



## Preserving Your Rights When Facing a Factory Farm Threat

### Introduction

When a proposal to site a new or expand an existing factory farm, slaughterhouse, or processing plant surfaces, or when an existing facility is creating a problem in your community, know your rights! Preserving your rights, accessing information, and building power are important goals to ensuring that you and your neighbors live in the community you believe is best. Your elected and government officials are responsible for ensuring a safe and healthy environment for you and for your community. This responsibility includes taking steps to review new and expanding facilities, receiving and responding to public comments about construction and expansion, and enforcing the law when operators are not managing their facilities properly. But despite federal, state, and local laws and regulations across the country, agencies and elected officials often turn a blind eye in favor of industry profits, or else are underfunded and lack training.

This guide will help you understand what the law requires your government to do to address your concerns. It's designed to give you information on what your options are when facilities and government officials don't do enough to protect your community. Consider these best practices to protect your rights or deal with a facility that has threatened to operate or has been operating in a manner that adversely affects your health, well-being, property value, and the enjoyment of your home and community.

**Note:** This guide is for informational purposes only and not for the purpose of providing legal advice. Because the law changes and can vary from state to state, this information is not guaranteed to be up to date or applicable to your exact situation.

State and local lawmakers have taken action to safeguard our shared resources and protect communities. However, they have also acted to give industry a free pass in order to increase profit. Through laws and model policies that provide guidance to districts and schools, each state addresses factory farming differently. Find out how your state and county refer to bullying in their laws and what they require on part of the factory farm, slaughterhouse, or processing plant.



### **Document, Document, Document**

Gather as much data as possible by taking pictures from your property or public property (never trespass onto private property!) of any violations or actions by the facility that you believe cause you harm. Lodge formal complaints to the regulating agency and your elected officials to tell them about violations or harmful conditions every time you see them. Keep a log with dates and times with descriptions of the action and its effect on you. Work with local or state-based organizations that gather data to learn how to take water samples. Groups like [Waterkeeper Alliance](#) and [Sierra Club](#) are excellent for this. If you have private well water, have it sampled for nitrate and bacteria. Creating a record of your experience and of the bad actions by the facility is critical to building the facts for a legal challenge. No one knows what is happening on the ground better than you.

### **Hearings and Public Comments**

This is your opportunity to engage and influence the decision makers considering whether to approve a new or expanding factory farm. The public hearing and the official written public comment period are the opportunities to state your concerns, present reasons to deny or modify the proposal, and ask decision makers to prioritize community health. If you do not comment, then a court will not consider your issues because you have not given the decision makers the opportunity to address your concerns. This is called “exhaustion.” At the public hearing and in your written comments, be sure to state your concerns, provide the facts that support you, and what you want the decision makers to do. Meeting with the elected or appointed decision makers before the hearing is sometimes an effective way to persuade them to see things your way.

### **Accessing Information**

Government decision makers are required to provide notice of hearings and public comments periods. You may also access public documents under state and federal transparency laws, which can provide important information on inspections, violations, and other information which you can utilize in your comments. These laws vary from state to state, and the Freedom of Information Act applies to federal public records. For more information, organizations like the [National Freedom of Information Coalition](#) and [Public Citizen](#) provide resources. Some things to ask for in your FOIA requests are:

- Whether there are government-backed loans
- Whether there has been an Environmental Assessment
- Whether the facility has had violations or enforcement actions taken against it
- Applications made by the facility and documents the facility has submitted in support of its permits or requests



### **Communicating with Government Officials**

When communicating with government officials, think about how you would want someone to speak to you if they were asking for your help. Government staff are often overworked and underpaid, so engage them in a courteous and respectful manner. A rude email, letter, or phone call will not only make it harder for them to work with you, but those documents may end up being read by a judge or decision maker. In addition, always document communication in writing and confirm the content of phone calls with a follow-up letter or email.

### **Environmental Impact Statements**

Environmental review requirements are often triggered by local permitting decisions under state law. These laws present excellent opportunities to comment on the impacts and offer evidence to request additional analysis and mitigation. Often times, citizens have the right to challenge the adequacy of the environmental review in court.

### **Permits**

Most facilities are required to operate under state or federal pollution control permits. The laws covering these permits when they are issued and renewed present excellent opportunities to comment on the impacts and offer evidence to request additional analysis and changes to the permit that could help solve your problem. Often times, citizens have the right to challenge the adequacy of the permit in court.

**Organize, Organize, Organize.** Do not overlook power of an organized group of like-minded people. Often times, organizing your neighbors and allies into a group that works together to achieve their common goal presents the best opportunity to persuade decision-makers to support you instead of the factory farm. A community-based organization provides an environment of mutual support and division of labor, while showing decision makers that their community – voters – wants them to act in the community's interest.

### **Contact a Community-Based Organization**

There are many groups working on factory farm issues that can provide support, training, and sometimes an opportunity for you to join as an active member. Look for organizations like the [Land Stewardship Project](#) (Minnesota), [Iowa Citizens for Community Improvement](#), [Missouri Rural Crisis Center](#), [North Carolina Environmental Justice Network](#), and [Socially Responsible Agriculture Project](#) (multi-state), to name just a few.



### **A Remedy for the Nuisance**

A nuisance occurs when a property owner's activities unreasonably interfere with another's use and enjoyment of their property. A nuisance lawsuit against an existing factory farm has the potential to correct odor, flies, pollution, and other impacts. A property owner can also obtain monetary damages for reduced property value and harm to property use and enjoyment. Some states have passed so called "Right to Farm" laws to help factory farms and take away residents' property rights, but some courts have declared these laws unconstitutional.

### **Retain an Attorney**

If you feel like the factory farm near you is a nuisance, consult with a local attorney who can provide advice and representation. A local attorney can also provide valuable legal advice if you are facing a proposed new or expanding factory farm in your community. If you would like Public Justice to help connect you with a local attorney who is licensed to practice in your state, [please click on this link](#) to provide information and a Public Justice staff member will contact you.

**Stay tuned: The Food Project will develop additional materials and [post them on our website](#).**