec.gov/environment/WaterQuality/Agriculture/Permits/SetbackSeparationRequirements/> (last visited Nov. 11, 2016).

⁸⁶ See generally the Clean Air Act, 42 U.S.C. §§ 7401-7671q.

⁸⁷ See *id.*

⁸⁸ See also Environmental Integrity, *Raising a Stink: Air Emissions from Factory Farms*, http://environmentalintegrity.org/pdf/publications/CAFOAirEmissions_white_paper.pdf (last visited Jul. 20, 2016).

ZONING

Since local governments are often the first to know of a proposal for a CAFO to locate or expand in a community, it's crucial for residents to know their local elected officials and to establish a working relationship to facilitate an efficient exchange of information. The balance of state and local power is complex in any state, and it's also important to seek local legal advice if necessary for guidance on such issues.

South Carolina is a "home rule" state, meaning that local governments have inherent authority in certain traditional spheres of local control such as public health and safety, unless explicitly preempted by state law.⁸⁹ Local government "home rule" powers are granted through the South Carolina Constitution, the Home Rule Act, and related state laws.⁹⁰ The South Carolina Supreme Court described in a 1995 decision that Home Rule is important because "different local governments have different problems that require different solutions."⁹¹

As there are numerous counties and branches of local government within South Carolina, this Guide does not provide specific possible regulations for each local governing body. However, this section will discuss the intersection of the South Carolina Right-to-Farm Law⁹² and local authority issues in the state. The Right-to-Farm Law is an example of a state law that explicitly preempts local ability to enact any "local ordinances governing an agricultural facility or operation that are not identical to state law and regulations, except for ordinances governing new swine or new slaughterhouse operations."⁹³

Because of this explicit preemption, the traditionally broad local "home rule" authority is limited by the Right-to-Farm Law, though local authority still exists to enact ordinances regarding new swine or slaughterhouse operations. As further detailed in the Right-to-Farm section below, local governments also retain authority "to determine whether an agricultural use is permitted use under [a] county's land

⁸⁹ See, e.g., Municipal Association of South Carolina, Handbook for Municipal Officials in SC, at page 1, <https://www.masc.sc/SiteCollectionDocuments/handbook-web.pdf> (last visited Nov. 1, 2016).

⁹⁰ S.C. CONST. ANN. art. VIII; Home Rule Act at Act No. 283 of 1975.

⁹¹ *Hospitality Ass'n of South Carolina v. County of Charleston*, 320 S.C. 219, 225, 464 S.E.2d 113, 117 (S.C. 1995); see also Nadia S. Adawi, State Preemption of Local Control Over Intensive Livestock Operations (hereinafter "Adawi"), 44 ELR 10506, 10511, available at <http://www.adawi-law.com/wp-content/uploads/2014/08/Adawi-Local-Control-ELR-44.10506.pdf>.

⁹² S.C. CODE ANN. § 46-45-10 et seq.

⁹³ Adawi at 10514, citing S.C. CODE ANN. § 46-45-60.

use and zoning authority.”⁹⁴ Note that the South Carolina Attorney General’s Office has analyzed the Right-to-Farm Law and found it consistent with the State Constitution and the Home Rule Act.⁹⁵

Looking beyond the Right-to-Farm Law, note that the South Carolina Association of Counties (SCAC) publishes a [Home Rule Handbook](#) that’s intended for local officials but potentially useful to residents who wish to understand the authority of local governments to regulate in response to large-scale agricultural impacts.⁹⁶ Though the Handbook discusses county governments, for the most part the “home rule” concept extends to other forms of local governments as well. The Handbook discusses the state’s pertinent statutes as well as interpretive case law and Attorney General opinions. Highlights of the SCAC Handbook include the following:

- Local governments such as counties have general police power that allows local regulation “unless the state or federal government has prohibited additional regulation in a specific area, or there is a comprehensive system in place that completely covers the area.”⁹⁷
- Local governments have “broad powers from the state to enact regulations, resolutions, and ordinances to preserve health, peace, and good government.”⁹⁸
- Examples of valid local agricultural powers include but are not limited to: enactment of ordinances that create local agricultural districts;⁹⁹ taxation authority of watershed conservation districts;¹⁰⁰

In sum, local governments in South Carolina generally have broad authority to regulate where they are not explicitly prevented from doing so by state law. In the case of agriculture, many ordinances that are more stringent than explicit state law will not prove viable. Yet local governments retain some authority to use local land use and zoning powers to regulate in a manner that may address large-scale agricultural impacts.

⁹⁴ Adawi at 10522, citing S.C. CODE ANN. § 46-45-60(B).

⁹⁵ Adawi at 10522.

⁹⁶ South Carolina Association of Counties, Home Rule Handbook for County Government (hereinafter SCAC Handbook), <http://www.sccounties.org/Data/Sites/1/media/publications/home-rule-handbook/homerulehandbook13.pdf>, (last visited Nov. 11, 2016).

⁹⁷ SCAC Handbook at p. 7-8, analyzing S.C. CODE ANN. § 4-9-25.

⁹⁸ SCAC Handbook at p. 9, analyzing *Foothills Brewing Co. v. City of Greenville*, 377 S.C. 355, 660 S.E.2d 264 (2008).

⁹⁹ SCAC Handbook at p. 11, analyzing Op. Atty. Gen., dated Feb. 22, 2013.

¹⁰⁰ SCAC Handbook at p. 73, analyzing 1987 Op. Atty. Gen., No 87-48.

Learn more about your local government and their authority using these resources:

- **Counties:** South Carolina Association of Counties,
<http://www.sccounties.org/sc-counties>
- **Other Municipalities:** Municipal Association of South Carolina,
<https://www.masc.sc/about/sc-municipalities>
- **State website with various local government links:**
<http://www.sc.gov/government/Local/Pages/default.aspx>.

PERMITTING & PUBLIC PARTICIPATION

Permitting of Animal Feeding Operations

DHEC has the authority to issue National Pollution Discharge Elimination System (NPDES) permits.¹⁰¹ However, state policy favors issuing state agricultural permits over NPDES permits.

NPDES General Permits

DHEC requires any facility that it defines as a CAFO to obtain a NPDES general permit. These general permits are known as no-discharge permits, which means that no point source discharge or discharge of pollutants is allowed to waters of the state. A NPDES general permit governs confinement, storage, and handling areas on the CAFO, as well as the owner's land application activities.¹⁰²

CAFO owners do not have to obtain a NPDES general permit if DHEC finds that the facility meets its "no potential to discharge" determination. A facility will meet this standard if DHEC determines that there's no potential for any manure, litter or process wastewater from the facility to enter waters of the state under any circumstance or climatic condition. If a facility has a "no potential to discharge" designation, it must still obtain an agricultural permit from DHEC.¹⁰³

DHEC states that it requires CAFO owners to obtain an individual NPDES permit if they have a "significant history of noncompliance problems" with any of their agricultural permits in the ten years prior to applying for a state agricultural permit or prior to

¹⁰¹ DHEC, Concentrated Animal Feeding Operations (CAFOs), Click on State Summary: South Carolina, <http://www.scdhec.gov/environment/WaterQuality/Agriculture/Permits/ConcentratedAnimalFeedOperations/> (last visited Nov. 18, 2016).

¹⁰² *Id.*

¹⁰³ *Id.*

their designation as a CAFO. However, despite this requirement, the DHEC has not issued an individual NPDES permit to any CAFO owner.¹⁰⁴

South Carolina Agricultural Permits

According to DHEC, not every AFO must obtain a permit. Instead, DHEC takes what it calls a “tiered approach to permitting,” and compliance depends on the facility’s tier:

¹⁰⁵

- Tier One: New or expanding facilities with 10,000 pounds of normal production animal live weight (about 70 hogs) or less that do not have a lagoon, storage pond, or other treatment system. These facilities do not have to obtain a permit, unless DHEC specifically requires it, which is determined on a case-by-case basis. These operations must have and implement an Animal Facility Management Plan (AFMP), but do not have to submit the plan to DHEC.
- Tier Two: New or expanding facilities with more than 10,000 pounds but less than 30,000 pounds (about 210 hogs) of normal production animal live weight that do not have a lagoon, storage pond, or other treatment system. These facilities do not have to obtain a permit, unless DHEC specifically requires it, which is determined on a case-by-case basis. These facilities must also have and implement an AFMP and must submit the plan to the DHEC.
- Tier Three: New or expanding facilities with a lagoon, storage pond, or other treatment system, regardless of size, or with more than 30,000 pounds of normal production animal live weight must obtain a permit. These operations must also have and implement an AFMP, and must submit the plan to the DHEC.

New or expanding facilities that only have animals on range land do not need a permit, unless DHEC specifically requires it. DHEC further states, “[t]he range area must be of sufficient size so as to allow a cover crop to be established at all times so that natural degradation of the manure occurs. This ensures there will be little if any runoff that can cause surface water problems.”¹⁰⁶

Permitting Process

¹⁰⁴ *Id.*

¹⁰⁵ DHEC, Who Needs and Agricultural Permit and Who is Exempted, <http://www.scdhec.gov/environment/WaterQuality/Agriculture/Permits/WhoNeedsaPermit/>, (last visited Nov. 16, 2016).

¹⁰⁶ DHEC, Description of Agricultural Permitting Process, <http://www.scdhec.gov/environment/WaterQuality/Agriculture/Permits/DescriptionPermittingProcess/>, (last visited Nov. 16, 2016).

Owners who wish to obtain a permit for their new or expanding facility must first request a preliminary site inspection from the Environmental Quality Control Regional Office. If department staff determine that the site is acceptable, they will give the owner a Notice of Intent to Construct form, which the owner must give to nearby property owners. After site approval, the owner can also request a registered professional engineer to prepare an Animal Facility Management Plan (AFMP). The AFMP details how manure, litter, and dead animals will be handled, stored, treated (if necessary), and disposed of at the facility. The AFMP includes a crop management plan, which includes a schedule of manure application and describes how the application schedule relates to timing of crop planting and harvesting.¹⁰⁷

When DHEC receives a complete application, it will conduct a technical review and hold any necessary public meetings (described in detail below). Permit applications must meet the requirements of [South Carolina Regulations 61-43](#) in order to be approved.¹⁰⁸ When conducting its review, the regulations require DHEC to act “to prevent ... an increase in pollution of the waters and air of the State from any new or enlarged sources” and to “prevent degradation of water quality due to the cumulative and secondary effects of permit decisions.”¹⁰⁹ If DHEC decides that a permit should be issued, it will send out a notice of the permit approval. The department allows for 20 days between the notice and the permit’s effective date to allow for appeals. A facility’s permit must be renewed every five years for CAFOs or every seven years for other facilities.¹¹⁰

Public Notices for State Agricultural Permits

The public notice requirements for AFOs vary depending on the facility’s size and the type of animals in the facility. DHEC has separate requirements for:

- AFOs other than swine;
- Small swine facilities (which is defined as a swine facility that has the capacity for 500,000 pounds of normal production animal live weight or less)¹¹¹;
- New or expanding large swine facilities with less than 1,000,000 pounds;

¹⁰⁷ DHEC, Concentrated Animal Feeding Operations (CAFOs), Click on State Summary: South Carolina, <http://www.scdhec.gov/environment/WaterQuality/Agriculture/Permits/ConcentratedAnimalFeedOperations/> (last visited Nov. 18, 2016).

¹⁰⁸ <https://www.scdhec.gov/Agency/docs/water-regs/r61-43.pdf>

¹⁰⁹ S.C. CODE ANN. REGS. 61-43.100.70.

¹¹⁰ S.C. CODE ANN. REGS. 61-43.100.70 and 200.70.

¹¹¹ DHEC, Definitions, <http://www.scdhec.gov/Environment/WaterQuality/Agriculture/AgDefinitions/#Animal%20Facility%20Management%20Plan>, (last visited Nov. 18, 2016).

- New or expanding large swine facilities with 1,000,000 or more pounds.¹¹²

Public Notice Requirements for New and Expanding Animal Facilities Other Than Swine and for Small Swine Facilities

DHEC has a Notice of Intent to Construct an Agricultural Facility form, which the applicant must send to all property owners located within 1,320 feet of the facility's footprint. For all types of facility owners, the Notice of Intent process is the same: the owner must deliver or mail the form to all applicable individuals, who then fill out the form and return it to the owner. An applicant must include these completed forms in the permit application. If an individual does not fill out the form or refuses to sign it, the applicant should fill out the form with the resident's information and note that they refused to sign. This action is acceptable because, as DHEC explains: "A nearby property owner's consent is not required to obtain a permit as the NOI form is just a part of the public notice process."¹¹³

After receiving a permit application, DHEC will post up to four public notices in the general area of the facility. There is no requirement for a public notice in the newspaper during the application phase, but DHEC will issue a newspaper public notice if a permit is approved. If 20 or more residents submit comments, DHEC will hold a meeting and invite those comment writers. When DHEC makes its final decision on a permit, it will notify the applicant, all persons who commented in writing, and all persons who attended a meeting through first class mail.¹¹⁴

Public Notice Requirements for New or Expanding Large Swine Facilities with Less Than 1,000,000 Pounds

Like applicants of non-swine facilities and small swine facilities, permit applicants must send a Notice of Intent to all property owners within 1,320 feet of the facility's footprint and individuals who reside on adjoining property. DHEC will also send public notices to the local newspaper, the county commissioner, any water supply district with an intake located downstream of the facility, and anyone who asks to receive a notice. DHEC will schedule a public hearing if it receives at least 20 letters from

¹¹² South Carolina Department of Health and Environmental Control, Concentrated Animal Feeding Operations (CAFOs), Click on State Summary: South Carolina, <http://www.scdhec.gov/environment/WaterQuality/Agriculture/Permits/ConcentratedAnimalFeedOperations/> (last visited Nov. 18, 2016).

¹¹³ South Carolina Department of Health and Environmental Control, Description of Agricultural Permitting Process, <http://www.scdhec.gov/environment/WaterQuality/Agriculture/Permits/DescriptionPermittingProcess/> (last visited Nov. 16, 2016).

¹¹⁴ *Id.*

concerned residents, and it will place a notice of the hearing in a newspaper of general circulation within the area of the facility.¹¹⁵ When DHEC makes its final permit decision, it will notify the applicant, individuals who submitted written comments, and individuals who attended a meeting through first class mail. If it issues a permit, DHEC will also place a notice in the local newspaper.

Public Notice Requirements for New or Expanding Large Swine Facilities with 1,000,000 or More Pounds

Notice requirements for these swine facilities are very similar to the requirements for large swine facilities with less than 1,000,000 pounds, but there are a few additional requirements. These larger facilities must send a Notice of Intent to all property owners within 5,280 feet of the facility. The applicant must also hold a public meeting prior to submitting the permit application to DHEC, and the application must include a summary of the meeting's results and opinions expressed at the meeting. Furthermore, DHEC must hold a public hearing after it receives the application, regardless of whether it receives written comments on the permit. DHEC will place a public notice of the hearing in a local newspaper and must give a least 30 days' notice of the hearing date.¹¹⁶

DHEC also issues permit notices on its [DHEC Environmental Public Notices](#) webpage.¹¹⁷ You can search for notices by county, project name, or DHEC project area, such as Agricultural Program or Capacity Use Groundwater Withdrawal Permits. You can also see a variety of notices and their locations on a [GIS map of the state](#).¹¹⁸

NUISANCE & RIGHT-TO-FARM LAW

South Carolina, along with the vast majority of states, has a Right-to-Farm Law that hinders the possibility of private nuisance lawsuits as against agricultural facilities.¹¹⁹ The purpose of the Law is "to lessen the loss of farmland caused by common law nuisance actions which arise when nonagricultural land uses expand into

¹¹⁵ DHEC, Description of the Agricultural Permitting Process, <http://www.scdhec.gov/environment/WaterQuality/Agriculture/Permits/DescriptionPermittingProcess/>, (last visited Nov. 18, 2016).

¹¹⁶ *Id.*

¹¹⁷ <http://www.scdhec.gov/PublicNotices/>

¹¹⁸ <https://gis.dhec.sc.gov/publicnotice/>

¹¹⁹ S.C. CODE ANN. § 46-45-10 et seq., available at <http://www.scstatehouse.gov/code/t46c045.php>.

agricultural areas. This purpose is justified by the stated social desire of preserving and encouraging agricultural production.”¹²⁰

The practical impact of the Law is to make it very difficult for residents to file private nuisance lawsuits against agricultural operations. For example, a resident 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 against a CAFO.

However, nuisance lawsuits against agricultural facilities are not preempted without exception; the “negligent, improper or illegal operation of an agricultural facility or operation” may prevent the operation from being protected by the Right-to-Farm Law.¹²¹ The Law suggests, for example, that failure to install a requisite vegetative buffer between an agricultural operation and a neighboring residence may make a nuisance lawsuit against that operation more feasible.¹²² Similarly, an agricultural operation remains potentially liable for “damages for any injuries or damages sustained . . . because of pollution of, or change in condition of, the waters of a stream or because of an overflow on his lands.”

The Law also voids any local ordinance that is contrary to the State’s Right-to-Farm scheme.¹²³ However, the scope of the law is slightly constrained in that it does not apply to new swine or new slaughterhouse operations.¹²⁴ Also note that the statute specifically leaves counties with some room “to determine whether an agricultural use is a permitted use under the county’s land use and zoning authority.”¹²⁵

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

¹²⁰ S.C. CODE ANN. § 46-45-10(4).

¹²¹ S.C. CODE ANN. § 46-45-70.

¹²² S.C. CODE ANN. § 46-45-80.

¹²³ S.C. CODE ANN. § 46-45-60.

¹²⁴ S.C. CODE ANN. § 46-45-60(A).

¹²⁵ S.C. CODE ANN. § 46-45-60(B).

ENFORCEMENT

DHEC encourages its agency staff and permittees to collaborate with technical assistance and other compliance mechanisms to minimize need for the more formal enforcement procedures described below.¹²⁶ All DHEC NPDES permits contain common provisions regarding potential for enforcement and/or penalties, including civil and/or criminal penalties for violation of permits or known provision of false information during the permitting process. DHEC may issue civil penalties of up to \$10,000 per day per violation, and up to \$25,000 per day per violation and/or imprisonment for criminal penalties.¹²⁷

More information on enforcement actions can be found on the following DHEC websites:

- [Agricultural Facilities–Inspections, Enforcement](#): this is a summary website specific to agricultural facilities.
- [Environmental Enforcement Action](#): this more extensive website has links to DHEC uniform enforcement policies, an overview of the administrative enforcement process, and information about operations or facilities that are subject to current Consent Orders or Administrative Orders.

The enforcement steps below are taken from the DHEC Uniform Enforcement Policy for the Office of Environmental Quality Control.¹²⁸

Notices of Violation

Notices of Violation (NOVs) alert the permittee of specific permit violations and request correction of any infractions within a certain timeframe. NOVs may or may not also include a request for an enforcement conference. If a NOV recipient fails to respond to the notice, DHEC may pursue administrative or legal action as described below. DHEC may also issue NOVs following a permittee's failure to comply with a Consent Order or Administrative Order, as described below.

Administrative Action

¹²⁶ DHEC, Agricultural Facilities – Inspections, Enforcement

<http://www.scdhec.gov/environment/WaterQuality/Agriculture/InspectionsandEnforcement/> (last visited Nov. 10, 2016).

¹²⁷ See *id.*

¹²⁸ DHEC, Uniform Enforcement Policy for the Office of Environmental Quality Control,

[http://www.scdhec.gov/Environment/docs/Enforcement/1999%20Uniform%20Enforcement%20Policy%20\(2\).pdf](http://www.scdhec.gov/Environment/docs/Enforcement/1999%20Uniform%20Enforcement%20Policy%20(2).pdf) (last visited Nov. 10, 2016).

Administrative Action typically begins with an enforcement conference, which gives alleged violators an opportunity to demonstrate why enforcement is not appropriate. These conferences can result in a Consent Order with permittee consent, or an Administrative Order without permittee consent. Permittees have 15 days to appeal an Order, and have 15 days to appeal an Order issued if a permittee fails to attend an enforcement conference.

Civil Penalties

Civil penalties are fines that DHEC issues against parties who violate environmental regulations. Again, DHEC may issue civil penalties of up to \$10,000 per day per violation.¹²⁹ DHEC establishes a base penalty according to factors such as degree and extent of harm, cost of restoration, and frequency and history of violations. DHEC can then increase penalties for repeat offenders or adjust penalties downward for violators who cooperate with DHEC and ability to pay fines.

CAFO monitors can assist DHEC with its enforcement and compliance efforts. Monitors may obtain the permit(s) for a livestock facility of concern, and can then alert DHEC and/or local Conservation District staff when they see the operation violate any permit conditions. When reporting potential permit violations, it's always useful to provide detailed information, recording the date, time, and location of an event, as well as the particular permit condition that was violated. Photos are always helpful to include, though **DO NOT TRESSPASS** in order to document violations.

PUBLIC INFORMATION LAWS

Public Information Laws Generally

The South Carolina Freedom of Information Act (FOIA) is found in the State's Statutes at S.C. Code Ann. § 30-4-10 et seq. The South Carolina Press Association offers user-friendly open records and open meetings materials, including a [brief summary](#) of the Act and a more detailed [handbook](#) intended for use by elected local officials.

South Carolina Press Association Citizen's Guide provides the following highlights of the SC FOIA:¹³⁰

¹²⁹ See *id.*

¹³⁰ South Carolina Press Association, A Citizen's Guide to South Carolina's Freedom of Information Act, <http://www.scpres.org/Documents/citizen.pdf> (last visited Nov. 10, 2016).

- “Public records include all books, papers, maps, photographs, cards, tapes, recordings, or other documentary material regardless of physical form or characteristics that is prepared, owned, used, in the possession of, or retained by a public body. This includes electronic records such as emails.”
- “A ‘public body’ is any entity supported by public funds, even in part, or that expends public funds. Public bodies include state and local agencies, school boards, and city councils. Committee and subcommittee meetings are included. Even nonprofit agencies and chambers of commerce that receive public funds are subject to the FOIA.”
- “A public body may charge only the actual cost of gathering and copying records in response to your request. Records must be furnished at the lowest possible cost and in a convenient and practical form. The agency may require a deposit. A reasonable cost is 10 to 25-cents a page.”
- The public is entitled to a response to a records request within 15 business days. During this timeframe the public body must, at minimum, explain if and why it is granting or denying a request. The public body should attempt to provide requested records within 15 business days, but this is not a hard deadline.

The National Freedom of Information Coalition has state-specific resources for South Carolina, including a sample records request and useful publications.¹³¹ The sample records request outlines how to obtain a waiver of processing fees for an open records request made for public interest purposes.¹³² Note: the South Carolina statute does not contain an explicit public interest fee waiver provision.

Although public entities like municipalities must comply with FOIA, each local government may have a unique way of accepting and providing public records. Residents should contact their 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.

¹³¹ See National Freedom of Information Coalition, South Carolina FOIA Resources, <http://www.nfoic.org/south-carolina-foi-resources> (last visited Nov. 1, 2016).

¹³² See *id.*

DHEC

[This DHEC website](#)¹³³ lists the central office address and staff member contact for open records requests,¹³⁴ along with a sample records request form that will help requesters provide thorough, accurate information to expedite request processing.¹³⁵

DHEC has its own [Policies and Procedures Document](#),¹³⁶ which clarifies the State's Freedom of Information Act, including the requirement for agencies to initially respond to requests within 15 business days.¹³⁷

EPA Region 4

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 4 FOIA Officer is as follows:

Region 4 (States: AL, FL, GA, KY, MS, NC, SC, TN)

Regional Freedom of Information Officer

U.S. EPA, Region 4

AFC Bldg, 61 Forsyth Street., S.W., 9th Flr (4PM/IF)

Atlanta, GA 30303-8960

(404) 562-9891¹³⁸

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 information.¹³⁹ Note that concerned residents are 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

¹³³ <http://www.scdhec.gov/Agency/RequestCopiesofRecords/>

¹³⁴ DHEC, File a FOI Request, <http://www.scdhec.gov/Agency/RequestCopiesofRecords/> (last visited Nov. 1, 2016).

¹³⁵ DHEC, Freedom of Information Request Form, <http://www.scdhec.gov/library/D-2295.pdf> (last visited Nov. 1, 2016).

¹³⁶ <http://www.scdhec.gov/Agency/PrivacyAccessibilityDisclaimers/FOIACPoliciesProcedures/>

¹³⁷ DHEC, Policy and Procedures for Responding to FOI Requests submitted to DHEC, <http://www.scdhec.gov/library/D-2295.pdf> (last visited Nov. 1, 2016).

¹³⁸ U.S. Environmental Protection Agency, Regional FOIA Contact Information, <https://www.epa.gov/foia/forms/contact-us-about-freedom-information-act-and-foia-requests#Regional> (last visited Jul. 20, 2016).

¹³⁹ See, e.g., U.S. Environmental Protection Agency, The FOIA Request Process, <https://www.epa.gov/foia/foia-request-process> (last visited Jul. 20, 2016).

primarily in the commercial interest of the requester.”¹⁴⁰ EPA will only consider waiver requests that are submitted at the same time as the corresponding FOIA request.¹⁴¹

PROPERTY TAX APPEAL

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

South Carolina Statutes offer a potential avenue of relief for aggrieved property owners pursuant the property tax laws found at S.C. CODE ANN. § 12-60-2510. The steps below are adapted from that Law and from a user-friendly [website](#) hosted Beaufort County, South Carolina.¹⁴² Readers may consult their respective county website, but should ultimately refer to state law as the source of information for the steps informally outlined below. Note that these procedures are generally available to property owners and a limited group of authorized representatives such as attorneys and certified accountants.

1. Informal Resolution

Impacted residents must initiate an appeal process by contacting the appropriate County Assessor according to a timeline established by state law, typically within 90 days from receipt of a property tax assessment. The assessor must schedule a conference within 30 days of the meeting request.

2. Written Protest at County Level

Residents have 30 days from the conference or receipt of a Notice of Action to file a formal protest. This step occurs again before the County Assessor, whom must generally respond within 30 days with a written redetermination.

¹⁴⁰ U.S. Environmental Protection Agency, Fee Waivers, <https://www.epa.gov/foia/foia-request-process#wivers> (last visited Jul. 20, 2016).

¹⁴¹ See *id.*

¹⁴² Beaufort County South Carolina, Protests and Appeals, <http://www.bcgov.net/departments/Real-Property-Services/assessor/protests-and-appeals.php> (last visited Nov. 10, 2016).

Note: to ensure proper consideration, protests must contain certain information such as: property owner contact information, property information, statement of facts, bases for appeal, and property value from owner's viewpoint. Many counties provide optional protest forms.

3. Appeal to the local Tax Equalization Board

Property owners who are not satisfied with a County Assessor redetermination must appeal, usually within 30 days, to their local Tax Equalization Board. The aggrieved taxpayer will appear opposite the County Assessor in a public conference before the Board. With opportunity for extension, these conferences typically must occur within 30 days after a property owner's appeal. The taxpayer must follow certain deadlines for submission of evidence and responsive evidence to their Tax Equalization Board. The Board must generally issue a written decision with 30 days of the conference.

4. Judicial Review

The final step in the property tax appeals procedure is to appeal an administrative law court within 30 days of a Tax Equalization Board's written decision. Administrative law is then appealable to Circuit Court and through the State's typical judicial review process.

A useful summary resource is available from the South Carolina Department of Revenue in the form of a brief [Homeowners Guide to Property Taxes in South Carolina](#).¹⁴³

OTHER RESOURCES

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

Socially Responsible Agriculture Project (SRAP)

¹⁴³ See, e.g., South Carolina Department of Revenue, Homeowners Guide to Property Taxes in South Carolina, available at <http://www.lex-co.sc.gov/departments/DeptAH/auditor/Documents/HomeownersGuidetoPropertyTaxes.pdf> (last visited Nov. 10, 2016).

SRAP provides free advice and technical assistance to communities throughout the U.S. facing factory farms. Find additional resources at www.srapproject.org, and contact SRAP for support at 503-632-8303 or through our [website](#).¹⁴⁴

State Organizations

Coastal Conservation League: <http://coastalconservationleague.org/>

Congaree Riverkeeper: <http://www.congareeriverkeeper.org/>

Conservation Voters of South Carolina: <http://cvsc.org/>

South Carolina Environmental Law Project: <https://scelp.org/>

Southern Environmental Law Center: <https://www.southernenvironment.org/>

State Pro-Bono Clinics

University of South Carolina (USC) School of Law does not have a traditional environmental law clinic but does have a [Coastal Law Field Lab](#) that could prove useful to residents facing industrial agricultural impacts in the state's coastal areas.

The [Charleston School of Law](#) may serve as another useful resource.¹⁴⁵ Again, the School does not host an environmental law clinic but does have a broad externship program that may allow residents to access pro-bono or low-cost services from law students working at environmental organizations.¹⁴⁶

DHEC

DHEC [makes publicly available](#) a map and Excel spreadsheet list of permitted operations.¹⁴⁷ Check the publication date of the map and related resources to ensure that information is up to date. Contact state agency staff for updates if necessary.

¹⁴⁴ Contact, SOCIALLY RESPONSIBLE AGRICULTURE PROJECT, <http://www.srapproject.org/contact/>

¹⁴⁵ Charleston School of Law, Homepage, <http://www.charlestonlaw.edu/homepage.aspx> (last visited Oct. 31, 2016).

¹⁴⁶ Charleston School of Law, Externships, <http://www.charlestonlaw.edu/Academic-Affairs/Externships.aspx> (last visited Oct. 31, 2016).

¹⁴⁷ DHEC, Agricultural Facilities in South Carolina, <http://www.scdhec.gov/HomeAndEnvironment/Water/AgriculturalRunoffWaste/AgriculturalAnimals/> (last visited Oct. 31, 2016).

LIST OF STATUTES & OTHER REGULATIONS

Below is a list of relevant statutes and regulations to serve as a reference point for additional research on environmental authority in South Carolina.

- DHEC provides links to all statutory and administrative code provisions that apply to the water program at:
<http://www.scdhec.gov/Agency/RegulationsAndUpdates/LawsAndRegulations/Water/>
- Agricultural laws and regulations are compiled at
<http://www.scdhec.gov/environment/WaterQuality/Agriculture/LawsRegulations/>

Statutes

The complete South Carolina General Statutes are publicly available at
<http://www.scstatehouse.gov/code/statmast.php>.

- Property Tax Statutes: S.C. CODE ANN. § 12-60-2510
- South Carolina Freedom of Information Act: S.C. CODE ANN. § 30-4-10 et seq.
- South Carolina Right to Farm: S.C. CODE ANN. § 46-45-10 et seq.
- South Carolina Freedom of Information Act: S.C. CODE ANN. § 30-4-10 et seq.
- South Carolina Pollution Control Act: § 48-1-10 et seq.
- South Carolina Environmental Protection Fund Act: § 48-2-10 et seq.
- South Carolina County Government Provisions: § 4-9-10 et seq.

Rules/Regulations

All South Carolina regulations are publicly available at
<http://www.scstatehouse.gov/coderegs/statmast.php>

- S.C. CODE ANN. REGS. 61-9: CAFO NPDES Permits
- S.C. CODE ANN. REGS. 61-30: Environmental Protection Fees
- S.C. CODE ANN. REGS. 61-43: Standards for the Permitting of Agricultural Animal Facilities
- S.C. CODE ANN. REGS. 61-68: Water Classifications and Standards
- S.C. CODE ANN. REGS. 61-69: Classified Waters
- S.C. CODE ANN. REGS. 61-72: Enforcement
- S.C. CODE ANN. REGS. 61-82: Proper Closeout of Wastewater Treatment Facilities
- S.C. CODE ANN. REGS. 61-101: Water Quality Certification
- S.C. CODE ANN. REGS. 72-300 et seq.: Storm Water NPDES Program