



EJ GREEN BOOK

THE ENVIRONMENTAL JUSTICE GREEN BOOK

The Environmental Justice Green Book

Empowering Communities to Fight for
Environmental Protection

October 2024

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The Environmental Justice Green Book is primarily designed and maintained as an online tool. The [website](#) will reflect more current information compared to this PDF.

The Environmental Justice Green Book was written and developed by:

Turner Environmental Law Clinic

The Turner Environmental Law Clinic provides important pro bono representation to individuals, community groups, and non-profit organizations that seek to protect and restore the natural environment and promote environmental justice. Through its work, the Clinic offers students an intense, hands-on introduction to environmental law and trains the next generation of environmental attorneys.

Southern Environmental Law Center

The Southern Environmental Law Center is one of the nation's most powerful defenders of the environment, rooted in the South. With a long track record, SELC takes on the toughest environmental challenges in court, in government, and in our communities to protect our region's air, water, climate, wildlife, lands, and people. Nonprofit and nonpartisan, the organization has a staff of 200, including more than 100 attorneys, and is headquartered in Charlottesville, Va., with offices in Asheville, Atlanta, Birmingham, Chapel Hill, Charleston, Nashville, Richmond, and Washington, D.C.

Hummingbird

Hummingbird is a consulting company that provides culturally competent community engagement, strategy/data analytics, and systems change training for A/E firms, planning and development companies, municipalities, and the federal government. Their focus industries include environmental justice, transportation equity, climate justice, and energy equity.

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Preface

The development of extensive environmental regulation over the last five decades has afforded many Americans a sense of security born of the belief that environmental laws will protect them from toxic chemicals and pollutants.

Despite this, the history of the United States and Georgia highlights the truth that such protection from toxic pollution does not occur equally for everyone.

People of Color (POC) and low-wealth communities often suffer disproportionately from the effects of toxic pollution, and the impacts of climate change will continue to exacerbate the quality-of-life stressors that they already experience.

In the last fifty years, more and more evidence has emerged relating to the inequitable placement of landfills, truck depots, incinerators, power plants, and other polluting industries in communities of color and low-wealth neighborhoods. These communities end up being exposed to inequitable human health risks associated with exposure to the toxic pollutants emitted from these facilities. The current paradox of the South is that the growth of wealth and structure has increased its vulnerability to a wide range of ongoing and imminent disturbances.

From existing challenges of long-standing racial injustice and economic inequity to new challenges presented by climate change, we must all work together to create a future that is resilient, just, and equitable.

Being able to work together requires that we seek to empower people and communities with tools that have historically been out of reach for many. **Tools like legal education.**

In 2007, GreenLaw (formerly known as the Georgia Center for Law in the Public Interest) and the Turner Environmental Law Clinic (Turner Clinic) at Emory University School of Law published *Putting the Law to Work in Our Communities:*

A Citizen's Guide to Environmental Protection and Justice in Georgia, a handbook explaining major environmental laws and legal tools.

Since 2007, much has changed, including:

- rollbacks in state and federal environmental protection;
- increased temperature, extreme weather, and other climate change-related events;
- the emergence of community science, coupled with widespread access to smartphones;
- the development of many internet resources relating to environmental protection; and
- heightened awareness of the harms of social and environmental injustice.

Accordingly, the Turner Clinic, the Southern Environmental Law Center, and Hummingbird are pleased to present this updated and significantly expanded edition.

Understanding the laws that impact where you live will give you the tools to better protect your environment. But first you must understand that environmental laws are complex.

Before relying on any of the advice in this toolkit, you should consult an expert. This Environmental Justice (EJ) Green Book is no substitute for the knowledge and experience of professionals, such as lawyers and engineers with training in environmental issues. We will be happy to help connect you with a lawyer or other expert who can assist you.

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We respectfully acknowledge that the title of this toolkit was inspired by Victor Hugo Green's *Green Book* of the Civil Rights era.

Understanding Legal References

Throughout this EJ Green Book, we refer repeatedly to four primary sources of environmental laws:

1. The **United States Code** (U.S.C.) contains federal statutes or laws enacted by Congress that apply throughout the country. A typical reference to this Code is 42 U.S.C. § 7401, which happens to be the first section of the Clean Air Act. The “42” signifies that the law is in Title 42, the grouping of laws that relates to “Public Health and Welfare” and includes most of the major environmental laws; the “7401” identifies the specific section. Sections can be further divided into subsections, sub-subsections, and so on, so you might see references like this: 42 U.S.C. § 7604(b)(1)(A).
2. The **Code of Federal Regulations** (C.F.R.) contains regulations created by federal agencies such as the Environmental Protection Agency, which provide more detail in administering the laws Congress has passed. They are referred to in a similar fashion as federal statutes; thus, a typical regulation is 40 C.F.R. § 51.166(a)(6)(iii).
3. The equivalent of the U.S.C. for Georgia statutes is called the **Official Code of Georgia Annotated** (O.C.G.A.). It is structured somewhat differently than the federal laws, and a typical reference might be O.C.G.A. § 12-5-30(a). In this case, “12” refers to Title 12, “Conservation and Natural Resources”; “5” refers to Chapter 5, “Water Resources”; “30” is the specific section (relating to permits for a discharge of pollutants into waters); and “(a)” is the subsection, here setting out the basic requirement for a permit.
4. Like the federal government, **Georgia has agencies that develop rules** to guide the implementation of the laws. The official citation form for these rules is, for example, Ga. Comp. R. & Regs. r. 391-3-6, but for simplicity’s sake this handbook will refer to them simply as Georgia Rule 391-3-6.

Typing any of these citations into a search engine can usually bring you to the full text of that law.

This resource also sometimes refers to “**cases**,” or decisions in lawsuits that tell people what the law is. A typical case citation is *Bean v. Southwestern Waste Management Corp.*, 482 F. Supp. 673 (S.D. Texas 1979):

- The names identify the parties involved in the suit;
- “482 F. Supp. 673” tells where the case was first published, in this case page 673 of volume 482 of the Federal Supplement (although cases are most often accessed through online sources);
- “S.D. Texas” identifies the court making the decision — here, the United States District Court for the Southern District of Texas, a federal court in Houston, Texas; and
- 1979 is the year the case was decided.

You will also see the citation *Id.* used in the EJ Green Book. This means that the citation is the same as the one immediately before it.

Wherever possible, we have provided direct links to internet sources, and Appendix A includes additional online legal resources that may be helpful.

Part I:

Understanding Environmental Justice

Where You Live Affects Your Health

Environmental issues are relevant to your life. **Pollution in the environment directly impacts human health, and therefore, your ability to live a full life, unencumbered by physical limitations.** Simply put, going to work, school, and taking care of your family can be more difficult if you do not feel well.

“The environment” does not only refer to mountains, oceans, and forests – it includes our homes, workplaces, school buildings, streets, and playgrounds.

Our bodies interact with the environment through the water we drink, the air we breathe, and the food we eat. If our bodies are being polluted, then we are more likely to feel bad and sluggish at work or at school. We might need to buy medicine or undergo expensive medical procedures if our environment pollutes us over time, therefore keeping the environment healthy is about keeping *us* healthy too, not just the birds and fish.

Think about the environment like your kitchen sink: you use it every day, so you need to keep it clean. If you wait a week, you will have a sink filled with crusty dishes that wind up taking more soap and time than it would have if you had kept it clean all along. In the same way that not being proactive about keeping the sink clean makes more work for us, not being proactive about seemingly minor environmental hazards can make more work for our bodies. For example, asthma can be a small inconvenience for some people, but deadly for others. People with asthma may have long-term control medicines that need to be consumed daily and failure to take one’s asthma pill or inhaler as prescribed can lead to gradual negative impacts that are far worse than dealing with a neglected kitchen sink.^[1]

The daily cost of living with asthma or other environmentally related health issues adds up.

The reduction in oxygen caused by asthma can impact a child’s ability to learn, which could be the difference between a child getting an A or B on an

assignment or even completing the assignment. Over time, an environmentally related health issue could determine whether a child attends college or not. For our seniors, it could impact how many years they have to watch their grandchildren grow up. Recently, studies have shown a link between exposure to high levels of pollution and increased risk of death from Covid-19.^[2]

Inequitable Siting of Polluting Facilities

The quality of our environment directly impacts our health.

For example, wastewater dumped into streams and rivers, or landfills leaking pollution into underground water, can affect the cleanliness of the water that comes into our homes. Many common pollutants can have serious health effects, as shown in **Table 1.1**. Similarly, power plants, factories, and other polluters emit a host of different air pollutants that, when breathed in, can harm, or even kill people, as shown in **Table 1.2**.

Table 1.1: Some Common Water Pollutants

Pollutant	Where It Comes From	Health Effects
Heavy Metals	Water run-off from major highways, underground fuel storage tanks	Cause damage to the nervous system and the kidney, and other metabolic disruptions
Lead	Old pipes and industrial facilities	Causes damage to the brain and other parts of the body's nervous system, particularly in children
Mercury	Primarily from air emissions from the burning of coal; mercury settles in water and is consumed by fish, where it is then eaten by humans	Can severely and permanently damage the human nervous system and kidneys Groups most at-risk include fetuses and breast-fed babies (exposed through their mothers) Adults may experience blurred vision as well as numbness of lips, tongue, fingers, and toes and

Pollutant	Where It Comes From	Health Effects
		may be at higher risk for cardiovascular disease and infertility
Nitrates	Excessive use of fertilizers causes nitrate contamination of groundwater	Restricts the amount of oxygen reaching the brain, causing the “blue baby” syndrome Also linked to digestive tract cancers
Pesticides	Runoff from farms, backyards, and golf courses	Pesticides containing organophosphates and carbonates affect and damage the nervous system and can cause cancer Some pesticides contain carcinogens that exceed recommended levels and chlorides that cause reproductive and endocrinal damage
Petrochemicals	Gas stations, major gasoline spills, refineries, fuel storage facilities, industrial facilities	Cause cancer
Sewage	Leaking sewer pipes or sewage treatment facilities	Pathogens, including viruses, bacteria, protozoa, and parasitic worms, are disease-producing agents found in feces
Solvents	Dry cleaners, industrial facilities, degreasing operations	Cause cancer

Table 1.2: Some Common Air Pollutants

Pollutant	Where It Comes From	Health Effects
Air Toxics	Automobiles, power plants, oil refineries, many industrial facilities	Refers to a suite of 188 listed chemicals ranging from mercury to benzene to dioxin Air toxics have a broad range of health effects: cancer; immune system, neurological, or respiratory damage; developmental delays; reproductive harm
Carbon Dioxide	Non-natural sources include the combustion of fossil fuels in power plants and automobiles	Primary contributor to climate change, which has also been linked to increased rates of asthma Climate change can cause severe weather conditions impacting drought, flooding, pests, and other events that impact public health
Carbon Monoxide	Primarily from motor vehicles, but also from incomplete burning of any fuel	Weakens the heart's contractions and lowers the amount of oxygen carried by the blood Can cause nausea, dizziness, headaches, and when very concentrated, even death. When carbon monoxide reaches unhealthy levels, people with heart disease are most at risk
Lead	Industrial facilities, industrial waste products, contaminated water or soil, and the sanding or wearing away of old lead-based paint	Causes damage to the brain and other parts of the body's nervous system; children are most susceptible to the effects of lead
Nitrogen Dioxide	Power plants, large industrial facilities, and motor vehicles	Irritates the nose and throat, especially in people with asthma Increases susceptibility to respiratory infections

Pollutant	Where It Comes From	Health Effects
Ozone	Forms in the air from other pollutants — volatile organic compounds (VOCs) and nitrogen oxides (like nitrogen dioxide, above); ozone does not come directly from tailpipes or smokestacks	Irritates the lungs and breathing passages, causing coughing and pain in the chest and throat Increases susceptibility to respiratory infections Effects are more severe in people with asthma and other respiratory ailments Long-term exposure may lead to scarring of lung tissue and lowered lung efficiency
Particulates	Diesel cars, trucks and buses, power plants, industry, and many other sources	Aggravates existing heart and lung diseases Changes the body's defenses against inhaled materials Damages lung tissue Chemicals in and on particulates can also be toxic Very fine particulates (called PM2.5, for particulate matter smaller than 2.5 microns) can be inhaled deeply into the lungs
Sulfur Dioxide	Power plants, large industrial facilities, diesel vehicles, oil-burning home heaters	Aggravates existing lung diseases, especially bronchitis Constricts the breathing passages, especially in asthmatic people and people doing moderate to heavy exercise Causes wheezing, shortness of breath, and coughing High levels of particulates appear to worsen the effect of sulfur dioxide, and long-term exposures to both pollutants leads to higher rates of respiratory illness

The reality is that many Georgians do not have the opportunity to live, work, play, and breathe in a healthy environment.

This is because highly polluted areas are not distributed justly. In Georgia, and many parts of the country, pollution sources like landfills, power plants, and waste treatment facilities are frequently placed in communities of color and

lower-wealth neighborhoods- instead of being distributed equally throughout the state or placed in areas where they minimize human impacts.

In 2012, GreenLaw published a study analyzing general pollution patterns in metro Atlanta – Fayette, Clayton, Henry, Douglas, Fulton, Dekalb, Rockdale, Paulding, Cobb, Gwinnett, Barrow, Cherokee, Forsyth, and Hall counties. They identified **52 “hot spots”** that illustrate how a disproportionate number of polluting sites are located in or near low-wealth and underrepresented/underinvested communities.^[3]

Unequal Exposure to Environmental Harms Causes Unequal Health Impacts

Over the past twenty years, research has shown a deeply unequal distribution of deadly environmental impacts.

Asthma:

It is not entirely clear why some people get asthma and others do not, but asthma likely occurs due to a combination of genetic and environmental factors. In 2006, Black people were two to three times more likely to die from asthma compared with other racial groups.^[4] **Today, Black children are 500 percent more likely to die from asthma than White children, and have a 250 percent higher hospitalization rate for this condition.**^[5] This occurs in part because 68 percent of Black people live within 30 miles of a coal-fired power plant (30 miles being the distance within which the maximum health impacts from living near such a plant are expected to occur), compared to about 56 percent of the White population.^[6] These disparate health outcomes can also be explained by three out of five Black and Latino Americans living in communities with abandoned toxic waste sites.^[7]

Additionally, more than 69.2 percent of Hispanic children, 61.3 percent of Black children, and 67.7 percent of Asian American children live in areas

exceeding EPA ozone standards for air pollution, while only 50.8 percent of White children are subject to these same conditions.^[8]

Furthermore, University of Minnesota researchers found that Black people and other POC breathe in 38 percent more polluted air than White people.^[9] These statistics begin to explain some of the racialized disparity in asthma diagnoses.

Lead Poisoning:

Scientists realized that lead pipes poison water as early as the 1880s. By the 1920s, many cities and towns had enacted laws banning or restricting lead pipe usage. In response, the lead industry launched a propaganda campaign to continue selling its poisonous product.^[10]

Pipes, however, are not the only source of lead: lead has historically been found in car and truck gasoline emissions, and continues to be present in battery cases, aviation fuel, building materials, burial vault liners, lead crystals, pewter, solder, shielding, computer monitors, ceramic pots and glazes, television components, soil, and even makeup. In addition, though lead paint was banned from home use in 1978, dust and soil in your home could still be contaminated by lead paint.

Children are especially susceptible to lead poisoning and can become poisoned by drinking water sourced through lead pipes or breathing in lead from house dust. They can also be poisoned through the dust carried home by parents who work with lead.

Lead impacts children and adults differently.

When adults are poisoned by lead, they usually suffer damage to their stomach, kidney, brain, or nervous system, and can experience high blood pressure and behavioral problems.

For children, lead harms nearly every bodily organ: it can cause slowed growth, hearing loss, headaches, weakness, muscle issues, memory loss, and increased grogginess.^[11] Evidence suggests that the impacts of childhood lead

exposure on the brain result in behavior changes that contribute to increased criminal activity because of the way lead adversely impacts the developing brain.^[12] These developmental impacts increase impulsivity, aggression, and ADHD. They are likely to lead to substance abuse, suicide, unplanned pregnancy, poor academic performance, poor labor market performance, and difficulty maintaining relationships.^[13] For more information about the dangers of lead and how the law regulates lead, see **Lead Contamination**.

Fetal and Childhood Health:

For pregnant women and fetuses, air pollution is an especially acute problem. Air pollution derails the processes through which the body delivers air to a fetus. It also disrupts the endocrine system, consequently preventing the production of an important protein that regulates pregnancy. Air pollution causes 16,000 premature births in the United States each year.^[14] For more information about air pollution, see **Air Pollution**.

Explaining Inequity by Class

What accounts for the disproportionate siting of polluting facilities in low-wealth and underrepresented communities?

Low-wealth neighborhoods are generally less politically powerful than wealthy neighborhoods. Where wealthier people typically have connections with decision-makers and the resources to organize resistance to the siting of a polluting facility, people without access to like resources have limited options to prevent their exposure.

Some of the facilities that we are referring to include factories, landfills, trash transfer stations, and biosolids facilities. Sometimes facilities that at first seem environmentally friendly, like public transportation depots, can also cause asthma and other respiratory illnesses by burning fuel which emits pollutants.^[15]

As previously explained, **children and seniors are the most vulnerable to environmental harms because both groups have weaker immune systems**

than the average adult. Children who attend school in older buildings have increased exposure to lead paint and pesticides used to control rodent and insect infestations. Additionally, if the children are already suffering from malnutrition, their bodies are less able to combat health problems resulting from environmental pollutants. This situation is compounded by the fact that many polluted areas have residents who are less likely to have medical insurance. This prevents them from receiving the appropriate care.

Lastly, living near disproportionate amounts of pollution in what is also called a **“Fenceline neighborhood”** can be challenging. Homes positioned near pollution and waste facilities are regularly undervalued and suffer from depreciating property values. When deciding to sell, homeowners may struggle to receive their asking price. This can negatively influence their return on investment. Businesses located in polluted areas may struggle with competition and maintaining customers.

Explaining Inequity by Race

The environmental justice movement strives to prevent Black, Indigenous, and People of Color (BIPOC) communities from being unfairly exposed to harmful environmental conditions. The movement was born in response to a growing awareness **that looking at economic class alone did not provide a full explanation for the inequitable siting of polluting facilities.**

This led to the recognition of “environmental racism”: the inequitable and disproportionate siting of polluting industries tends to burden underrepresented neighborhoods irrespective of class.

Furthermore, the negative health impacts of this burden are felt most by communities of color. In 2019, the Union of Concerned Scientists showed that Black residents were exposed to 34 percent more vehicle pollution than White residents, Latino residents were exposed to 26 percent more than White communities, and Asian Americans were exposed to 36 percent more air pollution than White communities.^[16] Exposure to pollution does not have a direct correlation with income, either. A study in 2008 found that Black households

with incomes between \$50,000 and \$60,000 were **more likely** to live in polluted neighborhoods than very poor White households with incomes below \$10,000.^[17]

The environmental justice movement grew out of a desire to remedy these environmental injustices and solve the problems presented by environmental racism. Go to **The Environmental Justice Movement** for more information about the local and national history of the movement.

Where You Live Affects Your Health Citations

^[11] Asthma and Allergy Foundation of America, <https://www.aafa.org/asthma-treatment/>.

^[12] Katherine Bagley, *Connecting the Dots Between Environmental Injustice and the Coronavirus*, Yale Environment 360 (May 7, 2020), <https://e360.yale.edu/features/connecting-the-dots-between-environmental-injustice-and-the-coronavirus>.

^[13] GreenLaw, *The Patterns of Pollution: A Report on Demographics and Pollution in Metro Atlanta* 23 (2012).

^[14] Centers for Disease Control, *AsthmaStats* (2018), https://www.cdc.gov/asthma/asthma_stats/documents/AsthmStat_Mortality_2001-2016-H.pdf.

^[15] Lois Parshley, *The deadly mix of Covid-19, air pollution, and inequality, explained*, Vox (April 11, 2020), <https://www.vox.com/2020/4/11/21217040/coronavirus-in-us-air-pollution-asthma-black-americans>, citing <https://www.cdc.gov/nchs/data/ad/ad381.pdf>.

^[16] Robert Bullard et al., *Toxic Wastes and Race at Twenty: Why Race Still Matters After All of These Years* 38 Lewis & Clark 371,379(2008).

^[17] Robert Bullard, *Environmental Justice in the 21st Century: Race Still Matters*, 49 Phylon No. 3/4 at 151, 160 (Autumn-Winter, 2001).

^[18] Robert Bullard, *African Americans Need a Strong and Independent Federal EPA*, OpEdNews.com (February 21, 2017), https://www.opednews.com/articles/African-Americans-Need-a-S-by-Robert-Bullard-African-Americans_Black-History-Month_Civil-Rights-Violations_Climate-170221-71.html.

^[19] *Id.* citing Lara Clark et al., *National Patterns in Environmental Injustice and Inequality: Outdoor NO₂ Air Pollution in the United States*. PLOS ONE 9(4): e94431 (2014), <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0094431>.

^[101] Harriet Washington, *A Terrible Thing to Waste: Environmental Racism and Its Assault on the American Mind* 68 (2019).

^[11] *Id.* at 70-85.

^[12] Lindsay Emer, *Association of Childhood Blood Lead Levels with Firearm Violence Perpetration and Victimization* 1 (2017), available at <https://dc.uwm.edu/etd/1610/>.

^[13] Linda Gorman, *The Impact of Childhood Lead Exposure on Adult Crime*, National Bureau of Economic Research (May 2008), <https://www.nber.org/digest/may08/w13097.html>.

^[14] Harriet Washington, *A Terrible Thing To Waste: Environmental Racism and Its Assault on the American Mind* 174-175 (2019).

^[15] Rebecca Tuhus-Dubrow, *The MTA, Bus Depots and Race*, *The Nation* (Oct. 17, 2003), <https://www.thenation.com/article/archive/mta-bus-depots-and-race/>.

^[16] Lina Zeldovich, *Environmental Racism and the Coronavirus Pandemic*, *JSTOR Daily* (Aug. 11, 2020), <https://daily.jstor.org/environmental-racism-and-the-coronavirus-pandemic/>.

^[17] Linda Villarosa, *Pollution Is Killing Black Americans. This Community Fought Back*. *New York Times* (July 28, 2020), <https://www.nytimes.com/2020/07/28/magazine/pollution-philadelphia-black-americans.html>.

The Environmental Justice Movement

The history of the environmental justice movement shows that all people must come together to ensure everyone can enjoy a clean environment.

The history of the environmental justice movement is an underdog story about people who fight a battle they know might not be won in their lifetime, yet still persevere. It is a slow-moving history because the institutions that regulate environmental law move slowly, but it demonstrates the power of individuals and organizations to help reduce the environmental harms experienced by POC and underrepresented communities. **Ultimately, we may need new laws that create more dynamic and accountable processes for individuals and communities to use, but the law as it exists now can still bring transformational (and sometimes resource-intensive) changes.**

Environmental justice is the civil rights battle of this century. Like all civil rights battles, the chances of winning can seem small, but history has shown us that advocates for justice can win even when the odds are stacked against them. Likewise, it is not likely that we will have laws protecting environmental justice next month, next year, or in the next decade . . . but then again, we could!

As Dr. Martin Luther King Jr. said, “Almost always the creative, dedicated minority has made the world better.”

If we can make that movement of people larger, and larger, until it becomes a majority, we can make tremendous progress towards achieving environmental justice. In the meantime, this resource will help you utilize the laws that exist today to make progress towards this goal.

A Brief National History of Environmental Justice

The modern environmental justice movement resulted from growing awareness of the inequitable siting of hazardous waste sites and dirty industries.

In 1968, Dr. Martin Luther King Jr., who was among the first to work for environmental justice, organized and led the very first environmental justice mission to support garbage workers in Memphis, Tennessee. They suffered disproportionately from unhealthy environmental working conditions and highlighted racially disparate environmental harms.

In 1982, residents of the mostly Black and rural Warren County, North Carolina, gained national recognition for their protests against the siting of a hazardous waste landfill in their neighborhood. More than 500 people were arrested in the fight against the landfill which would be used to dispose of soils contaminated by highly toxic chemicals. The protests inspired the 1983 U.S. General Accounting Office study, *Siting of Hazardous Waste Landfills and Their Correlation with Racial and Economic Status of Surrounding Communities*. The study surveyed eight southern states, including Georgia, and revealed **that three out of every four commercial hazardous waste landfills were in predominantly Black communities.**

In 1987, The United Church of Christ's Commission for Racial Justice published the first national study showing that communities of color are disproportionately burdened by pollution and waste. The Commission's landmark report, *Toxic Waste and Race*, proved that **race was the most important factor in predicting where these polluting facilities were located — more so than poverty, land values, and home ownership.**

The term **environmental racism** came to be used to describe *Toxic Waste and Race's* confirmation of what many people already knew.

Environmental racism refers to any environmental policy, practice, or directive that differentially affects or disadvantages individuals, groups, or communities based on race or color, whether intentionally or unintentionally. Environmental racism combines with public policies and industry practices to provide benefits for White and wealthy people while shifting health and quality of life impacts to people of color.

We see that **when land is polluted, the people who live on or near the land are harmed**, and that **people who live on polluted land are often marginalized**.

In 1990, Dr. Robert Bullard, one of the founders of the environmental justice movement, chronicled the convergence of the social justice and environmental movements into the environmental justice movement in *Dumping in Dixie: Race, Class, and Environmental Quality*, one of the first works to analyze the economic, social, and psychological impacts of environmental racism. Like the *Toxic Waste and Race* report, Dr. Bullard again showed that **race, and not income, is the single greatest factor in the siting of many sources of brain-damaging environmental exposures**.^[1] You can listen to an interview with Dr. Bullard on Southern Environmental Law Center's podcast, ***Broken Ground***.

In 1991, 650 national and global grassroots leaders attended the First National People of Color Environmental Leadership Summit and broadened the mission of environmental justice advocates to go beyond their earlier anti-toxics focus to include issues of public health, worker safety, land use, transportation, housing, resource allocation, and community empowerment. The delegates also adopted the "17 Principles of Environmental Justice"^[2] as a guide for grassroots organizers, non-governmental organizations, and government officials seeking to secure environmental justice.

In 1993, the Clinton Administration established the National Environmental Justice Advisory Council (NEJAC), an advisory committee formed to provide recommendations and advice to the EPA. NEJAC helps the EPA analyze environmental justice issues, strengthen partnerships regarding environmental

justice, and promote collaborative decision-making with communities. You can read a report on the history of NEJAC and its work [here](#).

In 1994, President Clinton issued Executive Order 12,898: *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*. Its ultimate goal is to achieve environmental protection for all communities.^[3] Executive Order 12,898 requires all federal agencies to identify and address the environmental and health impacts of their actions on underrepresented and low-wealth communities. It also promotes nondiscrimination in federal programs affecting human health and the environment, directs each agency to develop a strategy for implementing environmental justice, and established an Interagency Working Group on environmental justice.

On January 27, 2021, President Biden issued Executive Order 14,008: *Tackling the Climate Crisis at Home and Abroad*.^[4] This executive order created the White House Environmental Justice Advisory Council (WHEJAC) and the White House Environmental Justice Interagency Council, both of which are charged with ensuring that government agencies coordinate to address environmental justice issues by looking for ways to improve upon Executive Order 12,898. Executive Order 14,008 also created the Justice40 Initiative which seeks to drive 40 percent of climate-related federal spending into disadvantaged communities. If you are interested in seeing the membership of WHEJAC or attending public meetings, you can find out more [here](#). In January 2023, President Biden instructed executive departments and agencies to utilize the Climate and Economic Justice Screening Tool (CEJST) to identify communities eligible for programs under the Justice40 Initiative and programs where a statute directs resources to “disadvantaged communities.” You can use and learn more about the Climate and Economic Justice Screening Tool [here](#).

These executive orders are good first steps. **However, executive orders are not the same as other laws.** Neither of these orders create a right to sue someone because of an environmental injustice. To win a lawsuit against a polluter, they must have violated an existing federal or state environmental law. The EJ Green Book will describe most of those laws and introduce the legal

mechanisms you can use to pursue environmental justice. This includes getting involved in decision-making through providing comments and suggestions to decisionmakers.

What does fighting for environmental justice in Georgia look like?

Many Georgia communities have successfully come together to use the law to reduce pollution levels from landfills, industrial facilities, and other facilities.

Success Stories:

Georgia Community Efforts to Tackle Environmental Challenges

The **Newtown community in Gainesville**, originally formed as a “new town” for Black people displaced by a 1936 tornado, was sited on an old landfill. Near the middle of the century, polluters like Cargill and Purina Mill also decided to site facilities there.^[5]

Members of a community group called the Newtown Florist Club, which donated wreaths for funerals, noted a suspicious number of deaths and began to fight for environmental justice in Newtown. **Over the years, the organization has established a program for girls’ improvement, built a community garden, prevented diesel trucks from idling just yards from homes, and reduced levels of harmful airborne pollutants from neighboring factories.** In 1975, the Newtown Florist Club and Georgia Legal Aid successfully sued Purina Mill for violations of the Georgia Water Quality Control Act.^[6]

Other communities throughout Georgia have succeeded in organizing themselves, and in using the law to protect public health and the environment to block or close landfills in their neighborhoods.

In 2004, The **South DeKalb Neighborhoods Coalition in partnership with GreenLaw, successfully closed the Live Oak Landfill.** At the time it was the largest landfill in Georgia and had given off terrible odors for years.^[7]

Also in 2004, **citizens of Taliaferro County successfully stopped an over 1000-acre landfill** proposed by Complex Environmental Inc. from being sited in their community. Early attempts to dissuade Complex from siting the landfill failed and resulted in the brief incarceration of County Commissioners who were willing to risk criminal proceedings to stop the landfill’s siting by refusing to sign a letter stating that the project met zoning regulations.^[8] But, after community members (organized as Taliaferro Countians Against Landfill)

appealed an administrative law decision holding that Complex was entitled to a permit for its project, the Georgia Supreme Court issued a final ruling stopping the landfill proposal.^[9]

Similarly, **residents of Emerson in Bartow County worked with the Turner Environmental Law Clinic at Emory to prevent Allied-BFI from locating a landfill close to the Etowah River** in their neighborhood without even having to file a lawsuit.^[10]

In 2019, in **Gwinnett County**, a waste transfer station was to be sited on Ozora Road near a park, two schools, and some residential neighborhoods – even though the neighborhood was zoned for residential use. **The waste transfer station applicants withdrew their application in response to Gwinnett County residents organizing on Facebook to stop it.**^[11]

In 2020, in **Forest Park**, the city shut down Little Ones Learning Center’s farm stand, which teaches children about healthy food and provides healthy food to the community. **A large group of supporters attended a hearing on changing the law to allow for farm stands and spoke in favor of changing the law.** The city council agreed, and Little Ones was able to reopen their farm stand.^[12]

Children like the ones enrolled at Little Ones will inherit this complicated world, and these stories show that fighting for a more equitable environmental future can bear fruit and improve the world that they will be left with. You will encounter more success stories throughout the EJ Green Book.

While the law may not always provide a clear solution to a community’s environmental crisis, the successes of these communities show that political participation, and strategic use of the law can – sometimes – create positive change.

If they can do it, you can too!

The Environmental Justice Academy

If you want to learn more about environmental justice and get involved in advocating for environmental justice issues in your community, consider enrolling in EPA's Environmental Justice Academy (EJA). EPA hosts the EJA in partnership with universities, nonprofits, and other environmental advocacy organizations. Contact EPA Region 4 to ask about the next time the EJA will be offered, and in the meantime, you can find more resources and useful information at the **[EJA Alumni Association website](#)**.

The Environmental Justice Movement Citations

^[1] Harriet Washington, *A Terrible Thing To Waste: Environmental Racism and Its Assault on the American Mind* 117 (2019).

^[2] The 17 Principles of Environmental Justice are provided in **[Appendix G](#)**.

^[3] United States Environmental Protection Agency, Summary of Executive Order 12898 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, **<https://www.epa.gov/laws-regulations/summary-executive-order-12898-federal-actions-address-environmental-justice>**

^[4] President Joseph R. Biden, Jr., *Executive Order on Tackling the Climate Crisis at Home and Abroad* (Jan. 27, 2021), **<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/>**.

^[5] Carolyn Crist, *Carry the struggle Newtown Florist Club at 60*, Gainesville Times (Oct. 9, 2010), **<https://www.gainesvilletimes.com/opinion/carry-the-struggle-newtown-florist-club-at-60/>**.

^[6] Ellen Anna Kohl, *Permanence of the Struggle: Race, Gender, and Environmental Justice in Gainesville, Georgia*, 30-31 (2015), **https://getd.libs.uga.edu/pdfs/kohl_ellen_a_201505_phd.pdf**.

^[7] The Associated Press, *Judge orders closure of Atlanta Landfill*, accessWDUN (Dec. 9, 2003), **<https://accesswdun.com/article/2003/12/181796>**.

^[8] Rebekah A. Hall, *Landfill in Georgia Rejected*, Waste360 (April 19, 2004), **<https://www.waste360.com/state-and-local/landfill-georgia-rejected>**.

^[9] *Id.*; The Associated Press, *State's highest court buries controversial landfill proposal*, accessWDUN (Sept. 20, 2005), **<https://accesswdun.com/article/2005/9/138969>**.

[10] Justine Thompson et al., *Putting the Law to Work in Our Communities: A Citizen's Guide to Environmental Protection and Justice in Georgia* 9, 1st ed. (2007); Darrell Norman, *Georgia city's landfill plans draw protests from citizens*, The Gadsden Times (Aug. 18, 2004), <https://www.gadstimes.com/news/20040818/georgia-citys-landfill-plans-draw-protests-from-citizens>.

[11] Curt Yeomans, *Controversial waste transfer application withdrawn*, Gwinnett Daily Post (June 11, 2019), https://www.gwinnettdaily.com/local/controversial-waste-transfer-station-application-withdrawn/article_426f6f28-8c71-11e9-a070-a368b971a5e9.html.

[12] Robin Kemp, *Forest Park farm stand ordinance passes 4-1; Antoine warns of produce-seeking pedophiles*, Clayton News-Daily.com (Feb.18, 2020), https://www.news-daily.com/news/forest-park-farm-stand-ordinance-passes—antoine-warns/article_cb954b0e-51a3-11ea-8f98-afc778aa238d.html.

Protecting Your Community: Getting Started

At first blush, the idea of taking on a polluting facility or industry may conjure up ideas of the battle between David and Goliath. However, while it may seem daunting, you do have the power to make your voice heard – remember, David came out on top!

You deserve to live in a clean and healthy environment. While you may not be able to stop every polluter, you *can* make a difference for your community.

This chapter presents a brief guide to help you get started in your efforts to protect your community, and a roadmap to assist you as you utilize the rest of the EJ Green Book. You will see many references to other chapters of this resource.

We will walk through how to use the EJ Green Book to identify pollution sources, reach out to organizations, start your own community organizing, document pollution and gather necessary information, and how to get your voice heard.

If, while using this resource, you become overwhelmed, confused, encounter roadblocks, or just need some advice, you can always pick up the phone and call us. Environmental justice organizations often collaborate on issues and will be happy to help you in your efforts to protect your community. In addition to the resources offered by the Turner Environmental Law Clinic, SELC, and Hummingbird, there is a list of organizations and contact information in **Appendix B**.

If you are concerned about pollution in your community, you can employ strategies in the following roadmap to encourage polluting facilities to be better neighbors. Sometimes, gathering this information and presenting it to the facility

can be enough to make it change its behavior. Often, however, fighting Goliath requires a more active approach – up to and including getting lawyers involved.

While fighting big polluters is a daunting task, the rewards are priceless – improved health for you, your neighbors, and your environment.

It is important to know that you can do it! And it's important to remember that there are many people that are eager to help you along the way.

Identify Pollution Sources

You may already know the potential polluters operating in and around your neighborhood, but if not, it is important to identify these facilities. Some examples include industrial farms, landfills, petroleum refineries, chemical plants, electrical facilities, sewage treatment plants, and dry cleaners.

Explore.

It is often the case that citizens do not even realize they live close to pollution sources. Unfortunately, some do not know until they experience negative health effects, so it is helpful to be proactive when possible. Walk or drive around the neighborhood and take note of industrial and municipal facilities (city-owned structures such as water treatment sites).

Engage.

You should also speak with your neighbors about potential pollution sources and ask them what they have seen, heard, smelled, felt, or observed in the area. Talk with long-term residents about their past experiences with industry in the area. Take notes as you are speaking with people so that you can notice any patterns that may arise.

Search the Internet.

Several Internet sources can also help you discover sources of pollution in your area. For more detailed information about how to locate the source of the pollution, see **Knowing What's In Your Neighborhood**.

Contact Regulators.

Finally, you can contact local government agencies responsible for regulating pollution. The Georgia Environmental Protection Division (EPD) has several branches that deal with different types of pollution – air, water, land, hazardous waste, etc. – called the specialized branches, and it has more localized regional branches which cover specific areas of the state. (Tip: if you are not sure what your concern specifically entails, your complaint might be addressed more quickly if you contact your regional office rather than one of the specialized branches.) Contact the appropriate branch and ask for information about the possible sources of the pollution that concern you. You can email EPD at **askepd@gaepd.org**, or for a list of contacts to the various branches and EPD offices, see **Environmental Agencies in Georgia: Who's Who?**.

It can be intimidating to pick up the phone and call a state agency.

Since the best way to take on a Goliath of a problem is to have a clear plan, **here is advice directly from EPD on how citizens can voice their concerns:**

When you call one of the specialized branches or your regional office, the first person to pick up will likely be a receptionist who will transfer you to someone who can address your questions and complaints. Briefly explain what it is that concerns you, and the receptionist will get you in touch with the correct person.

For example: "Hello, my name is ____ and I have noticed a horrible smell coming from a facility two blocks from my house. I would like to place a complaint with your office and ask them to investigate."

Next, you will be put on hold and transferred over to someone who can help you log your complaint and possibly give you more information about what concerns

you. If someone answers, wonderful! You are off to the races to record your complaint. The following is information you are likely to be asked to supply:

- What it is you saw or smelled (e.g. noxious smells, polluted water, dust filled air, etc.).
- The location of the pollution – a specific address is very helpful, but not always possible; for instance, when the pollution is on the side of the road.
- What times you noticed the pollution.
- Whether or not you saw any company names associated with the site of the pollution.
- Finally, they may ask you some specific questions associated with the type of pollution you are describing.

When you are able to speak with someone, if you decide to lodge a complaint, make sure to ask them for your “Complaint ID.” This will allow you to track your complaint and see if any action has been taken by EPD because of it.

If no one picks up, you will be able to leave a voicemail. Leave your name and number along with a short description of why you are calling. Give the agency at least 24 hours to respond, but if you have not heard back, keep calling.

As you keep calling and moving forward with attempting to log your complaint, try asking your questions a different way, ask other community members to make calls as well, and ask a variety of questions. The EPD is a state agency, so even when the people you are talking to want to help, they may have limited funding and staff to respond to every complaint in a timely manner.

After you get your complaint logged, you may wonder what happens with it. If you call one of the specialized branches, it will forward your complaint to your regional office. The regional office will then contact the facility about your complaint and might send someone to inspect the site.

While this process can take a while, don't fret!

There is a complaint tracker online where you can keep tabs on the status of your complaint after it has been logged in the EPD system. Go to <https://cts.gaepd.org/> and enter your complaint ID to check up on your complaint.

Determine Whether Other Organizations Are Working on Similar Issues

While taking on a Goliath can feel overwhelming, the good news is you may not be alone – there may already be a group working to remedy a source of pollution in your community. Before attacking a pollution issue on your own, find out if others have already begun the fight and see if you can join forces.

Find Local Resources.

These other groups may be obvious: local organizations may have put up signs, posted on social media sites such as Facebook, sent out flyers, or brought the issue into public awareness through newspapers and/or public meetings. Examples of community organizations include **EarthShare Georgia**, **Lakewood Environmental Arts Foundation**, and **South River Watershed Alliance**.

Neighborhood Outreach.

Community groups such as gardening clubs, churches, youth leagues, school groups, neighborhood Facebook groups, Nextdoor, and homeowners' associations often serve as a basis to begin to organize people with similar interests and concerns into action for a common cause. Talk with the members of local community groups to see if others have noticed the pollution issue concerning you or began attempts to address it.

Contact Environmental Organizations.

Similarly, state or regional organizations that are committed to environmental work may already know of other citizens with similar concerns. Call environmental organizations, especially those committed to environmental justice work, and see if they can put you in touch with others in your community who have concerns about pollution issues. For a list of many of these organizations, see **Appendix B**.

Search Local Waterkeepers.

If there is a river or stream in the area, there may be a Riverkeeper group in place patrolling the waterway for sources of pollution. The Waterkeeper website provides a **directory** of local Riverkeeper organizations nationwide. Check the website to find out if there is a Riverkeeper group in your area. For instance, the **Chattahoochee Riverkeeper** monitors the Chattahoochee River system in Georgia. **Appendix B** also has a list of Riverkeepers.

Organize Your Neighbors

Talk to your neighbors – if you are concerned, it is likely that others are as well! Even if there is not a group already addressing the pollution issues in your community, there are probably others like you who wish there was. Take the initiative and speak to your neighbors and community members to find other concerned residents. For instance, you can:

- Knock on doors and speak with your neighbors;
- Attend community association meetings and discuss the issue;
- Post on social media and post flyers to invite others to meet virtually through a Facebook group or on a video chat or physically at a local coffee shop, recreation center, church, or other meeting space to discuss pollution issues in your community; or
- Find people with connections – for instance, community members who know someone who works at the EPD, a local university, or a local environmental group.

Remember that there is power in numbers. The more “Davids” you have, the more likely you are to take down a “Goliath.” For more detailed information and ideas about organizing your neighbors, see **Understanding Grassroots Organizing**.

Gather Information and Document the Pollution

It will be much easier to get the attention of permitting authorities, facility managers, and the media if you have **detailed information about specific instances of pollution**. Because our memory has limits, it is important to gather the necessary information and document instances of pollution so that you don't need to rely on your memory to describe them.

Keep Records.

Documenting incidents of pollution will also help you notice trends. By keeping a thorough record of instances of pollution, you may find that a trend has developed (e.g., every time it rains really hard, pollution occurs; every time it is really hot, specific smells are at their worst, etc.). Noting these trends may help you, or permitting and compliance officials, discover some of the causes of the pollution. Use your smartphone or a camera to take pictures of spills or leaks but be careful to never trespass while gathering information. For more information about gathering evidence, see **Collecting and Using Scientific Data**, and see **Appendix C-4** for a sample pollution log.

Understand the Organizations and the Laws.

The organizations involved in environmental protection cases are typically local, state, or federal governmental agencies and officials tasked with keeping our environment safe and healthy. To find out which agency may be responsible for regulating the pollution of concern, see **What is an Environmental Agency?** and **Environmental Agencies in Georgia**. For general information about how federal and state environmental laws and agencies regulate different types of pollution, see:

- **The National Environmental Policy Act (NEPA)**
- **Land Use Planning and Zoning**
- **Solid Waste Management and Landfill Permitting**
- **Hazardous Waste, Toxic Substances, and Contaminated Land Cleanup**

- **Lead Contamination**
- **Water Quality Permitting**
- **Protecting Your Drinking Water**
- **Air Pollution**
- **Electric Utility Regulation in Georgia**

Facility Information.

The best way to find out what is going on at a given facility is to review the facility's records that are kept on file with the regulating authority. You may get a chance to look through information about a facility's compliance with pollution limits, which are set by local permitting authorities. **You have a right to review this information!** Referring to your own documentation of specific pollution instances can help guide you on what to look for when reviewing a facility's compliance information or other reports.

For more information about accessing public records, see **Accessing Public Records and Meetings**. For sample records requests, see **Appendix C-1** and **C-2**. Remember, if you have any trouble accessing public information, or figuring out where to look for public information, you can always call us for help!

Burden of Proof.

Unfortunately, when trying to motivate agency officials to demand that a facility complies with pollution limits, the citizen often bears the burden of proof. You may have to convince agency officials that the problem is worthy of their attention. It will be much easier for you to accomplish this if you have thorough documentation of pollution incidents. In addition, if you want to bring the issue to the attention of experts like scientists, consultants, engineers, or lawyers, keeping careful documentation of what you have experienced will help set those experts up for success.

Steps to Documenting Pollution

Step One: Keep Pollution logs and records of occurrences of pollution.

Distribute your pollution log to neighbors and ask them to document episodes of pollution as well. Remember not to trespass on private land when gathering this information. The chart below identifies what information should be included in your pollution log.

At a minimum, include the following information:	Other helpful information may include:
<ul style="list-style-type: none">• what kind of pollution you see;• how much pollution you see;• when the incident of pollution occurred (what time?); and• where the pollution is the name of the person recording the incident.	<ul style="list-style-type: none">• the weather;• intensity of the pollution as compared to other incidents;• how long the incident of pollution lasted; and• action you took to address the pollution, such as agency officials you contacted or reports that were filed.

Sample Pollution Log:

Grain Dust Log							
Observer	Date & Time	Location	Visible	Amount	Duration	Notes	Action Taken
<i>Example: Ela</i>	<i>Jan 29 1:00 pm</i>	<i>Outside the Newtown Florist Club</i>	Y / N	<i>Light dust Med. dust Heavy dust</i>	<i>The dust has been there since this morning and seems to be continuing</i>	<i>There is dust on the playground and children are playing — it is a warm day and sunny</i>	<i>Called Georgia EPD Air Protection Branch and filed a verbal complaint — spoke with Dan Smith</i>

For other sample pollution logs, see **Appendix C-4**. For more information on collecting and logging information as a citizen scientist, see **Collecting and Using Scientific Data**.

Step Two: Take photos.

A picture is worth a thousand words, and nothing speaks louder than a good picture of the problems faced by your community. If the problem is excessive garbage, runoff of chemicals, or a facility spewing dirty air over your community, it will be easier to convince others of the problems that you are facing if you have documented them through photographs.

After you take the photo, make note of who took the picture, what day, what time and the precise location of the object photographed. This information will be important if the photos are given to the press, agencies responsible for enforcing the laws, or a court.

Step Three: Pay attention to health concerns.

If you are experiencing health problems that you believe may be related to pollution in your community, contact your doctor immediately and discuss your concerns. It may also be helpful to contact your local community health center or county health department to see if others have registered similar concerns. For a list of some health-based organizations, see **Appendix B: Contact Information**.

Step Four: File a complaint.

Filing a complaint with the appropriate regulating authority will place your documentation into an official file, giving it added credibility and exposure. A sample complaint form is included in **Appendix C-3**. For a list of regulating authorities, see **Appendix B: Contact Information**.

Start at the Local and State Level

Local (city and county) leaders may have more power than you think! New facilities often have to get permission from local government officials like a Board of Commissioners before moving forward with a project. There are several local controls to consider:

- Review local **ordinances** as a first step in addressing polluting industries.
 - **Ordinances** are local laws governing what is and is not allowed in certain communities, such as how loud noise levels can be past a certain time.
- **Contact the local leaders** in your neighborhood and elected representatives that are supposed to be representing your interests. Some of these leaders and representatives may include:
 - Neighborhood Planning Units (NPU) – only for those within Atlanta city limits
 - City Council members
 - County Commissioners

- The local environmental permitting authority
- State Legislators
- See **Land Use Planning and Zoning** for more information about potential leaders and representatives to contact.

Get Your Voice Heard!

Submit Comments on New Permits and Permit Changes

Most environmental laws that provide for permitting of polluting facilities also provide the public an opportunity to **comment** on those permits before they are given to a facility.

What is a Comment?

Government agencies, such as the Georgia Environmental Protection Division (EPD), issue permits and implement laws through rules and regulations. When an agency issues new permits or creates new regulations, it often has to provide the public an opportunity to make public comments. **A public comment is a way to provide feedback to government agencies on these permitting and regulatory decisions.** The agency is required to respond to comments that are substantively related to the permit or regulation.

The Process.

Regulating authorities like the EPD, which issues permits to most major pollution sources, must issue a public notice and provide an opportunity for public comment on most new permits and major changes to existing permits. Often, EPD will host a public hearing on major permits as well. The public comment period generally lasts 30 days and if you plan to launch a campaign against a given pollution source, it is very important that you submit public comments.

Draft the Comments.

A public comment on a proposed action is different from a comment left on a news article or online post. It's more like a letter, so take some time to draft a comment that addresses the substance of the issue. Questions to consider while drafting include:

- Why are you concerned about this issue?
- How will the proposed regulation or permit affect your community?
- What are the reasons you oppose it?
- Is there any information the permitting agency has not considered?
- What specifically do you want the agency to do?

It can be helpful (and fun!) to organize a comment drafting party with your community so you can include as much relevant information as possible and increase the number of comments your community submits.

Additional Information.

For detailed information about the importance of public comments, and about how to prepare comments, see **Submitting Public Comments**. This chapter also provides information about requesting a public hearing. A form to help you draft a public comment letter is included in **Appendix C-5**.

Again, don't be afraid to pick up the phone and call the staff of an environmental law organization to help you navigate the public comment period. If you think you may want help with drafting your comments, **be sure to contact resource groups early** because you have a limited window in which to submit your comments!

Contact Local Press

Get your story out there! Nothing is more effective than shining the light of public opinion on illegal activities.

Consider What You Want to Say.

Take a few minutes ahead of time to think about what topics are the most important to highlight. Find a photo that best shows the problem you want to draw attention to and that you are willing (and able) to share with the press. Be sure to highlight the impacts on people.

Ask for Help.

Have others involved in your initiative help craft and look over your statement.

Call or Email.

The contact details for most media outlets, such as your local newspaper, should be available online. Tell them if you have photos, and/or include them in your email. Make sure to get the name of the person you talked to so you can follow-up later.

Use Social Media.

Often, the best way to get your story out there is posting on social media platforms such as Facebook, Twitter, and Instagram. Find photos and personal stories that highlight the problem to which you want to bring attention. Encourage others in your community to share the same posts.

Contact a Lawyer or Other Resource Group

Experienced professionals and advocates often have knowledge that can help you navigate the process. Contact SELC, the Turner Clinic, Hummingbird, or other environmental law organizations (see **Appendix A: Legal Resources** and **Appendix B: Contact Information**) to help you find resources that you may need to address pollution problems in your neighborhood.

The steps outlined here reflect one way to go about taking down Goliath, but remember that it is okay if your path ends up looking a bit different!

GETTING STARTED CHECKLIST

Identify Pollution Sources

- Explore your neighborhood and list industrial and municipal facilities.
- Ask your neighbors if they have noticed pollution sources.
- Use online tools to check for pollution in your area (see **Knowing What's In Your Neighborhood** and **Appendix A: Legal Resources**).
- Contact regulators (see **What is an Environmental Agency** and **Environmental Agencies in Georgia** and **Appendix B: Contact Information**).

Determine Whether Other Organizations Are Working on Similar Issues

- Identify local organizations working on the same issue.
- Encourage community members to help you take action.
- Engage church or school groups, Homeowners' Associations, and other community groups.
- Contact environmental organizations (see **Appendix B: Contact Information**).

Organize Your Neighbors

- Knock on doors.
- Attend community meetings.
- Post on social media and create groups about this issue.
- Post flyers.
- Organize a meeting (see **Understanding Grassroots Organizing**).

Gather Information and Document Pollution

- ❑ Look through the industrial/municipal facility's compliance information (See **Knowing What's in Your Neighborhood**).
- ❑ Identify the laws that may apply.
- ❑ Identify the state or federal agency that issues any permits or approvals for the project.
- ❑ Fill out pollution logs.
- ❑ Take photos.
- ❑ Document health concerns.
- ❑ File a complaint.
- ❑ Check local ordinances.
- ❑ Contact local leaders.
- ❑ Collect scientific observations (see **Collecting and Using Community Science**).

Voice Your Concerns

- ❑ Find out if there are any proposals for new or updated projects coming up (see **Knowing What's in Your Neighborhood** and **Accessing Public Records and Meetings**).
- ❑ Determine when there will be a public hearing or when EPD will take comments (see **Accessing Public Records and Meetings** and **Submitting Public Comments**).
- ❑ Draft your comment (see **Submitting Public Comments**).
- ❑ Encourage others in the community to draft comments.
- ❑ Contact a local resource group for assistance and support in drafting your comments.
- ❑ Be aware of deadlines!

Get Assistance

- ❑ Contact a lawyer to help you navigate this process/take legal action (see **Appendix A: Legal Resources** and **Appendix B: Contact Information**).

- Contact an advocacy group who can share knowledge and resources (see **Appendix B: Contact Information**).

Contact the Media

- Frame the issue (i.e. what is most important to highlight?).
- Draft an email of your elevator pitch to local media.
- Ask community members to pitch in and edit your statement.
- Call or email local press.
- Post on social media.

Knowing What's In Your Neighborhood

There is a wealth of information available online that can tell you about the environmental burdens on your neighborhood. Below, we list a few websites that have information for the entire nation or the state of Georgia.

This is only a sampling of the publicly and privately developed sites out there. In addition, there may be internet resources dedicated to documenting the environmental condition of your region, city, or neighborhood, so you should treat this list as a starting point.

Federal Register

When the federal government needs to provide notice of a decision, permit application, or opportunity for public comment, the agency involved will publish a notice in the **Federal Register**.

You can imagine that the Federal Register is like the government's newspaper, describing all the actions the government is taking on any given day. You can **search the Federal Register** online and submit comments on proposals. You can also **sign up for a daily email** with a list of all the notices published in the Federal Register.

EJScreen

EPA's EJScreen is an online mapping tool that allows you to select a specific site or draw a boundary around an area. **It will then provide information about the demographics and potential environmental hazards of that area.**

How to Use EJScreen

From the [EJScreen homepage](#), click the link under “Launch the EJScreen Tool.” This will bring up a map. Zoom and drag the map to the location you are interested in (similar to using Google Maps).

The first tab on the tools list, “maps,” allows you to compare various categories to the state as a whole or the United States. You can use this tool to compare environmental justice indexes, pollution and sources, health disparities, and socioeconomic indicators. For example, you can use the map to compare levels of lead paint. Orange and red areas indicate high levels of the category you are measuring, as compared to the rest of the state or the United States.

The third tab on the tools list, “reports,” will bring up a box where you can either choose to drop a pin on a specific location, draw a site boundary, or enter locations through text or census block group IDs.

When you select an area, you will have several options. Clicking “Explore Reports” will show a set of environmental, demographic, and environmental justice information, which you can display on the state, regional, and national level. These reports are shown as percentiles and displayed as a graph.

EJScreen can be a powerful tool, but it can be tough to figure out at first. Fortunately, the EPA has resources for [learning to use EJScreen](#) and [how to understand EJScreen results](#).

Climate and Economic Justice Screening Tool (CEJST)

In November 2022, the **Council on Environmental Quality (CEQ)** released a [Climate and Economic Justice Screening Tool](#) (version 1.0). This tool uses census tract data to identify communities that are marginalized, underserved, and overburdened.

The tool provides information on the community based on **eight categories of disadvantaged status**, including the following:

- Climate change impacts
- Energy burden
- Clean transit
- Affordable and sustainable housing
- Clean water infrastructure
- Legacy pollution
- Health burdens
- Workforce development

The tool ranks each census tract using percentiles that show how much burden each tract experiences relative to all other tracts, for each criterion. In January 2023, President Biden instructed executive departments and agencies to utilize the tool to identify geographically defined communities for programs under the Justice40 Initiative and for programs where statutes direct resources to “disadvantaged communities.”

How to use CEJST

On the **CEJST website**, type in your city. It will bring up the area divided by census tracts of no more than 4,000 people. Areas that are shaded are identified as disadvantaged.

Click on a census tract, either shaded or unshaded, and you will be shown the county, state, and population of the census tract.

On the census tract, the tool will indicate whether the tract is categorized as disadvantaged or not and will indicate in which categories the tract is disadvantaged. The categories with blue dots next to it indicate areas where the tract is above the national thresholds and identifies its ranking.

EnviroAtlas

EPA's **EnviroAtlas**, is a mapping tool that displays different kinds of information in layers. EnviroAtlas provides many more types of information than EJScreen, and can show demographic information such as employment, housing, and walkability alongside map overlays of watershed areas, wetlands and lowlands, endangered species, and land uses.

How to use EnviroAtlas

EnviroAtlas is a little easier to use than EJSCREEN. On the left side of the map, you will see a list of available layer types. Click on any of them to enable or disable the layers you want to see. Those options will then appear in your “layer list” to the right of the screen, and you can toggle them on or off to make them appear on the map.

Like EJScreen, EPA has created **online tutorials** to explain how to use the EnviroAtlas software. Scroll to the bottom of the EPA's tutorials page to find the “Quick Start Guide” and “Help” pages.

EnviroFacts

The EPA's **Envirofacts website** has a **comprehensive database of facilities that handle or may contain hazardous waste in the United States.**

How to use EnviroFacts

From the homepage, click on the type of information you want—such as water or air. Or, you can do a general search by entering your zip code or county in the search bar on the left side of the page, scrolling to the bottom, and clicking “search.”

If you're looking for information about facilities on Native American tribal lands, click on the “Multisystem Search” button. On the next page, you can select a tribe from the drop-down menu to find any sites on or near tribal land.

This database tends to contain less detail, so, after identifying a facility, you may need to go to some of the other resources described in this section for more detailed information.

Toxics Release Inventory (TRI) Program

The EPA has a **Toxics Release Inventory Program** where you can learn if there has been a **toxic chemical release** in your neighborhood.

How to use the TRI Program

Enter your zip code in the search box on the lower part of the page. This will allow you to view reports of all toxic releases in your zip code, listing what chemical was released, in what amount, and where the substance is being disposed of.

If you have specific questions about a release, you can call the Georgia Hazardous Waste Management Contact: Holly Nelson (404) 604-9530, or by email at holly.nelson1@dnr.ga.gov.

Reporting an Environmental Violation

If you would like to **report a potential environmental violation**, such as a chemical spill or dumping in your neighborhood to the EPA, you can use the **Enforcement and Compliance History Online (ECHO)** tool.

Superfund Site Search

If you want to determine whether there is a **“Superfund” site** in your area — a site that has uncontrolled hazardous waste that has been listed for cleanup by the EPA — check the **National Priorities List (NPL)**, which is the list of known sites contaminated by hazardous substances and pollutants throughout the US. See **Hazardous Waste, Toxic Substances, and Contaminated Land Cleanup** for more about hazardous waste and Superfund sites.

How to search for a Superfund site

Go to the [NPL website](#) and then select Georgia in the drop-down menu.

You will then see all of the NPL sites in Georgia and can click on each one to learn the name of the company, the substances released, disposed of, or stored there, and the status of the cleanup.

Georgia-Regulated Hazardous Waste Site Search

If you want to determine whether there are other hazardous sites — regulated by the state of Georgia instead of the federal government — in your area, go to the [EPD's hazardous site inventory](#). See **Hazardous Waste, Toxic Substances, and Contaminated Land Cleanup** for more about hazardous waste.

How to search Georgia's hazardous site inventory

Go to the [EPD's hazardous site inventory](#) and click on the "Sites Listed by County" link about halfway down the page. When you find a site that you are interested in, note the "HSI ID" (hazardous site inventory ID) in the left-hand column. Return to the original page and click on the "HSI Site Summaries" link at the bottom of the page. You will find more information about the site listed in numerical order by the "HSI ID."

How's My Watershed Tool

EPA's [How's My Watershed tool](#) contains useful information on water quality, land use trends, threats, and links to other sources of information displayed on a map. You can see the waterways near an address or zip code, whether those waterways are in good condition or "impaired" condition, and the location of discharges.

Georgia's Watershed Protection Branch List

To learn about **what chemicals are being discharged into rivers and streams in your area**, you may go to [EPD's Watershed Protection Branch List](#). From here, you can click on a type of water permit and download a spreadsheet, which lists municipal and industrial wastewater permittees and can be sorted by county and city.

Atlanta Watershed Management Quality Reports

The [Atlanta Department of Watershed Management's Water Quality Reports](#) has information about the quality of the water coming from your tap. This website will show you annual water quality reports and can also be the source of any boil water advisories.

Georgia EPD's Air Protection Branch

[Georgia EPD's Air Protection Branch](#) provides lists of, and links to, air emissions permits for the entire state. Unfortunately, from here permits are only searchable by facility name, not by county or zip code, but you can use the Envirofacts website or other tools described above to find the facilities in your area first.

Facilities may hold more than one type of permit, so check the EJ Green Book's **Air Pollution** page for a more in-depth description of the types of permits issued under the Clean Air Act.

Georgia EPD's [Title V Applications Archive](#) contains more information on permit applications. **Note:** The Title V Applications Archive only contains applications filed before August 1, 2015. For more recent applications, use the EPD's Online System (the next tool in this list).

Georgia EPD Online System (GEOS)

The EPD also operates a tool called the [Georgia EPD Online System \(GEOS\)](#) for online permit applications. The public can search materials in GEOS at no charge

and without registering. The GEOS system can search by permit number, facility name, or specific address, or it can show lists of all the permits (of any kind) issued by EPD in a city or county.

Results will show “threshold” amounts listed for different pollutants in permits, meaning that the permitholder can release *up to* that amount. The thresholds in air pollution permits vary depending on whether the area the source is located in has “attained” certain standards for cleanliness.

The **EPA’s Green Book** contains details about the attainment or nonattainment status of Georgia counties under the Clean Air Act. Check the EJ Green Book’s **Air Pollution** page for more information about how air permitting works.

Georgia Environmental Connections Online (GECO)

Georgia EPD offers an online service allowing public access to Air Protection Branch **facility information, permit application status, and performance test notifications** called **Georgia Environmental Connections Online (GECO)**.

Facilities use GECO to submit emissions inventories and emissions statements, and also allows users to register for events hosted by the Georgia Environmental Protection Division. You must be a registered user to access the online applications.

Additional Air and Water Quality Resources

There are also several online resources that are available as apps for Android and iPhone to check the **air and water quality** in your area on any given day. Though these apps will not show the source of any air or water pollution, they might be helpful in planning activities for the day or showing the effect of a source being nearby.

- **AirNow**: Shows the up-to-date air quality for several localities and reports on ozone levels and fine particle pollution for any given time.
- **Air Quality | Air Visual**: Provides similar information while also providing a seven-day forecast of the air pollution levels in the area.

- **Swim Guide**: Provides a rating for many popular recreational water sources. In the app you can also find who tests the sites and what standards are applicable.

Understanding Grassroots Organizing

Grassroots organizing – organizing people at the local level – is an important part of any campaign to stop pollution.

The information in this chapter will help you get your neighbors and concerned community members to join you to protect your environment, your health, and your families. If you can keep people together, there is power in numbers!

Even when the law is on your side, you may not win in court. This could be because of many variables: judges and juries are people, which means they have unconscious biases and are responsive to social pressure, and major polluters tend to have nearly unlimited resources to fight lawsuits. Because environmental advocates are often the underdog inside the courtroom means that in addition to having a sound legal argument, you want a movement outside of the courtroom that demonstrates the need and support for the change you want.

Importance of Public Support: The Story of Curtis Flowers

Popular movements can uncover evidence that is persuasive to judges. Increased awareness of structural racism in our nation's criminal justice system^[1] and the specific impact of the podcast series *In the Dark* illustrate how raising public awareness about important issues can contribute to a favorable outcome.^[2]

In the Dark is a podcast about the case of Curtis Flowers, a man who was tried six times for a murder he did not commit, and who was freed in 2020 after almost 23 years in prison.

Judge Joseph Loper heard the fifth trial in 2008 and the sixth in 2010. In December 2019, after the podcast revealed that Flowers's trials were plagued by junk gun science, prosecutorial misconduct, racism, and unreliable witness testimony, Judge Loper changed his tune.

Judge Loper granted Mr. Flowers bail for the first time, chastised the prosecutor he knew for years and whom he had previously found credible, and suggested he would find Mr. Flowers not guilty if the prosecutor charged Mr. Flowers a seventh time. In 2020, the state of Mississippi dropped the charges against Mr. Flowers and in 2021 Mississippi was ordered to pay Mr. Flowers \$500,000 in compensation.^[3]

Mr. Flowers's story shows how the criminal justice reform movement and a compelling story can create awareness of injustice. That awareness put a spotlight on previously ignored facts which eventually led to the freedom of an innocent Black man who spent almost 23 years in jail for a crime he did not commit.

There is tremendous power in grassroots movements.

Although different circumstances require different tactics, the following elements are usually necessary to achieve the most successful results:

- A Good Lawyer
- A Good Scientific Expert
- A Good Organizer
- A Dedicated Community Group with Effective Leadership

A Good Lawyer

When bringing a legal action, you want to have a lawyer that knows the kind of law that governs your issue. However, a lawyer can be a valuable ally *even if you do not intend to file a lawsuit*. In addition to representing your organization in court, a lawyer can help with the following:

- Notify you of key deadlines
- Answer questions about the permitting process
- Assist you in developing your public comments, requesting a public hearing, or completing an open records request

Also, remember that while lawyers won't always understand your lived experience, many will genuinely want to help you. So don't be too discouraged if they are slow in responding to emails, or if conversations with them seem stilted or awkward.

A Good Scientific Expert

You will probably have scientific questions that are outside of a lawyer's expertise. A good scientific expert can answer your questions and help you understand the full impact that a given facility or development may be having on the environment.

When drafting comments or waging a powerful media campaign, it is important to know the facts and have specific information about the environmental or public health consequences of increased pollution or a new facility.

A good expert should be able to offer this information and may provide information on possible alternatives to the proposal that you are challenging or standards that should be met when cleaning up pollution.

A Good Organizer and a Dedicated Community Group with Effective Leadership

The people involved are the most important part of a campaign. The EJ Green Book is a guide to environmental law, but the most successful campaigns against polluting facilities are rarely won entirely in a courtroom, and they certainly never *start* there.

Generally, the persuasive power of a dedicated community that uses traditional grassroots organizing techniques in addition to a legal strategy, produces the best results.

9 Steps for Grassroots Organizing

The following steps are ordered sequentially, but you should think about these steps in whichever way makes sense to you. There are many ways to approach grassroots organizing, which is an inherently creative task that involves building enough power to achieve successes that are difficult to imagine, let alone create.

What is most important is that you remain persistent, and develop a sense of confidence, strength, awareness, and togetherness that can weather the ups and downs of grassroots organizing.

1. Gather a Core Group

Tackling environmental challenges, like taking on a polluting facility, can be a lot of work. Finding a few people who share your concerns can help you get your campaign off the ground.

Gather people to help you brainstorm and strategize about how to grow your support base and get your message out to the broader public and local regulators. It will also be helpful to have emotional support as these campaigns are often filled with thankless work that can feel discouraging.

Research whether there is already a group in your area working on your issues so that you can avoid reinventing the wheel. Consider joining an existing group and proposing that they help develop and adopt your campaign. You can find a list of various environmental, social justice, and community groups in **Appendix B**.

2. Call a Community Meeting

If there is not an existing organization advocating for your cause, much of your early work will be educating your neighbors and concerned community members. Often the best way to do this is to call a general community meeting.

Once you have gathered people, you can introduce them to the issues of concern and elicit their help and support. Even when people are impacted by issues, getting them to engage with you can be tricky. You may want to use social media such as local Facebook groups to spread your message. Consider making flyers and passing them out or posting them around your community. You may also want to consider knocking on doors and speaking to people directly.

When you are making your first connections with community members, be sure you frame your issue in a way that demonstrates how working with you can add value to their lives. Let them know, for example, that by attending a meeting, they will learn about things that they can do to protect themselves and their community from the dangers and negative impacts caused by excess pollution. People will be much more likely to attend your meeting if they think they are going to hear information that will equip them to act.

Once you have your meeting, it is important that you give attendees concrete action items so they feel they are participating in the solution to the pollution problems. Ideally, people leave the meeting knowing exactly what they should be doing.

Be sure to collect the name and contact information of every person that attends so that you can keep a running list of your supporters. This list may come in handy when you need people to turn out for events.

3. Choose a Campaign and Be Specific

Before trying to organize the people around you, it is important that you can articulate your campaign's exact goals. **When defining your campaign, be specific about the relief you are requesting.** If you state your campaign goals too broadly, people may not grasp the full depth of what you are aiming to achieve.

So, instead of broadly defining your goal to "clean up Pine Hills neighborhood," specifically define it as "bringing the Pine Hill power plant into compliance with air quality laws."

Similarly, people will be more motivated to work on your campaign if you have a solution to your stated problem. For example, instead of focusing your campaign on a polluting facility being a bad neighbor, focus your campaign on demanding the cleanup of a polluting facility.

It will be much easier for you to get exactly what you are looking for if you are able to specify this early on.

4. Create and Communicate a Consistent Message

Adopt and share a consistent message so that people understand what your organization does and wants. The last thing you want is for different people to be representing your interests in different ways. People consume so much information that it is easy to lose interest in a confusing message.

The entire group should create the message but there are many ways to control messaging. Although you may select one spokesperson, social media allows groups to have many messengers and mediums through which to spread their messages.

Meticulously crafting a message, and then maintaining discipline to stick to the message is crucial to ensuring your organization is consistently presenting its purpose and goal.

5. Do Your Homework

Before you begin organizing around an issue, it is crucial that you are well-informed on the issues so you can effectively communicate them to people who don't see what you see.

Some people naturally tend to trust that big facilities are obeying the law and trying to be good neighbors. Others are skeptical about the goals of people who oppose polluting facilities. How well you communicate your ideas determines whether you are able to persuade your community.

It is important to stick to the relevant facts and to ensure your message is rooted in the truth. This will help you avoid getting trapped in a situation where you are spending time defending yourself and your group's credibility rather than advocating for the change you hope to see.

Research all the information you can about the relevant laws and regulations so you understand the regulatory framework that the facility is operating under. The EJ Green Book contains several chapters that offer valuable information

about various legal permitting frameworks and is designed to be an excellent place to start researching.

Once you have a general understanding of the regulations, speak with a member of the agency, department, or committee involved in the permitting or planning process to help you fill in the blanks. For more information, consult **Accessing Public Records and Meetings** and the contact information for state and federal government agencies provided in **Environmental Agencies in Georgia** and **Appendix B**.

Be honest and, if asked, transparent about your concerns when gathering information from an agency. However, you don't *have* to state your position on a project — you might be able to get more information if you keep some of your feelings about the project to yourself. Approach agency employees with respect and friendliness to establish a relationship with them. They have the information that you need, so you want them to feel generous. **A friendly contact who will work a little harder to help you can be very helpful for a campaign.**

Most environmentally damaging projects proceed successfully because no one shows up to object at key points in the permit process where projects are the most vulnerable.

Stay aware of deadlines and opportunities for public comments or public hearings so that you do not fail to take appropriate action. Discover and set calendar reminders for all the project-specific approvals, permitting, or other decision-making process periods that an agency or developer must go through.

Pay special attention to opportunities for public involvement. Seize these opportunities when you find them and be sure to take appropriate action by submitting public comments in writing or attending public hearings to make verbal comments. Often, to lodge a formal lawsuit or other complaint, you will have to show a vested interest in the matter. This is easily established if you have been actively involved in the process. See **Submitting Public Comments** for more information.

6. Frame Your Issue in a Way That Motivates People to Act

Decide what makes your campaign important and distill those things into a powerful slogan or memorable image that is difficult to argue with. For example, the concise and visceral slogan *Black Lives Matter* conveys the many ways Black Americans are treated as if their lives matter less than other Americans. The use of the slogan correlates with a historical change in how everyday Americans understand racial justice.^[4]

Consider your audience when considering how to frame your issue.

When talking to mothers about air or lead pollution, you could frame your issue in terms of the health impacts on children. When talking to business leaders, you may want to frame your issue in terms of the negative impacts that pollution has on your local economy, such as on property values.

7. Develop an Action Plan

Community building and democratic processes of understanding problems are important, but these must work in tandem with direct action. For a sample action plan, see the end of this chapter.

The best way to keep people involved is to give them clear goals that are **SMART**:

Specific

Measurable

Attainable

Relevant

Time-Based

Many well-intentioned groups fall apart after only a few meetings because people start to lose sight of what they should be doing. Ensuring your tasks are well thought out will allow you develop an action plan at your very first meeting that will help your campaign stay organized and on track. If the members of your group feel purposeful, they are likely to sustain their motivation. Action items need not be overly complex and involved. They may be as simple as typing up the minutes from the meeting, getting two people to call local leaders, gathering contact information for key officials, designing a flyer, brainstorming fundraising ideas, etc. After drafting your action plan, look it over and start delegating tasks to help advance your **SMART** goals.

Remember to delegate.

By developing an action plan, you will be better able to delegate tasks effectively. Remember that organizing is inherently collaborative and that no one person can take on every responsibility. Sharing that responsibility allows others to feel like they are an essential part of the group and will help keep you from feeling overwhelmed.

8. Take Care of Yourself and Each Other

Remember, the corporations and governmental institutions you are grappling with have far more resources than you do, in addition to experience weathering grassroots opposition. You will probably not be able to *quickly* defeat a proposed facility or bring a facility into compliance with controlling regulations. It will take time to defeat a proposal or enforce compliance, and you will likely have to cope with the frustration that comes with challenging entrenched power.

If you don't find joy in the victories along the way, you will burn out. If you don't take care of each other, you will fall apart. So, try to appreciate each other and each accomplishment — they are truly hard to come by.

Also, expect to take some losses. Polluting facilities are counting on you running out of steam, and hope that you give up and go away so they can do

what they want to do without problems. You must be persistent and show them that you are not going anywhere until you are satisfied with the environmental protections afforded to your community.

Always remember that you can call SELC, Hummingbird, or the Turner Environmental Law Clinic if you need help, support, or even just a little motivation!

9. Act

Here are some possible action items. This list is not exhaustive, and we encourage you to be creative!

Action Items

- Post flyers at local establishments.
- Canvass your neighborhood.
- Organize a letter writing campaign: Send letters to local leaders expressing your message.
- Demand a public hearing.
- Attend local planning meetings.
- Join groups with similar missions and get them on board with your campaign.
- Write letters to the editors of local newspapers.
- Host a non-violent public demonstration.
- Do a banner drop: Paint a giant banner and drop it in a visible place (where it is legal to do so) to raise awareness around the issues of concern.
- Hold a press conference.
- Sponsor a lobby day and speak with legislators and regulators.
- Schedule radio and television interviews.
- Contact local schools and get their environmental clubs to help in your efforts.

- Create a petition and get neighbors to sign it — then send it to local leaders.
- Conduct a postcard campaign: Create postcards with your message and have all your neighbors send them to local leaders.
- Submit public comments.
- Bring a legal challenge to a permit.
- Host a potluck or some other community event to raise awareness and gather support from concerned neighbors.
- Call for a private meeting with local leaders or regulators or both.
- Look for or create a hashtag.

Sample Action Plan

Issue

- Our neighborhood is being scoped by landfill developers who are looking to site a landfill in our community.

Goals

- Keep the landfill out.
- Conduct research on what laws and regulations govern landfills.
- Participate in the regulatory process so that our opposition is heard.
 - Find out about opportunities for public comments and public hearings.
 - Be aware of deadlines that may apply!
- Convince county and city officials to object to landfill proposals.
- Go to county and city planning meetings to get our voices heard.
- Canvass the neighborhood to gather support from community members.

Strengths

- One Commissioner is against siting landfills in our neighborhood.
- Local Homeowners' Association is active and willing to be involved.
- Group member is very computer savvy and can design email action alerts.
- Group member is very creative and will help develop a logo/image that we can use to broaden public awareness of the existence of our group.

Weaknesses

- Not much money.
- New to environmental activism.
- Small numbers.

Allies

- One County Commissioner.
- Local business owners.
- Homeowners' Association.

Opponents

- Two County Commissioners.
- Landfill company.

Strategy

- Conduct necessary research (see Goals section).
- Contact all commissioners and decision makers with letters and emails.
- Lobby the permitting authority for strict controls.
- Pass protective land use ordinance that would prevent landfills from being sited in critical areas (Contact Turner Clinic regarding model ordinances that could protect your community).
- Prevent zoning changes that would be necessary to support the landfill.

- Mobilize Homeowners' Association and other residents.
- Educate community members about the dangers of landfills.
- Enlist the services of larger environmental and social justice groups.
- Contact a lawyer regarding possible legal strategies.
- Get media coverage regarding the amount of pollution that already exists in the community — we are already overburdened!

<u>Tactics and Timeline</u>	
August	<ul style="list-style-type: none"> <input type="checkbox"/> Research laws. <input type="checkbox"/> Attend planning meetings. <input type="checkbox"/> Contact Homeowners' Association. <input type="checkbox"/> Contact lawyers.
September	<ul style="list-style-type: none"> <input type="checkbox"/> Canvass neighborhood to educate residents. <input type="checkbox"/> Petition campaign — get residents to sign petition opposing the new landfill. <input type="checkbox"/> Write letter to the editor to get published in local paper <input type="checkbox"/> Contact other environmental groups.
October	<ul style="list-style-type: none"> <input type="checkbox"/> PUBLIC COMMENTS DUE on October 12, 202__. <input type="checkbox"/> Attend public hearing on October 8, 202__. <input type="checkbox"/> Deliver petition to local leaders. <input type="checkbox"/> Letter writing campaign. <input type="checkbox"/> Public non-violent demonstration opposing new landfill.
November	<ul style="list-style-type: none"> <input type="checkbox"/> Public radio interview. <input type="checkbox"/> Host community event to raise awareness. <input type="checkbox"/> Publish update/newsletter highlighting our efforts.
December	<ul style="list-style-type: none"> <input type="checkbox"/> Defeat landfill proposal!!!

Understanding Environmental Justice Citations

^[1] Radley Balko, *There's Overwhelming Evidence That the Criminal Justice System Is Racist. Here's the Proof*, The Washington Post, <https://www.washingtonpost.com/graphics/2020/opinions/systemic-racism-police-evidence-criminal-justice-system/>.

^[2] In the Dark, Season 2, <https://features.apmreports.org/in-the-dark/season-two/>.

^[3] Parker Yesko, *Mississippi to pay Curtis Flowers \$500,000 for his decades behind bars*, APM Reports (March 2, 2021), <https://www.apmreports.org/story/2021/03/02/mississippi-to-pay-curtis-flowers-500000-settlement-for-decades-behind-bars>.

^[4] Michael Tesler, *The Floyd Protests Have Changed Public Opinion about Race and Policing. Here's the Data*, The Washington Post (June 9, 2020), <https://www.washingtonpost.com/politics/2020/06/09/floyd-protests-have-changed-public-opinion-about-race-policing-heres-data/>.

How Environmental Laws and Tools Can Help Your Community

Regardless of race, color, or income, everyone deserves environmental justice and equal protection from environmental harms and risks.

Environmental laws are the rules that protect people and the environment from pollution and toxic chemicals. Environmental laws:

- Manage and protect our air and water quality.
- Manage the storage and disposal of toxic wastes.
- Support the sustainability of our natural resources.
- Empower agencies like the Environmental Protection Agency (EPA) to create rules and regulations to protect the environment.

Although environmental laws can seem technical and difficult to understand, you and your community can learn to use these laws to help deal with environmental concerns and health risks and to even hold lawbreakers accountable.

Using the EJ Green Book

The EJ Green Book was created to help you understand how environmental laws interact with your community. Although some environmental issues are complex and may require the assistance of an experienced attorney, this toolkit will provide you with a good starting point to help you identify:

- **which questions** you should be asking,
- **what information** you will need, and
- **what tools are available** to you and your community.

Although the EJ Green Book is not a substitute for the knowledge and experience of professionals, you can achieve a lot with this information.

The EJ Green Book **covers many of the environmental regulations and laws that you should be aware of** as you start addressing the environmental concerns of your community. However, **this toolkit is meant to serve as a starting point** and not a complete reference to all the different types of laws, agencies, and environmental issues you might face.

Environmental law involves many government agencies and is administered and enforced through lots of different laws and branches of government. For this reason, you should always conduct additional research to determine which law or agency is most relevant to the specific issue you are trying to address. Your specific situation might not be covered by this toolkit, but you will still find the major tools and resources necessary to know how to identify potentially applicable laws and what steps to take once you do.

As a first step, this chapter introduces the different areas regulated by environmental laws, who environmental laws protect, the tools and opportunities that are available to you, and how you can use those tools to help you achieve environmental justice for your community. When you understand these tools and opportunities, you can recruit and educate other members of your community to make sure that everyone is represented and included.

Remember, there is strength in numbers, and there are many organizations throughout Georgia that can provide support and expertise to your cause.

Identifying the Issues

Although the purpose of environmental laws is to protect people and the environment from pollution and toxic chemicals, most environmental laws are tightly focused on specific issues. Being able to identify what issues are relevant to your community and which laws apply to those issues can help you address those concerns.

A sampling of the specific areas covered by environmental law that you might find useful are:

Pre-Construction Environmental Review

One of the most powerful environmental laws is the National Environmental Policy Act (NEPA), which requires that the government take a “hard look” at the potential environmental impacts from a project before beginning construction.

NEPA allows for public involvement and provides a chance for communities to have their voices heard *before* a project that may harm them is approved.

See National Environmental Policy Act for more about this law and opportunities for public engagement.

Land Use Planning and Zoning

In the context of environmental law, **land use** means the economic and cultural activities that are allowed on a specific piece of land and the control of nuisances.

Examples of these practices may include agriculture, industrial, mining, and even residential uses. The legal system that implements what types of uses are allowed in certain locations within a county or city is called **zoning**.

Because changes in land use and zoning occur constantly and can have significant and cumulative effects on the quality of a community’s climate, health, air, water, and waste generation, it has become a critically important area of environmental law.

See Land Use Planning and Zoning to learn more about how you can participate in the land use planning and zoning processes.

Waste Management, Landfills, and Hazardous Waste

Environmental laws also regulate household, industrial, and hazardous waste under federal and state laws. The goal of these laws is to protect communities from the potential dangers of improper waste disposal, to preserve natural resources through recycling, and to clean up land that may have been contaminated by improper waste disposal.

See Solid Waste Management and Landfill Permitting and Hazardous Waste, Toxic Substances, and Contaminated Land Cleanup for more about how household and hazardous wastes are regulated.

Lead is a common pollutant that causes terrible harms, especially to children, and can be found in air, water, paint, dust, and soil. **See Lead Contamination for more information specific to lead.**

Water Quality

Although the Clean Water Act establishes the basic rules through which government agencies must regulate the discharge of pollution into our waters, environmental agencies have a broader mandate to protect clean and safe drinking water. This often means working with local wastewater treatment plants, addressing pollution issues, and protecting rivers and streams.

See Water Quality Permitting and Protecting Your Drinking Water for more about how water pollution and drinking water are regulated.

Air Quality

The Clean Air Act gives environmental agencies the authority to limit the emissions of air pollutants coming from sources like chemical plants, industrial sites, and businesses. These agencies must set appropriate limits on how much of these pollutants can be in the air to protect air quality for communities.

See Air Pollution for more about protecting air quality and regulating pollution.

Electric Utilities

In Georgia, there are opportunities for communities to participate in the decision-making process of electrical utility companies. Communities can advocate for different types of power generation, switching from more-polluting to less-polluting kinds of generation technology, and lower electrical costs.

See Electric Utility Regulation in Georgia for more about how electrical utilities are regulated in Georgia.

As you decide to tackle an environmental issue or concern in your community, you may wonder what types of programs, resources, or tools are available to empower you.

The next sections will present you with a range of government processes, online resources, and specific legal actions that can serve as your tools to address environmental issues to achieve important outcomes for your community.

While some of these tools are mechanisms and resources that are established by our laws, others are more informal – platforms and programs offered by environmental agencies to support your organizing efforts by providing you with the information, technical support, and planning resources that you need to be a successful advocate for your community.

Using Legal Tools

Many mechanisms and tools are already built into our environmental laws and are an important part of the lawmaking process. Even though these tools can seem challenging, they are often very straightforward and offer the **greatest potential for positive results** when used properly.

The EJ Green Book will help you learn how to effectively use these tools with your community and will address many of your questions and concerns.

Accessing Public Records and Meetings

Federal, state, and local governments are required to keep records about polluting facilities that are available to the public. Knowing how to use the law to access these records can be a great tool for you to obtain the information you need to help address environmental concerns in your community.

You can learn more about how to access these records in **Accessing Public Records and Meetings**.

Submitting Public Comments

When government agencies create, change, or get rid of a rule, they often do so through a process known as rulemaking. These agencies are required by law to let the public know about these new or changed rules and to accept comments from interested individuals or organizations before approving the new rule.

This process is known as “**notice and comment rulemaking**” and it is a great way to directly submit feedback or concerns about a specific law, project, permit, or rule affecting your community. You can also submit comments on Environmental Impact Statements, which are an analysis of the potential impacts of and alternatives to a project. The National Environmental Policy Act (NEPA) requires Environmental Impact Statements for some types of projects.

You can find more general information about how to be involved in public commenting in Submitting Public Comments and more information about how to engage in NEPA processes in The National Environmental Policy Act.

Environmental Justice Complaints

As you learned in **Where You Live Affects Your Health** and **The Environmental Justice Movement**, environmental injustice primarily affects Black and low-wealth neighborhoods.

If your community is being disproportionately burdened with environmental harms, you can help address these types of issues by filing a complaint with the EPA under Title VI of the Civil Rights Act, although this particular tool has some unique challenges.

For a detailed explanation and guidance for navigating the complaint process, see The Title IV Environmental Justice Complaint.

Administrative Appeals in Georgia

Sometimes the government gets it wrong when issuing a permit for a project or facility, but you and your community still have an important role in helping to correct these mistakes.

In Georgia, the Environmental Protection Division (EPD) has an administrative hearing process that requires the agency to review a specific permit that may have been improperly used or granted by the agency. This process is called an **“Administrative Appeal,”** and is kind of like a lawsuit, but does not use the court system. This makes it a quicker and less expensive option.

Check out Administrative Appeals in Georgia to learn more about how this process works.

Citizen Suits

If you have evidence or good reason to believe that the government or a private organization is breaking an environmental law or not complying with the terms of a permit, you may have the right to file a lawsuit to stop them.

Most federal environmental laws have a section known as “**citizen suit**” provisions. These provisions allow ordinary citizens to act against environmental injustice and can be a very powerful tool when used properly. However, they can also be expensive, difficult to win, and time-consuming.

To learn more about citizen suits and how they can be used, please see **Citizen Suits**.

Using Other Tools Provided by Environmental Agencies

In addition to the formal tools offered by environmental laws, government agencies such as the EPA and Georgia’s EPD offer grants and programs specifically designed to help communities address environmental concerns.

Here are a few resources that you might find useful as you start working with your community to tackle environmental issues:

EPA’s Environmental Justice Grants

These grants are meant to support and empower communities as they develop solutions that can help address environmental or public health concerns. You can learn more about these grants on the EPA’s **Environmental Justice Grants, Funding and Technical Assistance resource webpage**.

Climate Change Adaptation Resource Center (ARC-X)

The EPA’s **Climate Change Adaptation Resource Center (ARC-X)** is an interactive resource to help local governments effectively deliver services to their communities even as the climate changes.

Green Power Partnership

The EPA's **Green Power Partnership** is a national voluntary program that supports the organizational procurement of green power by offering expert advice, technical support, tools, and resources. By working with the EPA, you can help your community lower the costs involved with transitioning to greener more renewable sources of energy.

Green Infrastructure Wizard

Green Infrastructure Wizard (GIWiz) is a cross-agency collaboration involving EPA's Office of Research and Development, Office of Policy, Office of Water, and Regional staff.

GIWiz is an interactive web application that connects communities to EPA's tools and resources designed to support and promote sustainable water management and community planning decisions. The tools and resources available through the platform can help communities better analyze environmental problems, understand management options, analyze the costs and benefits of solutions, and develop education and outreach campaigns.

Household Carbon Footprint Calculator

Many activities cause emissions of greenhouse gases. For example, you produce emissions from burning gasoline when you drive, burning oil or gas for home heating, and while using electricity generated from coal, natural gas, and oil.

The **Carbon Footprint Calculator** can help you and your community educate others about emissions and can help you obtain the information you need to support community efforts to reduce environmental impacts.

EPA's Sustainable Design and Green Building Toolkit

The **Sustainable Design and Green Building Toolkit** was designed by the EPA to help local governments identify and remove barriers to sustainable design and green building in their permitting processes.

This tool can be used by members of a community to advocate for improvements to local building codes and ordinances that affect the design and construction of buildings in a way that minimizes the effects on the environment.

Additional Resources from Federal and State Government Agencies

For more resources to support sustainable communities, the EPA provides a range of helpful tools: **Tools and Resources for Sustainable Communities**.

In the EJ Green Book, you will also find many more tools and resources to aid your efforts:

- **Appendix A: Legal Resources** links to various online legal resources.
- **Knowing What's in Your Neighborhood** introduces various tools and instructions for finding information about your community.

In summary, environmental law can help you:

- Learn how a rule, regulation, or government action will affect your community.
- Ensure that agencies hear your environmental concerns and consider all the facts that are relevant to your community before making decisions.
- Provide input on the decisions that impact your environment.
- Assist government agencies in identifying and addressing specific violations of environmental law or unlawful pollution.
- Advocate for laws and regulations that are more inclusive and address the concerns of underrepresented individuals.
- Educate your community on how to become more involved in government decision making and environmental justice.
- Hold polluters accountable and force them to clean up the impacts of their pollution.

What is an Environmental Agency?

Environmental laws do not exist in a vacuum. They depend on federal, state, and local government bodies, staffed by experts in environmental issues, who set standards, supervise cleanups, issue permits, and decide how to invest available funding. These groups are usually called “**administrative agencies**” or just “**agencies.**”

Our government works by having Congress or state legislatures *pass* laws, but the legislature entrusts the *implementation* of those laws to subject-matter experts at agencies.

To use a specific environmental law, you should also understand which agency enforces it. This can change depending on the statute. Making sure you are talking to the right agency can avoid wasted time and unnecessary frustration. To correctly identify which agency to contact, first identify the environmental statute you are looking to apply, and then determine who has the power to enforce it.

If you are concerned about a proposed project or existing facility, several different laws might be at issue, so make sure to check each and assemble a list of **all** the agencies that might be involved in an environmental decision. For example, a factory or power plant may create both air and water pollution, *and* generate hazardous solid waste, so a minimum of three different laws would be applicable.

This chapter will provide a general overview and a breakdown of the federal and state agencies that might be able to help you.

Federal Agencies Overview

Several federal agencies implement environmental pollution laws, ranging from the best known, the **Environmental Protection Agency**, to a variety of agencies like the **Department of Health and Human Services**, **Department of the Interior**, and the **Department of Defense**.

Most federal agencies maintain offices in cities across the country, and many have regional headquarters for the Southeast here in Atlanta. These regional offices handle decisions involving individual projects and facilities and they will serve as primary contacts for federal actions that affect your community.

Agencies often contain sub-agencies, with a narrower focus than the parent agency. Some agencies are divided into “regions,” each of which focuses on a specific geographical area of the country. When reaching out to an agency about an issue in Georgia, make sure you are contacting the right regional office for Georgia.

Some of the agencies specifically dealing with environmental issues include:

The U.S. Army Corps of Engineers (USACE) of the Department of Defense issues dredging permits and discharge permits for dredged or fill material being put into wetlands and other waters under the Clean Water Act.

The Agency for Toxic Substances and Disease Registry (ATSDR) within the Centers for Disease Control (which itself is a sub-agency of the Department of Health and Human Services), conducts health assessments of contaminated sites (“Superfund sites”).

The Environmental Protection Agency (EPA) serves as the primary administrator and enforcer of most environmental laws. The EPA can have different roles depending on the law. This includes conducting research and monitoring, supervising hazardous waste site cleanup, setting standards, and issuing rules, regulations, guidance, and permits across the country.

The Food and Drug Administration (FDA) of the Department of Health and Human Services administers food safety programs under the federal Food, Drug and Cosmetics Act.

The U.S. Department of Agriculture (USDA) administers programs to prevent agricultural chemicals and other pollutants from contaminating surface water and groundwater. The agency also provides grants and technical assistance to help farmers comply with environmental requirements.

The U.S. Fish and Wildlife Service (USFWS) within the Department of the Interior (DOI) must be consulted by other federal agencies whenever an action may jeopardize the existence of a land-based or freshwater endangered species, and helps the other consulting agency come up with alternative means to conduct the action without harming endangered species. If the endangered species lives in the ocean, then the **National Marine Fisheries Service** (NMFS) performs the same function.

Federal Agency Breakdown:

Relevant Agencies and Departments for Environmental Issues

U.S. Environmental Protection Agency (EPA)

- EPA is divided into ten “regions.” Georgia is in **Region 4**.

U.S. Army Corps of Engineers (USACE)

- USACE is divided into nine “divisions.” Georgia is in the **South Atlantic Division**.

Department of Health and Human Services (HHS)

- Like EPA, HHS is divided into ten regions. Georgia is in **Region 4**.
 - Agencies within HHS:
 - **Federal Food and Drug Administration (FDA)**
 - **Centers for Disease Control (CDC)**
 - **Agency for Toxic Substances and Disease Registry (ATSDR)**

U.S. Department of Agriculture (USDA)

- Agencies within USDA:
 - **U.S. Forest Service**
 - Like EPA, the Forest Service is divided into ten regions. Georgia is in **Region 8**.
 - **Natural Resources Conservation Service (NRCS)**
 - NRCS is divided into four regions. Georgia is in the Southeast Region.

Department of Interior (DOI)

- DOI is divided into twelve regions. Georgia is in **Region 2**.
- Agencies within DOI:

- **U.S. Fish and Wildlife Service (FWS)**
 - FWS is divided into eight regions. Georgia is in **Region 4**.
- **Bureau of Land Management (BLM)**
 - BLM is divided into twelve regions. Georgia is in **Region 2**.
- **National Park Service (NPS)**
 - NPS is divided into twelve regions. Georgia is in **Region 2**.
- **Office of Surface Mining Reclamation and Enforcement (OSMRE)**
 - OSMRE is divided into twelve regions. Georgia is in **Region 2**.

State Agencies Overview

Working in conjunction with the EPA, state environmental agencies are the primary **enforcers** of environmental statutes. Some states have multiple environmental agencies, with separate agencies handling different programs, but Georgia only has one: the **Georgia Environmental Protection Division (EPD)**. The EPD is part of the Georgia Department of Natural Resources. This agency is explored in greater detail in **Environmental Agencies in Georgia**.

This overview focuses on the relationship between the federal government and the state agencies tasked to carry out certain environmental statutes as mandated by the federal agencies. The concept of sharing power between the federal and state government is called *federalism*. The most important aspect of federalism (for the purposes of this handbook) is that sometimes a state is granted authority to administer any or all programs under one of the national environmental laws instead of a federal agency. This is called **“delegated authority.”**

Each law differs in what states may administer. For example, laws governing pesticide use are handled only by the EPA, but the Clean Water Act “delegates” the authority to issue permits for the discharge of pollutants into water to individual states. Whether or not a particular law has delegated authority to the

state impacts whom you should contact about a violation of that law – the state agency or the federal agency.

Regardless of a state having program authority, the EPA or other administering agency has a continuing obligation to review state decisions, with many statutes including a veto provision allowing EPA or another federal agency to step in if it disapproves of a state agency's decision. **When you are working with or petitioning a state agency, be aware of what federal agency might also have authority in the situation.**

Georgia Agency Breakdown: Relevant Agencies and Departments for Environmental Issues

Georgia Department of Natural Resources (DNR)

- **Environmental Protection Division (EPD)**
 - See **Environmental Agencies in Georgia** for a detailed breakdown of the various environmental branches and programs within EPD.

Georgia Department of Public Health (DPH)

- **Environmental Health Office**

Environmental Agencies in Georgia: Who's Who?

In addition to the federal agencies discussed in **What is an Environmental Agency?**, several agencies in Georgia address environmental issues at the state and local level.

This chapter provides more information about agencies and offices addressing environmental issues in Georgia. It provides a brief overview of the issue areas and contact information.

Environmental Protection Division

In Georgia, the **Environmental Protection Division** (EPD) of the Georgia Department of Natural Resources is the principal state agency tasked with implementing most of the environmental pollution laws. The EPD is “delegated” authority by the Environmental Protection Agency to administer many of the federal environmental laws at the state level.

Additionally, the EPD has authority under Georgia environmental statutes to deal with issues like waste, water supply, surface mining, and underground storage tanks. The EPD oversees all state environmental programs (such as air pollution control, water pollution control, and hazardous waste regulation and cleanup).

This means that the EPD has the authority to issue or rescind water pollution and air pollution permits, as well as permits authorizing landfills. Examples of permits issued by the EPD to regulate water pollution include the National Pollutant Discharge Elimination System permits for discharges directly into state waters, Land Application System permits for discharges of wastewater on land, Industrial Pretreatment permits for industrial water that is sent to treatment

centers, and Underground Injection Control permits for injecting any fluid material into the earth.

Additionally, the EPD issues water permits for establishing drinking water systems, permits for building within state-mandated buffer areas surrounding waterways, and various water withdrawal permits (permits to take water out of a lake or river, rather than to discharge something into the lake or river).

Under Georgia's Clean Air Act State Implementation Plan, the EPD regulates air pollution by authorizing permits. Examples include permits for any facility that releases hazardous emissions, permits for new or modified sources of air pollution (these include sources that have not had a permit before or need a new permit to address expansions), and other sources of air pollution.

To prevent and clean up pollution of soil, the EPD authorizes Solid Waste Handling permits, Surface Mining permits, and permits under the Resource Conservation and Recovery Act. For more information about landfill, waste, water, and air permitting, check out these EJ Green Book pages: **Solid Waste Management and Landfill Permitting; Hazardous Waste, Toxic Substances, and Contaminated Land Cleanup, Water Quality Permitting, Protecting Your Drinking Water**, and **Air Pollution**.

Specifically, the EPD:

- Issues and implements state laws, rules, and policies to protect human health and the environment in Georgia.
- Issues guidance on how the environmental rules and regulations should be put into action.
- Issues or denies environmental permits and other approvals.
- Enforces environmental laws and brings enforcement actions against polluters (entities who release pollutants without a permit, or in violation of their permits).
- Responds to citizens' queries and complaints.

EPD Contact Information

EPD Headquarters and Regional Offices

EPD's state headquarters is in Atlanta:

Georgia Department of Natural Resources

Environmental Protection Division

2 Martin Luther King Dr.

Suite 1152 East Tower

Atlanta, GA 30334

Telephone: (404) 657-5947

www.gaepd.org

The EPD staffs an emergency number for spills or chemical releases requiring immediate attention: (800) 241-4113

The EPD provides a map of the regions of Georgia covered by each regional office. The EPD has regional offices located in:

- Albany (Southwest District) (229) 430-4144
- Athens (Northeast District) (706) 369-6376
- Atlanta (Mountain District) (404) 362-2671
- Augusta (East Central District) (706) 667-4343
- Brunswick (Coastal District) (912) 264-7284
- Cartersville (Mountain District) (770) 387-4900
- Macon (West Central District) (478) 751-6612

EPD Branches

Within EPD, there are several branches addressing different types of pollution. You will want to contact the appropriate branch.

EPD Air Protection Branch

The **Air Protection Branch** is responsible for regulating emissions into the air from industrial sources like factories or power plants. This Branch responds to problems affecting the air quality of the state.

Georgia Department of Natural Resources

Environmental Protection Division

Air Protection Branch

4244 International Parkway, Suite 120

Atlanta, Georgia 30354

Telephone: (404) 363-7000

Fax: (404) 363-7100

<https://epd.georgia.gov/air-protection-branch>

EPD Air Protection Branch: Radiation Protection Program

The Air Protection Branch also administers the **Radiation Protection Program**, which regulates use of any radioactive materials except those at nuclear reactors (which are regulated at the federal level).

Georgia Department of Natural Resources

Environmental Protection Division

Air Protection Branch: Radiation Protection Program

4244 International Parkway

Atlanta, Georgia 30354

Telephone: (470) 524-0690 or (404) 362-2675

<https://epd.georgia.gov/air-protection-branch/air-branch-programs/radiation-protection-programs>

EPD Watershed Protection Branch

The **Watershed Protection Branch** is responsible for regulating water quality by issuing permits to industry and local governments to release treated waste and stormwater. The Branch also monitors and models the waters of the state. This Branch responds to problems involving untreated releases into streams and rivers.

Contacts for issue-specific questions, such as stormwater, groundwater, or drinking water, can be found on the Watershed Protection Branch's **website**. Click on the link for "Watershed Protection Branch organization chart and phone list" to download an up-to-date list.

Georgia Department of Natural Resources

Environmental Protection Division

Watershed Protection Branch

2 Martin Luther King, Jr. Dr., Suite 1152

East Tower Atlanta, GA 30334

Telephone: (404) 463-1511

Fax: (404) 656-2453

<https://epd.georgia.gov/about-us/watershed-protection-branch>

EPD Land Protection Division

The **Land Protection Branch** manages the disposal and treatment of solid waste in landfills. This Branch responds to problems such as improper management of landfills and leaking underground storage tanks.

Contacts for issue-specific questions, such as hazardous waste, solid waste, or underground storage tanks (USTs), can be found on the Land Protection Branch's **website**. Click on the link for "Land Protection Branch organization chart and phone list" to download an up-to-date list.

Georgia Department of Natural Resources
Environmental Protection Division
Land Protection Branch
4244 International Parkway, Suite 104
Atlanta, Georgia 30354
Telephone: (404) 362-2537
Fax: (404) 362-2580
<https://epd.georgia.gov/about-us/land-protection-branch>

Other Agencies

In addition to EPD, a number of other state and local agencies can be important players as well, either because they administer parts of environmental laws or because they have major influence over decision-making. Some of these important agencies in Georgia are:

Coastal Resources Division

The **Coastal Resources Division** (CRD) of the Georgia Department of Natural Resources has primary responsibility for managing Georgia's marshes, beaches, and marine fishery resources. CRD is based in Brunswick, Georgia, and it:

- administers permitting programs under the Coastal Marshlands Protection Act, Coastal Management Act, and Shore Protection Act;
- issues revocable licenses for use of state-owned water bottoms; monitors coastal water quality; and
- manages shellfish harvest areas.

CRD also conducts research; sponsors management and development activities associated with recreational and commercial fishery resources; and builds boat ramps and fishing piers.

CRD is involved whenever marshlands are potentially impacted. The scientists at CRD can also be consulted for permitting decisions if any fishery resources may be impacted. There is a wealth of scientific studies created by CRD that can be helpful to discover or demonstrate harm to delicate coastal ecosystems.

Georgia Department of Natural Resources
Coastal Resources Division
One Conservation Way, Suite 300
Brunswick, Georgia 31510
Telephone: (912) 264-7218
<https://coastalgadnr.org/>

Wildlife Resources Division

The **Wildlife Resources Division** (WRD) of the Georgia Department of Natural Resources regulates hunting, fishing, and the operation of watercraft in Georgia. Headquartered in Social Circle, Georgia, WRD also protects non-game and endangered wildlife, including plants, maintains public education, and conducts scientific research to ensure that Georgia's natural resources will be conserved for present and future generations. WRD can weigh in on permitting decisions, depending on wildlife that may be impacted by a given permit (for example, a landfill or a project requiring clear-cutting).

Georgia Department of Natural Resources
Wildlife Resources Division
2067 U.S. Hwy. 278 SE
Social Circle, Georgia 30025
Telephone: (706) 557-3333
<https://georgiawildlife.com/>

Department of Community Affairs

The **Department of Community Affairs** (DCA) has many programs and initiatives promoting community and economic development and providing affordable housing. One of DCA's charges is to promote sustainability, environmental protection, and enhanced quality of life by encouraging local implementation of generally accepted best growth and development practices.

DCA is a particularly good resource for solid waste management issues like landfills. DCA gets involved when a landfill is proposed for a county or town, because DCA's Solid Waste Management & Recycling Assistance Program assists local governments in planning how to meet their solid waste management needs, offers technical assistance and training in waste management issues for Georgia's local governments, and works with counties on their solid waste management plans, which are required to be approved and in place before a landfill can be sited. See **Land Use Planning and Zoning** and **Solid Waste Management and Landfill Permitting** for more on local government planning and landfill permitting.

Georgia Department of Community Affairs
60 Executive Park South NE
Atlanta, Georgia 30329
Telephone: (404) 679-4840
<https://www.dca.ga.gov/>

Public Service Commission

The **Georgia Public Service Commission** (PSC) is made up of five elected commissioners whose job is to regulate telecommunications, electrical, transportation, and natural gas services in Georgia. The PSC is supposed to ensure that rates for these services are fair to both Georgia consumers and the industry. For example, it is the PSC that decides rates for pay phones and sets the rates you pay for electricity from Georgia Power.

While the PSC does not have direct control over environmental issues, many of the decisions that it makes have an impact on the amount of dirty air that we breathe, because the PSC regulates how power companies like Georgia Power generate electricity. For example, the PSC may consider proposals by power companies to allocate profits to installing pollution control equipment on power plants. See **Electric Utility Regulation in Georgia** for more on electric power regulation in Georgia and the PSC.

The PSC also works to educate consumers. The Commission publishes a brochure outlining consumers' rights and ways you can protect against overbilling and ensure quality services. The PSC accepts complaints and conducts investigations on behalf of consumers. You can **file a complaint online**. Under the "Consumer Corner" tab across the top select "File a Complaint" and follow the directions for complaints regarding electricity, telecommunications, or natural gas providers.

The PSC does **not** have jurisdiction over MARTA, cable television, cellular phone services, water, or sewer services, or over some types of smaller electrical power companies. Contact your service provider directly for concerns regarding these services.

Georgia Public Service Commission
244 Washington Street, SW
Atlanta, Georgia 30334
Toll-free in Georgia: (800) 282-5813
Metro Atlanta: (404) 656-4501
Email: gapscc@psc.ga.gov
<https://psc.ga.gov/>

Georgia Historic Preservation Division

The **Historic Preservation Division** of the Georgia Department of Natural Resources promotes the preservation and use of historic places for a better Georgia. This division works in partnership with federal and state agencies,

local governments, preservation organizations, community groups, and individuals to achieve appreciation and use of historic resources (homes, forts, schools, other buildings/structures).

The Historic Preservation Division reviews and comments on the thousands of construction projects every year in Georgia that may impact historic structures. This Division can be very helpful in protecting a place or building of special significance in your neighborhood.

Georgia Department of Natural Resources: Historic Preservation Division

Jewett Center for Historic Preservation

2610 GA Hwy 155, SW

Stockbridge, GA 30281

Telephone: (770) 389-7844

Email: historicpreservation@dca.ga.gov

[**https://www.dca.ga.gov/georgia-historic-preservation-division**](https://www.dca.ga.gov/georgia-historic-preservation-division)

Georgia Soil and Water Conservation Commission

The **Georgia Soil and Water Conservation Commission** (GSWCC) works to protect Georgia's soil and water through education assistance and oversight. The GSWCC is in charge of the many flood control dams in the state of Georgia. GSWCC works within its five conservation districts to control soil erosion and surface water pollution due to agricultural practices. The GSWCC works along with the USDA's Natural Resources Conservation Service.

Georgia Soil and Water Conservation Commission

4310 Lexington Road

Athens, GA 30605

Telephone: (706) 552-4470

Fax: (706) 552-4486

Email: gaswcc.swcd@gaswcc.ga.gov

[**https://gaswcc.georgia.gov/**](https://gaswcc.georgia.gov/)

City and County Offices

Local governments can play a major role in the regulation of industry. City and county officials create zoning laws, which ultimately tell industrial companies where they are allowed to site their facilities. Good zoning ordinances can help limit residential exposure to industrial pollution.

Counties and cities also have local Solid Waste Management Plans that regulate landfills and other waste sites. These plans must be at *least* as restrictive as the state plan but *can contain additional regulations and siting restrictions*. Many cities and counties also regulate wastewater.

For more information about how your county or city regulates pollution, contact your local officials and start asking questions! To get started, here are some local offices in Georgia's major metropolitan areas:

Athens-Clarke Sustainability Office

The **Athens-Clarke County Sustainability Office** works to promote practices and policies to reduce the government's environmental footprint.

The Office is involved in management of the county owned greenspace and also runs educational programs to increase sustainability. The office is working toward 100% clean and renewable energy in governmental spaces.

As a part of their Legacy Forest Project the office has tracked the degradation of forest within Clarke County dating back to 1938.

Athens-Clarke County Sustainability Office

Physical Address: 110 Bray Street Athens, GA 30601

Mailing Address: P.O. Box 1868 Athens, GA 30603

Telephone: (706) 613-3838

<https://www.accgov.com/7633/Sustainability-Office>

Atlanta Department of Watershed Management

Atlanta's **Department of Watershed Management** is tasked with the delivery of drinking water to the city of Atlanta as well as the management of stormwater in the city of Atlanta. The Department is also tasked with the release of boil water advisories. This department has water quality reports dating back to 2003 available with information on contaminants and the efforts taken to remove them from drinking water.

City of Atlanta

Department of Watershed Management

72 Marietta Street NW

Atlanta, GA 30303

Water Emergencies or Customer Service: 311 or (404) 546-0311

Open Records Request: (404) 546-1087

<https://www.atlantawatershed.org/>

Atlanta Department of Parks and Recreation

The **Atlanta Department of Parks and Recreation** is in charge of management of the city parks within Atlanta including trails and recreational centers.

The Department of Parks and Recreation is tasked with the maintenance of 3000 acres of greenspace and has created initiatives to expand greenspace within the city of Atlanta. The Department is also in charge of assessing many public trees for removal.

City of Atlanta

Department of Parks & Recreation

160 Trinity Avenue SW, Suites 2200 & 3100

Atlanta, GA 30303

Telephone: (404) 546-6788

<https://www.atlantaga.gov/government/departments/department-parks-recreation>

Augusta Natural Resources Conservation Service

The **Augusta Natural Resources Conservation Service** helps the people of Augusta to conserve, maintain, and improve natural resources on non-federal lands. The department works to protect wildlife habitat and provide technical assistance on environmental issues.

Augusta Natural Resources Conservation Service

452 Walker St., Ste. 220

Augusta, GA 30901

Telephone: (706) 360-2414

<https://www.augustaga.gov/1348/NRCS>

Savannah Office of Sustainability

The **Savannah Office of Sustainability** provides services that promote a healthy environment and community for citizens. The Office works to provide operational savings through efficiency and works to conserve natural resources.

The Office has worked to establish a sustainability plan to increase mobility in the city and energy efficiency through Savannah's 100% renewable energy resolution. The Office is tasked with community education and outreach in the realm of sustainability.

Savannah Office of Sustainability

Mailing Address:

P.O. Box 1027

Savannah, GA 31402

Telephone: (912) 651-6838

<https://www.savannahga.gov/507/Office-of-Sustainability>

Success Story:

Taking Ownership of Our Environment

As you have learned in this toolkit, environmental injustice often impacts small and underrepresented communities.

That is what is happening in **Juliette, Georgia**, a quaint town in Monroe County, about 50 miles from Atlanta, with a population of approximately 3,000 people.

Although Juliette is best known for being the set where the famous 1991 movie “Fried Green Tomatoes” starring Kathy Bates was filmed, **it is also the location of Plant Scherer, the biggest coal-fired power plant in the United States.** With four generating units each capable of producing nearly 930 megawatts of power, Plant Scherer sits at odds with the beautiful rural landscape of Juliette.

Having a power plant like this in your backyard is bound to raise some concerns, and the citizens of Juliette identified several environmental issues affecting the wildlife and water of their community.

Since its first power generating unit opened back in 1982, Georgia Power has seized hundreds of acres, including many homes, to be used as toxic landfills for the plant. Pollution related to the plant has always been a serious concern, and in 2013 the Environment Georgia Research & Policy Center released a report that identified the plant as the largest carbon polluter in the United States. The report focused on the fact that the plant was the largest source of carbon dioxide emissions in the country, contributing significantly to global warming.

So, when Georgia Power decided to request a permit from the Georgia Environmental Protection Division (“EPD”) that would allow Plant Scherer to release wastewater into Berry Creek, Lake Juliette, and the Ocmulgee River, the community decided to do something about it.

Worried about the impact that the permit would have on the water used by their children and homes, community leaders got together with environmental groups and decided to increase their pressure on the EPD to ensure that proper monitoring requirements, strict pollution limits, and appropriate tests were being conducted.

The community decided to hire an independent firm to investigate coal ash contamination in residential water wells and partnered with the Altamaha Riverkeeper. The community worked with their new partners to inform themselves of the laws and regulations surrounding the permit, collect well samples, and obtain more evidence of how the contamination was affecting public health. Based on their work, the group decided to push for the utility company to have to clean up the giant coal ash ponds and address other important air and water quality concerns raised by residents. The group also managed to **raise public awareness** about the issue and **obtained a public meeting** with the EPD's wastewater program manager.

Ultimately, through public commenting, residents were able to identify serious issues with the permit and made it clear that these public waterways belonged to their community and should be protected by laws like the Clean Water Act.

Although there is still a long road ahead, the issues raised by the community have already led to the addition of toxicity monitoring requirements, more stringent pollution limits, and increased site testing. ProPublica has also published an **investigative report** looking at the history of Plant Scherer and the risks it poses the community.

The people of Juliette still face challenges as they seek to ensure environmental success, but their story serves as a reminder that there is strength in numbers and that by working together we can help protect and take ownership of our environment and attract public scrutiny to pollution.

Part II:

Understanding the Laws

The National Environmental Policy Act (NEPA)

The National Environmental Protection Act (NEPA) is one of the most powerful environmental laws because it **requires the government consider the environmental impacts of major federal actions and give the public a chance to comment on those actions**. NEPA is also an important environmental justice tool because it **empowers individuals to communicate directly with federal agencies and offer alternatives to proposed actions**.

To explain what NEPA is, when it applies, and how it can be used to protect communities, this chapter is divided into three main sections.

The first section describes the types of projects that are subject to NEPA review and the steps the government follows to meet NEPA requirements.

The second section provides focused information to help communities become involved in the NEPA process and have their voices heard.

The third section provides links to additional resources for those using NEPA in environmental justice work.

The NEPA Process

NEPA requires federal agencies to consider the direct, indirect, and cumulative impacts of any “major federal action” on the environment, and the alternatives to that action. The NEPA process is the mechanism for the required consideration. This section explains the threshold concept of “major federal action” and then provides an overview of the components of a NEPA review.

What is a major federal action?

In NEPA, Congress recognized the wide range of federal actions that may cause significant environmental effects. NEPA's reach includes more than direct federal actions like interstate highway construction. The types of actions that trigger NEPA review can include:

- Federal construction projects
- Adoption of federal programs
- Plans to manage federal lands and resources
- Federal agency funding of state, local, or private projects where the federal government has some control of the project outcome
- Federal agency approval of grants, licenses, leases, and permits
- Issuing regulations

As this list suggests, NEPA can be applied to any major project — whether on a federal, state, or local level — that is subject to substantial federal control and responsibility. Examples of federal control and responsibility may include federal funding, work performed by the federal government, or permits issued by a federal agency. In 2023, Congress modified what constitutes major federal action by limiting NEPA applicability to projects “subject to substantial federal control and responsibility.” There will likely be agency rulemaking and litigation to clarify and interpret what “substantial federal control and responsibility” means in the context of major federal actions subject to NEPA.

Some projects, like recycling facilities, may only require state and local permits. In cases where there is **no federal involvement, or very limited federal involvement, NEPA does not apply**. However, many of these projects are within the scope of other environmental regulations.

The three main goals of NEPA are transparency, informed decision-making, and giving voice to local communities.

Ideally, these high-level goals are realized during a NEPA review, which is described in the next section.

NEPA Review

When a federal project is proposed that triggers NEPA, the agency must determine what level of review applies before beginning the review process. The three main levels of NEPA review are presented below.

Categorical Exclusion (CATEX)

A Categorical Exclusion is not an actual review. Instead, it refers to categories of actions that have been determined not to have a significant impact on the environment. For example, most renovations or repairs to existing facilities that result in only minor changes would qualify for a CATEX.

If a proposed action falls under a CATEX, no further review is necessary unless extraordinary circumstances exist.

Public input on actions covered by a CATEX are usually limited to the ability to comment on the associated posting in the Federal Register.

Environmental Assessment (EA)

An Environmental Assessment is a preliminary evaluation that an agency performs when an action does not qualify for a CATEX. It looks at the purpose of and need for the project, the project's environmental impact, and alternatives to the project. **The purpose of an EA is to determine whether the project crosses a threshold of significant impact.** The agency must complete an EA within one year of determining an EA is required.

Although there are often opportunities for public involvement in the EA process, each agency is responsible for creating their own procedures to reach out to affected communities. This makes monitoring and engaging in the EA process challenging. The Environmental Impact Statement process offers much greater opportunities for public involvement, as discussed in the next section.

There are two possible outcomes of an EA:

- 1) If the assessment determines that a proposed project will not significantly affect the environment, a **Finding of No Significant Impact (FONSI)** is released and the project proceeds.
- 2) Otherwise, an **Environmental Impact Statement (EIS)** must be prepared.

An EA is usually the most thorough level of review performed before work begins. Every year, the federal government undertakes approximately 50,000 actions that are subject to NEPA review, but only about 500 are deemed to require an Environmental Impact Statement.

Environmental Impact Statement (EIS)

An Environmental Impact Statement is a detailed assessment that is required when any agency proposes an action that has a reasonably foreseeable significant effect on the quality of the human environment. The preparation of an EIS starts with the publication of a **Notice of Intent (NOI)** in the Federal Register and includes a thorough **“scoping”** process.

During scoping, the agency decides what needs to be considered in the EIS, solicits input from other agencies and members of potentially affected communities, and considers what alternatives to the project are available. Next, a draft EIS is made available for public comment for at least 45 days. Then, the agency will consider and respond to all comments and issue the final EIS. The agency must complete an EIS within two years of determining an EIS is required.

The EPA’s office of Federal Activities evaluates the draft and final EIS before the lead agency issues a Record of Decision (ROD) based on the analysis in the final EIS.

In summary: NEPA Levels of Review

If the agency determines that the proposed action falls into a categorical exclusion, no further review occurs. The action proceeds without an EA or an EIS. Otherwise, the agency performs an environmental assessment.

An EA serves the dual purpose of (1) helping an agency decide if an EIS is necessary, and (2) assisting with compliance when an EIS is not required.

If the EA determines an EIS is required, the agency publishes a Notice of Intent (NOI), which signals the start of the EIS process, and then proceeds to prepare an EIS analyzing the impacts and alternatives of the proposed project.

NEPA and Environmental Justice

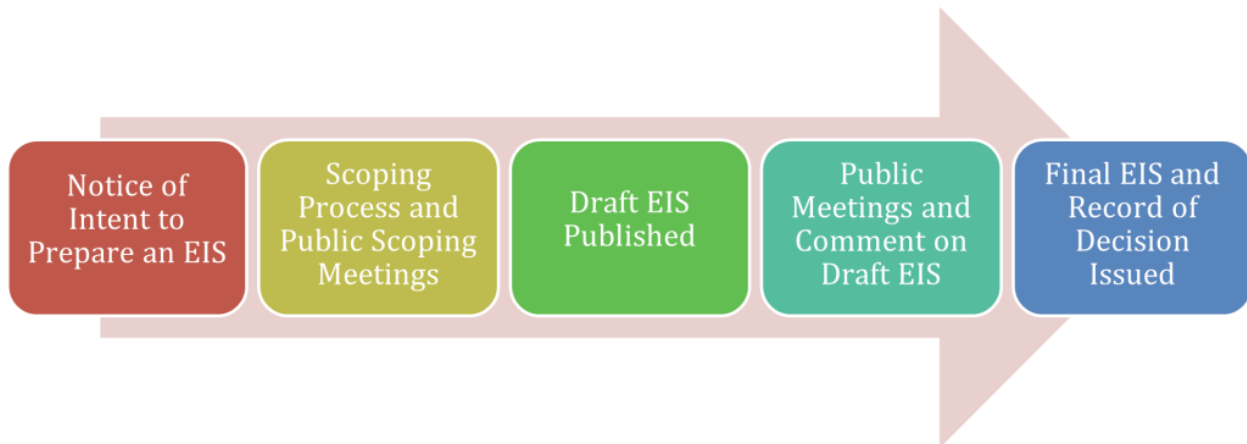
Major federal actions often affect underserved and under-resourced communities. Government agencies attempt to integrate environmental justice concerns into their NEPA review processes, with varying degrees of success. While the environmental justice analyses conducted by some agencies may include reaching out to residents to solicit input, members of affected communities can also take proactive steps to make their voices heard.

When an EA is conducted, agencies are required to make the assessment available to the public, but they are not required to follow a standard method to provide notice. Instead, the methods used to inform the public are tailored to the needs of each case. These methods range from holding public meetings to providing notice of the EA in the Federal Register to publishing notice in local newspapers. Although the objective is to notify all interested or affected parties, the lack of a standard approach to notification and the narrow scope of these assessments can limit the opportunities for community awareness and involvement. In contrast, the process for announcing and preparing an EIS is more formalized. While different agencies may adopt slightly different procedures, there are also many similarities.

As the next section will demonstrate, the EIS scoping process is designed to require community input. Because of the wider reach of an EIS and the more standardized process that directly accounts for community input, communities engaged in the NEPA process should concentrate their efforts on the EIS process. The remainder of this chapter will share that focus.

How to Monitor EIS Activity

The following chart provides an overview of the steps an agency follows as it proceeds through the EIS process:



As shown in the graphic above, once an agency determines an EIS is required, the agency publishes a **Notice of Intent (NOI)** in the Federal Register. The notice of intent announces the proposed action and includes information regarding scheduled meetings and other opportunities for public involvement. A link to the Federal Register is provided in the “Additional Resources” section at the end of this chapter. You can sign up for daily emails from the Federal Register showing all the agency publications for that day.

Ideally, concerned community members would monitor the Federal Register and become aware of activities that could impact their communities as NOIs were published. Realistically, it is not always possible to dedicate the time necessary to proactively monitor for NEPA-related activities. To expand your community’s awareness of potential major federal actions, consider these options:

Build relationships with concerned organizations.

There is strength in numbers. Neighborhood and community organizations may already be monitoring for projects that could impact the areas where they operate. Similarly, reaching out to local and national environmental organizations is an effective way to leverage the efforts of people who are likely to share many of your concerns about potential actions. In areas where a

proposed action may cause pollution to local waters, **regional Waterkeeper Alliance members** can be particularly effective partners.

Contact agencies proactively and ask to be informed.

While it may not be feasible to contact each federal agency to ask to be proactively notified of potential projects, consider which specific agencies are most likely to initiate actions in your area and contact them. For instance, if you live near a congested highway and have reason to believe that major road expansion may take place, contact the Department of Transportation and ask to be put in contact with a public liaison or added to a mailing list.

Reach out to your local city councilperson or county commissioner.

Local government officials can be good source of information regarding potential actions in your area. Your representatives may be able to connect you with others who can help. Your city or county's website can help you locate the councilperson or commissioner who represents your area.

Attend local government meetings.

Depending on where you live, land use issues are discussed in public forums at the city level or county level or both. City Council meetings, County Commissioner meetings, and Planning Commission meetings can help keep you informed of proposed and ongoing projects in your area and give you a sense of which members of your local government and your community area could be allies in your efforts.

Look for signs of impending projects in your neighborhood.

In some cases, there may be actual signs posted to announce a project or a public meeting regarding a project. Less literal "signs" include the presence of surveyors, ground markings, property barriers, heavy construction equipment, and staging areas.

Review local media and publications.

Local news outlets can be a valuable source of information about potential federal actions. Projects that have significant impacts on an area, such as federal construction initiatives or new facilities like power plants, mines, landfills, or highways are likely to appear in news broadcasts, news websites, social media, and print media. Additionally, some agencies use newspapers and news websites to post official notices about proposed actions.

Visit agency websites.

Most federal agencies will have information regarding proposed actions on their website. A complete list of the websites of federal agencies can be found [here](#).

The options listed above will help you stay informed about potential activity. Once an EIS is underway, it is critical to review the Notice of Intent or draft EIS and determine how to proceed. The EPA provides a [searchable database of EIS-related activity](#).

You Found an EIS in Your Community, Now What?

By reviewing a Federal Register notice, contacting the agency conducting the project, or searching the [EPA EIS database](#), you can find out about public meetings, conference calls, formal hearings, informal workshops, and opportunities to submit written comments.

Most of the opportunities for public participation in the NEPA processes begin with the scoping process, but it is sometimes possible to communicate directly with the agency about an action before scoping begins. This can be accomplished by requesting a preliminary meeting. A preliminary meeting is an early informal meeting to discuss the agency's view of the "purpose and need" for the proposed action. The [EPA's Promising Practices document](#) suggests that agencies should agree to such meetings to help focus meaningful engagement on environmental justice issues. Not all agencies will agree to preliminary meetings, and there is no standard method for requesting one.

Your main goal during a preliminary meeting is to identify information you can gather for the formal scoping process. Although a preliminary meeting with the agency may be a valuable tool to help focus your efforts, it is not a substitute for involvement during the scoping process.

Getting Involved in the Scoping Process

Scoping is designed to be an open process where the agency solicits input on the impacts of and alternatives to a project as it determines **what issues it should analyze** during the creation of the EIS. The goal of the scoping process is to inform the public and create opportunities for meaningful engagement.

Usually, at least one public meeting will be held during scoping. The meeting is normally scheduled near the beginning of the process. Details of the meeting will be available in the [EPA EIS database](#) and notice of the meeting may be provided in local publications, direct mail, and through other avenues. If an early informal meeting has already taken place, the information discussed should be used to determine how to engage with the agency in the most effective manner.

In all cases, it is important to prepare for the scoping meeting ahead of time.

Try to determine:

1. What issues you want to address.
2. What other people, groups, and organizations may share your concerns.
3. Which community members should speak at the meeting.
4. How to enlist participation and encourage attendance at the meeting.
5. What other materials, such as letters, emails, photographs, and comments, should be submitted before and after the meeting.

Note: This may require additional meetings and discussions with other community members.

When determining what information to present and what questions to ask at the scoping meeting, some key areas to consider are:

1. Alternatives to the proposed action (discussed in greater detail in the next section);
2. Impacts to the community; and
3. Ways to communicate with the agency as the EIS is being prepared.

NEPA can give communities a voice. As discussed in the next section, one of the best ways to use that voice is to propose or advocate for alternatives.

Proposing Alternatives

When preparing an EIS, agencies are required to analyze a reasonable range of alternatives that are technically and economically feasible and meet the agency's purpose and need. Advocates can use this requirement to attempt to steer the agency to adopt a course of action that is more receptive to the needs of their communities and the environment.

Although agencies are **required to *consider*** reasonable alternatives, they are **not required to *adopt*** them.

To increase the likelihood that your alternative is adopted, consider the following:

- Are there better ways of doing what the agency is proposing?
- What could the agency do with the same level of funding if their primary concerns included the environment and communities?
- Is there some way to achieve what the agency wants without requiring the action they are proposing at all?
- Does your alternative proposal include enough detail to allow the agency to understand why they should adopt it?
- Is your alternative science-based?
- Have you included supporting documents and data?

- Have you listed significant issues raised by your alternative?
- Will you be able to submit your alternative early in the scoping process?

In addition to considering proposed alternatives, **agencies are also required to consider “no action” (and any negative environmental impacts that would result from no agency action) and the “environmentally preferable” action.** Again, they are not required to adopt these alternatives, but knowing that they will be considered may help shape your approach to proposing other alternatives.

What Happens Next? What Does Success Look Like?

When participating in the scoping process, it is important to be aware of the range of potential outcomes. The scoping process and associated community engagement meetings are not legislative or judicial sessions, and there will be no vote to determine if the project will proceed. **NEPA requires that the agency go through a particular process, not that it reach a particular result.**

NEPA requires the agency to solicit input to help guide their action and ensure they consider as many impacts and alternatives as possible.

Success is unlikely to mean that the project does not happen – it is rare that an agency will choose to abandon an action altogether once it reaches the EIS phase of the NEPA process.

However, as described above, effective community engagement can result in the agency considering better alternatives and providing more thorough explanations for its actions, and perhaps choosing an alternative that strikes a balance between achieving the goals of the project and allaying the concerns of the community. Additionally, the cumulative efforts of working with agencies over time can lead to more collaborative and meaningful involvement in future projects.

Commenting on a Draft EIS

Engaging with the scoping process is a powerful tool to help an agency create a better proposal from the beginning. But, often, you will find out about a proposed project later in the process, or once an EIS is published for public comment. Whether or not you have participated in the scoping process, it is crucially important to submit written comments on the draft EIS!

Written comments serve three important functions:

1. They make your concerns and suggestions part of the permanent written record of the project.
2. The law requires that the agency respond to comments it receives on the draft EIS, so you can be sure your comments will actually be read by someone at the agency.
3. If you want to file a lawsuit regarding this project in the future, you **must** have participated in the notice-and-comment process by filing comments!
 - o You must have also commented on the exact issue that you want to file a lawsuit about. Anything not discussed in your comments is considered “waived.” So, make sure to put all your concerns about the project into your written comments!

For more about how to draft organized and compelling written comments, see **Submitting Public Comments**. A template for a public comment letter is included in **Appendix C-5**.

When Engagement is Not Enough

What happens if you engage in the NEPA process, participate in scoping, propose alternatives, and comment on the draft EIS, but the agency still adopts a course of action that will have detrimental impacts on your community?

When the engagement process breaks down and you believe the agency did not abide by NEPA or meaningfully consider alternatives, there are two potential avenues of recourse – administrative appeal and filing a lawsuit.

Administrative appeals are filed directly with the agency that issues the original decision. In an appeal, the agency reviews their decision and affirms or reverses it. Reversals are rare, and not all agencies allow administrative appeals. Administrative appeals before an agency have different requirements for different agencies, and these requirements are often very specific and technical, similar to filing a lawsuit. Refer to the EJ Green Book **Administrative Appeals in Georgia** page for more information about the process in Georgia. Before filing an administrative appeal, it is strongly recommended you consult an attorney. Feel free to contact SELC, the Turner Clinic, or Hummingbird for a referral to an attorney.

Filing a lawsuit is an option when you have either exhausted your opportunities for administrative appeal or when the agency does not allow administrative review. In litigation, the court will consider whether the agency met the requirements of NEPA. The agency will usually win if they can show that they considered alternatives and did not arbitrarily arrive at their conclusions. To maximize your chances of winning, you must leverage the work you performed throughout your engagement with the agency to show that they did not act in compliance with the NEPA process. Litigation can be a powerful tool, but it is a long, difficult, and potentially expensive process. **Before filing a NEPA lawsuit, it is strongly recommended you consult an attorney.** Feel free to contact SELC, the Turner Clinic, or Hummingbird for a referral to an attorney.

Additional Resources

The resources listed below provide additional information on NEPA and using NEPA in Environmental Justice efforts.

General NEPA Information:

- **EPA's NEPA site**
- **Citizen's Guide to NEPA**
- **The Federal Register**

NEPA and Environmental Justice:

- **EPA's Environmental Justice page**
- **2019 Community Guide to Environmental Justice and NEPA**
- **EPA's Guide to Promising Practices for Agencies**
- EPA Guidance Documents for Agencies:
 - **Interim Guidance for Considering Environmental Justice During the Development of an Action**
 - **Final Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses**

Land Use Planning and Zoning

Two major tools help communities decide how to use their land: land use planning and zoning.

Land use planning deals with a community’s vision of its future “look and feel” (called a “comprehensive plan”) and normally operates at a fairly general level.

Zoning is the process that sets what can be done on specific parcels of land. Not every local government in Georgia has zoning regulations, but all are required to have comprehensive plans.

Both the planning and zoning processes can be helpful tools to prevent unwanted uses in your community, but both have limitations.

This chapter explores the planning and zoning processes, opportunities for public engagement, and limitations and challenges. It also provides helpful tools and resources for navigating land use planning and zoning processes in your community.

Land Use Planning

Overview

In Georgia, land use planning is part of a larger scheme called “**comprehensive planning.**” Each local government (county and municipality) in Georgia is required to develop a comprehensive plan that governs future land use, transportation (including the development of roads), and other issues facing towns and cities as they grow and change.^[1]

Georgia law gives the Georgia Department of Community Affairs (DCA) authority to establish standards and procedures for comprehensive planning, including land use planning, by all local governments in Georgia.^[2] The law also establishes **regional commissions (RCs)** to assist local governments in the planning process and to ensure that local planning is coordinated and meets minimum standards.^[3]

There are 12 RCs, each RC covering a **region consisting of 10 to 18 counties**.^[4] A board of elected or appointed officials governs the RCs. The board's officials are from the counties and municipalities incorporated in the region served by the RC.^[5] You can find a map of RCs and the counties they serve **here**.

In October 2018, the DCA revised the rules governing the standards and procedures for local comprehensive planning.^[7] These rules provide the minimum requirements for the development, management, and execution of local comprehensive plans.^[8]

Since the preparation of each element of the comprehensive plan must provide space for community involvement, per the rules, each comprehensive plan creates a powerful opportunity to help shape your community's future.^[9]

Plan Contents

To be consistent with the state rules, each local government must develop, and regularly update, a comprehensive plan with **four components**:^[10]

1. Community Goals

Community Goals^[11] create a long-term strategy for the community to develop a set of conditions that will maximize the well-being of the community's residents. This strategy should establish concepts that can guide decision-making in the community years into the future.

Community stakeholders and leaders should be heavily involved in the very public process of creating Community Goals. Goals should be laid out in a document that can be easily used and referenced by community leaders as they make decisions to best serve their community. Community Goals must include at least one or any combination of the following:

- General vision statement
- List of community goals
- Community policies
- Character areas and a defining narrative of the community

These Community Goals need only be updated so often as the community sees fit.

2. Needs and Opportunities

Local stakeholders and leaders should agree on a list of **Needs and Opportunities**^[12] the community intends to address in the short term (within five years). This list should be the result of a community analysis that examines the **strengths, weaknesses, opportunities, and threats within the community (SWOT analysis).**

If the community chooses to designate a need or opportunity as “high priority,” that need or opportunity must have corresponding implementation measures in the Community Work Program, as described below.

This list must be updated every five years.

3. Community Work Program

The **Community Work Program**^[13] implements the concepts created through the development of the community goals and the list of needs and opportunities. It describes the specific activities the community plans to implement within five years after the adoption of the plan to address the identified needs and opportunities while aiming to achieve the community goals.

The Community Work Program incorporates any activities, initiatives, programs, ordinances, and administrative reviews put in place to carry out the plan. The following information must be included for each activity:

- Brief description of the activity;
- Timeframe for beginning and completing the activity;
- Party responsible for implementing the activity;
- Estimated cost; and
- Funding sources if applicable.

The Community Work Program must be updated every five years.

4. Broadband Services Element

Each local government must develop an action plan for bringing **broadband services**^[14] to unserved areas within its jurisdiction. This action plan must explain the steps to be taken to promote reasonable and cost-effective access to broadband in those areas of the jurisdiction the DCA has deemed “unserved.”

The action plan should include any documentation showing how the community will achieve certification as a *Broadband Ready Community*. Alternatively, the community may have their facilities designated as *Georgia Broadband Ready Community Sites*.

The Broadband Services Element need only be updated at the community’s discretion, but it is designed to emphasize the importance of broadband access throughout the state.

Some local governments require additional elements.

Even when not required, these additional components can be helpful in advancing community development goals and are recommended for many communities.^[16]

Capital Improvements Element

The **Capital Improvements Element** is only required for local governments that are raising money through charging impact fees to build or improve public works like wastewater treatment facilities, roads, parks, or police and fire stations. If a local government is doing so, then it must include a Capital Improvements Element in its comprehensive plan that describes the need for the work to be done, how and where work will be done, and the funding sources to be used. This part of the plan must be updated annually.^[17]

Economic Development Element

The **Economic Development Element** is intended to identify community goals, needs, and opportunities related to economic development and integrate activities addressing those needs into the Community Work Program.^[18] It is required for local governments included in Georgia Job Tax Credit Tier 1.^[19]

With this element in particular, local conditions should be taken into account, including factors such as the diversity of the local labor force and the effectiveness of local economic development agencies, programs, and tools.^[20]

Land Use Element

The **Land Use Element** is required for local governments with zoning or land development regulations subject to the Zoning Procedures Law.^[21] If required, this element must include at least one of the following: a **character areas map and defining narrative** or a **future land use map and narrative**.^[22]

Character Areas Map and Defining Narrative

Character areas are specific geographic areas or districts within a community that have, or have the potential to develop, unique or special characteristics that should be preserved or enhanced (i.e. a downtown, historic district, arts district, neighborhood, etc.).^[23]

A geographic area may also be designated a “character area” if it requires special attention because of unique development issues, such as economic decline.^[24]

Character areas are sub-areas within a community that receive more detailed, small-area planning and regulation to help ensure their development process is in line with the long-term strategy outlined in the Community Goals.^[25] The character areas map must identify and map the boundaries of all character areas in the community and define a specific plan for each one.^[26]

The plan must include the following:^[27]

- Written description and images that make it clear what development patterns are going to be advanced in the character area.
- List of the land uses and zoning categories that will be allowed in the area.
- Identification of specific measures that will be used to achieve the promoted development patterns in the area.

Future Land Use Map and Narrative

A **future land use map** must be prepared that shows the location of specific future land uses described by either a standard categories or Land Based Classification Standards (LBCS) classification scheme.^[28]

Using a standard categories classification scheme means the detailed categories of land uses adopted by the community must be able to be grouped into one of the following categories:^[29]

- Residential
- Commercial
- Industrial
- Public/Institutional
- Transportation/
Communication/Utilities
- Park/Recreation/Conser-
vation
- Agriculture/Forestry
- Undeveloped/Vacant
- Mixed use

Local governments may also use the **LBCS system developed by the American Planning Association** as an alternative to the industry-standard categories.^[30]

The future land use map must also include a narrative that explains how to interpret the map and the meaning of each land use category in the context of the specific community submitting the map.^[31]

Transportation Element

The **Transportation Element** is required only for the areas of a local government's jurisdiction that are included in a Metropolitan Planning Organization; it is not required for the entire jurisdiction of the local government.^[32]

This element is an analysis of the effectiveness of the major components of a local transportation system, including:^[33]

- Roads, highways, and bridges
- Alternative means of transportation such as bicycle lanes, pedestrian facilities, and public transportation
- Parking
- Railroads, trucking, port facilities, and airports
- Transportation and land use connection to verify transportation and land use development policies do not work against one another

This analysis can be supplied by either the Metropolitan Planning Organization's transportation strategy for the region or by the local government developing the comprehensive plan.^[34] It must also include a strategy for addressing the needs and opportunities identified in the analysis to be integrated into the Community Goals, Need and Opportunities, and Community Work elements of the comprehensive plan.^[35]

Housing Element

The **Housing Element** is required for Community Development Block Grant Entitlement Communities, which receive annual grants to help provide suitable housing and expand economic opportunities to low-income residents.^[36]

The purpose of this element is to evaluate the adequacy of existing housing in serving current and future community needs.^[37] Factors that should be considered are:^[38]

- Available housing types
- Condition and occupancy of current housing
- Local cost of housing
- Number of cost-burdened households in the community
- Balance between the number of jobs and the amount of housing available in the community,
- Housing needs of special populations
- Availability of housing options across the life-span

Regional Water Plan Considerations

Each community must consider the **Regional Water Plan** controlling that area and the Department of Natural Resources' **Rules for Environmental Planning Criteria** when drafting each element of their comprehensive plan.^[39]

The Environmental Protection Division (EPD) of Georgia drafted a **State Water Plan** to sustainably manage the state's resources that introduced **Regional Water Plans** for every water planning region.^[40] These regional plans create a comprehensive outline for water management practices across the state in order to best address the future water needs of each region.^[41] Georgia Water Planning's **website** provides a map of the water planning regions and links to each region's water plan.^[42]

The **Rules for Environmental Planning Criteria** provide standards for local governments to follow for the establishment and/or protection of water supply

watersheds, groundwater recharge areas, wetlands, river corridors, and mountains.^[43]

Opportunities for Public Participation

There are several opportunities for public participation through the land use planning process. This section describes how the public can be involved in each step of the process.

First Public Hearing on a New or Updated Comprehensive Plan

The public's first opportunity to influence future land uses comes during the first required public hearing on a new or updated comprehensive plan.^[44]

At the first hearing the community will be briefed on the process that will be used to develop or update the comprehensive plan and will have the chance to provide input on the proposed process.^[45] The locality may not begin developing or updating the plan until public comments have been addressed.^[46]

Submit Public Comments and Feedback

The public then has the opportunity to provide further feedback as the plan is developed or updated.^[47] As previously mentioned, the DCA's rules require the opportunity for community involvement in the preparation of each element of the comprehensive plan.^[48]

Three steps for public participation:^[49]

(1) Identify of Stakeholders

Compile a list of stakeholders^[50] who must have a voice in the development or update of the plan. This list must include members of the community or local government and helps ensure follow-through and plan implementation.

(2) Identify Participation Techniques

At a minimum, a steering committee must be created to both oversee and participate in the creation or update of the comprehensive plan.^[51] Stakeholders identified in step 1, members of the local government, someone involved in local economic development, and local government staff must all be incorporated in the committee.

Examples of other participation techniques can be found in DCA's **Supplemental Planning Recommendations**.^[52]

(3) Conduct Participation Program

Each stakeholder identified in step 1 must be invited to participate in the activities and events chosen in step 2.^[53] Participation events are the perfect chance to contribute specific input on the contents of the plan. The steering committee must hold regular meetings to provide feedback as the plan is being developed or updated.

After taking these steps, add documentation to the comprehensive plan as an appendix showing what community engagement activities occurred and which activities and events contributed to the preparation of the plan.^[54]

- A community's RC can apply to the DCA for approval of alternate planning requirements if a community's leadership and RC conclude these requirements are not the most appropriate for that community and have identified an alternative to these standards.^[55]

You can stay updated on deadlines for comprehensive plan updates for your city or county using the DCA's **website**.^[56] The DCA maintains a schedule of plan updates as well as the specific plan elements that must be included in the update.^[57]

Second Public Hearing

A second public hearing will be held once the plan is drafted.^[58]

At this hearing the community will be briefed on the contents of the plan and have the opportunity to make final suggestions for any additions or revisions.^[59] The community must also be notified of when the plan will be submitted to the RC, although the plan cannot be submitted to the RC until public comments have been addressed.^[60]

This second hearing is the last chance the community will have to voice any questions or concerns before the plan is submitted to the RC for review.^[61]

Once submitted for review, the plan will not be available to the community until it is published for public review.^[62]

Plan Approval and Adoption

After the RC and DCA approve the comprehensive plan, the local government may finally adopt it. In doing so, the local government must publicize the passage of the plan and provide the public with a complete copy for review.^[63]

Having and understanding the plan can help you ensure that future uses remain consistent with it.

Provide Feedback for Potential Amendments

After publication, the local government has the responsibility of maintaining the plan.^[64] This provides the opportunity for public participation in the plan amendment process when deemed appropriate.^[65] Public participation will be required when submitting plan amendments if the DCA decides the amendment may affect the plan's compliance with the minimum standards.^[66]

Staying up to date on your community's comprehensive plan may allow you to retain an active role in the development of the plan even after its publication.

Zoning

What is Zoning?

The second major tool to shape a community's future is **zoning**. In Georgia, local governments control what uses of land are allowed in their communities via zoning or land use ordinances. An ordinance is a law passed by a local government.

In Georgia, "**zoning**" is defined as the power of local governments to provide within their respective territorial boundaries for the zoning or districting of property for various uses and the prohibition of other or different uses within such zones or districts and for the regulation of development and the improvement of real estate within such zones or districts in accordance with the uses of property for which such zones or districts were established.^[67]

Put simply, this means that zoning is the process through which local governments decide WHAT can be done WHERE.

Consistent with this definition, county and municipal governments zone property by passing an ordinance or resolution and a zoning map that together describe and display the allowed uses and development standards of property within the defined zones of the city or county.^[68] For instance, a zoning map might show certain areas zoned as "R-2" and others zoned as "I-1," with a corresponding ordinance explaining that R-2 zoning allows residential development at up to 1 single-family unit per acre and I-1 zoning allows light industrial development that does not cause adverse effects beyond the property boundaries.

If you want to do something on a piece of property that is not allowed under the zoning for that property, you have two choices:

- **Apply for re-zoning** to change the zoning of the property.
- **Apply for a "variance,"** which is asking the county or city for an exception to the normal zoning rules for your property.

Any rezoning of property in Georgia “must be consistent with the land use plan in [a city or county’s] Comprehensive Development Plan.”^[69] The rationale behind this rule is that comprehensive development plans should take precedence over zoning ordinances because the plans are the result of more information, research, and planning than zoning ordinances are.^[70]

Re-Zoning and Variances

Once the local government passes a zoning ordinance allowing certain land uses in a particular area, landowners may not be denied permission to build those facilities within the zoned area (unless the proposal violates other requirements).^[71]

However, if certain land uses are presenting a problem, or if a landowner wants to build something not allowed under the current zoning, zoning ordinances can be amended or property re-zoned to a different classification. Alternatively, the landowner can ask the city or county zoning board to grant a “variance,” which is a one-time exception to the normal rules, rather than changing the zoning entirely.

Re-zoning and variance applications include public participation opportunities that can be an avenue for community members to oppose a potential development that would harm the community.

Public Participation in Zoning, Re-Zoning, and Variance Decisions

Public Notice

Public notice is always necessary when a zoning decision (including a decision to re-zone) is made, although notice requirements are more or less stringent depending on whether the local government itself or a private party initiates the change in zoning.^[72]

At a minimum, the government must advertise and hold a public hearing on the proposed action, at which community members can provide comments.^[73]

Failure to strictly comply with the notice and hearing requirements renders a zoning ordinance passed by a municipality or county void.^[74]

In addition, local governments must adopt standards governing their exercise of the zoning power, including identification of factors relevant to making zoning decisions and development of policies and procedures for public hearings.^[75] The local government must then publish these standards and make them available for distribution to the public.^[76]

Familiarity with those standards is crucial to effectively oppose unwanted land uses, so you should familiarize yourself with your local land use ordinance (see below for more on finding your local ordinances).

In most cases, a property that is the subject of a re-zoning application will have signs notifying readers of the re-zoning application and date of hearing on the application. Keep an eye out for these signs, as they generally are only required to be posted 15 days before the hearing.^[77]

In some cases, if the government (rather than a property owner) initiates the rezoning process, the notice will be published in a local newspaper instead of on signs. If you are concerned about a proposed project, or if you think your local government is working with a company seeking to build a facility, make sure to keep an eye on the newspaper as well as on potential sites for development.

Zoning Hearings

Zoning hearings are conducted in various ways in different counties and cities, so the best preparation you can give yourself is to attend another hearing to observe the procedure. Your county or city's ordinances will usually include some procedures governing hearings.

Below, find general notes to keep in mind when preparing for zoning hearings:

- In some counties or cities, you will need to identify yourself as someone who wants to speak at the beginning of the hearing.
- Generally, the side asking for the re-zoning or zoning variance and the side opposing the re-zoning or zoning variance will each have 10 minutes to speak to the zoning board.^[78]
 - If several people want to speak against a proposal, you may have to share the 10-minute time, so it is helpful to form a group and develop a plan for who will speak about different topics.
- When speaking to the board, **be specific about why you oppose (or support) the proposal in question.** You can suggest ways that the proposal could be changed to account for the community's concerns.
 - It might be helpful for your group to *practice delivering your remarks* before the hearing. You can even have other members of your group pretend to be the board and ask questions for the speakers to practice answering.
- You may want to have a lawyer who specializes in land use issues represent your group at the hearing.

Although public opposition can defeat a proposed change by the local government, that will not necessarily prevent another re-zoning attempt from occurring in the future.^[79] In fact, a local government may consider the same re-zoning proposition at least six months after the re-zoning is defeated.^[80]

Since local governments may consider re-zonings any number of times after they are defeated, persistent developers are often able to push forward zoning changes that are detrimental to communities if public opposition is not forceful and constant.

How to Find and Understand Your Zoning Ordinance

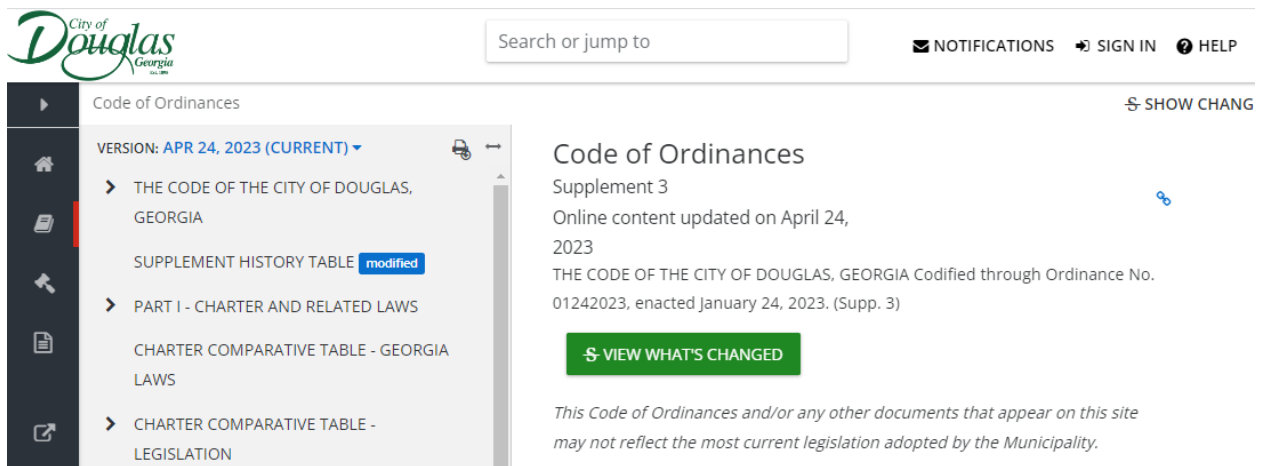
Most of the counties and cities in Georgia have zoning ordinances (although not all), and most of those ordinances are available on a website

called **Municode**. You can also find zoning ordinances on the city or county website.

- You can browse **Municode’s library for Georgia**. Not every county or city in Georgia is on Municode. If your locality is not here, check the city or county website. In some rural areas, you may not be able to access the code online at all.
- If you are having trouble, call the planning and zoning or administrative office for your county or city and ask for help finding the code of ordinances.
- Municode may not provide the most up-to-date code for the city or county you are researching, so it is good practice to check the city or county website as well.

Once you find your county or city’s entry in the Municode library, you may see different options depending on the city or county.

- In this section, we will use **Douglas County** as an example.
- This is what you will see when opening Douglas County’s Municode page:



Important Note: Every county and city will look a little bit different. They do not all use the same terminology or organization, so don’t get discouraged if the Municode page for your area does not look exactly like this. If you get lost, a good place to start is by typing “zoning” into the search box at the top of the

screen, which will help you find the location of the zoning ordinances among the county or city's code.

From here on Municode, scroll through the chapters in the vertical toolbar on the left side of the page – these are the different chapters of ordinances for that county. Look for sections related to land use and development.

- For the Douglas County example, click on “Subpart B – CONSTRUCTION, LAND USE AND LAND DEVELOPMENT” and then scroll to “Chapter 111 – UNIFIED LAND DEVELOPMENT CODE.”
- That will take you to a page with the ordinances regulating building and land use in Douglas County.
- You can also find the **Unified Land Development Code** on the Douglas County website.
 - **Note:** The Douglas County website states that the County website provides the most current copy of the Unified Development Code, not Municode. It is helpful to understand how to navigate Municode but remember to check city and county websites as well!

On Municode, click on “Article II. – DEFINITIONS” in the list of topics on the left side of the webpage.

- No matter which county or city's code you are looking at, a good place to start reading **any** ordinance is with the **definitions section**. That way, when you read what uses are or are not allowed in a specific area, you will know what those terms mean.

Now that you know where to find definitions, return to the list of topics on the left side of the page and click “Article III. – ZONING DISTRICTS.”

- This section provides the ordinances for zoning and land use for Douglas County. Click “Sec. 111-72. – Zoning districts” to see the 13 districts used in Douglas County and learn about the purpose of each district.

- Once you understand what kind of zones the county or city you are researching has, then you need to find out what kind of zoning the specific property or area you are concerned about has. For that, you need a map.

The zoning maps are usually not on Municode — you will need to check the county or city website to find them.

- In our Douglas County example, there are interactive zoning maps available on the [Douglas County website](#).
 - Most other cities and counties will have similar websites – if you’re having trouble, remember you can always call the city or county office of planning and zoning or administrative office and ask where you can see a zoning map.
- Once you find the zoning map, you may encounter more terms that are hard to understand. For example, what’s the difference between a “Neighborhood Commercial” zone and a “Community Commercial” zone?

To find those answers, check the sections of the code that cover the zoning map and districts.

- Remember, for Douglas County, “Article III – ZONING DISTRICTS Sec. 111-72. – Zoning districts” provides this information.
- You will be able to scroll through a list of the different types of zoning in Douglas County and the intended purpose the County had in mind when it set up the system.

Once you know what zone the property you are interested in is, you want to know what uses are allowed or disallowed on that property. To find out, look for a part of the code that contains a list or a table of what is allowed in each zone.

- In Douglas County, that’s in “Sec. 111-73. Table of permitted uses.”
 - Note that the table shows both uses that are always allowed and uses that are allowed with restrictions or a special permit requirement.

Some types of uses are disallowed or strictly regulated across the entire county or city!

- Those uses tend to be uses that have some greater impact on the community, which may be polluting or nuisance concerns, so if you are concerned about a proposal that may impact your community, make sure to check those sections of your local government's land use code.
- In Douglas County, these restrictions are available in **Unified Development Code Article 3** on the **County's website**.
 - Note that there are specific restrictions on environmentally hazardous uses in Section 303!

This section is an introduction, and there is a great deal more information in zoning and land use ordinances that might be of interest to your specific community or relevant to a project you are interested in.

When researching these topics, remember that the definitions section is your friend, that the search bar can help you navigate complex and confusingly organized materials, and that you can always call a public interest law firm, like the Turner Clinic or SELC, if you encounter terms or provisions in the code that you don't understand.

Limitations of Land Use Planning and Zoning

Although the land use planning and zoning processes are powerful tools, they have important limitations.

Reduced Impact on Existing Land Uses

First, land use planning and zoning have little effect on existing uses.

Nearly all planning and zoning laws allow *existing* uses to remain, even if they are inconsistent with the projected future use of the area.

Building Permits Allow Redevelopment Despite Future Zoning Changes

In addition, once a building permit has been issued, a landowner has a right to develop the property pursuant to that permit even if the zoning subsequently changes.^[81]

Even without a permit, a landowner may have a right to develop property pursuant to a plan that has been approved by a county zoning authority — *even if the development plan varies from existing zoning* — if the landowner has already expended a large sum of money or other resources in reliance on the approved plan.^[82]

This means that you should get involved early.

In the context of environmental justice issues, public participation in the initial comprehensive land use planning and zoning phases — before inappropriate projects are proposed — is critical.

Getting involved at the permitting stage of development may be too late. Then, even public participation resulting in the passage of a more restrictive and seemingly preclusive zoning ordinance may not be able to prevent the undesirable facility from being built and operated despite its inconsistency.

Land Use Planning and Zoning Citations

^[1] Georgia Rule 110-12-1-.02.

^[2] O.C.G.A. § 50-8-3.

^[3] See O.C.G.A. §§ 50-8-30, -32.

^[4] O.C.G.A. § 50-8-4(f)(1).

^[5] O.C.G.A. § 50-8-34(b)(1).

^[6] Also available at <http://www.swgrc.org/what-is-a-regional-commission/>.

^[7] Georgia Rule 110-12-1-.01.

¹⁸¹ Georgia Rule 110-12-1-.01.

¹⁹¹ Georgia Rule 110-12-1-.02(2).

¹⁰¹ Georgia Rule 110-12-1-.02(1).

¹¹¹ Georgia Rule 110-12-1-.03(1).

¹²¹ Georgia Rule 110-12-1-.03(2).

¹³¹ Georgia Rule 110-12-1-.03(3).

¹⁴¹ Georgia Rule 110-12-1-.03(4).

¹⁵¹ Georgia Rule 110-12-1-.02(1).

¹⁶¹ Georgia Rule 110-12-1-.02(1).

¹⁷¹ Georgia Rule 110-12-1-.03(5). This element must meet the Development Impact Fee Compliance Requirements, which can be found at <http://rules.sos.state.ga.us/gac/110-12-2> (Georgia Rule 110-12-2). The annual update requirement is in Georgia Rule 110-12-2-.03(2)(3) and (4)(c).

¹⁸¹ Georgia Rule 110-12-1-.03(6).

¹⁹¹ Georgia Rule 110-12-1-.03(6).

²⁰¹ Georgia Rule 110-12-1-.03(6).

²¹¹ Georgia Rule 110-12-1-.03(7).

²²¹ Georgia Rule 110-12-1-.03(7).

²³¹ Georgia Rule 110-12-1-.05(1).

²⁴¹ Georgia Rule 110-12-1-.05(1).

²⁵¹ Georgia Rule 110-12-1-.05(1).

²⁶¹ Georgia Rule 110-12-1-.03(7).

²⁷¹ Georgia Rule 110-12-1-.03(7)(a).

²⁸¹ Georgia Rule 110-12-1-.03(7)(b).

²⁹¹ Georgia Rule 110-12-1-.03(7)(b)(1).

³⁰¹ Georgia Rule 110-12-1-.03(7)(c). For more information on the LBCS project, standards, implementation, and project materials, see <https://www.planning.org/lbcs/>.

^[31] Georgia Rule 112-10-1-.03(7)(b).

^[32] Georgia Rule 110-12-1-.03(8).

^[33] Georgia Rule 110-12-1-.03(8)(a).

^[34] Georgia Rule 110-12-1-.03(8).

^[35] Georgia Rule 110-12-1-.03(8)(b).

^[36] Georgia Rule 110-12-1-.03(9). To learn more about Community Development Block Grant Entitlement Communities, go to <https://www.hudexchange.info/programs/cdbg-entitlement/>.

^[37] Georgia Rule 110-12-1-.03(9).

^[38] Georgia Rule 110-12-1-.03(9).

^[39] Georgia Rule 110-12-1-.02(3). The Rules for Environmental Planning Criteria can be found at <http://rules.sos.ga.gov/gac/391-3-16?urlRedirected=yes&data=admin&lookingfor=391-3-16>.

^[40] See <https://waterplanning.georgia.gov/>.

^[41] See <https://waterplanning.georgia.gov/regional-water-planning>.

^[42] See <https://waterplanning.georgia.gov/regional-water-planning> for a map of Georgia water planning regions. See <https://waterplanning.georgia.gov/regional-water-plans> for each region's water plan.

^[43] Georgia Rule 391-3-16-.01.

^[44] Georgia Rule 110-12-1-.04(1)(a).

^[45] Georgia Rule 110-12-1-.04(1)(a).

^[46] Georgia Rule 110-12-1-.04(1)(a).

^[47] Georgia Rule 110-12-1-.04(1)(b).

^[48] Georgia Rule 110-12-1-.02(2).

^[49] Georgia Rule 110-12-1-.02(2).

^[50] Georgia Rule 110-12-1-.02(2)(a).

^[51] Georgia Rule 110-12-1-.02(2)(b).

^[52] Available at <https://www.dca.ga.gov/node/5903>.

- ^[53] Georgia Rule 110-12-1-.02(2)(c).
- ^[54] Georgia Rule 110-12-1-.02(2)(d).
- ^[55] Georgia Rule 110-12-1-.02(6).
- ^[56] Georgia Rule 110-12-1-.02(5).
- ^[57] Georgia Rule 110-12-1-.02(5).
- ^[58] Georgia Rule 110-12-1-.04(1)(c).
- ^[59] Georgia Rule 110-12-1-.04(1)(c).
- ^[60] Georgia Rule 110-12-1-.04(1)(c).
- ^[61] Georgia Rule 110-12-1-.04(1).
- ^[62] Georgia Rule 110-12-1-.04(1)(m).
- ^[63] Georgia Rule 110-12-1-.04(1)(m).
- ^[64] Georgia Rule 110-12-1-.04(2).
- ^[65] Georgia Rule 110-12-1-.04(2).
- ^[66] Georgia Rule 110-12-1-.04(2)(a).
- ^[67] O.C.G.A. § 36-66-3(3).
- ^[68] O.C.G.A. § 36-66-3(5).
- ^[69] *City of Atlanta v. TAP Assocs.*, 544 S.E.2d 433, 434 (Ga. 2001).
- ^[70] *City of Atlanta v. TAP Assocs.*, 544 S.E.2d 433, 434, 436 (Ga. 2001).
- ^[71] *WMM Props. v. Cobb County*, 339 S.E.2d 252, 254 (Ga. 1986), *citing City of Atlanta v. Westinghouse Elec. Corp.*, 246 S.E.2d 678 (Ga. 1978).
- ^[72] O.C.G.A. § 36-66-4.
- ^[73] O.C.G.A. § 36-66-4.
- ^[74] *See Tilley Props. v. Bartow County*, 401 S.E.2d 527, 528 (Ga. 1991).
- ^[75] O.C.G.A. § 36-66-5.
- ^[76] O.C.G.A. § 36-66-5(b).

^[77] O.C.G.A. § 36-66-4.

^[78] O.C.G.A. § 36-66-5.

^[79] O.C.G.A. § 36-66-4.

^[80] O.C.G.A. § 36-66-4(c).

^[81] *WMM Props.*, 339 S.E.2d at 254, *citing Clark v. Int'l Horizons, Inc.*, 252 S.E.2d 488 (Ga. 1979).

^[82] *WMM Props.*, 339 S.E.2d at 254, *citing DeKalb County v. Chapel Hill, Inc.*, 205 S.E.2d 864 (Ga. 1974).

Solid Waste Management and Landfill Permitting

How to safely dispose of the nation’s ever-increasing volume of solid waste is an ongoing challenge.

Currently, the primary method for disposing of solid waste is in landfills. Landfills present a host of public health and environmental problems – among other issues, they can smell bad, attract vermin, leak toxic chemicals into surface and groundwater, and catch fire, releasing smoke and toxins into the air. As existing disposal sites fill up and new sites are developed, these problems continue to increase.

Historically, most landfills have been placed in communities of color and low-wealth communities, which have not had the means to fight back.

As discussed in [The Environmental Justice Movement](#), the hazards of landfills led to the development of the modern environmental justice movement.

This chapter covers several of the crucial legal tools for community participation in landfill siting decisions.

The Agencies Governing Solid Waste Management

Solid waste is managed at three governmental levels: **federal, state, and local**.

At the **federal level**, the **Resource Conservation and Recovery Act** (RCRA, pronounced “rick-rah”) gives the Environmental Protection Agency (EPA) the responsibility for regulating the treatment, storage, and disposal of all solid and hazardous waste in the United States,^[1] often called the “cradle to grave” waste

management process. Realizing that such a large task would be nearly impossible to effectively implement at the national level, Congress granted EPA the ability to delegate its authority to the states. A state program must meet or exceed minimum federal standards set by RCRA.

Georgia has assumed the role of implementing RCRA and managing solid waste disposal. The Georgia Comprehensive Solid Waste Management Act (“Solid Waste Management Act”) defines the rules and establishes the authority of agencies regarding solid waste management.^[2] Under the Solid Waste Management Act, the Georgia Environmental Protection Division (EPD) manages Georgia’s waste in lieu of the EPA,^[3] including the regulation and permitting of landfills.^[4] EPD has the authority to issue or deny a landfill permit.^[5] The Department of Community Affairs also plays a significant role by promulgating solid waste planning guidance that a city or county may use to update or amend such city’s or county’s solid waste plan.^[6]

Much of the direct regulation of landfills is done at the local level (city and county) through their Solid Waste Management Plans, zoning regulations, and other ordinances.

Waste Management Planning Requirements

Under the Solid Waste Management Act, each city and county must have a comprehensive Solid Waste Management Plan. Several cities or counties may cooperate to develop a multijurisdictional plan.^[7]

The minimum requirements for the plans are to assure adequate solid waste handling capability and capacity for at least 10 years from plan adoption, including adequate collection and disposal capability, and to enumerate the sizes and types of facilities and identify sites that are not unsuitable for solid waste handling.^[8] They must include analyses of several planning elements identified in Department of Community Affairs regulations, including:^[9]

- Waste disposal stream analysis

- Waste reduction, collection, disposal, land limitation
- Education and public involvement
- Implementation schedule

Each city and county included as part of the plan must adopt the plan and any plan updates by local ordinance or resolution.^[10] For a copy of your community's Solid Waste Management Plan, contact your local city or county government.

The Department of Community Affairs has set minimum procedural standards to ensure the public has a right to participate in the development of Solid Waste Management Plans.^[11]

Local governments must hold **two public hearings**, at least 30 days apart, before submitting their draft plans to the Regional Development Center for review.^[12]

Local officials must hold the first hearing *before* they develop the plan in order to:^[13]

- Inform the public about the purpose of the plan and the process that will be followed in its preparation.
- Get community input on needs and goals.

They must hold the **second hearing** *after* the draft plan has been prepared. This hearing is intended to:

- Brief the public on the content of the plan.
- Allow the public to make suggestions, additions, or revisions.
- Tell the community when the plan will be submitted for review.

The local government must make the draft plan available to the public when the second hearing is announced.^[14] The hearings should be publicized using the same procedures the government normally uses for public hearings.^[15]

Landfill Siting Restrictions

Many of the restrictions on landfill siting are set at the local level. First, Solid Waste Management Plans must identify any sites that are not suitable for solid waste facilities based upon environmental and land use factors.^[16]

Each city or county can also pass local ordinances and zoning regulations that govern the acceptable types and locations of landfills and that manage landfill operations.^[17] To better understand the restrictions your community has placed on solid waste facilities, contact your local government for copies of the relevant ordinances and zoning regulations.

In addition to local efforts, the state of Georgia has numerous site restrictions that govern the location of landfills in Georgia. Unsuitable locations may include sites:

- within 5,708 yards of a national historic site;^[18]
- within a half mile of a county or city boundary;^[19]
- within two miles of a significant groundwater recharge area;^[20]
- within two miles of a military bombing range;^[21]
- near airports;^[22]
- in floodplains or wetlands;^[23]
- in fault areas, seismic impact zones, or unstable areas (all specifically defined terms);^[24]
- near surface water intakes for a public drinking water source;^[25]
- within buffer zones for streams;^[26]
- within 200 feet of the property lines;^[27]
- within 500 feet of occupied dwellings or their drinking water wells;^[28]
- within one mile of a 25-year-old private recreational camp for minors;^[29]
and
- within a two-square-mile radius of the proposed site that already contains three landfills, including inactive ones.^[30]

In most cases, however, landfills may still be built within these areas if certain criteria are met.

Landfill Permitting Requirements

In general, an applicant must first obtain a permit from the EPD to build or operate a landfill.^[31]

One notable exception is that an individual is exempt from the requirement to obtain a permit (and all other requirements of the Solid Waste Management Act) if he or she is disposing of waste from his or her own residence onto land or in a facility he or she owns *and* disposal of the waste does not adversely affect human health.^[32]

For a landfill permit to be issued, an applicant must demonstrate that the landfill meets numerous requirements.

1. Provide written verification that the proposed facility follows certain requirements.

Along with the initial application, the applicant must provide written verification that:

1. The proposed facility will comply with all local zoning and land use requirements.^[33]
2. The proposed facility meets the jurisdiction's ten-year capacity needs identified in a Solid Waste Management Plan.^[34]
3. The host jurisdiction and all jurisdictions generating wastes destined for the facility are part of an approved Solid Waste Management Plan.^[35] If the proposed facility will accept waste that originates outside of Georgia, the applicant must also provide documentation that the communities that generated the waste have a waste reduction goal and are actively involved in a waste reduction plan that are substantially equivalent to Georgia's requirements.^[36] Solid waste facilities on property owned

exclusively by a private party that accept waste solely from the owner are exempted from this requirement as long as operation of the landfill will not adversely affect public health or the environment.^[37]

This verification must take the form of letters from the relevant jurisdictions confirming compliance.^[38]

2. Complete a site assessment.

The applicant must provide a site assessment prepared by a registered geologist or geotechnical engineer.^[39]

3. Provide a showing of adequate finances.

The applicant must also show it has adequate financial resources “to ensure the satisfactory maintenance, closure, and postclosure care of [the] facility or to carry out any corrective action which may be required as a condition of a permit.”^[40]

This financial assurance may be in the form of a trust fund, surety bond, letter of credit, insurance, financial test, or guarantee.^[41]

4. Provide a design plan.

The applicant must have a design and operational plan, prepared by a professional engineer and approved by EPD, that includes specifications of liners, a description of the planned sequence of filling the landfill, and procedures for covering wastes.^[42]

The design plan must also state how the landfill will monitor surface and groundwater to ensure they are not contaminated and monitor for leaks of methane gas.^[43]

Finally, it must provide for closure and postclosure care of the landfill.^[44]

With a few exceptions, a permit applicant has a right to consideration of a permit under the laws that existed at the time of the application.

In other words, if local zoning laws change between the time the application is submitted and when it is reviewed, the old laws will apply.^[45]

If the EPD director finds the site unsuitable or identifies other problems with the application, they will deny the permit. If the site is found suitable and the application information is sufficient, the director will approve the permit application provided that the county or municipality holds a public hearing at least two weeks prior to the issuance of the permit.^[46]

The Landfill Permit Process in Georgia: Opportunities for Public Involvement

Landfill siting has an extensive approval process. Unlike most permitting processes, which typically require at most one public meeting and one public comment period, the landfill permitting statute requires at least **five public meetings and opportunities for comment**. Because of the complexity of this process, it is worthwhile to go through it in some detail — it provides you the opportunity to speak out and potentially affect whether a permit is issued.

1. The Site Decision Meeting(s)

Landfill Siting Initiated by Public Entities and Private Landfills

Before Potential Site Selection

State law mandates that a public entity such as a county, municipality, or group of counties that is beginning to select a site for municipal waste disposal must call at least one public meeting, ***before*** identifying potential locations, to describe the process of siting facilities to the public.^[47] Notice of this meeting

must be advertised in a locally distributed newspaper at least once a week for two weeks before the scheduled public meeting.^[48]

First Public Meeting: Site Selection Process	
When Held	Prior to identifying potential landfill locations.
Why Held	To describe the solid waste management needs of the proposed facility to concerned citizens.
Public Notice Requirements	Advertised in a local newspaper at least once a week for two weeks prior to the Proposed Site Decision Meeting (14 days between first notice and meeting date).

As with publicly-owned landfills, counties or municipalities considering a privately-owned landfill must also provide notice of a public meeting to discuss potential sites with community members.^[49] To avoid getting involved only after-the-fact (meaning after the land is under contract or purchased), you can:

- watch for surveyors and other consultants (e.g., people taking land samples);
- look for large tracts of land for sale and purchases of large tracts of land;
- become aware of requests for ordinance or zoning changes to local government; and
- attend zoning and county commission meetings.

After Potential Site Selection

After a potential site is selected, the local government must hold one or more meetings for any siting decisions, such as final selection of the site or execution of contracts pertaining to the proposed facility. **However, zoning decisions are not subject to this requirement.** Notice of the meeting — stating the time, place, and purpose of the meeting — should be advertised in a locally distributed newspaper, at least once a week, for two weeks prior to the scheduled meeting.^[50]

Second Public Meeting: Site Decision Meeting	
When Held	After a landfill location has been selected.
Why Held	To decide the final selection of the site or execute contracts or agreements pertaining to the proposed landfill.
Public Notice Requirements	Advertised in a local newspaper at least once a week for two weeks prior to the Site Decision Meeting. Notice must state the time, place, and purpose of the meeting.
FYI	This meeting must be conducted by the local government or the local government department handling the landfill siting.

2. Submission of the Application

Following the Siting Decision Meeting, the applicant must submit its application to EPD. This application must include the materials discussed above.

3. Public Notice of Application Submission

Within 15 days of submitting the application to EPD, the applicant must notify the host county government (or each host county government, if the landfill will serve more than one county), each local government within that county (or counties) and the affected regional development center in writing. The applicant must also publish a notice in the local newspaper serving the affected county or region and prominently display the notice in the courthouse of each notified county.^[51]

Public Notice of Landfill Application	
When Held	Applicant must notify the public that it submitted an application to EPD within 15 days of submission.
Public Notice Requirements	<p>If the application is for a facility only serving one county, then:</p> <ul style="list-style-type: none"> • Public notice must be published in a newspaper of general circulation serving that county. • Each local government in the county and the regional commission must be notified in writing of the permit application. <p>If the application is for a facility serving more than one county, then:</p> <ul style="list-style-type: none"> • The public notice shall be published in a newspaper of general circulation serving each affected county. • Each local government within said counties and the regional commission must be notified in writing of the permit application. <p>A public notice must be prominently displayed in the courthouse of each notified county.</p>

4. EPD Reviews the Application

After receiving a complete landfill permit application, EPD reviews the application and the supporting data. EPD’s internal review of site suitability, as discussed above under the section titled “Landfill Siting Restrictions,” includes reviewing the site assessment report submitted by the applicant and inspecting the site.^[52]

During the review process, EPD makes a determination as to the suitability or unsuitability of the proposed site for the landfill. There is no specific timeframe within which EPD is required to come to a decision.

After making a determination, EPD notifies the applicant and the local government where the site is located (the “host local government”) of its decision in writing.^[53] After notifying the applicant, EPD may continue to review the permit application, but will not take any further action until after the local notification and negotiation processes outlined below have taken place.

5. Applicant Informs the Public of Site Approval

If the applicant receives notification from EPD that the proposed site is suitable for use as a landfill, the applicant must, within 15 days of receipt of the notification, publicize the approval of the site in the same manner used to publicize its application submission (see “Public Notice of Landfill Application” table above).^[54]

6. Government Informs the Public

Within 45 days after notification from EPD that the proposed site is suitable for a landfill, the host local government(s) must advertise (using the same method outlined in the “Public Notice of Landfill Application” table) and hold a public meeting to inform the affected residents and landowners of the proposed site and give residents and landowners the opportunity to engage in an issue negotiation process.^[55] Unlike previous meeting notifications, however, this step does not require the local government to publish notice for a specific number of days in advance of the meeting.

Third Public Meeting: Government Informs Public of Site Suitability	
When Held	Within 45 days of the applicant's notice to the public of its landfill application submission to EPD.
Why Held	To inform affected residents and landowners of the proposed site and offer them the opportunity to get involved in the Facility Issues Negotiation Process.
Public Notice Requirements	The same as in the "Public Notice of Landfill Application" table above.

7. Facility Issues Negotiation Process

Concerned members of the host community have the opportunity to participate in the decision-making process through the Facility Issues Negotiation Process, which creates a Citizens Facility Issues Committee. The host local government must initiate the process upon receipt of a written petition within 30 days of the Site Suitability Meeting, described above.^[56]

There are two requirements that the petition must meet to be effective:^[57]

1. It must be signed by at least 25 people who are either:
 - a) registered voters in the host local government;
 - b) registered voters in a county contiguous to the host local government; or
 - c) landowners within the jurisdiction of the host local government.
2. At least 20 people who sign the petition must be registered voters or landowners in the jurisdiction of the host local government.

The host local government has 15 days from receipt of the petition to validate the petition and initiate the negotiation process.^[58] Multiple petitions may be consolidated into a single negotiating process.

Within 15 days of validation of the petition, the host local government must **notify the petitioners and the permit applicant** in accordance with the

“Public Notice of Landfill Application” table above that the negotiation process is being started, and **set a date for the first meeting** between the citizen committee (described below), the host local government, and the permit applicant no later than 30 days following validation of the petition.

Within 15 days following validation of the petition, the petitioning persons must select a citizen committee to represent them in the negotiation process. The citizen committee can be composed of up to ten members, at least eight of which must be registered voters or landowners in the host local government.

Before the first meeting, the host local government will appoint a facilitator from a list provided by the Department of Community Affairs, after consultation with the citizen’s committee, to oversee the negotiation process. The facilitator’s role is to assist the petitioners, the host local government, and the permit applicant through the negotiation process.

The committee must hold a minimum of three negotiation meetings, the first of which is set by the host local government as explained above. The third meeting must be held within 45 days of the first meeting.^[59]

The facilitator presides over the negotiation meetings, and the host local government must keep minutes of each meeting and a record of the negotiation process. **Issues for negotiation may include:**

- Operational issues (such as hours of operation)
- Recycling efforts
- Protection of property values
- Traffic routing and road maintenance
- Establishment of local advisory committees

Facility Issues Negotiation Process Requirements

For Individuals	<p>Petition must be filed within 30 days of the meeting during which the landfill application was discussed.</p> <p>The petition must be signed by at least 25 people who are either:</p> <ul style="list-style-type: none"> • registered voters in the host local government; registered voters in a county contiguous to the host local government; or • landowners within the jurisdiction of the host local government, at least 20 of which must be registered voters or landowners in the jurisdiction of the host local government.
For Government	<p>Upon receipt of the petition, local government has 15 days to:</p> <ul style="list-style-type: none"> • Validate the petition • Initiate the negotiation process <p>Local government sets the date for the first meeting and selects a facilitator.</p>
For Committee	<p>Includes up to 10 members, at least 8 of whom must be registered voters or landowners of the host local government and the applicant.</p> <p>Three meetings, at minimum, are required:</p> <ul style="list-style-type: none"> • First meeting held no later than 30 days from the petition validation date (45 days after petition submission) • Second meeting held at some point between the first meeting and the third meeting (no specific date required) • Third meeting held no later than 45 days after the first meeting (90 days after petition submission)

The Facility Issues Negotiation Process is an **opportunity for concerned residents to raise their concerns directly** with the landfill permit applicant and can be a **valuable tool** to make sure your voices are heard.

However, the **negotiations are non-binding**.^[60]

The permit applicant is not required to adopt any suggestions made or address any concerns raised during the meetings, and failure of the committee to reach agreement on any requested concession does not prevent the applicant from receiving a permit.^[61]

After all three required committee meetings, the facilitator must publish a notice of the results of the Facility Issues Negotiation Process. The chairman of the citizen committee and the chief elected official of the host local government must write and execute any negotiated concessions reached by the parties. The host local government will adopt these negotiated concessions by resolution.

The facilitator will also publish a notice of a subsequent meeting within 10 days of the publication of the results of the Facility Issues Negotiation Process by the same procedures as described above.^[62]

Fourth Public Meeting: Results of the Facility Issues Negotiation Process	
When Held	After all three negotiation committee meetings and within 10 days of the public notice regarding the meeting.
Why Held	To give citizens and landowners not involved in the negotiation committee the opportunity to provide input before the permit process continues.
Public Notice Requirements	<p>Notice must contain the date, time, and place of the meeting.</p> <p>The facilitator must use the same method described in the “Public Notice of Landfill Application” table above.</p>

EPD may not issue or deny the permit until the local notification and negotiation processes have been exhausted.^[63]

If a petition is not submitted or cannot be validated, local government notifies EPD that the Facility Issues Negotiation Process is complete. At that point, EPD may finish reviewing the permit application.

8. Approval or Denial of the Landfill Permit

Ultimately, EPD makes its decision to approve or deny the permit. However, approval may not be issued prior to a public hearing on the matter by the host local government.

No less than two weeks before the issuance of the permit, the county, municipality, or regional authority involved in the landfill application process must hold a public hearing. Notice of the hearing must be posted at the proposed landfill site and advertised in a local newspaper serving the county or counties affected by the proposed landfill at least 30 days prior to the hearing date.^[64]

Fifth (and Final) Public Meeting: Hearing on Permit Approval	
When Held	Not less than two weeks prior to the issuance of the permit.
Why Held	For the government to inform affected residents and landowners of the approval of the landfill permit and offer them the opportunity to voice their concerns.
Public Notice Requirements	<p>The hearing must be advertised at least 30 days prior to the hearing date.</p> <p>Notice of the hearing must be:</p> <ul style="list-style-type: none"> ○ Posted at the selected landfill site ○ Advertised in a local newspaper serving the affected county, municipality, or region

Challenging the Landfill Permitting Process and its Outcome

Prior to and during the landfill permitting process, both the permit applicant and community members may challenge various regulations and decisions, which could result in or require litigation. The permit applicant has the right to challenge any local government's refusal to verify the applicant's compliance with the Solid Waste Management Plan, ordinances, or zoning laws. Both the applicant and community members may challenge local government decisions if those decisions are inconsistent with the Solid Waste Management Plan or relevant ordinances and zoning laws. Any of these challenges would be raised in a lawsuit filed in state court.

In addition, community members may challenge the approval of a permit application, using the administrative review process described in **Administrative Appeals in Georgia**.

Once they begin operations, landfills may be governed by federal law under the Clean Water Act and the Resource Conservation and Recovery Act. See **Water Quality Permitting** for more about water permitting, and **Hazardous Waste, Toxic Substances, and Contaminated Land Cleanup** for more about the Resource Conservation and Recovery Act, which regulates solid wastes. If a landfill violates either law, individuals or community groups may sue under the "citizen suit" provisions of those acts, as described in **Citizen Suits**.

Solid Waste Management and Landfill Permitting Citations

^[1] 42 U.S.C. §§ 6901-6992k.

^[2] O.C.G.A. §§ 12-8-20 to -41.

^[3] O.C.G.A. § 12-8-21(d).

^[4] O.C.G.A. § 12-8-23.

^[5] O.C.G.A. § 12-8-24.

- ^[16] O.C.G.A. § 12-8-31.1.
- ^[17] O.C.G.A. § 12-8-31.1(a).
- ^[18] O.C.G.A. § 12-8-31.1(b).
- ^[19] Georgia Rule 110-4-3-.04(1)(a).
- ^[10] O.C.G.A. § 12-8-31.1.
- ^[11] Georgia Rule 110-4-3-.05.
- ^[12] Georgia Rule 110-4-3-.05(3)(b).
- ^[13] Georgia Rule 110-4-3-.05(3)(b)(1).
- ^[14] Georgia Rule 110-4-3-.05(3)(b)(2).
- ^[15] Georgia Rule 110-4-3-.05(3)(b)(3).
- ^[16] O.C.G.A. § 12-8-31.1(b).
- ^[17] O.C.G.A. § 12-8-30.9.
- ^[18] O.C.G.A. § 12-8-25.1.
- ^[19] O.C.G.A. § 12-8-25.
- ^[20] O.C.G.A. § 12-8-25.2.
- ^[21] O.C.G.A. § 12-8-25.3(d).
- ^[22] 49 U.S.C. § 44718(d); Georgia Rule 391-3-4-.05(1)(c).
- ^[23] Georgia Rule 391-3-4-.05(1)(d), (e).
- ^[24] Georgia Rule 391-3-4-.05(1)(f)-(h).
- ^[25] Georgia Rule 391-3-4-.05(j)(8), 391-3-16-.01.
- ^[26] O.C.G.A. § 12-7-6(b)(14).
- ^[27] Georgia Rule 391-3-4-.07(b).
- ^[28] *Id.*
- ^[29] O.C.G.A. § 12-8-25.5.
- ^[30] O.C.G.A. § 12-8-25.4.

[311] O.C.G.A. § 12-8-24(a).

[321] O.C.G.A. § 12-8-30.10.

[331] O.C.G.A. §§ 12-8-24(g), 12-8-31.1(e)(1); Georgia Rule 391-3-4-.05(1)(a).

[341] O.C.G.A. § 12-8-31.1(e)(2).

[351] O.C.G.A. §§ 12-8-24(g), 12-8-31.1(e)(3); Georgia Rule 391-3-4-.02(10).

[361] O.C.G.A. § 12-8-24(g).

[371] O.C.G.A. § 12-8-31.1(f).

[381] Georgia Rule 391-3-4-.02(3)(c).

[391] Georgia Rule 391-3-4-.05(4).

[401] O.C.G.A. § 12-8-27.2.

[411] Georgia Rule 391-3-4-.13.

[421] Georgia Rule 391-3-4-.07.

[431] Georgia Rule 391-3-4-.07(1)(l), (3)(h)(2).

[441] Georgia Rule 391-3-4-.07(1)(m), (n).

[451] *Banks County v. Chambers of Georgia, Inc.*, 444 S.E.2d 783 (Ga. 1994).

[461] O.C.G.A. 12-8-24(d).

[471] O.C.G.A. 12-8-26(a).

[481] *Id.*

[491] *Id.*

[501] O.C.G.A. § 12-8-26(b).

[511] O.C.G.A. § 12-8-32(a).

[521] You can find checklists created by EPD here: <https://epd.georgia.gov/about-us/land-protection-branch/land-protection-branch-technical-guidance/solid-waste-technical>.

[531] O.C.G.A. § 12-8-32(b).

[541] O.C.G.A. § 12-8-32(c).

^[551] *Id.*

^[561] O.C.G.A. § 12-8-32(f).

^[571] O.C.G.A. § 12-8-32(f).

^[581] O.C.G.A. § 12-8-32(g), (h).

^[591] The three-meeting requirement may be waived if all the parties consent. O.C.G.A. § 12-8-32(k).

^[601] O.C.G.A. § 12-8-32(k).

^[611] O.C.G.A. § 12-8-32(p).

^[621] O.C.G.A. § 12-8-32(n).

^[631] O.C.G.A. § 12-8-32(d).

^[641] O.C.G.A. § 12-8-24(d).

Hazardous Waste, Toxic Substances, and Contaminated Land Cleanup

Contaminated land in a community may be the result of many activities, and both present actions and historic poor disposal practices contribute to the resulting harms.

Common contamination activities include:

- Manufacturing
- Mineral extraction
- Abandonment of mines
- National defense activities
- Waste disposal
- Accidental spills
- Illegal dumping
- Leaking underground storage tanks
- Hurricanes
- Floods
- Pesticide use
- Fertilizer application

Examples of hazardous sites in Georgia include old wood preserving plants, chemical manufacturing plants, leaking dry cleaners, old unlined solid waste landfills, and defunct industrial facilities.

Common problems that may arise because of contamination include:

- Fire and explosion hazards
- Contaminated soil and drinking water
- Health threats to people living or working nearby
- Environmental damage
- Diminished property values
- Barriers to redevelopment

As a result, Congress has passed a number of laws to promote the safe disposal of hazardous and nonhazardous waste. Georgia, like many other states, has also passed laws aimed at preventing contamination and cleaning up contaminated sites.

This chapter explores the federal and state laws designed to control toxic substances, regulate waste, and promote and restore a healthy and clean environment.

Laws Aimed at Preventing Contamination

Nearly every activity generates waste of some kind, like household garbage (also called municipal solid waste), hazardous waste, industrial waste, agricultural and animal waste, medical waste, radioactive waste, and more. Congress has enacted laws that require monitoring and waste management programs to prevent improper disposal of waste and inadequate land management which can negatively impact human health and the environment.

The most significant federal law in this area is the **Resource Conservation and Recovery Act** of 1976 (RCRA, pronounced “rick-rah”). RCRA is implemented by EPA and the Georgia Environmental Protection Division (EPD) through the **Georgia Hazardous Waste Management Act**. In addition to RCRA and the Georgia Hazardous Waste Management Act, the **Georgia Underground Storage Tank Act** is also aimed at preventing contamination.

Resource Conservation and Recovery Act

(42 U.S.C. §§ 6901-6992k)

RCRA was enacted to create a comprehensive program to manage hazardous wastes from cradle to grave. RCRA governs the generation, treatment, storage, and disposal of solid and hazardous waste across many industries.

For example, hazardous waste generators, government agencies, small businesses, and gas stations must all comply with RCRA. RCRA’s goals are to prevent and clean up environmental contamination from hazardous waste.

RCRA has three major programs that regulate waste. **The Solid Waste Management Program** (RCRA Subtitle D) covers non-hazardous solid waste. The **Hazardous Waste Management Program** (RCRA Subtitle C) focuses on hazardous solid waste. The **Underground Storage Tank Program** (RCRA Subtitle I) addresses waste from underground storage tanks.

Non-Hazardous Solid Waste Management Program (RCRA Subtitle D)

RCRA Subtitle D's non-hazardous waste program focuses on how EPA can help state and local governments plan, regulate, and manage nonhazardous solid waste through workshops, guidance, policy, regulations, and publications. Additionally, the EPA developed federal criteria for the proper design and operation of municipal solid waste landfills and other solid waste disposal facilities.

What constitutes solid waste under RCRA Section D includes:

- Solids, liquids, and gases that are abandoned (e.g., thrown away, disposed of, burned, incinerated, or improperly recycled)
- Inherently waste-like materials (e.g., materials that pose a threat to human health and the environment)
- Discarded military munitions
- Material that is recycled in certain ways (e.g., used in or on the land in a manner constituting disposal, burned for energy recovery, or accumulated speculatively)

As you can see, this list is broad and captures almost anything that is thrown away or discarded. However, certain wastes are excluded from the definition of solid waste. A list of solid wastes that are excluded from RCRA can be found in 40 CFR Section 261.4(a) and more information can be found on the EPA's **Criteria for the Definition of Solid Waste and Solid and Hazardous Waste Exclusions webpage**.

Hazardous Waste Management Program (RCRA Subtitle C)

RCRA Subtitle C creates a federal program that manages hazardous wastes from cradle to grave. This portion of the law includes regulations for the generation, transportation, treatment, storage, and disposal of hazardous wastes.

The law:

- establishes what constitutes hazardous solid waste;
- sets requirements for generators, transporters, and treatment, storage, and disposal facilities;
- sets standards for the design and safe operation of treatment, storage, and disposal facilities; and
- requires permits to apply these standards.

Under RCRA, hazardous solid waste is a subset of solid waste.

One of the most difficult but important determinations under RCRA is whether a specific kind of solid waste is considered hazardous. This analysis is important because solid wastes that are considered hazardous are subject to more stringent rules and regulations. The EPA provides a **list of hazardous wastes** and a discussion of the characteristics the EPA considers when determining if a waste is hazardous.

Even if a waste is dangerous in some way, RCRA does not necessarily regulate it. The lists of hazardous waste that are *excluded* from RCRA can be found in 40 C.F.R. Section 261.4(b) and more information can be found online **here**. This list includes agricultural waste, mining wastes, and oil and gas exploration waste, among other excluded wastes.

Underground Storage Tank Program (RCRA Subtitle I)

RCRA Subtitle I protects groundwater from contamination caused by leaking underground storage tanks. The law requires that owners and operators of new and existing tanks prevent, detect, and clean up releases. RCRA Subtitle I also bans the installation of unprotected steel tanks and piping.

RCRA Violations

Some of the most common violations of RCRA include the following:

- Dumping hazardous wastes down the drain
- Not having (or having inadequate) hazardous waste manifests during transport
- Failing to properly train employees in hazardous waste management, handling, and emergency preparedness
- Lack of, or improper, labeling of hazardous waste
- Open containers of hazardous waste on site
- Failing to comply with hazardous waste generator regulations
- Failing to have hazardous waste determinations on file
- Improper consolidation of waste from other, nearby facilities
- Noncompliance with underground storage tank regulations

There are several possible actions in response to violations of RCRA. The EPA and EPD may issue administrative orders to facilities demanding that they comply with permit requirements and regulations.

If companies fail to comply with the requirements set by the EPA and EPD, then EPD may file civil suits, or criminal suits in the case of knowing violations of the statute. Individuals or organizations may also bring “citizen suit” enforcement actions against potential or actual violators of RCRA. For more information on citizen suit enforcement see **Citizen Suits**.

RCRA Public Participation Tools and Resources

The EPA has published a **RCRA Public Participation Toolkit** to help the public find ways to engage throughout the RCRA process.

The toolkit discusses a broad range of activities communities can use to design and promote public participation in enforcing RCRA compliance. RCRA requires that hazardous waste facilities obtain permits, and there are multiple opportunities for the public to participate in and comment on the permitting process.

In addition to the Public Participation Toolkit, the EPA has also published a **RCRA Public Participation Manual**.

Remember that in Georgia, the EPD administers RCRA and issues these permits. See below for more information about EPD's permitting process and opportunities for public engagement.

Georgia Hazardous Waste Management Act (O.C.G.A. §§ 12-8-60 to -83)

Georgia's equivalent of RCRA is the **Georgia Hazardous Waste Management Act**. In Georgia, the EPA has delegated RCRA compliance monitoring responsibility to state and local authorities. This means that while the EPA sets standards at the national level, the Hazardous Waste Management Branch of the EPD is in charge of dealing with the generation, transportation, storage, treatment, and disposal of hazardous waste in Georgia.

Under the Georgia Hazardous Waste Management Act, a hazardous waste facility is any property or facility that is intended or used for storage, treatment, or disposal of hazardous waste. Examples include landfills, incinerators, containment buildings, and storage tanks.

Permits are required for all hazardous waste facilities, and the Georgia Hazardous Waste Management Act establishes a permitting process for the construction, modification, and operation of hazardous waste facilities. This permitting process allows an opportunity for public involvement.

When a company applies for a permit to generate hazardous waste, the EPD must publish a notice of the application in at least one local newspaper within 30 days of receipt of an application for a Hazardous Waste Facility Permit. The public may request a hearing on the application, but the request must be made in writing within 30 days of publication of the notice and must be made by at least 25 individuals affected by the facility.

If you are concerned about a facility in your community, you can track notices of hazardous waste permits on the EPD's website.

The Georgia Hazardous Waste Management Act requires that any hazardous waste storage, treatment, or disposal facility demonstrate that it has the money available to cover the expenses of maintaining, operating, and properly closing the facility, as well as paying any liabilities.

The Act also requires entities that generate large quantities of hazardous waste to develop plans to reduce hazardous waste generation. To oversee the implementation of these plans, the EPD requires large-quantity generators to submit progress reports twice a year. You can access **summaries of the biennial progress reports**.

The EPD oversees the investigation and cleanup of hazardous substance releases into soil, groundwater, sediment, and surface water at hazardous waste facilities regulated under the Act. The EPD also investigates public complaints and provides technical assistance regarding the management of hazardous waste.

If you would like to make a complaint or have any further questions you should reach out to Georgia's Hazardous Waste Management Program Manager using the information provided below.

Georgia's Hazardous Waste Management Program Contacts

Holly Nelson, Program Manager

Georgia Environmental Protection Division

Hazardous Waste Management Program

Telephone: (404) 605-9530

Email: holly.nelson1@dnr.ga.gov

EPD Emergency Response Program: (800) 241-4113 (available 24 hours a day and toll free)

Georgia Underground Storage Tank Act (O.C.G.A. §§ 12-13-1 to -22)

The **Georgia Underground Storage Tank Act** was established to protect groundwater and surface water against environmental contamination from the release of harmful substances, like gasoline or oil, which are stored in underground storage tanks.

The Act provides a comprehensive program to prevent, detect, and correct releases from underground storage tanks, and is administered by the EPD's Land Protection Branch. The location of underground storage tanks and accompanying data can be found on the EPD's [underground storage tanks webpage](#).

Corrective action for noncompliance with the Act is required, and the Act establishes a trust fund that can pay for preventative or corrective action and provide compensation for third-party liability. The EPD also provides the [application form](#) for trust fund assistance for owners or operators of leaking underground storage tanks that require cleanup.

Public involvement is likely to be limited to notifying the EPD of evidence of leaks or contamination from underground storage tanks. Odors or other observable product discharges may indicate a leak. Additionally, newer

underground storage tank systems may be equipped with leak detection equipment that may signal a release either electronically or with an audible alarm.

The public can notify the EPD by contacting the Corrective Action Unit (for management of leaking underground storage tanks) or the Regulatory Compliance Unit (to ensure operational compliance of underground storage tanks). The contact information for each is listed below.

Upon notification, the director of the EPD must seek corrective action if the director has reason to believe that the leak or contamination poses a danger to health or the environment.

Georgia Underground Storage Tank Act Contacts

Jay Kemberling, Underground Storage Tank Act Program Manager

Georgia Environmental Protection Division
Underground Storage Tank Management
Telephone: (470) 251-4025
Email: jay.kemberling@dnr.ga.gov

Shaheer Muhanna, Unit Manager

Georgia Environmental Protection Division
Regulatory Compliance Unit I
Telephone: (470) 524-0562
Email: shaheer.muhanna@dnr.ga.gov

Chuck Mueller, Branch Chief

Georgia Environmental Protection Division
Land Protection Branch
Telephone: (404) 362-2566
Email: chuck.mueller@dnr.ga.gov

Laws Focused on Contaminated Site Cleanup

In 1978, in Niagara Falls, New York, the Love Canal community discovered that their homes and school were built on top of an old, filled-in canal that the Hooker Chemical Company used as a dump from the 1920s to 1953.

The community noticed increased incidences of cancer and other illnesses. As a result, members of the community reached out to the EPA to demand help in investigating the cause of their illnesses. This community's action threw a spotlight on the harmful effects of old industrial contamination on redeveloped land, and led to the passage of the **Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)**, also often referred to as "**Superfund**").

This law gave the EPA the authority necessary to force the polluters responsible for contaminating land to conduct a site cleanup under the EPA's supervision or pay for a cleanup conducted by the EPA.

In Georgia, the **Georgia Hazardous Site Response Act** of 1992 is the state law equivalent and is sometimes referred to as the state Superfund program. Contaminated sites are sometimes called "brownfields." This section will also cover the **Brownfields and Land Revitalization Program** and the **Georgia Brownfields Act**.

Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601-9675)

Congress enacted CERCLA in 1980 to promote the prompt cleanup of hazardous waste sites and to ensure the costs of cleanup efforts fall on the parties responsible for the pollution.

For CERCLA to apply, there must be:

- 1) a release or threatened release;**
- 2) of a hazardous substance;**
- 3) at a facility.**

Release or Threatened Release

A release includes virtually any movement of hazardous substances into the environment (spilling, leaking, pumping, emitting, emptying, pouring, etc.) The law defines release very broadly and courts often find that the mere presence of a hazardous substance constitutes a release.

Hazardous Substance

What constitutes a hazardous substance under CERCLA is also very broad. Any substance which is deemed hazardous under other prominent environmental laws (such as the Clean Air Act, Clean Water Act, RCRA, or the Toxic Substances Control Act) is automatically considered hazardous substances under CERCLA.

CERCLA applies to much more than waste, also covering hazardous natural materials, consumer products, manufacturing byproducts, and more. There is one key exception: CERCLA does not apply to petroleum (oil) and various natural and synthetic gases because these substances are controlled by different laws.

Facility

What constitutes a facility is also broadly interpreted to mean virtually any place a hazardous substance is located. Some examples include any building, structure, pit, pond, or storage container where hazardous substances have been placed.

CERCLA provides two mechanisms to help achieve its contaminated site cleanup goals:

1. A liability framework to force those responsible for the contamination to pay for cleanup.
2. A trust fund to provide money to fund cleanup efforts.

Under CERCLA, the polluters who own a contaminated site or contributed to the problem are referred to as “potentially responsible parties” (PRPs) and are required to clean up the site. Other potentially responsible parties include anyone who created, transported, or was paid to dispose of the hazardous substances contaminating the site.

But, sometimes these potentially responsible parties cannot be found or are bankrupt. To ensure that funding is still available to cleanup these sites, CERCLA established a trust fund. The trust fund, known as the “**Superfund**,” is funded through a tax on the chemical and petroleum industries, and is used to finance the cleanup of hazardous waste sites when responsible parties cannot pay.

Initiating the CERCLA Process

The CERCLA process begins when the EPA is notified of possible hazardous chemical releases. Notification can come from mandatory reports from facilities, employee whistleblowing, and reports from the public. If you know that you live near a potentially contaminated site, like a factory, former industrial site, or landfill, it is important to be aware of your surroundings. If you experience an unusual odor or see something that concerns you (like strange colors in water, leaking or rusting drums or tanks, or dead plants), take logs of what you are experiencing. For more information about keeping a log, see **Protecting Your Community: Getting Started** and **Appendix C-4**.

If you are concerned about a release in your community, you can report it to the EPA using the following resources:

The National Response Center at (800) 424-8802, which is available 24 hours a day.

The EPA Region 4 Superfund & Emergency Management Division at (404) 562-8583.

If contamination is found, the EPA records the site in a database and begins determining if cleanup action is required. The timeframe for the evaluation and cleanup process depends on the magnitude of the damage and the risk presented to people from the contamination.

Cleanup of a contaminated site is not a quick process! The EPA's response can range from emergency or short-term removal action (which takes years) to long-term remedial action (which takes decades).

Removal actions include short term temporary measures such as:

- Installing fences, warning signs, and site control precautions
- Controlling drainage
- Stabilizing land by building dikes and other structures
- Capping and containing hazardous substances
- Using chemicals to stop the spread of a release
- Removing contaminated containers
- Providing an alternative water supply
- Temporarily evacuating a community

When the EPA determines that a site needs long-term cleanup it conducts a remedial action, in accordance with the National Contingency Plan.

For the most extreme situations, EPA may first place the site on the National Priorities List (NPL). Once a site is listed on the NPL, the EPA develops and implements a cleanup plan and then follows up with routine monitoring and reviews of the site.

When cleanup is achieved, the EPA removes the site from the NPL, but this can take many years. You can see an [online map of cleanup sites in Georgia](#).

Remedial actions include long-term permanent measures such as:

- Excavating and treating soil
- Removing and treating groundwater
- Constructing structures to prevent the hazardous substance from spreading
- Relocating residents permanently

Issue Spotlight: Atlanta's Westside

In March 2022, the EPA added an [area on Atlanta's Westside to the NPL](#). This area encompasses approximately 2,097 residential properties that were found to have lead contamination in their soil.

The lead contamination in the area was caused by slag from a former lead smelter being deposited in the soil. Soil in many of these residential properties has been found to have lead levels above the EPA's site-specific cleanup threshold of 400 milligrams per kilogram.

The EPA is in the process of removing the contaminated soil, replacing it with clean soil, and testing more residential yards to understand the extent of the lead contamination.

Lead is a major contaminant in Georgia; for more information about lead, see [Lead Contamination](#).

Opportunities for Community Involvement in a Cleanup

The EPA encourages community involvement during CERCLA cleanups through the **Superfund Community Involvement Program**. The law incorporates public involvement in the cleanup process and is intended to give communities affected by the hazardous substances and cleanup efforts a say in what happens in their community.

If your community is subject to removal or remedial action, the EPA will likely form a committee responsible for the cleanup. It is important to attend hearings and meetings hosted by the committee because the community can ask questions or voice concerns about the cleanup.

Resources for Community Involvement

The EPA provides a **Superfund Community Involvement Toolkit**. Additional resources and information can be found in EPA's **Superfund Community Involvement Handbook**. For more information, you can call **EPA Region 4 at (404) 562-8583** and ask to speak to someone in the Superfund Community Involvement Program.

Each Superfund site will also have a **site-specific Community Involvement Coordinator**, so if there is a cleanup in your neighborhood, ask who the Community Involvement Coordinator for that site is.

Also, the EPA will often create Community Advisory Groups (CAGs) made up of local leaders, representatives from existing community groups, and concerned individuals. Ask EPA if the cleanup you are concerned about has an existing CAG or if one is being formed that you could join. For more information about CAGs, see the EPA's **Superfund CAG webpage**.

Funding for Community Involvement

Technical Assistance Grants (TAGs) of up to \$50,000 are available to assist community groups in understanding the nature of the contamination hazard and the Superfund process, including remediation measures. TAGs provide funding

to community groups to hire their own expert advisors to interpret and explain technical reports, site conditions, and the EPA's proposed cleanup proposals and decisions.

To be eligible for a TAG, a community group must incorporate, and the community group grant recipient must contribute at least 20% of the total cost of technical assistance unless it receives a waiver.

Importantly, this 20% match does **not** have to be provided as money. The EPA will accept "in-kind" matches through the donation of volunteer hours and will work with your group to determine what kind of match works for your group.

To apply for a TAG, community groups must submit a Letter of Intent to the EPA Region 4 Office's TAG Coordinator. For more about the TAG program visit the **EPA's website**.

Additional Resources for Community Involvement

Another resource is the **Agency for Toxic Substances and Disease Registry** (ATSDR). ATSDR is a federal public health agency of the U.S. Department of Health and Human Services whose mission is to protect communities from harmful effects related to exposure to natural and man-made hazardous substances.

Whenever a site is listed on the NPL, ATSDR is required to evaluate the health impacts of the contamination on the community. ATSDR has many helpful **online resources**.

Georgia Hazardous Site Response Act (O.C.G.A. §§ 12-8-90 to -97)

The **Georgia Hazardous Site Response Act** (HSRA) is a state-level analog to CERCLA that the Hazardous Site Response Branch of the EPD administers.

HSRA covers more sites within Georgia than CERCLA, so if you live near a site that you are concerned about, make sure to check the lists of contaminated sites under both laws. Like CERCLA, HSRA empowers the EPD to negotiate a voluntary agreement with polluters to clean up hazardous pollutants released onto a site. Should the responsible parties refuse to act voluntarily, the EPD can order cleanup and hold the responsible parties liable.

The EPD cleans up hazardous sites according to risk-based standards. This means the worst problems are cleaned up first. This also means that the most hazardous sites are prioritized and that the worst problems at these sites are handled first. This is done to minimize exposure to the most harmful levels of hazardous substances.

Like the Federal Superfund, HSRA also provides a funding mechanism called the **Hazardous Waste Trust Fund**. This fund is used to pay for the cleanup should the responsible party be unable to pay or fail to comply with the order.

The fund is financed through fees paid by industries and government agencies that generate, manage, or dispose of hazardous wastes, hazardous substances, and solid wastes, as well as from fines collected from violators of state environmental laws.

The fund can be used to pay for:

- investigation, detoxification, removal, and disposal of hazardous waste or substances from sites posing a danger to public health, safety; or
- the environment, or for emergency response to releases of hazardous wastes or substances.

Hazardous Site Inventory

Annually, EPD is required to publish the **Hazardous Site Inventory**. The inventory is a list of sites that have had known or suspected releases of a regulated substance above a reportable quantity and do not yet meet state clean-up standards.

The inventory provides information on the location of the site, the hazardous substances present, whether corrective action is required, and the cleanup priority and status.

The Hazardous Site Inventory can be accessed in the clerk's office in each superior court of the state, the county office of deeds and records, or **online**. The EPD's website also includes an **interactive map** with site profile information and links to individual site summaries.

The Response and Remediation Program (RRP) of the Land Protection Branch of the EPD evaluates notices and reports of releases of regulated substances and determines if the release should be listed on the Hazardous Site Inventory for further investigation and cleanup.

You can notify RRP of a suspected release by filling out the **Release Notification/Reporting Form**. Historical release notifications and the EPD's decisions relating to those submittals are available for public review at the EPD office located at 2 MLK Jr. Dr., Suite 1054, East Tower, Atlanta, Georgia 30334.

For more information about response and remediation, or if you believe there is a hazardous site in your area, contact:

Jason Metzger, Program Manager

Georgia Environmental Protection Division

Response and Remediation

Telephone: (404) 657-8600

Email: **jason.metzger@dnr.ga.gov**

Brownfields and Land Revitalization Program

In 1995, the EPA established the **Brownfields and Land Revitalization Program** to improve how communities develop and reuse contaminated land.^[1] A

brownfield is a property that has been contaminated or polluted, making development or use of the land complicated.

The program is designed to empower communities to reuse brownfields safely and sustainably. Brownfield grants are available to help fund environmental assessment, cleanup, and job training activities.

Brownfields can be difficult and expensive to manage or redevelop, which caused industries to choose to build facilities on clean and uncontaminated land instead.

The EPA established the Brownfields and Land Revitalization Program to return contaminated land to its productive use, protect the environment, incentivize the re-use of industrial land rather than development of clean land, and revitalize communities. The program provides grants and technical assistance to communities, giving them the resources necessary to safely clean up and reuse brownfield sites.

Brownfield sites are typically abandoned manufacturing facilities, factories, or gas stations that communities would like to see redeveloped but lack the financial means to safely clean up. To encourage the voluntary cleanup of brownfield sites, the government offers tax incentives to parties willing to pay to clean up the contaminated land. Georgia adopted similar environmental protection legislation for brownfields.

Georgia Brownfield Act (O.C.G.A. §12-8-200)

The **Georgia Brownfield Act** protects purchasers from being liable for contamination that occurred prior to their owning the property.^[2] To receive this protection from liability, the prospective purchaser cannot have contributed to or have a personal or business connection with a person or company who contributed to the source of contamination.

Additionally, the prospective buyer must implement a corrective action plan detailing how the property will be cleaned up. This plan must include a certification of compliance with the Georgia risk reduction standards.

The Georgia Brownfield Act encourages the voluntary and timely investigation and remediation of contaminated properties where there has been a release of contamination harmful to human health.

To qualify, the contaminated property cannot be:

1. Listed on the EPA's National Priority List.
2. Undergoing any response activities ordered by EPA.
3. A facility required to have a permit for hazardous waste under O.C.G.A. 12-8-66.

Some examples of facilities that can be remediated under the Georgia Brownfield Act include chemical manufacturing, drycleaners, agricultural chemical blending, solvent recycling, manufactured gas plants, metals recycling, rail yards, vehicle repair and maintenance facilities, and landfills.

Success Story: Atlantic Station

Atlantic Station in Atlanta, formerly the site of an abandoned, century-old steel mill, provides a great example of a successful brownfield revitalization project.

Despite the excellent location and amount of land available, developers were hesitant to invest in the abandoned property out of fear of being held accountable for the huge costs associated with cleaning up the formerly industrialized land.

Ultimately, the brownfield was cleaned up and the land was revitalized into a thriving business and commercial hub in Atlanta.

Laws Aimed at Controlling Market Access to Harmful Chemicals

Regulating the use of hazardous chemicals protects both human health and the environment. There are two federal laws that are particularly important in limiting access to and use of harmful chemicals. These include the **Toxic Substances Control Act** (TSCA, pronounced “toss-kah”) and the **Federal Insecticide, Fungicide, and Rodenticide Act** (FIFRA).

The Toxic Substances Control Act (TSCA) (15 U.S.C.A. § 2601-2692)

TSCA was enacted to enable the EPA to track and control industrial chemicals and take steps to protect human health and the environment from harms associated with those chemicals. TSCA addresses the production, importation, use, and disposal of specific chemicals.

TSCA can be considered a “catch all” statute because it applies to all chemicals that are not specifically regulated by other federal programs (i.e., food, drugs, cosmetics, and pesticides). Under TSCA, the term “chemical substance” is broadly defined as *any* substances aside from pesticides, tobacco, nuclear material, or food, all of which are regulated by other agencies.

Under TSCA, the EPA is empowered to test all new and existing chemical substances and to control any substance that is deemed to cause unreasonable risk to public health and the environment. The EPA is responsible for determining what actions to take if any risks from a particular substance are identified.

If the EPA determines a chemical substance presents an unreasonable risk, it must impose restrictions to the extent necessary so that the chemical no longer presents such a risk.

An opportunity for an informal hearing before the EPA is conducted for chemicals that pose an unreasonable risk to human health and the environment.

Additionally, there is an opportunity for written and oral presentation during a focus meeting open to the public before the testing rules are finalized. At these meetings the public has access to all documents in the EPA's public file.

Special Treatment for Specific Chemicals

Since its enactment, TSCA has been amended to direct the EPA to create regulations specific to asbestos, radon, lead-based paint, mercury, and formaldehyde. You can find more information online about [how the EPA regulates these chemicals](#).

Legal Remedies Available Under TSCA

TSCA provides citizen suit and citizens' petition provisions. The citizen suit provision allows members of the public to file legal actions against persons allegedly in violation of TSCA and actions against the EPA for failing to perform nondiscretionary acts.

These cases are brought in the U.S. district courts. See [Citizen Suits](#) for more on citizen suits in general. The citizens' petition provision allows the public to ask the EPA to initiate a proceeding to issue, amend, or repeal rules related to a specific chemical.

It is important to pay close attention to the health and wellbeing of members of your community. **If sickness occurs and it is seemingly connected to chemicals used within your community, like cleaning chemicals or pesticides, reach out to the EPA or a local health professional to inquire about testing.**

EPA TSCA Hotline

The EPA has a TSCA hotline that is available to quickly answer general questions and provide documents about TSCA requirements.

The TSCA Hotline operates Monday through Friday, from 8:00 a.m. to 6:00 p.m. ET and can be reached via **email at tsca-hotline@epa.gov** or by **telephone at (800) 471-7127**.

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. §§ 136-136y) & The Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. §§ 301-399)

Under **FIFRA**, pesticides must be registered with the EPA. The EPA must evaluate all the manufacturer's claims, the product's effectiveness, and whether the pesticide will cause an unreasonable adverse effect on the environment if used according to widespread and common practice.

For a pesticide to be registered for use on food, the EPA must study its effects and find a "reasonable certainty of no harm" from its use. Pesticide registrations must be reviewed at least once every 15 years.

Under the **FFDCA**, Congress gave power to regulate food, drugs, and cosmetic products to the Food and Drug Administration (FDA) and the Department of Health and Human Services. However, the statute also gives the EPA the authority to establish tolerances and exemptions for pesticide residues in or on food.

When establishing these tolerances and exemptions, there must be reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue. The agency must consider the impact on infants and children, who are more sensitive than adults.

While the statute does not provide for private enforcement (citizen suits), individuals or community groups can file petitions with the FDA to take action regarding a certain food, drug, or cosmetic product. The FDA provides **instructions** for how to file a citizen petition. Petitions filed with the FDA can be found online **here**.

Unfortunately, neither law contains a citizen suit provision, which would allow individuals to directly file lawsuits against a violator.

If you suspect contamination from a pesticide is affecting the health of your community, reach out to the Pesticides Enforcement Branch of EPA Region 4's Chemical Safety and Land Enforcement Branch.

Kimberly Bingham, Branch Chief

EPA Region 4

Pesticides Enforcement Branch

Telephone: (404) 562-9038

Email: bingham.kimberly@epa.gov.

Hazardous Waste, Toxic Substances, and Contaminated Land Cleanup Citations

¹¹ Public Law 107-118 (H.R. 2869), the "Small Business Liability Relief and Brownfields Revitalization Act", signed into law January 11, 2002.

¹² O.C.G.A. § 12-8-200.

Lead Contamination

Lead is a naturally occurring metal used in many industries such as manufacturing and construction. Despite being natural, lead is hazardous to human health and there is no safe level of exposure. Even small amounts of lead can cause damage to the brain, nervous system, and kidneys, interfere with the formation of red blood cells, and result in lifelong learning disabilities and motor coordination impairment.

Lead is particularly harmful to children because their developing bodies absorb more lead than adults do, and their brains and nervous systems are more sensitive to damage. Pregnant women are also particularly susceptible to lead, and exposure can cause serious harms during pregnancy. More information about the harmful effects of lead can be found on the [EPA's website](#).

At this time, there is no known cure for lead poisoning and the harmful effects of exposure to lead are irreversible; therefore, it is important to identify common sources of lead and take steps to avoid exposure in the first place.^[1] This can present a challenge because the health risks associated with lead can be difficult to detect as lead often cannot be seen, smelled, or tasted.

To determine whether a person has been exposed to lead, doctors analyze the concentration of lead absorbed into a person's blood. While there is no safe level of lead in the blood, the Centers for Disease Control (CDC), as of 2022, consider a **high blood lead level in children** as being equal to or greater than 3.5 micrograms per deciliter ($\mu\text{g}/\text{dL}$).^[2] The CDC reports that approximately half a million children ages 1-5 have blood lead levels above this level, making lead a **major public health concern**.^[3]

Common Sources of Lead Contamination:

If you think any of these potential sources may be present in your household or community, you should be aware of potential lead exposure and take precautions.

- Homes and buildings built prior to 1978 may contain lead-based paint
- Older pipes may be made of lead, or be joined with lead solder
- Piston-engine airplanes and helicopters use leaded fuel
- Coal-fired power plants emit lead when coal is burned
- Dust from construction or mining in lead contaminated soil
- Recycling electronic waste such as computers or phones
- Disposal of lead acid batteries (commonly found in cars and emergency systems)
- Spent ammunition (many bullets are primarily made of lead)
- Lead smelters
- Burning solid waste may release lead and other heavy metals
- Parts of automobile radiators or lead pipes, used in at-home distilleries to make moonshine, may contaminate the alcohol with lead
- Lead-glazed ceramic ware and leaded crystal
- Traditional folk medicines and cosmetics may contain lead (e.g., Greta and Azarcon used to treat an upset stomach)^[4]
- Mini-blinds that are made outside of the United States may contain lead (lead is sometimes added to stabilize the plastic)^[5]

Laws Regulating Lead

Lead is regulated under several different laws administered by the Environmental Protection Agency (EPA) including:

- **Toxic Substances Control Act**
- **Clean Water Act**
- **Safe Drinking Water Act**
- **Comprehensive Environmental Response, Compensation, and Liability Act**
- **Clean Air Act**

This chapter focuses on lead contamination in paint, dust, and soil and provides some information about lead contaminated soil clean-up efforts. For more information on contaminated site cleanup generally, see **Hazardous Waste, Toxic Substances, and Contaminated Land Cleanup**.

Although water can also be contaminated by lead, this section does not cover lead contaminated water. Lead contaminated drinking water is discussed in **Protecting Your Drinking Water**. This chapter does not cover lead pollution in air as it is not a significant problem in Georgia.

Lead in Paint, Soil, and Dust

Paint

In the past, lead was commonly added to paint to make it stronger and dry faster. However, lead-based paint was banned by the federal government in 1978 because of the harmful health effects caused by lead exposure when the paint ages and flakes away.

Despite the ban, lead-based paint is still present in millions of homes built before 1978.^[6] In older homes, lead-based paint often exists under newer layers of paint. Household products such as children's toys, ceramics, cosmetics, and pipes may also contain lead-based paint.

Over time, paint deteriorates, resulting in peeling, chipping, and cracking. Areas with high wear and tear — such as windows and windowsills, doors and door frames, stairs, railings, bannisters, and porches — can result in lead-based paint deteriorating and becoming hazardous faster. Additionally, if children chew on surfaces painted with lead-based paint, they can accidentally directly eat lead-based paint chips or flakes which are toxic.

Soil

Lead is naturally occurring in soil, usually at levels below 50 parts per million (ppm), but industrial practices have caused the amount of lead in some areas to increase to dangerous levels, sometimes exceeding 10,000 ppm.

Sometimes soil contamination is the result of lead-based paint from houses and buildings flaking or peeling and getting into the soil. Soil can also be contaminated from the use of leaded gasoline, industrial emissions, lead smelting, spent ammunition, or contaminated disposal sites.

Children can ingest lead in soil by playing outside or by consuming produce that has absorbed lead from contaminated soil or that is dirty. Lead-contaminated soil can be particularly challenging to remediate because once present it does not naturally disappear from the soil, and it continues to cause harm despite being several layers underground.

Dust

Lead-contaminated dust is the most common method of exposure. The deterioration of lead-based paint often produces lead-contaminated household dust which can be harmful when inhaled or directly swallowed. This can occur from consuming lead contaminated dust that has settled on food or surfaces, or from common hand to mouth contact.

Children are particularly susceptible to harm from lead-based dust due to the frequency in which they put their hands and objects in their mouths, and because young children crawl on floors that may be dusty.

Home repair activities commonly cause lead-contaminated dust, but it also comes from other sources outside the home.

Some common sources outside the home include lead contaminated dust particles that stick to clothing at a contaminated park, playground, or job site. Some jobs that are more likely to result in lead exposure because of contact with lead contaminated dust are listed below.

Jobs that are more likely to result in lead exposure:^[7]

- Artists (materials may contain lead)
- Auto repairers (some car parts may contain lead)
- Battery manufacturers
- Repair and reconstruction workers (old paint may contain lead)
- Construction workers (materials used may include lead)
- Firing range instructors and gunsmiths
- Glass manufacturers (lead may be used in glass production)
- Lead manufacturers, miners, and refiners
- Lead smelters
- Manufacturers of bullets, ceramics, and electrical components
- Painters (old paint may contain lead)
- Plastic manufacturers (materials made may contain lead)
- Plumbers and pipe fitters (pipes may contain lead)
- Police officers or soldiers (ammunition contains lead)
- Radiator repair workers (radiators may contain lead)
- Recyclers of metal, electronics, and batteries (may contain lead)
- Rubber product manufacturers (process contains lead)
- Shipbuilders (materials used may include lead)
- Solid waste incinerator operators (waste may contain lead)
- Steel welder (galvanized steel is coated in part with lead)

Soil Screening, Health, Outreach and Partnership (soilSHOP)

If you are aware of soil contamination within your community, there are resources available to help educate individuals and your community. For example, to reduce exposure to lead and other heavy metals in soil, the Agency for Toxic Substances and Disease Registry (ATSDR) promotes and supports **soilSHOP** events. These events are intended to educate communities about the harms associated with lead contamination and offer free soil testing.

If you think your community would benefit from a soilSHOP or if you would like to have your soil tested, you should **reach out to ATSDR** to inquire about setting up an event.

How Lead is Regulated Under Different Laws

Toxic Substances Control Act

Lead is regulated under the Toxic Substances Control Act (TSCA, pronounced “toss-kah”) because of its harmful effects and the risk of injury associated with exposure. For more information on TSCA generally, refer to **Hazardous Waste, Toxic Substances, and Contaminated Land Cleanup**.

Title IV of TSCA, Lead Exposure Reduction, specifically covers lead-based paint hazards.¹⁸¹ The goal of this law was to create a national program aimed at reducing the risks of lead-based paint exposure from housing. The EPA administers TSCA and the relevant regulations.

TSCA directs the EPA to do the following in regulating lead:

- Establish definitions for lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil.
- Make sure workers engaged in detection and handling of lead hazards are properly trained.
- Publish requirements for the accreditation of training programs for workers.
- Set standards to evaluate the effectiveness of products used to detect or reduce risks.
- Establish standards and protocols for lead analysis in paint, soil, and dust.
- Create a certification program for laboratories conducting testing.
- Publish a **pamphlet** on lead hazard risks and the resources available.

The EPA also works with the **CDC** and the **National Institute for Environmental Health Sciences** to determine the sources of lead exposure leading to elevated blood levels in children.^[9]

Residential Lead Disclosure Program

(Title X, Section 1018)

The EPA and the **U.S. Department of Housing and Urban Development** (HUD) are responsible for protecting the public from any lead-based paint hazards.^[10] The EPA and HUD created a Residential Lead Disclosure Program that applies to “**Target Housing**.”^[11] Target Housing is defined as any housing, both for rent or for sale, constructed before 1978, except housing for the elderly or persons with disabilities (unless any child under age 6 resides or is expected to reside in such housing), or any 0-bedroom dwelling (e.g., lofts, efficiencies, and studios).^[12] More information about what is not included in the definition of Target Housing can be found **here**.

Regardless of whether you are looking to rent or purchase property, there are several steps that you should take to ensure you are aware of the risks related to lead contamination.

Because lead is so hazardous to human health, and its effects are irreversible, it is important to be informed about the property. You should determine whether the property you plan to rent or purchase was built prior to 1978. If so, the landlord or seller is required under the Residential Lead Disclosure Program to make certain disclosures to you of the dangers associated with lead.

Renting

When renting property built prior to 1978, the landlord must do the following:^[13]

1. Provide you with all known lead-based paint and lead-based paint hazards in the home and any available reports on lead in the housing. (This includes information about common spaces in a multi-dwelling property.)
2. Provide you with the EPA pamphlet **Protect Your Family from Lead in Your Home**.
3. Include the **Lead-Based Paint and/or Lead-Based Paint Hazards Form** in the lease and get signed statements from all parties acknowledging that all requirements were completed.
4. Keep the signed acknowledgment of the disclosure for at least three years as proof of compliance.

Purchasing

When purchasing property, the seller must do all four steps required when renting property and also provide a 10-day opportunity to test the home for lead after signing the contract. As the buyer, you will be responsible to pay for any testing. If lead-based paint or hazards are present, the contract may be cancelled but you will still be responsible for any costs associated with the cancellation.^[14]

Under federal law, if a landlord or seller fails to properly disclose this information, they may be fined up to \$18,364 for every violation.^[15] A violation of the law requiring disclosure does not invalidate the lease or contract of sale.

If you did not receive the Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards Form when you bought or leased pre-1978 housing, call the National Lead Clearinghouse at 1-800-424-LEAD (5323) or contact a lawyer.

A party who was not properly informed about the presence of lead and has been harmed as a result may be able to sue their landlord or the seller for damages,

including compensation for requested medical bills. It is important not to delay seeking legal assistance because there may be a limited period in which you are able to recover.

Federal Lead Hazard Standard Regulation

The EPA passed the **Federal Lead Hazard Standard Regulation** in 2001 (2001 Rule) to identify contamination levels that constitute lead-based paint, lead contaminated dust, or contaminated soil hazards under federal law.^[16]

A paint-lead hazard typically refers to conditions that cause exposure to lead that is dangerous to human health. Federal agencies use these standards as a benchmark when passing laws and regulations to clean up lead contamination in **Target Housing** (as defined above) and “**child-occupied facilities.**”^[17]

Child-occupied facilities include any building constructed prior to 1978, visited regularly by the same child, under six years of age, on at least two different days within any week for at least three hours and for a combined weekly visit of at least six hours. Additionally, annually the child must visit the facility for at least 60 hours. The 2001 Rule also established dust clearance levels, which are used to evaluate the effectiveness of a required cleaning following an abatement, a project designed to permanently eliminate existing lead-based paint hazards.

Paint-lead hazards, dust-lead hazards, soil-lead hazards, and dust clearance standards set by the 2001 Rule are listed below. **Please note that the EPA is in the process of revising these standards and strengthening them.** In July 2023, the EPA proposed **new dust-lead hazard standards and dust clearance standards** that will provide more protection by imposing stricter limits. As these new standards have not been finalized, the standards below are the current standards in effect at the time of writing in 2023.

Lead Hazard Levels

(a) Lead in Paint: This standard is very broad because it is intended to alert the public that all deteriorated lead-based paint is harmful and should be addressed. Lead-based paint is considered hazardous if:

- The paint has visually deteriorated.
- Lead-based paint is present on a friction surface where a dust-lead hazard exists underneath (for example, opening and closing windows creates friction which can cause paint to flake or turn to dust that lands on the windowsill).
- Lead-based paint is on a damaged or deteriorated “impact surface” (for example, where a doorknob knocks a wall).
- Lead-based paint is present on a “chewable surface” accessible to children with evidence of teeth marks.

(b) Lead in Dust: In 2020, the EPA strengthened the dust-lead hazard level because of concerns about the harmful effects of lead-contaminated dust on children’s health.^[18] Under the newly strengthened levels, lead-contaminated dust is considered dangerous if:

- Lead in dust equals or exceeds 40 micrograms per square foot on floors;
or
- Lead in dust equals or exceeds 250 micrograms per square foot on windowsills.

(c) Lead in Soil: EPA considers lead in soil hazardous when:

- Lead is present in bare soil at levels equal to or exceeding 400 parts per million in areas of a yard where children play, or
- Lead is present in bare soil at levels equal to or exceeding 1,200 parts per million averaged across a yard.

Lead Repair and Renovation Programs

The EPA developed two separate programs to address lead abatement (cleanup) and lead renovation, repair, and painting activities. Renovation, repair, and painting activities include most home contracting work that disturbs paint.

These activities are typically unrelated to lead issues, but could include resolving a leak, replacing a window, removing a wall, or even applying a fresh coat of paint. However, precautionary measures are still required because of the potential to disturb existing lead paint.

Lead abatement differs because it includes construction and cleanup efforts that are specifically designed to target lead contamination.

(1) Lead Renovation, Repair, and Painting Program

The EPA developed the **Lead Renovation, Repair, and Painting Program (RRP Program)** program to make sure lead renovation and repair activities are conducted safely and that workers are properly trained. The EPA delegated Georgia the authority to administer and enforce its own RRP Program administered by the Georgia Environmental Protection Division (EPD).^[19]

The Georgia RRP Program is modeled after the federal program and applies to renovation, repair, and painting completed for pay in residential houses, apartments, and child-occupied facilities built before 1978 that involve any of the following acts or effects:

- Disturbing more than 6 ft² of lead painted or coated surfaces per interior room.
- Disturbing more than 20 ft² of lead painted or coated surfaces on exteriors.
- Replacing windows of any size.
- Partially demolishing structures, walls, or components that are not entire structure demolitions.^[20]

(2) Lead Abatement Program: Training and Certification

Georgia administers the state **Lead Abatement Program** under the Lead Poisoning Prevention Act of 1994.^[21] This program was created to make sure that workers doing lead inspection and cleanup have the right training, certification, and accreditation.^[22]

In order to “advertise to, agree to, or perform work or services” on target housing or child-occupied facilities, any individual working on the project must be a Georgia Certified Renovator, and the firm must also be a Georgia-Certified Renovation firm.

To become certified, individual applicants must attend a training course to learn lead-safe practices, complete an application, pay an application fee, and pass an exam. The EPD publishes a **list of Georgia-certified contractors**.

Responding to Lead Exposure

What to do if you think your home is contaminated:

While the best way to avoid hazards is to avoid renting or buying property with lead-based paint and lead-based paint hazards, that is not always possible. This also may not be necessary as lead-based paint that is still intact is not harmful to human health.

To take proper precautions, it is helpful to know the source of contamination.

You can test your own home using at-home test kits. There are two commercially available at-home tests that the EPA recognizes as complying with the RRP Rule. These include the 3M™ LeadCheck™ and the ESCA Tech D-Lead®. Both tests can be used to determine that lead-based paint is not present on wood, ferrous metal (alloys that contain iron), or drywall and plaster surfaces.^[23] You can purchase these at-home test kits at your local hardware store.

However, the Georgia Department of Public Health still cautions that at-home testing may not always be reliable.^[24] If you have any doubts as to the results, or if an at-home test kit indicates lead is present, consider hiring a certified risk assessor or inspector to determine if your home has lead hazards. The risk assessor can also recommend actions to take to address existing hazards. However, hiring a certified risk assessor or inspector can be costly. **For help finding a certified risk assessor or inspector, call the National Lead Information Center at 1-800-424-LEAD (5323).**

Even avoiding renting or buying property with lead-based paint present and conducting at home testing is not a definite way to avoid exposure. Lead exposure is also commonly caused by contact with lead contaminated dust or soil outside of the home (i.e., at school, or in the workplace).

It is important to keep in mind EPA's **recommended steps to mitigate your risk**. The following sections provide more information on some of the EPA's recommended precautions for minimizing lead exposure and what to do if you think your home is contaminated.

Steps to minimize lead exposure:

(1) Reduce potential lead exposure within your home

Maintaining a clean home is very important to minimize harmful lead exposure. If you are aware that your home has lead-based paint, keep children away from the windows, porches, handrails, or other areas that are commonly used and rubbed together.

If you see paint chipping, cover it with contact paper or duct tape to create temporary barriers, and keep the surrounding area clean and dust free. Do not try to re-paint your walls yourself, instead reach out to a lead certified contractor who can help rectify the problem.

Avoid using a vacuum or broom to clean lead-contaminated dust. These methods can disturb dust particles making them airborne and thus more easily inhaled. It is best to clean with a mop, but you should avoid using the same mop

for other cleaning purposes to prevent spreading contaminant dust and debris. Wash children's hands and toys frequently, especially if they have been playing on the floor or in dirt.^[25]

(2) Reduce potential lead exposure outside your home

The most effective way to clean up lead contamination in soil in your yard is to have the contaminated layer removed. *This is extremely costly and requires hiring contractors.*

However, there are some steps that communities can take as short-term solutions. For example, washing kids' hands frequently can be helpful because children often play in the soil and then stick their hands in their mouths, potentially exposing them to lead from the soil. It may be wise to limit play areas to grassy areas, sandboxes, or parks. Additionally, you may consider covering the areas surrounding your home in sod or mulch.

When entering the house, remove your shoes to prevent lead contaminated soil from being tracked inside. Additionally, if you work in an environment where you could be exposed to lead contaminated dust or soil, you could change your clothing and take a shower after work.

Plants growing in contaminated soil in yards or gardens can absorb toxic substances, including lead, from the surrounding soil. Therefore, eating plants grown in lead contaminated soil can be harmful to your health. If possible, consider using raised planters and soil known to be lead free to prevent food contamination. Additionally, thoroughly wash all fruits and vegetables prior to consumption. Try to maintain a healthy diet for yourself and your children because iron, calcium, and vitamin C can help limit absorption of lead into the bloodstream.

Steps if you suspect you or your family have been exposed to lead:

(1) Contact your doctor

There are no clear symptoms of lead poisoning until it is very severe; therefore, it is difficult to detect. **If you are concerned about exposure to lead, do not wait.**

Contacting your doctor early is essential to mitigating harms. Your doctor will be able to determine whether someone has lead poisoning through a blood or saliva test. Blood tests are the preferred method for lead screening. Depending on the results, additional screening may be required.

Below is a list of symptoms of lead poisoning to look out for and additional considerations to share with your doctor if you are concerned about lead contamination. Some possible symptoms include:

- Loss of appetite
- Feeling tired or irritable
- Poor growth
- Nausea and vomiting
- Constipation
- Stomach pain
- Joint pain and muscle weakness
- Headaches
- Confusion, seizures, or coma

In preparation for your appointment with the doctor make a list of:

- Symptoms or behavior changes you've noticed
- Key personal information, including where you live and whether you or your child has been close to any sources of lead
- All medications, vitamins, or supplements you or your child take (including doses)
- Questions to ask your provider

All young children should receive a routine blood lead screening. Medicaid and PeachCare for Kids cover blood lead screening tests for all children at ages 12 months and 24 months. Additionally, any child between 24 and 72 months who has not been previously screened is also required to be tested. You can also contact your local health department for screening options, sites, and costs.

Any indication of lead in a child's blood should be taken seriously and steps should be taken to prevent further exposures because the harmful effects of lead exposure are irreversible. You can ask your medical provider for guidance or reach out to the Georgia Department of Public Health for suggestions on how to avoid further exposure. **The Georgia Department of Public Health can be reached at (404) 657-2700.**

The following counties are considered at a higher risk of exposure: Bibb, Chatham, Clayton, Cobb, DeKalb, Dougherty, Fulton, Gwinnett, Hall, Houston, Muscogee, Richmond, and Troup. If you live in one of these counties it is especially important to get your blood lead level tested.^[26]

(2) Contact the Georgia Department of Public Health

When a child under the age of six has lead poisoning and resides in a dwelling containing lead poisoning hazards, the Georgia Division of Public Health has the legal authority to order the owner to take steps to reduce the lead poisoning hazards in the home.^[27]

The Georgia Department of Public Health runs the **Georgia Healthy Homes and Lead Poisoning Prevention Program** to try to eliminate childhood lead poisoning in Georgia. The program focuses on screening and education initiatives.

Under this program, all blood lead level screening data collected by public labs, commercial labs, and doctors is reported to the Georgia Department of Public Health. If test results indicate that a child has elevated blood lead levels, the Georgia Department of Public Health will conduct a home investigation.

A report will be generated based on the investigation and submitted to recipients, caregivers, and landlords. The report will not include the child's name. The Georgia Department of Public Health will then assist in controlling the lead hazards and will monitor the child for subsequent blood lead levels as needed.

If necessary, the Georgia Department of Public Health will require the owner or manager of the home to submit a written lead poisoning hazard abatement plan within 15 days of the receipt of the lead poisoning hazard notification. The owner or manager must receive written approval of the plan before initiating abatement.

The occupants must be notified of the abatement plan at least three days prior and the abatement should be completed within 60 days. The landlord will be responsible for the costs associated with mitigating lead exposure. If the Georgia Department of Public Health does not receive the corrective action plan, they will send an enforcement letter to the owner. If no response is received, a case will be filed with the Attorney General's office.

Retaliating against tenants for reporting hazardous lead conditions is illegal under the Georgia Landlord Tenant Code. Although it is illegal for the landlord to try to evict you for enforcing the Georgia Landlord Tenant Code, it is possible that this process may put a strain on your relationship with your landlord. But, it is important to remember that the landlord is legally required to remedy the problem. **If this becomes a problem, you can reach out to the Georgia Department of Public Health at (404) 657-2700 and your local Legal Aid organization for additional guidance and resources.**

(3) Eliminate the source

The CDC has declared that there is no safe concentration of lead for children. Therefore, if you are aware of lead-based paint hazards in your home, you should try to take steps to rectify the problem by eliminating the source.

However, you should not try to eliminate the source on your own – trying to do so may result in more exposure, because improperly done work may create more

lead-contaminated dust in your home. Certified contractors and firms will be able to remove the lead without worsening the problem and causing more harm.

Renter:

If you are renting property and discover lead-based paint hazards (i.e., peeling, chipping, chalking, or damp paint), you should promptly inform your landlord of these issues in writing. In Georgia, your landlord is responsible for repairs to keep the property in good condition.

The landlord cannot make a tenant pay for repairs unless that tenant or that tenant's family or guests caused the damage. For more information on landlord tenant issues in Georgia review the **Georgia Landlord Tenant Handbook**. For legal advice or assistance about lead in rental properties contact your local Legal Aid organization.

Owner:

If you are aware of a problem and need to repair or restore lead-based paint, or abate your property, you must use workers certified by Georgia EPD under the Lead-Based Paint Renovation, Repair and Painting program. Failure to do so can result in harm to the workers as well as the community and can also result in significant fines. A **list of certified renovators and renovation firms** is available online.

If you need help paying for the renovations, **HUD's Office of Lead Hazard Control and Healthy Homes** has two grant programs available to help identify and control lead-based paint hazards in private rentals and owner-occupied housing. For more information and to see if you are eligible for Georgia's programs reach out to **Christina Newby at christina.newby@dph.ga.gov**.

Additionally, your county may have specific programs available to assist with the costs of lead remediation. For example, Augusta-Richmond County has a **program that covers the costs of remediating lead paint hazards**. You should reach out to the **Georgia Department of Public Health** to find out about other programs that may exist in your area.

(4) Advocate and educate others

If you are aware of lead exposure within your community, it is likely affecting others as well who may not be aware of the presence of lead or the dangers associated with it. Therefore, it is important to spread the word, inform others of the harms of lead, and work together to advocate for the cleanup of the contamination.

The **U.S. Department of Health and Human Services** and the **CDC** sponsor **National Lead Poisoning Prevention Week** each year at the end of October. The annual event focuses on the many ways to prevent lead exposure to children before they are harmed.

Additional Resources and Contacts

Resources:

National Lead Information Center, 1-800-424-LEAD (5323)

Environmental Justice Hotline, 1-800-962-6215

State Lead Contacts:

Georgia Department of Public Health, 404-657-2700

- **Environmental Health Section – Healthy Homes and Lead Poisoning Prevention Program, 404-657-6534**

Agency for Toxic Substances and Disease Registry (ATSDR) Region 4 Contacts

- **Leann Bing, BS**
Health Scientist; Regional Representative
Telephone: 770-488-3003
Email: **kgb0@cdc.gov**

- **Sue Casteel, MS**

Health Educator

Telephone: 404-562-0637

Email: aov2@cdc.gov

Georgia Environmental Protection Division – Lead Contacts

- **Elisabeth Munsey**, 470-524-2179
- **Lisa Davidson**, 470-251-2693
- **Allison Webb**, 706-612-8875

Success Story: Protecting Children From Lead By Challenging Outdated Standards

“Strengthening the [lead] standards will protect millions of children from exposure to dangerous levels of lead dust at their homes and schools,” said Earthjustice attorney Jonathan J. Smith after the Ninth Circuit Court of Appeals ordered the EPA to revisit their lead based paint, soil, and dust standards.^[28]

Earthjustice represented various nonprofit community, health, and environmental groups including A Community Voice, California Communities Against Toxics, and Healthy Homes Collaborative in a case against the Environmental Protection Agency (EPA).^[29]

These organizations were concerned that the EPA’s current lead standards did not align with prevailing scientific research that found that there is no safe amount of lead in the body.

Bringing a Case in the Ninth Circuit Court of Appeals

This led to a lawsuit where Earthjustice argued that the EPA’s current lead standards supported dangerously high levels of exposure. On May 14, 2021, the Ninth Circuit Court of Appeals ruled in favor of Earthjustice and its community organization clients.

The court found the EPA had failed to set adequate lead paint standards, even after the agency was already instructed to update its guidelines back in 2017.

With this ruling, the EPA will be required to adopt more stringent standards that focus solely on the health implications of lead poisoning, as opposed to outside factors such as feasibility and testing capabilities.^[30]

Lead Exposure in Children

This decision comes after heightened understanding of the impact of lead poisoning on children. According to the Centers for Disease Control (CDC), **there is no safe level of lead exposure in children.**

Any level of lead exposure in children can contribute to slowed growth and development, learning and behavior problems, and hearing and speech problems.^[31] This can lead to lower IQ, decreased ability to pay attention, and underperformance in school.^[32] Children can become exposed to lead if they are in homes or buildings, such as schools or daycares, built before 1978 that probably contained lead-based paint.^[33] As the paint peels, children become exposed to the dust or if they swallow pieces. Many of these homes and buildings containing lead-based paint are within low income areas.^[34] This leaves minority children and children from low-wealth homes at greater risk of exposure.^[35]

Looking to the Future

With this ruling, we can expect to see the EPA revisit its lead standards for paint, soil, and dust, hopefully adopting more stringent parameters. The court chastised the EPA for its “glacial pace” in setting lead standards over the past thirty years.^[36]

The EPA will now be expected to hasten its efforts in adopting new lead standards that focus on the health impacts of lead exposure in young children. The EPA will have to update the clearance standard for lead dust, which is the standard that must be reached when reducing lead contamination levels.^[37]

Moreover, the EPA will be expected to update its definition of lead-based paint as well as standards related to lead in soil.^[38] Many of these updates were supposed to be made back in 2017, after the initial ruling, but never came to fruition. With a second ruling ordering the same things, one can hope

that the EPA will finally take the requisite steps to develop and implement these new standards.

Finally, the EPA stated that they are committed to preventing lead exposure, “including those in historically underserved communities.”^[39] With this decision, and the Biden administration’s dedication to environmental justice, people should expect to see disenfranchised communities given priority consideration in future lead regulations and clean-up efforts.

The advocacy efforts of these various community, health, and environmental organizations will usher in a new, more protective set of lead standards that will undoubtedly have significant positive impacts on human health and the environment.

The ability of community members to recognize a problem in their neighborhood and come together to tackle it through advocacy tools, calling representatives, writing letters, attending and speaking at public hearings, and partnering with organizations like Earthjustice leads to more resources, support, and power in the fight for better health and a cleaner environment, and most importantly, to healthier children and families.

Lead Contamination Citations

^[1] See <https://www.epa.gov/lead/learn-about-lead#effects>; <https://www.cdc.gov/lead-prevention/symptoms-complications/> for more information about the harmful effects of lead.

^[2] See <https://www.cdc.gov/lead-prevention/php/news-features/updates-blood-lead-reference-value.html> for information about the current blood lead reference value.

^[3] CDC, Preventing Lead Exposure in Children, <https://www.cdc.gov/lead-prevention/prevention/index.html>.

^[4] See CDC, Lead in Foods, Cosmetics, and Medicines, <https://www.cdc.gov/lead-prevention/prevention/foods-cosmetics-medicines.html>.

^[5] See Healthy Homes and Lead Poisoning Prevention, Georgia Department of Public Health, <https://dph.georgia.gov/environmental-health/healthy-homes-and-lead-poisoning-prevention> (select “Lead Frequently Asked Questions”).

^[6] 6 C.F.R. § 1303.

^[7] Lead, The National Institute for Occupational Safety and Health, <https://www.cdc.gov/niosh/lead/about/index.html>.

^[8] 42 U.S.C. §§ 2681-2692.

^[9] 40 C.F.R. § 745.

^[10] 40 C.F.R. §§ 745.100-745.119.

^[11] *Id.*

^[12] 40 C.F.R. § 745.223.

^[13] 42 U.S.C. § 4852d.

^[14] HUD, Guidance on The Homebuyer's Option to Test For Lead-Based Paint and Lead-Based Paint Hazards, https://www.hud.gov/sites/documents/20264_OPTIONTOTEST.PDF.

^[15] 24 C.F.R. § 30.65.

^[16] Lead; Identification of Dangerous Levels of Lead, 66 Fed. Reg. 1206, 1207 (Jan. 5, 2001) (codified as 40 C.F.R. § 745, effective on Mar. 6, 2001).

^[17] Residential Property Renovation, 63 Fed. Reg. 29919 (June 1, 1998) (codified as 40 C.F.R. § 745, effective on June 1, 1999).

^[18] Review of Dust-Lead Post Abatement Clearance Levels, 86 Fed. Reg. 983 (Jan. 1, 2021) (codified as 40 C.F.R. § 745, effective on March 8, 2021).

^[19] O.C.G.A. § 31-41-1 (1994).

^[20] Ga. Comp. R. & Regs. 391-3-24 (2022); 40 C.F.R. § 745.

^[21] O.C.G.A. 31-41-1 (1994).

^[22] 40 C.F.R. §§ 745.220-745.239.

^[23] EPA, Lead Test Kits, <https://www.epa.gov/lead/lead-test-kits>.

^[24] Healthy Homes and Lead Poisoning Prevention, Georgia Department of Public Health, <https://dph.georgia.gov/environmental-health/healthy-homes-and-lead-poisoning-prevention>.

^[25] For more information, see EPA, United States Consumer Product Safety Commission, and United States Department of Housing and Urban Development, *Protect Your Family From Lead In Your Home 1* (March 2021), <https://www.epa.gov/sites/default/files/2020-04/documents/lead-in-your-home-portrait-color-2020-508.pdf>.

^[26] Healthy Housing Solutions, *Childhood Lead Poisoning in Georgia: A Needs Assessment* at 10 (2004), <https://dph.georgia.gov/document/document/childhood-lead-poisoning-georgia-needs-assessment/download>.

^[27] O.C.G.A. §31-41-14.

^[28] Erin Fitzgerald, *Court Directs EPA to Better Protect Children from Lead Hazards in Homes and School*, Earthjustice (May 14, 2021), <https://earthjustice.org/news/press/2021/court-directs-epa-to-better-protect-children-from-lead-hazards-in-homes-and-schools>.

^[29] *Id.*

^[30] Agya K. Aning, *For the Second Time in Four Years, the Ninth Circuit has Ordered the EPA to Set New Lead Paint and Dust Standards*, Inside Climate News (May 25, 2021), <https://insideclimatenews.org/news/25052021/lead-paint-dust-standards-epa-ninth-circuit/>.

^[31] Health Effects of Lead Exposure, Childhood Lead Poisoning Prevention, Centers for Disease Control and Prevention, <https://www.cdc.gov/nceh/lead/prevention/health-effects.htm> (last accessed Apr. 13, 2022).

^[32] *Id.*

^[33] Lead Exposure Symptoms and Complications, Childhood Lead Poisoning Prevention, Centers for Disease Control and Prevention <https://www.cdc.gov/lead-prevention/symptoms-complications/index.html>.

^[34] People at Increased Risk for Childhood Lead Exposure, Childhood Lead Poisoning Prevention, Centers for Disease Control and Prevention, <https://www.cdc.gov/lead-prevention/risk-factors/index.html>.

^[35] *Id.*

^[36] Agya K. Aning, *For the Second Time in Four Years, the Ninth Circuit has Ordered the EPA to Set New Lead Paint and Dust Standards*, Inside Climate News (May 25, 2021), <https://insideclimatenews.org/news/25052021/lead-paint-dust-standards-epa-ninth-circuit/>.

^[37] Michael Phillis, *9th Cir. says EPA Must Revisit Lead-Related Standards*, Law360 (May 14, 2021), <https://www.law360.com/articles/1384971/9th-circ-says-epa-must-revisit-lead-related-standards>.

^[38] *Id.*

^[39] *Id.*

Water Quality Permitting

The Federal Water Pollution Control Act, more commonly known as the **Clean Water Act (CWA)**,^[1] is the basic federal law controlling water pollution in the United States.

The objective of the CWA is “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”^[2]

As a basic tool to achieve this goal, the CWA prohibits (with some exceptions) the discharge of any pollutants into “Waters of the United States” without a permit. This system is known as the **National Pollutant Discharge Elimination System (NPDES) permitting program**. This law covers the pollution of surface waters, like rivers, lakes, and streams. For regulation of drinking water, see the EJ Green Book **Protecting Your Drinking Water** page.

The Environmental Protection Agency (EPA) is charged with the overall administration of the CWA.^[3] However, the CWA allows the EPA to delegate permitting authority to the states.^[4]

In Georgia, the **Georgia Water Quality Control Act**^[5] was enacted to provide the legal authority for the state to administer the NPDES program. Thus, permitting authority under the CWA has been delegated from the federal government to the state of Georgia, so both federal and state law apply. The Georgia Environmental Protection Division of the Department of Natural Resources (EPD) is the agency charged with issuing NPDES permits.

This chapter provides an overview of the NPDES permitting program and details what pollutants and sources are subject to NPDES permitting. It reviews permitting requirements, the steps of the permitting process, and how to challenge a permit. Finally, it explains how permit enforcement operates and how you can be involved if you suspect a facility is violating its permit.

The NPDES Program

Under the NPDES program, any person (including a company) that discharges pollutants from a point source into **Waters of the United States** is required to obtain a NPDES permit.^[6]

The definition of “Waters of the United States” has changed many times since the CWA was enacted in 1972, but includes many streams, rivers, lakes, wetlands, or other bodies of water.^[7] **Because the definition may continue to change, please contact an agency employee or attorney if you have questions about the current definition.**

Pollutants Covered Under the NPDES Program

NPDES permits generally regulate three categories of pollutants, which are described below.

Conventional Pollutants

These pollutants are representative of basic sewage components. They are biochemical oxygen demand (BOD), total suspended solids (TSS), fecal coliform bacteria, oil and grease, and pH.^[9]

Biochemical Oxygen Demand (BOD): BOD measures the amount of oxygen required for microorganisms to break down the organic waste in water—the more oxygen required, the more waste and the more polluted the water. High BOD can also be associated with low levels of oxygen dissolved in the water (because the oxygen is used by the microorganisms); adequate oxygen levels are essential for aquatic life.

Total Suspended Solids (TSS): TSS is a measure of the solids suspended in a water sample. Some of these solids may be poisonous, but more generally, suspended solids block sunlight and can literally smother aquatic life.

Fecal Coliform Bacteria: Fecal coliform bacteria are found in the digestive tracts of humans and animals. Although they are not harmful themselves, their presence in water potentially indicates the presence of pathogenic (disease-causing) organisms.

Oil and Grease: Oil and grease often affect recreational uses of waters; more importantly, they can restrict light and oxygen to aquatic life and can coat the body surfaces of aquatic species.

pH: pH measures how acidic or basic a liquid is. Aquatic life thrives at pH levels close to neutral, with extremes being toxic. High or low extremes interfere with the ability of aquatic life to breathe. The pH also affects the bioavailability and toxicity of nutrients, heavy metals, and other compounds.

Toxic Pollutants

Toxic pollutants are a set of listed pollutants¹¹⁰¹ that are particularly harmful to animals (including humans). There are currently 65 such pollutants.

Toxic pollutants cause death, disease, behavior abnormalities, cancer, genetic mutations, physiological malfunctions, or physical deformations in organisms that ingest or absorb them.

These pollutants are grouped in two categories: **organics** and **metals**.

Organics include such things as pesticides, solvents, PCBs, and dioxins.

Common metals include lead, silver, mercury, copper, chromium, zinc, nickel, and cadmium.

Toxicity of heavy metals can kill fish, contaminate their flesh, and impair water supplies.

Non-Conventional Pollutants

Non-conventional pollutants are any substances that are not classified as conventional or toxic pollutants, but sometimes need to be included in permits due to the nature of the waste and/or to protect the receiving stream.

Common non-conventional pollutants include **ammonia, nitrogen, phosphorus, and thermal discharges** (very hot or cold temperature liquids).

Sources Covered Under the NPDES Program

Pollutants can enter waters of the United States from a variety of pathways including agricultural, domestic, and industrial sources. For regulatory purposes these sources are generally categorized as either “point sources” or “non-point sources.” Point sources **must** obtain NPDES permits, but non-point sources are exempt from these requirements.^[11]

Pollutant contributions to waters of the United States may come from both direct and indirect sources. Direct sources are those that discharge wastewater directly into the receiving water body, whereas indirect sources discharge wastewater to a sewage treatment plant, which in turn discharges into the receiving water body. **NPDES permits are issued only to direct point source discharges.** Indirect sources may, however, be required to “pretreat” their wastewater,^[12] and many of them are required^[12] to obtain “pretreatment permits” from EPD.^[13]

The definition of point source is “any discernable, confined, and discrete conveyance” of pollutants into a water body.^[14] This includes “any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged.”^[15]

Moreover, stormwater discharges from industrial facilities and urban areas are specifically included as point sources.^[16] Point sources need not be man-made;

a ditch or gully can be a point source as well as a pipe.^[17] In short, nearly anything that in any way collects pollutants can be a point source.

The CWA provides one major exception to the point source definition: It specifically excludes “agricultural stormwater discharges and return flows from irrigated agriculture.”^[18] This exempts many, but by no means all, agricultural activities from the NPDES program.

Under these definitions, examples of facilities that must obtain NPDES permits are:

Municipal Sewage Treatment Plants: Municipal sewage treatment plants collect and treat wastewater from both industrial and residential users. The contents of wastewater may differ dramatically depending on whether the plant accepts waste from industrial users or merely from residential users. Municipalities discharge waste either as direct discharges (dumping waste directly into the water) or through sludge application (applying waste to agricultural or rural land).

Industries: The manufacturing process for most products results in a wide variety of by-products that must be disposed of in some fashion. Industries may obtain NPDES permits in order to discharge these by-products directly. Alternatively, an industry may apply for a pretreatment permit allowing it to discharge waste indirectly by funneling it to a municipal sewage treatment plant.

Construction Sites/Urban Areas Affecting Stormwater: Many entities that pollute stormwater must also obtain a NPDES permit. NPDES permits are required for urban storm sewers that channel polluted runoff from streets, rooftops, parking lots, and other impervious surfaces to water bodies. Construction sites can also generate silt-laden runoff that threatens water quality and must obtain permits, as do certain categories of industry (e.g., manufacturing, landfills, and light industrial activity).

Concentrated Animal Feeding Operations (CAFOs): CAFOs are large-scale animal production facilities where poultry, hogs, and cattle are

confined in small feeding areas. CAFOs must obtain NPDES permits because animal waste and wastewater can enter water bodies via spills or breaks from waste lagoons.

Types of NPDES Permits

The two basic types of NPDES permits are individual and general permits. An *individual permit* is specifically tailored to an individual facility. A *general permit* covers multiple facilities within a specific category.^[19]

General permits may offer a cost-effective option for permitting agencies because a large number of facilities can be covered under a single permit provided there is a common element between the facilities. Examples of general permit categories are stormwater permits, facilities that involve the same or substantially similar operations, or facilities that require the same or similar monitoring.^[20]

The limiting factor on general permits is that they may only be issued to dischargers within a specific geographical area such as a city, county, or state political boundary; designated planning area; sewer district; or urbanized area.^[21]

NPDES Permit Contents

The heart of a NPDES permit is the **effluent limitations**, or maximum amounts or concentrations of pollutants the facility can discharge.^[22] These limitations are set in a variety of ways depending on whether the pollutants are conventional, toxic, or non-conventional; the condition of the water body receiving the discharge; the nature of the activity causing the discharge; and other factors.

Most permits also include **monitoring and reporting requirements** that help characterize waste streams and receiving waters, evaluate wastewater

treatment efficiency, and determine compliance with permit conditions.^[23] For major industrial operations, these typically require the facility to report monthly to EPD.

A permit may also include **special conditions**, which are developed to supplement effluent limitations. Examples include:

- Best management practices
- Additional monitoring activities
- Ambient stream surveys
- Toxicity reduction evaluations

Finally, a permit will contain a number of **standard conditions** that apply to all NPDES permits and delineate the legal, administrative, and procedural requirements of the permit.^[24]

Permitting Process

The permitting process begins when an operator of a facility (permittee) submits a permit application to EPD. EPD reviews the application for completeness and accuracy then makes a tentative decision whether to approve or deny the permit application. If EPD tentatively decides to approve the permit, a draft permit will be prepared.

Once the draft permit is prepared, EPD must issue a public notice describing the basic details of the permit and requesting public comment.^[25] Individuals or organizations who want to comment on the permit have 30 days to submit comments to EPD regarding the draft permit, unless EPD allows a longer period.^[26] See **Submitting Public Comments** for more information about the process and best practices.

Additionally, during the 30-day notice period, these parties may request a public hearing.^[27] If there is “sufficient public interest” in an application, EPD must hold a hearing.^[28]

The EPD must also submit any proposed permit to the Regional Administrator of the EPA, who then has an opportunity to review and object to the permit.^[29] If the EPA objects to a permit, the EPD must address the concerns and resubmit the permit by a certain deadline. If the EPD fails to do so, the authority to issue the permit passes to the EPA, and the EPD loses its authority.^[30]

If EPD ultimately issues a permit, it must prepare a response to all comments received from the public, which must be made available to the public.^[31] If you believe the permit was issued unlawfully, you then have the right to file an administrative appeal, which is discussed in greater detail in **Administrative Appeals in Georgia**.

Under the CWA, permits may not exceed five years in duration.^[32] Upon expiration, a permit must be renewed and must go through the same process as for its initial issuance, including public review.

One significant feature of the renewal process is the CWA's "**anti-backsliding provision**,"^[33] which requires that, with limited exceptions, no permit may be reissued with terms less stringent than those of the previous permit. Accordingly, an important aspect of reviewing a proposed renewal permit is being sure that no permit terms have been weakened or that the permittee is not improperly claiming an exception to the anti-backsliding rule.

Challenging a Permit After It Has Been Issued

Challenging an existing permit can be difficult. Any individual or community group may petition the EPD for modification or termination of a NPDES permit.^[34]

The EPD may *modify* a permit if the parties can show that there have been "material and substantial alterations or additions to the permitted facility" or that new information exists that "would have justified the application of different permit conditions at the time of issuance."^[35]

The EPD may *terminate* a permit if the parties can show that there has been “noncompliance by the permittee with any condition of the permit,” or misrepresentation or omission of relevant facts by the permittee during the permit process.^[36]

To challenge a permit, interested parties should seek information about the permit from the EPD.

The EPD is required to maintain all of the relevant documents (including reports, correspondence, and so forth) related to a particular permit on file in its Atlanta office. The public is entitled to inspect all these documents except trade secrets. With enough documentation of the water quality problems that a permitted discharge can cause or is causing, permits may be reopened.

If it is not possible to reopen a NPDES permit, then parties should continue to build a case for a modification when the NPDES permit comes up for renewal.

Permit Enforcement

A violation of a NPDES permit constitutes a violation of the CWA.^[37] Fault is not required to support liability; instead, enforcement of NPDES permits is based on “strict liability.”^[38] In other words, even if the permittee did not mean to violate its permit, or did not know it is violating its permit, it is liable for the results. The only question is “whether the discharger has exceeded the limitations on discharge of pollutants from a particular point source.”^[39]

When a CWA violation occurs, compliance or enforcement can occur in four different ways:

Self-Monitoring

The primary responsibility for complying with the CWA and the terms of a permit rests with the permit holder.^[40] The permittee is responsible for reporting any violations and taking corrective action. Unfortunately, many

facilities do not comply with these requirements, making the other methods of enforcement necessary.

EPD Civil Enforcement Actions (including administrative fines)

If a permittee fails to comply with its permit requirements, the EPD has the primary responsibility for enforcing that permit.^[41] When the EPD documents a violation, it typically issues a notice of noncompliance to the violator.

The most common tool for civil enforcement is the issuance of a civil penalty or fine. The CWA provides for penalties of up to \$32,500 per violation per day.^[42] The EPD may also require immediate actions to correct violations, order facility operators to cease operations until the problems are fully addressed, revoke the discharger's permit, or refuse to renew a permit. The EPD may require a violator to enter into a consent order that describes measures that must be taken, such as upgrading equipment or providing operator training, with a schedule for achieving compliance.

Criminal Prosecution

The CWA and Georgia Water Quality Control Act also contain criminal penalties for certain violations.^[43] Prosecution is rare and is reserved for severe violations. Prosecutors generally base their decision on whether the violation was committed intentionally or negligently.

The most common criminal cases involve discharging without a permit, bypassing pollution control equipment, or falsifying discharge monitoring reports.

Citizen Suits

Where a facility continually violates its NPDES permit and EPD fails to take action or takes inadequate action, individuals or a community group can file a lawsuit to enforce compliance with the permit terms.^[44] For more information, see **Citizen Suits**.

Public Involvement in Enforcement

Although individuals and communities have little influence over *self-monitoring*, you can contact a facility and report any discharges you notice in the hopes that they will fix the problem.

You can be involved in the other enforcement activities:

The CWA requires each permittee to submit **Discharge Monitoring Reports (DMRs)** detailing its compliance with pollution limits contained in its NPDES permit,^[45] so individuals may aid the enforcement process by reviewing DMRs for facility compliance.

When you become aware of permit violations, **you can pressure the EPD to take civil or criminal enforcement action against violators.**

- See **Collecting and Using Scientific Data** for more about collecting and using scientific information.

Then, based on your collected information and what you've found out from the DMRs, **you can file a complaint with the EPD.**

- See **Appendix C-3** for an example complaint form.

If that fails, **the same information can support a citizen suit.**

- See **Citizen Suits** for more about citizen suits.

Water Quality Permitting Citations

^[1] 33 U.S.C. §§ 1251-1387.

^[2] See Clean Water Act (CWA) § 101(a), 33 U.S.C. § 1251(a).

^[3] CWA § 101(d), 33 U.S.C. § 1251(d).

- ¹⁴¹ CWA § 306(c), 33 U.S.C. § 1316(c).
- ¹⁵¹ O.C.G.A. §§ 12-5-20 to -53.
- ¹⁶¹ CWA § 402(a), 33 U.S.C. § 1342(a).
- ¹⁷¹ 40 C.F.R. § 120.2.
- ¹⁸¹ *County of Maui, Hawaii v. Hawaii Wildlife Fund*, 140 S.Ct. 1462, 1469–80 (2020).
- ¹⁹¹ See 40 C.F.R. § 401.16.
- ¹⁰¹ See CWA § 307(a), 33 U.S.C. § 1317(a); 40 C.F.R. § 401.15.
- ¹¹¹ CWA §§ 402(a), 502(12), 33 U.S.C. §§ 1342(a), 1362(12).
- ¹²¹ CWA § 307(b), 33 U.S.C. § 1317(b).
- ¹³¹ Georgia Rule 391-3-6-.08.
- ¹⁴¹ CWA § 502(14), 33 U.S.C. § 1362(14).
- ¹⁵¹ *Id.*
- ¹⁶¹ CWA § 402(p), 33 U.S.C. § 1342(p).
- ¹⁷¹ *Sierra Club v. Abston Constr. Co.*, 620 F.2d 41 (5th Cir. 1980).
- ¹⁸¹ CWA § 502(14), 33 U.S.C. § 1362(14).
- ¹⁹¹ 40 C.F.R. § 122.28.
- ²⁰¹ 40 C.F.R. § 122.28(a)(2).
- ²¹¹ 40 C.F.R. § 122.28(a)(1).
- ²²¹ 40 C.F.R. § 122.41(a)(1).
- ²³¹ 40 C.F.R. §§ 122.41(j), 122.44(i), 122.48; Georgia Rule 391-3-6-.06(11).
- ²⁴¹ 40 C.F.R. § 122.41.
- ²⁵¹ Georgia Rule 391-3-6-.06(7)(b).
- ²⁶¹ Georgia Rule 391-3-6-.06(7)(b)(iv).
- ²⁷¹ Georgia Rule 391-3-6-.06(7)(c)1.
- ²⁸¹ *Id.*

- [291] 40 C.F.R. § 122.44. Georgia is in EPA Region 4.
- [301] 40 C.F.R. § 122.44(h).
- [311] 40 C.F.R. § 124.17.
- [321] 40 C.F.R. § 122.46(a).
- [331] CWA § 402(o), 33 U.S.C. § 1342(o).
- [341] 40 C.F.R. § 124.5; Georgia Rule 391-3-6-.06(12)(b).
- [351] 40 C.F.R. § 122.62(a)(1).
- [361] 40 C.F.R. § 122.64(a).
- [371] CWA § 301(a), 33 U.S.C. § 1311(a).
- [381] *Id.*; *Altamaha Riverkeepers v. City of Cochran*, 162 F. Supp. 2d 1368, 1373 (M.D. Ga. 2001).
- [391] *Proffitt v. Lower Bucks County Joint Mun. Auth.*, 1987 WL 16674 (E.D. Pa., Sept. 1, 1987).
- [401] 40 C.F.R. § 122.44(i).
- [411] CWA § 309(a), 33 U.S.C. § 1319(a).
- [421] 40 C.F.R. § 19.4.
- [431] CWA § 309(c), 33 U.S.C. § 1319(c); O.C.G.A. § 12-5-53.
- [441] CWA § 505, 33 U.S.C. § 1365.
- [451] 40 C.F.R. § 122.41(l)(4).

Protecting Your Drinking Water

Clean, safe, drinkable water is probably the greatest public health achievement in the history of humanity. But millions of people each year are still seriously sickened by water-related ailments — many of which are easily preventable.

Government regulations have helped reduce pollution of the bodies of water that supply our drinking water systems over the years, but various contaminants sometimes still get into drinking water, from natural sources, industrial pollution, or disasters.

This chapter will describe the laws and governmental agencies that regulate contaminants (including lead) in drinking water, address the different standards that apply to water from a private well instead of from a municipal system, and then explain how you can tell if your water might be contaminated and what you can do about it.

Safe Drinking Water

Safe water is important for public health, whether it is used for drinking, domestic use, food production, or recreational purposes.

Municipal (city or county) water sources are regularly tested and well water should be also. Municipalities are also required to provide an annual report informing consumers of the quality of the water the facility is providing.

However, water treatment systems are not foolproof. Treating water to kill or remove contaminants like harmful germs or chemicals is still critical to making sure that water is safe to drink. Because of how vital clean drinking water is, it is important to keep it clean and take appropriate actions when it is not.

Issue Spotlight:

The Flint, Michigan Water Crisis and Lead Contamination

“Lead [poisoning] is one of the most damning things you can do to a child in their entire life-course trajectory,” states Mona Hanna-Attish, a pediatrician from Flint, Michigan.^[1]

The Flint water crisis began in 2014 when Governor Rick Snyder ended the city’s five-decade practice of piping treated water for its residents from Detroit in favor of a cheaper alternative: pumping the city’s water from the Flint River.^[2]

The Flint River is plagued with contamination, including *E. Coli*, cancer causing chemicals, and lead.^[3] Lead contamination nearly seven times greater than EPA limits in the water supply has contributed to various health and cognitive concerns, including worsened birth outcomes,^[4] rashes,^[5] hair loss,^[6] and emotional agitation.^[7] Moreover, lead exposure lowers IQ levels, which can create learning and behavioral issues for children.^[8]

Switching the city’s water supply to the contaminated Flint River not only exposed residents to the pollution in the river, the corrosive water also caused lead to enter the water from the city’s pipes.

Thousands of people became sick, and it took years of lawsuits and millions of dollars to get the water cleaned up and begin replacing the lead pipes – a process that is still ongoing.

Regulating Safe Drinking Water

Governing Agencies

Federal and state agencies monitor public water systems to ensure compliance with the **Safe Drinking Water Act (SDWA)** and other regulations. When results indicate that a contaminant is present at a level that exceeds standards, states and EPA work with public water systems to take steps to prevent or remove the contaminants and notify consumers so that they can make informed choices.

Federal Agencies

EPA works with its federal, state, and tribal regulatory partners through a comprehensive **Safe Drinking Water Act compliance monitoring program** to protect human health by ensuring communities obey environmental laws and regulations. To assess compliance, the EPA conducts on-site visits using qualified inspectors.

State Agencies

The Georgia Environmental Protection Division (EPD) uses enforcement actions to correct serious environmental problems.

The most common enforcement actions taken in response to contaminated water are consent orders and administrative orders that direct a water supplier to clean up pollution or contamination.

Consent orders are decisions and settlements that are reached after parties jointly confer to reach an agreement. This differs from administrative orders that are issued by an administrative agency (here, primarily the EPA) directing an individual, or entity to take corrective action or refrain from an action. The biggest difference is that consent orders are typically agreed to amicably, while administrative orders are unilateral decisions. The order explains the nature of the problem, details the action necessary to correct the problem and may or may not include a settlement amount or fine.

Federal Mandates on Safe Drinking Water

The EPA sets legal limits on over ninety contaminants in drinking water. The legal limit for a contaminant reflects the level that protects human health and that water systems can achieve using the best available technology.

Safe Drinking Water Act (42 U.S.C. §§ 300f to 300j-26)

The **Safe Drinking Water Act (SDWA)** is the main federal law that protects the nation's public drinking water supplies. The Act also sets the framework for underground injection of wastes into groundwater, known as the **underground injection control (UIC) program**.

The SDWA regulates the drinking water supply through the entire process — from source to collection, treatment, storage, and distribution to customers. Under the Act, the EPA must establish health-based standards for drinking water, divided into various categories.

The National Primary Drinking Water Regulations are legally enforceable standards that apply to public water systems.

The National Secondary Drinking Water Regulations are non-enforceable guidelines regulating contaminants that have cosmetic effects (e.g. teeth discoloration), or aesthetic effects (e.g. taste) in drinking water. While the Secondary Drinking Water Regulations function only as recommendations at the federal level, they are enforceable under Georgia law.^[9]

Finally, maximum contaminant level goals, levels at which there are no known or expected health risks, are also established; however, these levels are entirely unenforceable and simply serve as goals.

Additionally, every five years, the EPA must compile a list of contaminants known or anticipated to occur in public water systems that might require future regulation. The contaminants on the list are then researched and more data

collected to determine if regulation is needed. The most recent contaminant candidate list can be found [here](#).

The SDWA also makes funds available to public water systems to help finance improvements. Water systems must apply for the funding, and special consideration is typically given to small water treatment systems such as community systems.

The SDWA requires all public water systems to create an annual report on their system's water quality, called a **Consumer Confidence Report**. These reports provide various information on your drinking water, including the source, a summary of the risk of contamination, and a summary on the regulated contaminants found in your water and any potential health effects of contamination. Reports are typically sent to you by your water supplier each year by July 1. If you do not receive one, the EPA provides a [tool to find your report](#).

SDWA Underground Injection Control Program (UIC)

The SDWA's UIC program establishes minimum requirements for the siting, construction, and operation of systems for underground injection of waste to ensure the protection of underground sources of drinking water.

The UIC program classifies wells based on the potential of the injection endangering the water supply. Lower risk wells do not require a permit as long as they comply with specific rules, but higher risk wells require a permit. The permitting process requires the applicant to submit operational plans and proposed monitoring of the wells.

In Georgia, UIC permits are issued by the Georgia Environmental Protection Division. More information on the program is available [here](#).

Before a permit is issued, it must be published for public comment for no less than 30 days.^[10] The notice will be posted on the EPD's website. For information about how to prepare public comments, see [Submitting Public Comments](#).

Lead and Copper Rule (56 FR 26460-26564)

The **Lead and Copper Rule**^[11] was established by the EPA in 1991 to protect public health and reduce exposure to lead in drinking water.^[12]

The rule established a Maximum Contaminant Level Goal, the level of a contaminant in drinking water below which there is no known or expected risk to health, of zero for lead^[13] and copper concentrations that exceed 1.3 milligrams per liter (“mg/L”).^[14]

The Goal is zero for lead because there is no safe level of exposure.

The Rule also establishes an “action level” of 0.015 mg/L for lead and 1.3 mg/L for copper based on the 90th percentile level of tap water samples. Exceeding the action level for a particular pollutant can trigger other requirements that include water quality parameter monitoring, corrosion control treatment, source water monitoring/treatment, public education, and lead service line replacement.

Lead is naturally occurring but is rarely found in significant quantities in uncontaminated natural sources of water, such as streams, lakes, rivers, or groundwater. Lead from lead pipes, faucets, and fixtures can dissolve into water or enter water as flakes or small particles.^[15]

According to the EPD, the potential for human exposure to lead in water is primarily due to the corrosion of lead in domestic plumbing pipes, not from lead in water when it leaves treatment facilities.^[16] Potential sources for lead in household plumbing are leaded goose necks connecting to the main water service line, lead service lines, lead particles attached to galvanized pipes, copper pipes with lead solder, and faucets and fixtures inside the home that contain lead. You can find more information about sources of lead in drinking water at the EPA’s [**resource page**](#).

Lead is extremely toxic, particularly to children, and there is no safe level of lead in children’s blood. There is evidence that even small amounts of blood lead in

children causes attention-related behavioral problems, greater incidence of problem behaviors, and decreased academic achievement and IQ. In adults, high blood lead levels can cause increased blood pressure, decreased learning, memory, and attention, damage to reproductive organs, and miscarriage. Once exposed to lead, these health effects cannot be corrected.

For more information on lead pollution in general, see [**Lead Contamination**](#). If you are concerned that your water may be contaminated with lead, specific actions you can take will be discussed at the bottom of this page.

National Primary Drinking Water Regulations

The **National Primary Drinking Water Regulations** are legally enforceable primary standards and treatment techniques set by EPA that apply to public water systems.^[17] These regulations protect public health by limiting the levels of contaminants in drinking water.

Currently, the EPA has regulations for microorganisms, disinfectants, disinfection byproducts, organic and inorganic chemicals, and radionuclides. The EPA provides a [**table**](#) of various contaminants, common sources, and potential health effects.

Georgia Mandates on Safe Drinking Water

Georgia Safe Drinking Water Act (O.G.C.A §§ 12-5-170 to -193)

The federal Safe Drinking Water Act permits states to implement the Act as long as the minimum federal standards are met. The **Georgia Safe Drinking Water Act** gives Georgia's EPD the authority to adopt rules and regulations affecting the source, collection, treatment, storage, and distribution of the state's drinking

water and thus to administer the federal requirements. These rules and regulations are in **Georgia Rule 391-3-5**.

Georgia also has requirements for lead and copper levels in drinking water, which can trigger water treatment or repair programs based on lead and copper levels measured in samples collected at consumers' taps.^[18]

Sampling sites are chosen based on the size of the population that the system serves and are narrowed down based on plumbing and inspection records. The primary sampling sites selected for a community water system's sampling pool focus on single family structures that contain copper pipes installed after 1982 or are served by a lead service line.^[19]

The maximum contaminant level goals for lead and copper are 0 and 1.3 mg/L, mirroring the standards set at the federal level.

The lead action level is exceeded if the concentration of lead in more than 10 percent of tap water samples collected during any monitoring period is greater than 0.015 mg/L.

The copper action level is exceeded if the concentration of copper in more than 10 percent of tap water samples collected during any monitoring period is greater than 1.3 mg/L. If your home's water is contaminated, specific actions you can take are addressed below.

Well Water Standards

Federal Mandates

Regulation of wells and groundwater happens at the state level; the EPA does not regulate private wells, nor does it provide recommended criteria or standards for individual wells.

State and Local Mandates

Water Well Standards Act (O.C.G.A. §§ 12-5-120 to -138)

The purpose of the **Water Well Standards Act** is to protect the state's groundwater supply from contamination by establishing standards for siting, constructing, operating, maintaining, and abandoning wells and boreholes.^[20]

Under the Act, individual and non-public wells must be located as far as possible from known or potential sources of pollutants; the Act also establishes distance requirements from sewers and septic systems. Wells must also be accessible for cleaning, treatment, repairs, testing, and inspection.

The well should be located as far from known or potential sources of pollutants as possible, and it must not be located in areas subject to flooding unless the well wall (the 'casing') extends at least two feet above the level of the highest known flood of record.^[21]

The following distances for well placement are required under the Water Well Standards Act:^[22]

- At least ten (10) feet from a sewer line
- At least 50 feet from a septic tank
- At least 100 feet from a septic tank absorption field
- At least 150 feet from a cesspool or seepage pit
- At least 100 feet from an animal or fowl enclosure

Wells must be drilled and installed by a licensed water well contractor, who must have passed an examination and be licensed.^[23]

The Act also requires that all drilling be performed under the direction of a geologist or engineer, and the water well contractor must notify the county health department of the intent to drill a water well. The EPD provides a **list of licensed water well contractors**.

The Act further seeks to protect groundwater against pollution by requiring that unused or abandoned wells or boreholes be filled, sealed, and plugged within 30 days of disuse. Generally, “temporarily abandoned” means those wells that have been unused for a minimum of 365 days, and “permanently abandoned” means those wells that have been unused for three years. The Act also prohibits the disposal of wastes or pollutants into wells or boreholes.^[24]

Violators of the Act may be subject to criminal and civil penalties. Anyone who falsely holds himself out as a water well contractor may be found guilty of misdemeanor and fined up to \$1,000 per day of violation.^[25] Additionally, violators of any requirement of the Act may be fined up to \$5,000 per day.^[26]

What If You Suspect Your Municipal Drinking Water May Be Contaminated?

If you suspect that your drinking water is contaminated, there are some immediate actions that you can take to protect your health and safety.

This section maps out key identifiers of contaminated municipal or well drinking water and various steps you can take to decontaminate your water. This section also provides various reporting mechanisms to bring official attention and action to drinking water contamination at the federal, state, and local level.

Identifying Contaminated Drinking Water

While contaminants are often microscopic, making them difficult to see, there are a few ways to screen for contaminated drinking water. Water that is safe to drink should ideally be clear with no odor or funny taste.

Signs of contaminated water include:^[27]

Cloudy water: Cloudy water is not necessarily dangerous to your health. For example, your drinking water being cloudy, or milky, can be caused by air bubbles due to high pressure pipes.^[28] However, in general, your

drinking water should be clear. If your drinking water appears cloudy for more than 12 hours, it could signal the presence of unsafe pathogens or chemicals.

Slimy feeling water: If your hands feel slimy after washing them with soap and water, or you have to use more laundry detergent to clean your clothes, this could be a sign of “hard water”. Hard water is water high in dissolved minerals, such as calcium and magnesium.^[29] By itself, hard water is not harmful (in fact, your body needs some calcium and magnesium), but it can sometimes be an indicator of more dangerous dissolved minerals like aluminum, manganese, and lead.

Yellow, orange, or brown water: Yellow, orange, or brown water could signal the presence of a buildup of iron from rusted pipes, dirt, manganese, copper, or lead. Discoloration does not always mean that the water is unsafe.^[30] If your water comes from a public system, see if the tint only appears while running cold water, which could mean that your utility is conducting pipe repairs that have disturbed rust or dirt, or flushing out the water system with higher water pressure.^[31] Just as water can contain sediment or rust from city pipes, it can also do so from your home’s pipes, especially if your home is older and the pipes have rusted over time.

Water tinged with green or blue: Blue or green water can be a result of dissolved minerals, algae, or elevated copper levels caused by corroded pipes or plumbing fixtures.^[32] High copper levels may also cause blue-green staining on your faucets or sinks.^[33] Copper is actually healthy for your body in small doses, but high doses can cause gastrointestinal distress and harm your liver and kidneys.^[34]

Water that tastes metallic or sweet: Dissolved minerals and chemicals can contribute taste as well as color to your water. Rusted or corroded pipes can **release metals** like iron, manganese, and copper, causing water to taste metallic. Other minerals like calcium or lead can make water taste sweet.^[35]

Water that smells like bleach, rotten eggs, grass, gasoline, or fish: A bad smell from your water can have several different meanings. Chlorine is commonly used by water systems to kill germs, but a strong chlorine odor (like pool water or bleach) could mean something is wrong with the water treatment system, or that the chlorine is reacting with your home's pipes.^[36] A rotten egg, grass, or fishy smell can mean that bacteria are present in the water, but the most serious smell is of gasoline or other strong chemicals, which could indicate that industrial contamination or leaking fuel has infiltrated your water system.^[37]

The EPA has published an extensive list of water pollutants. If you are concerned about a specific pollutant, contact the EPA or check the EPA's online resources.

Drinking Water Tests and Compliance

Georgia Drinking Water Test Results and Sample Schedules for Lead and Copper

If you want to see Drinking Water Test Results and/or Monitoring Requirements for your Public Water System, the Drinking Water Test Results and Sample Schedules can be viewed online at the **EPD's Drinking Water Watch**.

Georgia's annual public water system compliance summary, showing what violations of Georgia's drinking water standards were detected in the previous year, can be found **here**.

If you would like to send a sample of your water off to be tested, the EPD provides a **list of certified microbiological and chemical drinking water analysis laboratories**.

The University of Georgia also provides water analyses for a fee (starting at \$20 for a basic test). You can request basic to more extensive water tests based on your concerns. The University has various extension offices for sample

submissions and consultation. You can find your local county office and information how to collect and send water samples [here](#).

Once you receive your results, UGA offers an [interactive tool](#) to help you understand the report.

Responding to Contaminated Drinking Water

In an emergency, water contaminated with germs can often be made safe to drink by boiling, adding disinfectants, or filtering. However, water contaminated with fuel, toxic chemicals, or radioactive material cannot be made safe by boiling or disinfection.

Use bottled water or a different source of water if you know or suspect that your water might be contaminated with fuel or toxic chemicals. If you discover your water is contaminated, one option is to use [National Science Foundation-certified](#) water filters that are designed to eliminate specific contaminants.

If you do choose to decontaminate your water, here are some guidelines on best practices from the CDC:^[38]

Boiling

Boiling your water is the most effective method for killing germs.

If the water is cloudy:

1. Filter it through a clean cloth, paper towel, or coffee filter or allow it to settle.
2. Draw off the clear water.
3. Bring the clear water to a rolling boil for 1 minute (at elevations above 6,500 feet, boil for three minutes).
4. Let the boiled water cool.
5. Store the boiled water in [clean sanitized containers](#) with tight covers.

If the water is clear:

1. Bring the clear water to a rolling boil for 1 minute (at elevations above 6,500 feet, boil for three minutes).
2. Let the boiled water cool.
3. Store the boiled water in **clean sanitized containers** with tight covers.

Disinfectant

If you don't have safe bottled water and if boiling is not possible, you can make water safer to drink by using a chemical disinfectant such as unscented household chlorine bleach.

Bleach can kill germs, but like boiling, it will not remove chemical or radioactive contamination. If your water is cloudy or dirty, start by filtering it through a clean cloth, paper towel, or coffee filter, or allow it to settle and then draw off the clear water.

You can make water safer to use with bleach having a 5%-9% concentration of hypochlorite (most common in the US, but check the label on your bleach before using it). If the water is cloudy, murky, colored, or very cold, add double the amount of bleach listed below.

1 Quart/Liter Water	1 Gallon Water	5 Gallons Water
If you have a dropper: Add 2 drops of bleach	If you have a dropper: Add 8 drops of bleach	If you have a dropper: Add 40 drops of bleach
If you have something that measures milliliters (mL): Add 0.1 mL of bleach	If you have something that measures milliliters (mL): Add ½ mL of bleach	If you have something that measures milliliters (mL): Add 2½ mL of bleach

If you have a measuring spoon: Amount too small to measure	If you have a measuring spoon: Add a little less than 1/8 teaspoon	If you have a measuring spoon: Add ½ teaspoon of bleach
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Once you have added the bleach, stir the water well and let it stand for at least 30 minutes before you drink it.

Filter

Instead of boiling or chemically treating your water, a water filter passes the water through a porous material to screen out contaminants. Many portable water filters can remove disease-causing parasites from drinking water. The CDC also provides a [**guide to filters**](#) for tap water in your home.

If you are choosing a portable water filter:

- Try to pick one that has a filter pore size small enough to remove parasites (such as *Giardia* and *Cryptosporidium*).
- Carefully read and follow the manufacturer’s instructions.
- To be extra safe, after filtering, add a chemical disinfectant to the filtered water to kill any viruses and remaining bacteria. Common water treatment chemicals are iodine, chlorine, or chlorine dioxide.

Lead and Copper Contamination

The EPA has provided tips on how to reduce exposure to lead in your drinking water.^[39]

Lead pipes are more likely to be found in older cities and in any homes built before 1986. If you have a confirmed lead pipe or lead in your drinking water, you may want to consider removing all lead sources. Check with your water supplier or town about the best way to replace your lead service line (the pipe that connects your house to the water main) or other lead sources.^[40]

The EPA has an interactive guide to help you identify lead pipes and a list of steps you can take to reduce exposure. The list of steps from EPA's guide are below, and you can also refer to the EPA's [interactive guide](#).

Flush your water before drinking. If your tap water hasn't been used for several hours, it is important to remove lead by running the water through the pipes before drinking or cooking. This is called flushing. Run the water from a high volume tap before drinking to flush your pipes, bringing fresh water into your home. The amount of time to run the water will depend on whether your home has a lead service line or not, and the length of the lead service line (it could be many minutes). Contact your water utility for recommendations about flushing times in your community. Flushing water from a high-volume tap may include taking a shower, doing laundry, or doing a load of dishes. After flushing, this water should be suitable for drinking, cooking, preparation of baby formula, for pets or other consumption. Consider collecting multiple containers of water after flushing to use later for consumption.

Use your filter properly. If you use a filter, choose a filter certified to remove lead. Read the directions to properly install, use and replace the filter's cartridge. Using the cartridge after it has expired can make it less effective at removing lead. Do not run hot water through the filter.

Use only cold water for cooking and drinking. Do not cook with, or drink water from the hot water tap. Hot water can dissolve lead more quickly than cold water. If you need hot water, draw water from the cold tap then heat it.

Clean your faucet's screen (aerator). In addition to running your water before using it for cooking or drinking it is important to regularly clean your faucet's screen. If your faucet was manufactured before 1986, it's possible it has a higher lead content.

Documenting Contaminated Drinking Water

If you suspect that your water has been contaminated, it is imperative that you document instances of pollution. For general information about documenting pollution, see **Protecting Your Community: Getting Started**.

If you are concerned with contaminated drinking water, you should have your drinking water tested by your water supplier (which may provide this service for free) or a certified laboratory. Your local health department can also assist in explaining any tests that you need for various contaminants.^[41]

Most testing laboratories or services that have you send in a water sample will send you their own sample containers. Use the containers provided and **carefully** follow the laboratory's instructions. For example, the lab may require that water run from an indoor or outdoor tap for several minutes before filling the sample containers.

Not all laboratories will ask you to collect the sample yourself. Some will send a trained technician to collect the sample. This type of service could cost more, but you will know the sample was collected properly and delivered to the lab.^[42] Some nonprofits supply home lead test kits, including **Healthy Babies Bright Futures**.

Reporting Drinking Water Contamination

Federal Reporting

The EPA's **Safe Drinking Water Information System** maintains information about public water systems and their violations. If you believe your water has been contaminated, you can contact the EPA's Safe Drinking Water Hotline (800-426-4791), email **safewater@epa.gov**, or report suspected violations through the EPA's **ECHO reporting system**.

State Reporting

If you are concerned about your municipal water, take a look at your water utility's annual water quality report (also called a Consumer Confidence Report), which is usually mailed once a year with your water bill and should also be available [online](#).

The report summarizes which contaminants have been found in your drinking water and whether any of them have reached potentially dangerous levels. If contaminants have reached dangerous levels, the water supplier is required to notify customers.

EPD has a watershed protection branch that ensures that Georgia's public water systems are operating properly and supplying safe drinking water. The EPD encourages people to contact their district office, by phone or email, to submit complaints if they suspect that their drinking water is contaminated.

Georgia's Department of Public Health is also available in the event that your drinking water is contaminated. You can find your local county environmental health office information [here](#) or check [Appendix B](#) for contact information.

Your county or local watershed management office or water utility company may also have information on how to report potential contamination or concerns on their website. If they do not, you can always call them.

Other Reporting

Most of Georgia's municipal drinking water comes from rivers, and Georgia has over 30 active river groups that are constantly working to make sure the water your family drinks is clean. You should call your local river group if you spot a problem that you think could affect the health of a local waterway. Find your local riverkeeper organization [here](#) or check [Appendix B](#).

What If You Suspect Your Well Water May Be Contaminated?

Prevent Water Well Pollution

If your home's water comes from a well, you should be careful to keep household contaminants away from the well and out of septic systems.

The EPA has a list of other steps you can take, including:^[43]

- Slope the area around the well to drain surface runoff away from the well.
- Install a well cap or sanitary seal to prevent unauthorized use of, or entry into, the well.
- Avoid mixing or using pesticides, fertilizers, herbicides, degreasers, fuels, and other pollutants near the well.
- Do not dispose of wastes in dry wells or in abandoned wells.
- Periodically inspect exposed parts of the well for problems such as:
 - Cracked, corroded or damaged well casing
 - Broken or missing well cap
 - Settling and cracking of surface seals

Identifying Reasons to Test Your Well Water

The chart below, created by the EPA,^[44] lists common conditions or nearby activities that well owners should be aware of and the substance(s) that you should consider testing for to ensure your well is safe. Not all of the substances listed pose an immediate or long-term health problem, some impact quality of life only such as appearance, taste, and odor.

Conditions or Nearby Activities:	Test for:
Recurring gastro-intestinal illness	Coliform bacteria

Household plumbing or service lines that contain lead	pH, lead, copper
Radon in indoor air or region is radon rich	Radon
Corrosion of pipes, plumbing	Corrosion, pH, lead
Nearby areas of intensive agriculture	Nitrate, nitrite, pesticides, coliform bacteria
Coal or other mining operations nearby	Metals, pH, corrosion
Gas drilling operations nearby	Chloride, sodium, barium, strontium
Dump, junkyard, landfill, factory, gas station or dry-cleaning operation nearby	Volatile organic compounds, total dissolved solids, pH, sulfate, chloride, metals
Odor of gasoline or fuel oil, and near gas station or buried fuel tanks	Volatile organic compounds
Objectionable taste or smell	Hydrogen sulfide, corrosion, metals
Stained plumbing fixtures, laundry	Iron, copper, manganese
Salty taste and seawater, or a heavily salted roadway nearby	Chloride, total dissolved solids, sodium
Scaly residues, soaps don't lather	Hardness
Rapid wear of water treatment equipment	pH, corrosion

Water softener needed to treat hardness	Manganese, iron
Water appears cloudy, frothy or colored	Color, detergents

Coal Ash Contamination

Coal ash is a collection of residual pollutants, including mercury, arsenic, and cadmium, left behind from coal-fired power plants.^[45] Power plants often dispose of coal ash in unlined ponds or lagoons, which often leak into groundwater supplies. This leaves groundwater supplies at risk for toxic contaminants above levels that are safe for drinking water.

There are currently no federal or state standards that establish maximum contaminant levels or require power plant companies to test private drinking water wells.^[46]

Current requirements only compel power plant owners to test groundwater at the power plant site.^[47] But contaminants move through groundwater, leaving contamination undetected in private wells, because coal ash pollutants often have no obvious taste or color.^[48]

Currently, the EPA has regulations and requirements for the disposal of coal ash from coal fired power plants into landfills and surface impoundments. The Coal Combustion Residuals Rule^[49] establishes standards for protecting groundwater including monitoring wells and specifying procedures for sampling these wells to detect the presence of hazardous substances at the site of power plants. If hazardous waste is found above groundwater standards, the owner or operator of the site must take corrective action to clean up the contamination.^[50] The Rule also establishes five location restrictions on where landfills and coal ash ponds can be sited.^[51]

You can find whether there is a coal ash pond in your community, the type of contamination present, and cleanup plan status at Earthjustice's [**Coal Ash**](#)

Contaminated Sites Map or Environmental Integrity Project's **Ashtracker** **facility database**.

Protecting Your Well Water After a Natural Disaster or Emergency

The EPA suggests specific steps to protect your water after flooding, earthquakes, landslides, and other natural disasters.

Flood response steps recommended by the EPA include:^[52]

- Stay away from the well pump while flooded to avoid electric shock.
- Do not drink or wash from the flooded well to avoid becoming sick.
- Get assistance from a well or pump contractor to clean and disinfect your well before turning on the pump.
- After the pump is turned back on, pump the well until the water runs clear to rid the well of flood water.
- If the water does not run clear, get advice from the county or state health department or extension service.

Well Water Testing

The Georgia Department of Public Health and the University of Georgia Cooperative Extension provides private well water testing through the Private Well Chemical Test (test W-33C). This test will examine private wells for several contaminants including arsenic, lead, fluoride, nitrate, and nitrite. This program also tests wells for bacteria with test W-35, and the Department of Public Health recommends testing all wells for bacteria at least once per year, and testing wells for toxic chemicals every three years.

You can access more information on the program, including how to have your private well tested at a local extension office, at the program's **Soil and Water Testing** page.^[53]

Once you receive your results, the Cooperative Extensions offers an **interactive tool** to help you understand your report.

Well Water Treatment

If a test of your well shows that it contains a contaminant, contact your local public health department (see below) for specific steps to follow, which could include having your well re-tested to confirm the contaminant's presence and concentrations, and for advice on how to fix the problem.

You can also consider installing a filter system for your well water. The CDC provides a **guide to different types of water filtration systems**.

Reporting

If you have a contracted a water related illness, you can contact your city or county environmental health office. Georgia Department of Health provides a **contact list** for County Environmental Health Offices or check **Appendix B**. These complaints are reviewed for investigations and to identify potential clusters of illness.

After contacting your local environmental health office, you can also report any cluster of suspicious illnesses to the Georgia Department of Public Health Office of Epidemiology's **Disease Reporting**.

You can also contact Georgia Poison Control:

- **www.georgiapoisoncenter.org**
- In Metro Atlanta: (404) 616-9000
- Outside Metro Atlanta: 1-800-222-1222
- Teletype for the Deaf and Hearing Impaired: (404) 616-9287 (TDD)

Protecting Your Drinking Water Citations

^[1] Melissa Danchak, *Flint Water Crisis: Everything you Need to Know*, NRDC (Nov. 8, 2018), <https://www.nrdc.org/stories/flint-water-crisis-everything-you-need-know>.

^[2] *Id.*

^[3] Merrit Kennedy, *Lead-Laced Water in Flint: A Step by Step Look at the Makings of a Crisis*, NPR (Apr. 20, 2016), <https://www.npr.org/sections/thetwo-way/2016/04/20/465545378/lead-laced-water-in-flint-a-step-by-step-look-at-the-makings-of-a-crisis>.

^[4] Matthew Kristofferson, *Flint Water Crisis Worsened Birth Outcomes, Disproportionately Affected Black Babies, YSPH Study Finds*, Yale School of Public Health (Oct. 19, 2021), <https://ysph.yale.edu/news-article/flint-water-crisis-worsened-birth-outcomes-disproportionally-affected-black-babies-ysph-study-finds/>.

^[5] Dean James, *Water Crisis took Toll on Adults' Physical, Mental Health*, Cornell Chronicle (Apr. 15, 2021), <https://news.cornell.edu/stories/2021/04/water-crisis-took-toll-flint-adults-physical-mental-health>.

^[6] *Id.*

^[7] *Id.*

^[8] Samantha Raphelson, *Flint Residents Confront Long Term Health Issues after Lead Exposure*, NPR (Oct. 31, 2017), <https://www.npr.org/2017/10/31/561155244/flint-residents-confront-long-term-health-issues-after-lead-exposure>.

^[9] Ga. Comp. Rules & Regs. 391-3-5-.19(2).

^[10] Ga. Comp. Rules & Regs. 391-3-6-.26(2)(c).

^[11] *Lead and Copper Rule: A Quick Reference Guide*, EPA, <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockkey=60001N8P.txt>

^[12] *Understanding the Lead and Copper Rule*, EPA, https://www.epa.gov/sites/default/files/2019-10/documents/lcr101_factsheet_10.9.19.final_2.pdf.

^[13] *Id.*

^[14] *National Primary Drinking Water Regulations*, EPA, <https://www.epa.gov/ground-water-and-drinking-water/national-primary-drinking-water-regulations>.

^[15] *Lead and Copper Rule*, EPA, <https://www.epa.gov/dwreginfo/lead-and-copper-rule>.

^[16] *Fact Sheet: Georgia Environmental Protection Division Oversight of Safe Drinking Water and Lead-related Issues*, Georgia Department of Environmental Protection, <https://epd.georgia.gov/document/publication/final-fact-sheet-lead-drinking-waterpdf/>.

^[17] *National Primary Drinking Water Regulations*, EPA (Jan. 9, 2023), <https://www.epa.gov/ground-water-and-drinking-water/national-primary-drinking-water-regulations>.

^[18] GA Comp. R. & Regs. 391-3-5-.25(1)(b)

^[19] GA Comp. R. & Regs. 391-3-5-.25(7)(a)(3)

^[20] O.C.G.A. § 12-5-21.

^[21] O.C.G.A. § 12-5-134(1)(A)(i).

^[22] *Id.*

^[23] O.C.G.A. § 12-5-125.

^[24] O.C.G.A. § 12-5-134(6)(A) – (J).

^[25] O.C.G.A. § 12-5-133 (a).

^[26] O.C.G.A. § 12-5-133.1.

^[27] Aria Bendix, *8 Signs Your Tap Water Might be Dangerous to Drink*, Business Insider (May 7, 2019, 11:29 AM), <https://www.businessinsider.com/signs-tap-water-contaminated-unsafe-2019-5>.

^[28] *Is Cloudy Or Milky Water From a Faucet Safe To Drink*, BuyersAsk (May 4, 2021), <https://buyersask.com/plumbing/general-plumbing/cloudy-or-milky-water-from-faucet-safe-to-drink>.

^[29] *Hardness of Water*, United States Geological Survey (June 11, 2018), <https://www.usgs.gov/special-topics/water-science-school/science/hardness-water#overview>.

^[30] *Five Reasons Your Tap Water Changed Color*, Environmental Working Group (March 9, 2016), <https://www.ewg.org/news-insights/news/five-reasons-your-tap-water-changed-color>.

^[31] Kate Wisialowski, *Why Is My Water Yellow?*, Tap Score (February 26, 2017) https://mytapscore.com/blogs/tips-for-taps/why-is-my-water-yellow?sscid=31k6_yw7tl&.

^[32] *Water Color*, United States Geological Survey (June 6, 2018), <https://www.usgs.gov/special-topics/water-science-school/science/water-color#overview>; Aria Bendix, *8 Signs Your Tap Water Might be Dangerous to Drink*, Business Insider (May 7, 2019), <https://www.businessinsider.com/signs-tap-water-contaminated-unsafe-2019-5>.

^[331] *Copper in Drinking Water*, Washington State Department of Health (August 2016), <https://doh.wa.gov/sites/default/files/legacy/Documents/Pubs//331-178.pdf>.

^[341] *Id.*

^[351] *Why Does My Water Taste Sweet?*, MyTapWater.org, <https://mytapwater.org/2021/05/17/why-does-my-water-taste-sweet/>.

^[361] Kate Wisialowski, *Stinky Water: Your Odor Guide*, Tap Score (November 16, 2017), <https://mytapwater.com/blogs/tips-for-taps/stinky-water-your-odor-guide>; Aria Bendix, *8 Signs Your Tap Water Might be Dangerous to Drink*, Business Insider (May 7, 2019), <https://www.businessinsider.com/signs-tap-water-contaminated-unsafe-2019-5>.

^[371] Kate Wisialowski, *Stinky Water: Your Odor Guide*, Tap Score (November 16, 2017), <https://mytapwater.com/blogs/tips-for-taps/stinky-water-your-odor-guide>.

^[381] CDC, *Making Water Safe in an Emergency*, <https://www.cdc.gov/healthywater/emergency/making-water-safe.html>.

^[391] *Protect Your Tap: A Quick Check for Lead*, EPA, <https://www.epa.gov/ground-water-and-drinking-water/protect-your-tap-quick-check-lead-0>.

^[401] For more information about lead service lines, see *What You Need to Know About Lead Service Line Replacement*, Natural Resources Defense Council (May 10, 2021), <https://www.nrdc.org/stories/what-you-need-know-about-lead-service-line-replacement>.

^[411] See the National Association of County and City Health Officials (NACCHO) Directory of Local Health Departments, available at <https://www.naccho.org/membership/lhd-directory?searchType=standard&lhd-state=GA#card-filter> for a list of local health departments in Georgia, and Appendix B for more contact information.

^[421] *Home Water Testing*, EPA (May 2005), https://www.epa.gov/sites/default/files/2015-11/documents/2005_09_14_faq_fs_homewatertesting.pdf.

^[431] The full list is available at *Protect Your Home's Water*, EPA, <https://www.epa.gov/privatewells/protect-your-homes-water>.

^[441] *Id.*

^[451] *Coal Ash Basics*, EPA, <https://www.epa.gov/coalash/coal-ash-basics>.

^[461] *Mapping the Coal Ash Contamination*, Earthjustice (July 29, 2021), <https://earthjustice.org/features/coal-ash-contaminated-sites-map>

^[471] *Id.*

^[481] *Id.*

^[491] 40 CFR § 257 and § 261.

^[50] 40 CFR § 257.90

^[51] 40 CFR § 257.64

^[52] *Protect Your Home's Water*, EPA, <https://www.epa.gov/privatewells/protect-your-homes-water>.

^[53] You can find more information about the water well testing program and contacting the Georgia Department of Public Health here:
<https://dph.georgia.gov/document/document/private-well-chemical-test-pwct/download>.

Air Pollution

Air pollution is a serious problem throughout the country and in Georgia, in both urban and rural areas.

Harmful air emissions are causing climate change on a global scale, and on a local scale can reduce visibility, cause unsightly brown clouds of haze, and create noxious odors. Air pollution is also linked to a host of human health problems, including asthma, lung disease, heart disease, strokes, and some cancers.

Climate change, which is caused by greenhouse gases emitted from power plants, factories, cars, trucks, airplanes, and landfills in the form of carbon dioxide and methane, is leading to **higher temperatures, severe weather extremes, sea level rise, and species extinction**. The ripple effects include **higher electricity bills and flooding, particularly in coastal communities**.

Historically, states have largely been on their own in terms of mandating or encouraging renewable energy sources – wind, solar, and hydroelectricity – to reduce greenhouse gas emissions from power plants. In Georgia, the **Public Service Commission**, consisting of five members elected state-wide, has the authority to compel utilities to invest in more renewable energy sources.^[1] One result has been increased solar investments. But renewables still make up only a small percent of the state’s energy mix.

Fortunately, in recent years carbon emissions in Georgia have plummeted.

That’s due to a combination of low natural gas prices, increased solar energy investment driven by lowered costs, and phaseouts of coal plants driven by increasingly costly environmental controls. Between 2011 and 2020, Georgia Power, the state’s largest utility, retired or converted to natural gas nearly two dozen coal-fired power units. Carbon dioxide emissions from coal dropped by more than half during that time.^[2]

Georgia Power's shift away from coal has benefited the environment in other ways as well; the amount of mercury and other pollutants emitted from its power plants have decreased by more than 90 percent since 1990.^[3]

But climate change remains the number one environmental threat on a global scale, and one that will burden low-wealth communities the most.

To encourage Georgia to continue to mitigate and adapt to the impacts of climate change, you can contact your federal representatives in Congress, as well as commissioners on the Georgia Public Service Commission, and Georgia state legislators (see **Appendix B** for contact information). You can demand a state and federal energy policy that ensures affordable, clean energy is available for everyone.

This chapter will focus on localized air pollution impacts. There are two primary categories of air pollution sources: **mobile sources** (e.g., vehicles, airplanes, and trains) and **stationary sources** (e.g., factories, power plants, and landfills). This chapter is devoted to stationary sources, and future editions of this Green Book may address mobile sources.

This chapter provides an **introduction to the Clean Air Act**; an **explanation of how facility permits regulate air pollution**; and an **overview of ways you can use permits to address and prevent air pollution** from stationary sources.

Clean Air Act

The chief federal law that regulates air pollution is the **Clean Air Act (CAA)**. The CAA was originally enacted in 1970 but has been amended several times to add new programs or refine existing ones.

The U.S. Environmental Protection Agency (EPA) is the federal agency charged with implementing and overseeing enforcement of the Act. However, the CAA

also requires states to participate in its implementation and enforcement. In Georgia, the Air Protection Branch of the Environmental Protection Division of the Georgia Department of Natural Resources (EPD) is the primary entity involved in permitting and enforcement.

The CAA has two main programs for addressing air pollution, depending on the pollutants involved:

- 1) The National Ambient Air Quality Standards**
- 2) The National Emission Standards for Hazardous Air Pollutants**

National Ambient Air Quality Standards

First, the CAA calls for EPA to set standards, called the “**national ambient air quality standards**” (**NAAQS**), for the maximum “safe” levels of certain common pollutants known as “criteria pollutants.”

These standards should be based on the latest science and public health data, and some pollutant limits have been lowered over time based on what we know about the effects of pollution on our health.

To date, EPA has established six NAAQS for:

- 1. Sulfur dioxide (SO₂)**
- 2. Particulate matter (PM)**
- 3. Carbon monoxide (CO)**
- 4. Nitrogen dioxide (NO₂)**
- 5. Lead**
- 6. Ozone**
 - In general, ozone is not emitted directly by air pollution sources, but is formed by chemical reactions caused by the sun’s heat between volatile organic compounds (VOCs) and nitrogen oxides (NO_x); emissions of these “precursor” pollutants are therefore regulated to prevent excessive ozone concentrations.

A defined geographic area that achieves the NAAQS for a pollutant is said to be an “attainment area” for that pollutant. An area that does not meet the standard considered “safe” for human health is said to be a “nonattainment area.”

An area may be in attainment for one criteria pollutant and in nonattainment for another. The EPA makes the final decision on which areas to designate as not attaining a given standard and establishes deadlines by which those areas must achieve air quality that satisfies the minimum standards.

Once NAAQS are set, the CAA requires states to develop strategies to meet and enforce these health-based standards. Under Section 110 of the CAA, **each state must submit a State Implementation Plan (SIP) that demonstrates how the state will achieve or maintain air quality that satisfies the standards.** The SIPs are primarily made up of state regulations but must be approved by the EPA. Once approved, the SIP becomes federally enforceable by the EPA.

Georgia met the 1997 and 2008 federal ozone standards largely by requiring emission reductions at Georgia Power’s coal-fired power plants, as well as reducing emissions from cars and trucks in metro Atlanta through emissions testing. The state also required the metro Atlanta region to become an early adopter of cleaner gasoline, ahead of the national timeline.

Since 1997, Georgia’s nonattainment area has decreased from 20 counties to 7, with Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry counties continuing to fail the 2015 federal ozone standard.^[4] You can find reports on area attainment status in Georgia at EPD’s Air Protection Branch [webpage](#).

National Emission Standards for Hazardous Air Pollutants

The second main program for addressing air pollution under the Clean Air Act is called the **National Emission Standards for Hazardous Air Pollutants** (NESHAP).

Under NESHAP, less prevalent but very dangerous pollutants known as **hazardous air pollutants (HAPs)** are regulated. The EPA has specifically identified 188 of these HAPs that are known or suspected to cause cancer, birth defects, and other serious diseases. Anyone may petition the EPA to add or delete a substance from the HAP list. The EPA has 18 months to grant or deny the petition.

HAPS are primarily regulated by emission limits based on the level of pollution control already achieved using “**Maximum Achievable Control Technology (MACT)**”. EPA must identify categories of facilities that release any of the 188 HAPs in significant quantities and establish MACT standards for the facilities in each category.

MACT standards are the emission limits imposed based on what’s achievable by the best performing sources in any given category. Unlike criteria pollutants, HAPs are regulated not based upon their concentration in the environment but solely upon the amounts emitted by individual facilities.

How Permits Regulate Air Pollution

The CAA uses several strategies or programs to meet NAAQS and HAPs requirements. Among these requirements, certain facilities must obtain permits for operation if they meet specific criteria. In general, state environmental agencies (in Georgia, the EPD) issue these permits and are called “permitting authorities.”

This section focuses on two important permits — **Construction Permits** and **Title V Permits** — for regulating air pollution under the CAA. This section provides information about Construction Permits and Title V Permits, an explanation of the permitting processes for each, and a brief overview of other CAA permits you may encounter.

Construction Permits

The CAA requires all new “major stationary sources” of any of the criteria pollutants to get state-issued Construction Permits before commencing construction.

It also requires any so-called “modifications” of existing sources to obtain Construction Permits if they may result in significant increases in pollution. Whether a modification results in a significant increase is an extremely complicated analysis; you should consult an expert if you suspect a modification may trigger the Construction Permit requirement. The process leading to the issuance of a Construction Permit is also known as “New Source Review” (NSR) or “preconstruction review.”

What constitutes a “major source” depends on whether the area in which the facility is sited is in “attainment” or “nonattainment” for a given pollutant and is also based on whether the facility has the “potential to emit” above a threshold amount of a given pollutant.

Similarly, the requirements that must be met to get a Construction Permit depend on whether a facility is in an attainment or nonattainment area. Keep in mind that because an area may be nonattainment for some pollutants and attainment for others, the thresholds and permit requirements may vary for different pollutants from the same source.

To see which counties in Georgia are in nonattainment, visit the [**EPA’s Nonattainment/Maintenance Status List of Georgia Counties**](#).

Major Source Definitions

In **attainment areas**, there are two thresholds for a facility to be considered a major source:

1. If the facility is in one of 28 listed source categories (types of facilities), it is a major source if it may potentially emit 100 tons per year (tpy) or more of any regulated pollutant.
2. If it is not one of those 28 types, it is a major source if it may potentially emit 250 tpy or more.

In **nonattainment areas**, the thresholds are lower and depend on the particular pollutant and the severity of the problem. The highest thresholds for nonattainment areas are 100 tpy, and they step down to as low as 10 tpy.

Construction Permit Requirements

Requirements for a Construction Permit differ depending on whether the facility is located in an attainment area or a nonattainment area.

Requirements for Facilities in Attainment Areas

In attainment areas, Construction Permits are also known as Prevention of Significant Deterioration (PSD) Permits. As the name suggests, the purpose of this permitting program is to prevent the air quality of the area from becoming significantly worse.

To obtain a PSD Permit, a proposed new major source or modification must demonstrate that it will use **“Best Available Control Technology” (BACT)** to control each criteria pollutant for which it is a major source.

BACT is determined on a case-by-case basis for each source, and incorporates a balancing approach that includes air pollution, environmental, and economic considerations. The BACT analysis is also

informed by what pollution control equipment is being used at other similar facilities around the country.

When applying for a PSD Permit, a proposed facility must set an emissions limit for each of the criteria pollutants and then justify why that limitation represents BACT.

A proposed new or modified facility must also perform an air quality impacts analysis to obtain a PSD Permit. Under the CAA, each attainment area is given an allowable pollution increase or “increment.” The air quality impacts analysis must show that the pollution emitted by the facility will not take up too much of the remaining increment for the area.

Requirements for Facilities in Nonattainment Areas

As in attainment areas, any new major source or modification in a nonattainment area must install pollution control technology for criteria pollutants for which it is a major source.

However, in nonattainment areas, the standard for judging technology is more stringent and is known as “Lowest Achievable Emissions Rate” (LAER).

The primary difference between BACT and LAER is that under LAER, there is little or no consideration of energy, other environmental, or economic factors — the focus is almost solely on reducing air emissions.

In addition, any new or modified source in a nonattainment area must obtain offsetting emissions reductions from existing sources in the area. The amount of the offset depends on the severity of the problem, but it is always at least as much as the added pollution from the facility.

Facilities Emitting Hazardous Air Pollutants

Any proposed facility that is a major source of HAPs — defined as one with the potential to emit 10 tpy of any HAP or 25 tpy of any combination of HAPs —

must obtain a “Notice of MACT Approval,” or finding that it will comply with the appropriate Maximum Achievable Control Technology (MACT) requirements, from the permitting authority before commencing construction.

In Georgia, as in many states, this determination has been folded into the Construction Permit process. Thus, even if a facility is not a major source of a criteria pollutant, it will have to obtain a Construction Permit if it is a major source of HAPs.

Issue Spotlight:

Ethylene Oxide in Georgia

In Georgia, **ethylene oxide** emerged as a controversial HAP in 2019 after **Georgia Health News**, **WebMD** and other media outlets reported that the cancer-causing chemical was being emitted at dangerous levels from facilities in south Fulton County, Smyrna, Covington, and Madison.

Ethylene oxide, or EtO, is used to sterilize medical equipment as well as manufacture products like antifreeze and detergents.

The EPA released a report in 2018 that identified increased cancer risks in about two dozen communities around the country, largely due to exposure to EtO. EtO use was not new; but EPA’s understanding of the cancer risks from EtO had improved.

The EPA has committed to requiring more facilities using EtO to provide information about releases of the chemical, and is considering additional regulations. You can find out more about EPA’s actions to address EtO **here**.

Title V Permits

The **Title V Permitting Program** was created by the significant amendments to the CAA in 1990. **These amendments called for a program requiring permits for all major sources, and many smaller sources, of air pollution.**

The program is commonly referred to as “the Title V program” (pronounced as “the Title Five program”) because the relevant requirements appear in Title V of the CAA (there are eleven “titles” that make up the entirety of the CAA). Title V Permits are also sometimes known as Part 70 Permits because the federal regulations implementing the program appear in Part 70 of the EPA regulations.

The Title V Permit includes federally enforceable requirements that incorporate all federal and state regulations pertaining to a given facility.

After a Title V Permit is issued to a facility, a member of the public who wishes to know which air quality regulations apply to a given facility can simply request to see the facility’s Title V Permit, which is a public document on file at the EPD.

Facilities Subject to Title V Permitting

The Title V program has a broader reach than the Construction Permit program.

First, it applies to existing facilities as well as new or modified facilities. It also applies to a broader range of facilities. All facilities subject to Construction Permit requirements, or that have the potential to emit 100 tpy or more of a criteria pollutant, 10 tpy of any HAP, or 25 tpy of any combination of HAPs, must obtain a Title V Permit.

Likewise, any source, regardless of size, that is covered by other requirements such as New Source Performance Standards (NSPS) or MACT standards must obtain a Title V Permit.

NSPS, which predates the New Source Review rules, set the minimum pollution control requirement for major sources regardless of where they are located. Now largely supplanted by the more stringent BACT/LAER requirements, NSPS

is based on the “best system of emission reduction” (BSER) technology for certain source categories, taking into account factors such as cost and technical feasibility.¹⁵¹

Title V Permit Contents

A facility’s Title V Permit must include all “applicable requirements” for the facility. This includes any NSR requirements, including BACT or LAER standards; NSPS requirements; MACT requirements; or other requirements imposed by the state’s SIP.

The Title V Permit also includes monitoring, testing, recordkeeping, and reporting requirements to assure that the source complies with emissions standards and other permit requirements. The Title V program requires permit conditions obligating a facility to:

- conduct regular monitoring activities such as stack tests, inspections, and measuring raw materials and fuel consumption;
- sign an annual “compliance certification” stating whether the facility is in compliance with its permit; and
- submit these documents to the permitting authority, where they are made available to the public.

There are stiff penalties for false statements on any of these documents.

In short, the Title V Permit is intended to include all relevant information and requirements, so that it is clear to the source, regulators, and the public what federal and state requirements the source is legally obligated to meet and whether it is meeting them. It provides the roadmap for enforcement of air pollution requirements by the agencies and the public.

Timing and Duration of the Title V Permit

A new facility must apply for a Title V Permit within twelve months after it commences operations. Existing facilities were required to submit their

applications within twelve months after the state's Title V program was approved. In Georgia, this has long since occurred. If a facility has submitted a timely and complete application, it is shielded from any claims based on its failure to have a valid permit.

Title V Permits may have terms of no more than 5 years and must be renewed thereafter, as long as the facility is in operation.

The renewal application reopens all state, federal, and public review requirements, allowing any new requirements applicable to the facility to be incorporated into the new permit.

Title V Permit Amendments

Facilities that have a Title V Permit may amend their permit for several reasons. The type of amendment dictates whether public or EPA review is required.

The simplest type of amendment is an *administrative amendment*, which is available for such minor items as an ownership or name change of a facility or fixing typographical errors in a permit. This amendment does not trigger EPA or public review.

Slightly more complicated are *minor modifications*. These are defined in terms of what they are not and are essentially those modifications that will *not* result in changes in emissions or significant changes in monitoring, reporting, or recordkeeping. These modifications are subject to review by the permitting agency and EPA, but not by the public.

Significant modifications are all other changes to the permit, and they are subject to the full public and EPA review processes.

In addition to these permit modifications, a facility may be able to make an *off-permit change* to change items that are not addressed or prohibited in the permit. These changes do not trigger EPA or public review.

Finally, a facility may make changes in operations without triggering a permit revision if those changes are not “modifications” as defined in the CAA and will not result in emissions greater than those allowed under the permit.

The Permitting Process:

Construction Permits and Title V Permits

Both Construction Permits and Title V Permits are subject to extensive procedural requirements that involve substantial opportunities for public participation. These processes have many similarities but some important differences. The same requirements apply for Title V Permit amendments subject to public review requirements.

For both Construction Permits and Title V Permits, the process begins when the facility owner submits a permit application.

The permitting authority reviews the application, gets any necessary additional information from the applicant, and prepares a “draft permit” containing the relevant requirements.

The agency must publish notice of the draft permit and make it available to the public. The public then has an opportunity to submit written comments and submit oral comments at a public hearing. For more information on how to submit comments, see [Submitting Public Comments](#).

This ends the process for Construction Permits, and the permitting authority can issue a permit at this point if it meets all the requirements of the CAA.

Federal law says a permitting authority must issue or deny a Construction Permit within one year after submission of a complete application. In practice, it often takes longer for these decisions to be made.

Additional Permitting Procedures: Title V Permits Only

For Title V Permits, there are additional procedural requirements.

In addition to the public comment period, the permitting authority must submit the draft permit to the EPA for review. There is no specific time when this submission must occur.

After receiving the proposed permit, the EPA has 45 days to review it and object to its issuance if it will violate any applicable law. If the EPA does not object, then the final permit may be issued. If the EPA does object, the permit may not be issued and the permitting authority must either deny it or revise and resubmit it to EPA within 90 days of the EPA's rejection notice. If the permitting authority fails to send the permit back in time, it loses control of the permit and the EPA must either deny or rewrite the permit.

If the EPA does not reject a proposed permit, any member of the public who submitted comments during the public comment period may petition the EPA to reject the permit, **but only on grounds the person raised during the public comment period**. The petition must be submitted within 60 days of the end of the EPA's 45-day review period.

Filing of the petition does not invalidate an already-issued permit unless the EPA raises an objection in response to the petition. After receiving the petition, the EPA has 60 days to respond to it. If the EPA does not object to the permit in response to the petition, the petitioner has the right to bring a lawsuit against the EPA in the federal Court of Appeals challenging the failure to object.

Federal law requires permitting authorities to take final action — the decision to issue or deny a permit — on each permit application within 18 months after its submittal. As with Construction Permits, however, they have often taken far longer in practice.

Other Permits Regulating Air Pollution

In addition to Construction Permits and Title V Permits, the Air Protection Branch of the EPD issues several other types of air permits. Most of these permits are called “**SIP Permits**” because they are governed by Georgia’s State Implementation Plan (SIP).

The most significant of these permits is the state “**Operating Permit.**” This permit, which is not required by federal law, is similar to a Title V Permit in that it combines all of the requirements applicable to a facility.

However, Operating Permits are required for much smaller facilities than Construction or Title V Permits — a few small sources of air pollution sources are exempted, but nearly every industrial facility that does not require a Title V Permit is covered. Facility owners must apply for an Operating Permit within 30 days after commencing operations, and the application is subject to EPA and public review. As might be expected, the requirements for obtaining an Operating Permit are less burdensome than those for a Title V Permit.

Another type of state-issued permit is a “**Permit by Rule.**” This is a single permit that is issued to cover many similar facilities. The permit itself is subject to public review, but an individual facility’s election to be covered by the Permit by Rule is not.

If a source’s potential to emit would require it to get a Title V Permit, the facility may agree to take federally enforceable limitations to bring its emissions under the Title V threshold. For instance, a source that could emit 101 tpy of nitrogen oxides running year-round might agree to shut down for three weeks every year to bring its emissions below 100 tpy. These federally enforceable agreements are contained in a “**Synthetic Minor**” permit. In Georgia, this is included in the state Operating Permit and is subject to the same procedural requirements.

How to Use Permits to Your Advantage

Participate in the Public Review and Comment Process

For any permit, it is important to participate in the review and comment process from the beginning. See **Submitting Public Comments** for more about submitting public comments. If you wait to get involved until after a final permit is issued, you cannot take the EPA to court for failure to object to the permit, and you cannot petition for changes or improvements in the permit.

Once a final permit is issued, the only way to remedy a flaw in the permit is to convince the permitting authority to “reopen” the permit. The permitting authority is unlikely to reopen the permit, absent unusual circumstances, particularly when you had the opportunity to comment on any perceived flaws during the public comment period.

If you miss the public comment period, you will have to wait until the permit is renewed (usually five years) to advocate for improvements.

Challenge Permits

After a permit has been issued, you have a window of opportunity to challenge it if you believe it contains provisions that violate the Clean Air Act. For more information on this process, see **Administrative Appeals in Georgia**.

Obtain and Review Permits

Permits are the basis for ensuring that a facility is complying with the requirements of the Clean Air Act.

Thus, the first order of business if you suspect an existing facility in your neighborhood may be emitting too much pollution is to get copies of its permits and supporting documents. In addition to using the online resources listed in **Knowing What’s in Your Neighborhood**, you can also search for the facility’s air

quality (and other) permits on the **Georgia EPD Online System, or GEOS**. The website contains information on permitting and compliance, including abbreviated permit applications.

GEOS is a good starting place, but not all the available information is posted there. For that, you will need to call or visit the **Air Protection Branch of the EPD** and request to see the entire permitting file for a specific facility. You will have to review the documents in person, but can scan the documents with your own scanner (there are scanner apps available on the Android and iOS app stores), or have copies made on site for a small fee. In some cases, you may want to file a formal, written, open records request. For more information about filing open records requests, see **Accessing Public Records and Meetings**.

Address Permit Violations

Like the Clean Water Act discussed in **Water Quality Permitting**, the Clean Air Act imposes **strict liability**: Any violation establishes liability, regardless of fault.

Determining whether a facility is violating its air permits can be difficult. Facilities are required to submit reports of their emissions, and you certainly should review them to see whether any violations are apparent.

If the reports are false, however, the only way to show a violation would be to measure the facility's emissions yourself. This is often difficult to do, but environmental professionals may be able to point you to some available resources or experts who can talk with you.

If you can document violations of the air permit, you can try to contact the facility itself or the **Air Protection Branch** to stop the violations. If those approaches fail, you may be able to file a citizen suit. For more information on citizen suits, see **Citizen Suits**.

Air Pollution Citations

^[1] See **Electric Utility Regulation in Georgia** for more about the Georgia Public Service Commission.

^[2] See Energy-Related CO2 Emission Data Tables, U.S. Energy Information Administration, **<https://www.eia.gov/environment/emissions/state/>**.

^[3] Georgia Power Co., *Environmental Compliance Strategy: Update for 2019 2* (Jan. 2019) (filed in Georgia Public Service Commission Docket No. 42311).

^[4] *U.S. EPA Lists Just Seven Georgia Counties As Not Meeting Ozone Air Quality Standard*, Georgia Environmental Protection Division (May 2, 2018), **<https://epd.georgia.gov/press-releases/2018-05-02/us-epa-lists-just-seven-georgia-counties-not-meeting-ozone-air-quality>**.

^[5] CAA § 111(a)(1); 42 U.S.C.A. § 7411(a)(1).

Electric Utility Regulation in Georgia

This chapter first gives a brief overview of the different types of electric utilities in Georgia. Next, it identifies specific opportunities for communities to engage with the decision-making process and provides additional resources for citizens. Finally, it highlights examples of effective community-led actions that helped keep electric utilities accountable to the communities they serve.

Overview of Electric Utilities in Georgia

In Georgia, there are over 90 retail electric utilities, which distribute electricity to the public.^[1]

Utility decisions determine customer rates — the price you pay for electricity — and affect the makeup of energy sources as well as consumer access to cheaper or renewable energy sources.

Each electric utility in Georgia has a monopoly on serving those in a particular service area: it is the sole electric provider for that area.^[2]

Georgia's utilities fall into three categories: **investor-owned**, **membership cooperatives**, and **municipal-owned**. Each type of utility has its own structure and decision-making process, and each offers different opportunities for public involvement.

Investor-Owned Utilities

There is one investor-owned electric utility in Georgia: Georgia Power Company.

Georgia Power serves about half of Georgia residents and is regulated by the **Georgia Public Service Commission (PSC)**. The PSC is composed of five members who are elected by Georgia voters for terms of six years.^[3] The PSC regulates Georgia Power and decides how Georgia Power will generate electricity and how much it can charge customers (“rate-payers”) for electricity.^[4]

While the PSC has exclusive power to determine electricity rates, the rates must be “just and reasonable.”^[5] The PSC’s orders may be challenged if they are “clearly unreasonable, arbitrary, or capricious.”^[6]

Moreover, Georgia Power must obtain a certificate of public convenience and necessity from the PSC if they seek to make significant changes. Such changes include commencing construction of power plants, entering into a long-term purchase of electric power, or making expenditures to reduce electricity demand through programs like energy efficiency. All of these changes directly impact bills that customers have to pay in the end.^[7]

Electric Membership Cooperatives (EMCs)

EMCs are local, nonprofit utilities that are owned by their customers, or member-owners.

Each EMC is governed by a board of directors elected by the EMC’s members. EMCs are nonprofit corporations and must comply with certain requirements to maintain federal tax-exempt status.^[8]

Unlike investor-owned utilities, EMCs operate at cost rather than for a profit. When the EMC has net earnings, those earnings are returned to member-owners as capital credits. Generally capital credits are allocated to member accounts and returned gradually over time (usually as a deduction on electric bills).^[9]

In Georgia, there are over 40 EMCs serving approximately 4.4 million residents and 73 percent of the state’s land area.^[10] The PSC has limited regulatory

authority over the EMCs in Georgia; the primary decision-making authority rests with the board of directors.^[11]

Municipal Electric Utilities

These utilities are owned and operated by local governments and sell electricity to their residents. Municipal electric utilities are governed by the city council or county commission and are subject to limited regulation by the PSC.^[12]

In contrast to investor-owned utilities, municipal electric utilities operate on a non-profit basis.^[13] Georgia currently has 52 municipal utilities (51 cities and one county).

- 48 cities and 1 county are members of the **Municipal Electric Authority of Georgia** (MEAG) which supplies wholesale electric power to its member cities.^[14]
 - To see if your community is part of MEAG, visit MEAG's **website** to view a list of participating Georgia communities.
- The Cities of Dalton,^[15] Chickamauga,^[16] and Hampton^[17] have their own municipal electric utility systems.

Opportunities for Community Involvement

Georgia Power

The **Public Service Commission (PSC)** regulates and sets rates for Georgia Power as well as investor-owned telecommunications and natural gas utilities in Georgia. The Commission does not set rates for municipal electric utilities or electric membership cooperatives (EMCs).

The PSC is made up of five commissioners who are elected statewide and serve staggered six-year terms.^[18] Commission members are required to live in one of five districts but are elected by voters statewide — not just residents within their districts. At the time of publication in August 2023, **the election method**

for the PSC members is the subject of federal litigation pending in the Eleventh Circuit Court of Appeals. Georgia voters challenged the statewide election method as a violation of the Voting Rights Act of 1965 because it dilutes the voting power of Black voters.

The PSC provides opportunities for public participation.

All hearings, administrative sessions, committee meetings, and cases are available to the public. Any interested individual may sign up to provide oral or written statements in proceedings before the PSC.

Speaking at PSC meetings or public hearings during PSC proceedings can be a hugely valuable tool to influence PSC decision-making directly. It can also help garner broader attention to increase public pressure on the PSC.

There are two particularly significant PSC proceedings:

Long-term Resource Planning Proceedings

Every three years, Georgia Power is required to file an ***Integrated Resource Plan (IRP)*** with the PSC. The IRP includes Georgia Power's estimates about future electric demand for at least a 20-year period and details of the utility's plan to meet future energy needs.^[19]

Specific elements of the IRP include:

- Power generation facilities expected to be owned or operated by the utility as well as those expected to be removed from service
- Alternative energy sources
- Estimated impact of power plans (e.g. air quality impacts from coal plants, water pollution, nuclear waste)
- Energy demand for a 20-year period and the basis for determining projected demand
- Existing and planned programs for energy efficiency

Once Georgia Power submits its plan, the PSC reviews the plan, and interested parties have the opportunity to intervene in the proceeding.

Then, the PSC holds public hearings where any interested person can make comments directly to the PSC regarding the adequacy of the plan.^[20]

After the hearings, Georgia Power, the PSC staff, and intervening organizations all file recommendations to influence the PSC's ultimate decision.

The outcome of the resource planning process directly affects customers through electric bills, consumer programs (such as energy efficiency), and power sources.

The resource planning process allows citizens to advocate for steps to lower energy bills, cleaner energy sources, and other programs, such as energy efficiency.

Rate Cases

The PSC's process for setting customer rates (the amount customers pay for electricity) is similar to the process for reviewing Georgia Power's resource plans.

First, the utility files a petition for a rate increase with all its supporting data. The PSC reviews the petition and provides public notice of the proceedings. Interested parties have the opportunity to intervene in the proceedings.

The PSC holds a series of public hearings where the utility, intervenors, and PSC staff present their arguments and any interested individuals have the opportunity to speak. The parties may file recommendations. At the culmination of the process, the PSC issues a rate order.^[21]

Rates set by the PSC must permit the utility to earn a return comparable to that of enterprises involving similar risk, preserve the financial integrity of the utility, and permit the utility to attract capital on a reasonable basis.^[22]

In addition to providing comments or statements during PSC meetings, there are multiple other opportunities for individual and community advocates to participate in decisions.

Contact commissioners directly:

- You can find contact information for individual commissioners on the PSC **website**.
- Through the website, you can also submit complaints and inquiries through the PSC **website portal**.

Coordinate with other community members or with advocacy organizations:

Consumer and environmental advocacy organizations frequently intervene in PSC proceedings and may also provide helpful resources or information.

Below are a few of these organizations:

- **Georgia Interfaith Power and Light**
- **Georgia Watch**
 - The **Consumer Energy Program** advocates for Georgia Power customers before the PSC.
- **Partnership for Southern Equity**
- **Southern Alliance for Clean Energy**
- **Southern Environmental Law Center**

Electric Membership Cooperatives

As mentioned above, each EMC has its own board of directors elected by all members of the co-op. With community engagement, EMCs have the potential to be very responsive to member interests and community concerns.

But many EMCs in Georgia and across the country generally have very low voter turnout and have longstanding practices that fail to engage members and foster

democratic control. For a majority of the 900 EMCs in the country, voter turnout for elections is usually 10% or less.^[23]

Ways to engage with EMCs:

Reach out to board members: Board members are elected by the community to serve community interests. Reaching out to voice concerns does not have to be limited to in-person or formal meetings. Check your co-op's website for names and contact information for the board. You can also check your electric bill itself for phone numbers and information on how to connect with members of the board.

Attend member meetings: EMCs are ultimately controlled by their members through annual or special meetings where each member has one vote. Though these meetings have a mandatory quorum requirement, many Georgia cooperatives do not have robust requirements to ensure representative and inclusive governance.^[24]

- For instance, the bylaws of the Sawnee EMC set a minimum quorum at 150 members compared to its approximately 185,000 members.^[25] That means that decisions, such as electing the board of directors, can be made with participation from less than 0.01% of the entire membership.^[26]

Vote: While some EMCs require in-person attendance at annual meetings to cast votes, some also allow mail voting.

Review bylaws and gather information on your EMC: Georgia Watch has compiled templates and checklists to evaluate EMCs in Georgia for compliance and transparency.^[27]

Change the bylaws: If your EMC has a longstanding practice that limits participation or raises other concerns, you can try to change the bylaws by contacting board members or speaking to other members at a meeting. For example, restrictions on postal voting may unnecessarily limit public

participation in EMCs. If your EMC does not allow postal voting, you can advocate for changes to the bylaws to allow postal voting.

- After member input, Grady EMC changed its bylaws in 2017 to allow mail-in voting.^[28]

Join the board: If you are interested in getting directly involved in your EMC, you can run for a board seat. Oftentimes incumbent board members run unopposed.

- Review your EMC's bylaws for election information and rules. EMCs are broken down into districts. If there is not a vacant seat in your district, each director's seat should be open at annual meetings.^[29] Usually, you can secure a spot on the ballot by collecting enough signatures on a petition. The number of signatures necessary varies widely by cooperative.^[30]
- For more information on joining the board, see the **NAACP Just Energy Policies and Practices Action Toolkit** covering electric cooperatives.

Additional EMC Resources:

- **Locate Your EMC**
- **We Own It**
- **National Rural Electric Cooperative Association**

Municipal Electric Utilities

Public power utilities are operated as a division of the local government.

Like other local government decisions, residents have a direct voice in utility decisions, including rates and energy sources. Rates and services are generally governed by the city council or county commission, and some cities may have an appointed or elected utility board.^[31]

Individuals and communities can participate in utility decisions by voting in local elections and by attending city council meetings and other public forums. You can also reach out directly to your elected officials to voice concerns about your electric utility.

By participating in local utility governance, you can influence actions such as customer rates, energy conservation and efficiency programs, energy sources, and low-income assistance programs.^[32] You can locate information about your municipal utility through your city or county website.

Success Stories:

Communities Holding Electric Utilities Accountable

Cobb EMC Georgia Coal Plant Withdrawal

POWER4Georgians, LLC, a group of six Georgia EMCs (including Cobb EMC), planned to build a \$2.1 billion coal plant (Plant Washington) which according to some estimates would have actually exceeded \$3 billion in costs. The group had been promoting the project since 2008. Cobb EMC spent over \$13 million dollars on the project before pulling out in 2012.

On behalf of and alongside of various community groups, the Southern Environmental Law Center (SELC) successfully challenged the original air and water permits and opposed permit extensions.^[33]

Ultimately, Cobb EMC members held their utility accountable and ousted board members that continued to support an irresponsible project.^[34] The project is now officially dead after the other EMCs cancelled funding for the project.^[35]

Oxford, GA Solarize Campaign

The City of Oxford imposed a discriminatory monthly fee on rooftop solar customers. For a customer with an average-sized rooftop solar system, the fees added nearly \$50 a month to the customer's bill.

Several solar advocates, including the Solarize Georgia member organizations and community members raised concerns about the steep solar fees with the city council.

Ultimately, the Oxford City Council removed the monthly fee for residential customers with solar panels on their homes.^[36]

Georgia Power 2019 Resource Planning Proceedings: Increased Savings from Energy Saving Programs

During a 2019 long term resource planning proceeding, advocates pushed for and achieved expansions to Georgia Power's energy savings programs, including programs targeted at reducing electric bills for income-qualified customers.^[37]

The PSC also approved, for the first time, a pilot program that will allow income-qualified customers to finance energy saving measures through an electric bill tariff. With this program, customers avoid expensive up-front costs and start saving money on electric bills right away.

Electric Utility Regulation in Georgia Citations

^[1] *Understanding the Electricity System in Georgia*, Southface Institute 7 (May 2018), <https://4553qr1wvuj43kndml31ma60-wpengine.netdna-ssl.com/wp-content/uploads/2018/05/Georgia-Electricity-System-Primer-May-2018-Draft.pdf>.

^[2] O.C.G.A. §§ 46-3-4 and 46-3-5.

^[3] *Id.* at § 46-2-1(a), (b).

^[4] *Id.* at § 46-2-1.

^[5] O.C.G.A. § 46-2-23(a) (“The commission shall have exclusive power to determine what are just and reasonable rates and charges to be made by any person, firm, or corporation subject to its jurisdiction.”).

^[6] See *Ga. Retail Ass’n v. Ga. Pub. Serv. Comm’n*, 300 S.E.2d 544, 546 (Ga. Ct. App. 1983).

^[7] See O.C.G.A. § 46-3A-3.

^[8] Georgia Watch, *Georgia Electric Membership Cooperatives 3* (Nov. 2015), https://www.georgiawatch.org/wp-content/uploads/2015/11/GEORGIA-EMCs_Report-on-IRS-Compliance-and-Transparency.pdf.

^[9] *Id.* at 10-11.

^[10] *Georgia’s EMCs*, Georgia EMC, <https://georgiaemc.com/page/GeorgiasEMCs>.

^[11] O.C.G.A. §§ 46-3-170 and 46-3-12.

^[12] Municipal utilities and EMCs are both subject to limited regulation by PSC (resolving territorial disputes, records, financing). See O.C.G.A. §§ 46-3-12 and 46-3-152.

^[13] The Municipal Electric Authority of Georgia (MEAG) which is a consortium of different public electrical system was formed in order “to function without profit in developing and promoting for the public good in this state, adequate, dependable, and economical sources and supplies of bulk electric power and energy[.]” See O.C.G.A. § 46-3-10.

^[14] *About MEAG Power*, MEAG Power, <https://www.meagpower.org/About/tabid/60/Default.aspx>.

^[15] *Electric*, Dalton Utilities, <https://www.dutil.com/electric/>.

^[16] *Welcome*, Chickamauga Utilities, <http://chickamaugautilities.com>.

^[17] *Electrical Department*, Hampton Georgia, <https://www.hamptonga.gov/185/Electrical-Department>.

^[18] O.C.G.A. § 46-2-1.

^[19] *Id.* at § 46-3A-1(7).

^[20] *Id.* at § 46-3A-2(b).

^[21] *Deciding a Rate Case*, Georgia Public Service Commission, http://www.psc.state.ga.us/cases/deciding_a_rate_case.asp.

^[22] *Federal Power Comm. v. Home Natural Gas Co.*, 320 U.S. 591, 605 (1944).

^[231] NAACP Environmental and Climate Justice Program, Just Energy Policies and Practices Action Toolkit Module 5 23-24 https://naacp.org/wp-content/uploads/2014/03/Module-5_Starting-an-Energy-Cooperative_JEP-Action-Toolkit_NAACP.pdf; Matt Grimley, *Just How Democratic Are Rural Electric Cooperatives*, Institute for Local Self-Reliance (Jan. 13, 2016), <https://ilsr.org/just-how-democratic-are-rural-electric-cooperatives/>.

^[241] Georgia Watch, Georgia Electric Membership Cooperatives: IRC §501(c)(12) Compliance and Transparency 9-10 (Nov. 2014), https://www.georgiawatch.org/wp-content/uploads/2015/11/GEORGIA-EMCs_Report-on-IRS-Compliance-and-Transparency.pdf.

^[251] *Id.*

^[261] *Id.*; *Sawnee EMC Quick Stats*, Sawnee EMC, <https://www.sawnee.com/facts-and-figures>.

^[271] Georgia Watch, Georgia Electric Membership Cooperatives: IRC §501(c)(12) Compliance and Transparency 9-10 (Nov. 2014), https://www.georgiawatch.org/wp-content/uploads/2015/11/GEORGIA-EMCs_Report-on-IRS-Compliance-and-Transparency.pdf.

^[281] *See* 67 Grady E.M.C. News 3 (Aug. 2017), <http://gradyemc.com/wp-content/uploads/2017/07/Grady-EMC-July-2017-Newsletter.pdf>.

^[291] NAACP Environmental and Climate Justice Program, Just Energy Policies and Practices Action Toolkit Module 5 23-24, https://naacp.org/wp-content/uploads/2014/03/Module-5_Starting-an-Energy-Cooperative_JEP-Action-Toolkit_NAACP.pdf.

^[301] *Id.*

^[311] American Public Power Association, Public Power for Your Community 9 (2016), https://www.publicpower.org/system/files/documents/municipalization-public_power_for_your_community.pdf.

^[321] *Id.* at 14-15.

^[331] *Nation's Last New Coal Plant Proposal Finally Succumbs in Georgia*, SELC (Apr. 15, 2020), <https://www.southernenvironment.org/news-and-press/news-feed/nations-last-new-coal-plant-proposal-finally-succumbs-in-georgia>.

^[341] *Victory: Cobb EMC Pulls out of Coal-Fired Power Plants*, Clean Energy (Jan. 27, 2012), <https://cleanenergy.org/blog/victory-cobb-emc-pulls-out-of-coal-fired-power-plants/>.

^[351] *Id.*

^[361] *Solar Victory in Oxford, Ga., Means Lower Bills for Rooftop Solar Customers*, Southern Environmental Law Center (Aug. 19, 2019), <https://selc.link/2Zfsxo3>.

^[371] *Georgia Public Service Commission Delivers Clean Energy Wins*, SELC, <https://www.southernenvironment.org/news-and-press/press-releases/georgia-public-service-commission-delivers-clean-energy-wins>.

Other Laws

Other chapters of the EJ Green Book have discussed many of the most important, and most used, environmental statutes.

A host of other statutes, however, may apply to a given situation. Most of these statutes are administered by either the U.S. Environmental Protection Agency (EPA) or the Environmental Protection Division of the Georgia Department of Natural Resources (EPD).

This chapter includes a high-level overview of a few more laws you may encounter when pursuing environmental justice. This list is not exhaustive, and many of these laws have exemptions or nuances that are beyond the scope of this chapter.

If you have questions, please reach out to a lawyer for assistance. In addressing any environmental justice issue, one of your first tasks will be to determine which of these laws might apply to the situation you are facing.

Air

Georgia Air Quality Act

(O.C.G.A. §§ 12-9-1 to -25)

The Georgia Air Quality Act is the state law under which EPD administers the Clean Air Act, discussed in [Air Pollution](#). The Georgia act does not impose any requirements in addition to those of the federal act.

Water

Georgia Erosion and Sedimentation Act

(O.C.G.A. §§ 12-7-1 to -22)

The **Georgia Erosion and Sedimentation Act** was enacted to protect and restore the quality of Georgia's rivers and streams, which have been impacted by development and its sediment-laden stormwater runoff. The Act is administered by EPD and local governments.

The Act requires that each county or municipality in the state adopt a comprehensive ordinance establishing procedures to govern land disturbing activities (like construction) based on the minimum requirements established by the Act.

The Act regulates **land disturbing activities**, which are defined as any activity which may result in soil erosion from water or wind, and includes clearing, dredging, grading, excavating, transporting, and the filling of land.

The Act requires permits, called "**land disturbing activity permits**," for all land disturbing activities that are not expressly exempted by the Act.

Permit applications must be accompanied by an erosion and sedimentation control plan, which must be approved prior to issuance of a permit. If the project you are concerned about does not have an Erosion and Sedimentation Act permit, it may have a permit addressing these concerns through the Clean Water Act's NPDES permit system. See [Water Quality Permitting](#) for more on the NPDES permit system and [Knowing What's in Your Neighborhood](#) for more about locating a specific permit.

The Act has **specific exemptions** for certain activities:

- Construction of single-family residences disturbing less than one acre and not part of a larger development scheme are exempt from the permitting process, but still must meet the minimum protections set forth in the Act.

- Certain mining activities, agricultural practices, farming operations, forestry land management practices, transportation projects, airport projects, electrical utility projects, and public utility projects are exempt from both the permitting process and the minimum protections.

The Act requires that any non-exempt land disturbing activity comply with the **“best management practices”** to reduce erosion and sedimentation.

Best management practices are conservation and engineering practices that prevent and minimize erosion and resultant sedimentation. Best management practices must be consistent with, and no less stringent than, the practices contained in the “Manual for Erosion and Sediment Control in Georgia” published by the **State Soil and Water Conservation Commission** in the year the land-disturbing activity was permitted.

Examples of minimum practices required by the Act include:

- Minimizing erosion from vegetative stripping and regrading
- Preserving natural vegetation when possible
- Reducing cut and fill operations
- Stabilizing disturbed areas
- Limiting exposure to erosive elements
- Providing sedimentation control and treatment to ensure adjacent waters are not affected

Another minimum protection established in the Act is a 25-foot buffer along the banks of any State water, including coastal marshlands. This buffer is extended to 50 feet if the water is a trout stream. Development activities are prohibited in these buffers unless a “variance” is granted by the director of the Department of Natural Resources, the specific criteria for which are determined by the Board of Natural Resources. See **Land Use Planning and Zoning** for more information about variances.

Either the director of the EPD or the local authority (the governing body authority of any county or municipality that is certified pursuant to the Act) may issue an order to any person that does not comply with the requirements of the

Act requiring work to stop until corrective actions have been undertaken. The violator may be subject to permanent or temporary injunctions, restraining orders, and civil penalties up to \$2,500 per day or violation.

Individuals and communities can play a large role in carrying out the mission of the Act.

With the vast amount of land development occurring in the state of Georgia, the EPD lacks the manpower to monitor and ensure compliance at all sites at all times. The public can alert the EPD to violations of the Act and ensure that corrective actions are taken before water quality is further impaired.

For more information about the Georgia Erosion and Sedimentation Act, contact:

Michael Berry, Unit Manager

Georgia Environmental Protection Division

Erosion and Sedimentation Unit

Telephone: (470) 524-4621

Email: michael.berry@dnr.ga.gov

Additional Laws Related to Environmental Issues

Emergency Planning and Community Right-to-Know Act

(42 U.S.C. §§ 11001-11050)

Congress enacted the **Emergency Planning and Community Right-to-Know Act (EPCRA)** to help communities safely and effectively store and handle hazardous substances.

EPCRA supports emergency response planning for chemical accidents and provides local governments and the public with information about past and potential chemical hazards in their communities.

EPCRA requires each state to appoint a State Emergency Response Commission (SERC). Each SERC then divides its state into Emergency Planning Districts and names a Local Emergency Planning Committee (LEPC) for each district. Broad representation in the committee by firefighters, health officials, government and media representatives, community groups, industrial facilities, and emergency managers ensures that all necessary interests are included.

In tribal regions, the analogs to state SERCs and LEPCs are Tribal Emergency Response Commissions (TERCs) and Tribal Emergency Planning Committees (TEPCs), respectively. TERCs are designated by the chief executive officer of the federally-recognized Tribe.

The emergency planning aspect of EPCRA requires facilities with Extremely Hazardous Substances (EHSs) at or above threshold planning quantities (TPQs) to report their inventory to the SERC, LEPC, and the local fire department. The LEPC must develop an emergency response plan for those facilities and review the plan annually. Those facilities must also report chemical releases exceeding certain limits, called “reportable quantities.”

For hazardous substances that are not defined under CERCLA, the facility need only report to the SERC and LEPC.

For releases of hazardous substances that are regulated under CERCLA, the facility must report to the National Response Center (NRC), an emergency call center of the federal government, in addition to the SERC and the LEPC. The NRC assigns a case number to the release report, which the EPA calls the facility’s CR-ERNS number. The facility then must use this CR-ERNS number on all future release reports or correspondence related to continuous releases from the facility.

The America’s Water Infrastructure Act (AWIA) of 2018 amended EPCRA to extend notification and reporting requirements to community water systems,

which are public water supply systems providing water to the same community year-round.

Under AWIA, community water systems must receive emergency notification from the SERC of any reportable release of an EPCRA EHS or a CERCLA hazardous substance that potentially affects their source water. Community water systems must also have access to EPCRA hazardous chemical inventory data. AWIA allows community water systems to assess the risk of contamination and prioritize source water protection activities.

The community right-to-know aspect of EPCRA gives the public access to information about threats from hazardous substances.

Every March, facilities are required to submit inventory forms that:

- identify the chemicals on site for the previous calendar year to their SERC, LEPC and local fire department;
- estimate the maximum amount and average daily amount of stored chemicals; and
- state the general location of chemical storage.

Facilities may elect to withhold the storage location information from the general public. However, interested persons may make a written request to the SERC or LEPC to review this information. The public may also review any emergency response plans that have been developed.

Additionally, every July facilities are required to submit toxic release inventory forms for every toxic chemical onsite. Information on this form includes:

- the name, location, and principal activities of the facility;
- whether the chemical was manufactured, processed, or used at the facility;
- the maximum amount present at the facility for the preceding calendar year;
- the waste treatment or disposal method used; and
- the quantity of any toxic entering the environment from a release.

This information is **available online** to the public, where you can use the search engine feature at the bottom of the webpage to find specific information.

If you are concerned about pollution from a specific facility in your community, these reports are a great way to find out what pollutants are present at that facility and whether any are being released into the environment.

For information about a facility's chemical inventory, contact the SERC:

Anita Mathis (SERC/LEPC Program Coordinator)

Georgia Emergency Management and Homeland Security Agency

1000 Indian Springs Drive

Forsyth, Georgia 31029

Telephone: (470) 225-3829

Email: anita.mathis@gema.ga.gov

<https://gema.georgia.gov>

The SERC can also help you find your LEPC, from which you can request a facility's chemical list or Material Safety Data Sheets (MSDS) identifying hazardous substances over threshold quantities, the facility's inventory forms, and the LEPC's emergency response plan for that facility.

Occupational Safety and Health Act

(29 U.S.C. §§ 651-678)

Congress enacted the **Occupational Safety and Health Act (OSH Act)** to ensure safe and healthful working conditions for all employees. It is administered by the Occupational Safety and Health Administration (OSHA).

Although the Act encourages states to develop and operate their own job safety and health programs subject to OSHA approval and monitoring, Georgia does not have a state level plan and remains under federal OSHA jurisdiction, which

covers most private-sector workers. State and local government workers are not covered by federal OSHA jurisdiction.

The Act's Hazard Communication Standard (HCS) requires chemical manufacturers, distributors, and importers to make available and understandable to employees information on the hazards in their workplace, the chemicals they may be exposed to, and what measures they should take to protect themselves. The employers must provide safety data sheets (SDSs) (formerly known as Material Safety Data Sheets or MSDSs) with information that includes chemical properties and information about health and safety, such as firefighting procedures, handling and storage procedures, and emergency and cleanup procedures.

OSHA has a whistleblower provision under which an employer is prohibited from discharging or discriminating against an employee who has exercised his or her rights under the Act. An employee may:

- complain to OSHA and seek an OSHA inspection of the workplace;
- participate in an OSHA inspection; and
- participate or testify in any proceeding related to an OSHA inspection.

If the condition clearly presents a risk of death or serious physical harm and there is not enough time for OSHA to inspect, the employee may have a legal right to refuse to work.

If an employee believes there may be an unsafe or unhealthful workplace condition, OSHA recommends that the employee first notify his or her employer.

If the employer does not take action or if the employee does not feel comfortable approaching his or her employer, they may contact the local OSHA office directly to make a complaint.

The employee may file the complaint online or by fax, mail, or email. They may also ask OSHA not to reveal his or her name. In addition to employees, anyone who knows about a workplace safety or health hazard may report unsafe

conditions to OSHA, and OSHA will investigate the concerns reported.

For more information, contact an OSHA office.

Georgia has three local OSHA offices:

Atlanta East Area Office

2296 Henderson Mill Road, NE, Suite 200

Atlanta, GA 30345

Telephone: (770) 493-6644

Fax: (770) 938-1611

Atlanta West Area Office

1995 North Park Place S.E., Suite 525

Atlanta, GA 30339

Telephone: (678) 903-7301

Fax: (770) 984-8855

Savannah Area Office

450 Mall Boulevard, Suite J

Savannah, GA 31406

Telephone: (912) 652-4393

Fax: (912) 652-4329

For more information on how to file a complaint, visit OSHA's [website](#).

Endangered Species Act

(16 U.S.C. §§ 1531-1544)

The **Endangered Species Act (ESA)** was enacted to protect endangered or threatened species and their ecosystems.

The Act defines an endangered species as “any species which is in danger of extinction throughout all or a significant portion of its range.”

A threatened species is “any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.”

The Act only protects species that are listed on the federal list of endangered and threatened wildlife and plants. Species can become listed in two ways:

1. On the initiative of the Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS).
2. When an individual or organization petitions FWS or NMFS to conduct a scientific review.

The Act is administered by two agencies — the **U.S. Fish and Wildlife Service**, within the Department of Interior, and the National Oceanic and Atmospheric Administration’s **National Marine Fisheries Service**, within the Department of Commerce. Out of the two, the FWS plays the predominant role because it is responsible for freshwater fish and all land species. NMFS has responsibility over ocean species.

Under the Act, federal agencies are forbidden to authorize, fund, or take *any action* that may jeopardize the continued existence of endangered or threatened species *or* their critical habitat.

The **critical habitat** of a species is the geographic area that the species needs for food, shelter, reproduction, or otherwise continued normal existence. The Act provides that an agency, corporation, or individual cannot harm, harass, or kill an endangered or threatened species without a permit. You can search for endangered species in your area **here**.

The ESA provides for citizen suits in §1540(g). **While the Act targets animal and plant protection, suits brought to stop actions harming animals or plants may also protect communities that share land with endangered, threatened, or presumed endangered or threatened species.**

These communities can use citizen suits to halt or slow development and other actions. It may be in the interest of the community to bring a citizen suit under

the ESA because an action harming an endangered species in a populated area may also harm the human inhabitants in the area, even if the only legal recourse is to sue to protect *the species*, rather than the human community. See **Citizen Suits** for more about the process to bring a citizen suit.

Georgia Asbestos Safety Act (O.C.G.A. §§ 12-12-1 to -21)

Asbestos is a mineral fiber that is resistant to heat and corrosion. Because of these properties, asbestos was historically added to products to increase their strength and provide heat insulation and fire resistance.

When disturbed, microscopic asbestos fibers become airborne and can be inhaled, causing them to become permanently trapped in the lungs. The build-up of asbestos in the lungs causes serious health problems such as lung disease and cancer.

The Asbestos Safety Act (ASA) is a state law enacted to protect public health, safety, and the environment by establishing licensing, training, and project notification requirements for contractors engaged in the removal or encapsulation of asbestos from facilities or residential dwellings.

Under the Act, only contractors who are licensed by satisfying specific training requirements and paying licensing fees can perform this type of work. The law requires that contractors notify EPD of asbestos removal or encapsulation projects prior to commencing the activity.

Under the Act, EPD has the authority to inspect and sample project sites for compliance with the regulation and asbestos handling guidelines. If the agency determines that the site is not in compliance, a cease and desist order may be issued. Civil penalties up to \$25,000 per day may also be assessed for failure to comply.

Citizen involvement in the ASA is limited to notifying the EPD if you think someone is acting without a license or not following the proper removal or encapsulation procedures.

If you have reason to think someone is improperly removing asbestos from a building or exposing workers to asbestos, you can contact the EPD and ask them to investigate.

The ASA is administered by the Land Protection Branch of EPD.

For more information, call the Asbestos Division Duty Officer at **(404) 363-7026** or reach out to:

Allison Webb, Unit Coordinator

Georgia Environmental Protection Division

Lead-Based Paint and Asbestos Program

Telephone: (706) 612-8875

Part III:

Community Science

Collecting and Using Scientific Data

What is Community Science?

Community science, also called “citizen science,” refers to public participation in the scientific process, especially to achieve community (rather than institutional) goals.

For communities facing environmental issues, collecting scientific data can be a powerful tool to investigate problems and document environmental and health impacts on communities.

Community science activities include asking questions, recording observations, collecting data, interpreting data, and distributing information for educational purposes or to address community concerns.^[1] Community scientists can contribute to existing projects or design their own projects based on the needs of their communities. Whether participating in existing projects or starting new ones, community scientists can fill information gaps and use evidence to meaningfully address environmental injustice.

Community scientists can use information they’ve collected in various ways, such as persuading an agency to further investigate a problem or supporting a lawsuit against a polluting facility.

Though community science information can be used to support a lawsuit, there are many opportunities to use community-gathered information and environmental laws that do not require going to court.

This chapter provides general guidelines for creating and implementing an effective community science project, helpful considerations to keep in mind, and additional resources to support and inform your efforts.

Contribute to Existing Projects

Sometimes community science activities by members of the public are facilitated by professional scientists, organizations, or government agencies. For example, through the Chattahoochee Riverkeeper's ongoing **Neighborhood Water Watch program**, communities can collect water samples from designated areas all over north Georgia and bring them to the Riverkeeper for analysis. If any threats to public health or the environment are identified, Chattahoochee Riverkeeper also works with neighborhoods and local governments to address the threats.^[2]

Taking advantage of these existing programs can help community scientists effectively achieve community goals with limited resources. For a list of possible resources and ongoing projects, see **Appendix E: Community Science Resources**.

Design Your Own Project

Often, existing projects will have a specific focus that might not directly line up with the needs of your community. In that case, you can design and initiate a project to achieve your specific goals. This chapter will discuss some important considerations when starting your own project as well as resources that provide additional guidance.

Community Science in Action: Clean Air Carolina AirKeepers Program

The Historic West End is a 150-year old community in Charlotte, North Carolina and is home to some of the city's oldest African American communities.^[3] **The Historic West End has also been disproportionately impacted by air pollution from highway construction and industrial sources.**^[4]

Partnering with Clean Air Carolina, **community scientists used portable air sensors to monitor air pollution levels in their neighborhoods.**^[5] Residents

measured particle pollution at different locations throughout their neighborhoods and used this data to advocate for more equitable policy decisions to address pollution.

In May of 2019, the Board of County Commissioners invited residents to present their air quality data. **After communities presented their data, the commission established an official air monitoring station in the Historic West End.** Now residents are advocating for the creation of a West End Green District to reduce neighborhood air pollution.^[6]

To learn more about AirKeepers in the Historic West End, visit their [Story Map](#).

Designing and Implementing Community Science Projects

1. Problem Identification and Project Focus

You are probably reading this guide because you have already identified an environmental problem or area of concern in your neighborhood. Maybe you want to protect an existing community asset (like a waterway or community garden) that might be threatened. Or maybe a new industrial facility is being sited nearby, and you want to know what legal tools you can use to protect your community.

This section will help you take the problem you have identified and frame in terms of a specific project focus. For instance, if you want to protect an existing community asset, your project focus might be monitoring that resource to ensure it remains healthy.

Below are some examples of project focuses that may help you target your efforts so you can get the most effective results with limited resources. This is

by no means an exhaustive list, and community science projects can take many forms to address many different issues.^[7]

Examples of Project Focuses

Monitor and Protect Environmental Assets

Environmental assets might include clean air, clean water, healthy soils, green spaces, community gardens, or wildlife areas.^[8] To protect neighborhood assets, you may seek to monitor their health so that you can quickly identify any problems.

This may be especially relevant if a new source of pollution moves into your community, or after a change in regulations, laws, or permit requirements alters the standards for polluters in your area.

Verify Pollution from a Known Pollutant Source

If there is a known pollutant source in your area,^[9] like a factory or sewage treatment plant, it will be operating under a permit to pollute and must comply with certain self-reporting requirements. Check **Knowing What's in Your Neighborhood** for more about locating permits for facilities in your neighborhood.

Using community science, you can check to see if a polluter is accurately self-reporting its pollution by comparing your findings to the polluter's reports. You can also seek to verify that the polluter is not exceeding its own permit requirements.

Identify A Pollution Source

Perhaps you have identified a pollutant in your neighborhood, but you don't know its source. For instance, you know there is an odor, or maybe you have observed an environmental problem like dying plants, but you are not sure of the precise cause.

Fix Existing Environmental Problems

Maybe you already know what the problem is and what is causing it. In that case, your project focus may be fixing the problem itself. Perhaps you want to improve air or water quality. Or maybe you want to decrease the health effects or risks associated with exposure to a known pollutant. For example, in an area with lead-contaminated soil, you might seek to test the soil to raise awareness among residents, understand the extent of the contamination, and facilitate fair and effective cleanup efforts.

As you narrow down your project focus, you should also determine which specific pollutants you will be gathering information about.

One way to identify relevant pollutants is to research available information, such as government websites, internet sources, or news articles. Many pollutants are associated with certain types of sources. If your project is focused on a nearby or proposed industrial facility or other pollution source, you can determine which pollutants are associated with that activity. For a list of common pollutants and sources, see Tables 1.1 and 1.2 in **Where You Live Affects Your Health**.

2. Setting a Goal: How Will This Information Be Used?

This section will provide some examples of ways to use community science data. **It is important to note that legal strategies are not limited to filing a lawsuit.**

Many environmental protection laws and environmental agency regulations include specific procedures to encourage and even require community participation. The information you gather can be used to stimulate agency action, inform new regulations, or spur agency enforcement against a polluter — without you ever being involved in a lawsuit. Additionally, community science can be a powerful tool to raise public awareness about environmental issues and to influence local officials.

This section will also help you decide what **procedures** you may need to use when collecting information. You may need to adhere to different quality standards depending on **how** the information will be used and **who** will be using the information.

For example, if you plan to use information for educational purposes for the public or to push for certain policy decisions by elected officials, there are no formal quality standards for the information. On the other hand, if you want to use your data in a court case or provide it to a government agency to rely upon in administrative actions, it must satisfy certain legally imposed quality standards.^[10]

Understanding these quality constraints at the beginning of a project can help community scientists design more effective projects that have a clear end-goal.^[11] And of course, regardless of formal standards, the quality of community science data will affect its persuasiveness and credibility to decisionmakers.^[12]

Because there may be quality standards for certain uses of information, community scientists should consider partnering with academic researchers, non-profits, or other experts to select tools and design projects.^[13] For possible resources to help connect you with experts, see **Appendix E**.

In addition, community scientists should attempt to reach out to agencies at the outset of their projects. Though it may be challenging or frustrating to connect with agency staff, establishing contact early will only increase the chance that the data you collect will be utilized by the agency later on.^[14] See Who's Who: Environmental Agencies in Georgia for more information about state agencies and **Appendix B** for agency contact information.

Possible Goals for Community Science Projects

Education and Advocacy

You may want to use community science data to **raise awareness about an issue** or to **foster further engagement from the community**. More broadly, information generated through community science can help to raise public awareness about an environmental health issue through media attention. You can also share your findings with local elected officials and representatives to advocate for changes to existing laws or policy decisions. Some opportunities include:

- **Zoning decisions:** Public participation is required whenever a zoning decision is made. At minimum, local governments must publicize and hold a public hearing on all proposed zoning decisions.^[15]
 - See **Land Use Planning and Zoning** for more information about zoning.
- **Land use plans:** Each local government in Georgia is required to develop a comprehensive plan that governs future land use. The Georgia Department of Community Affairs has created rules entitled “Standards and Procedures for Local Comprehensive Planning: Local Planning Requirements” that mandate public hearings and participation during the preparation of a comprehensive plan.^[16]
 - See **Land Use Planning and Zoning** for more information about the planning process.
- **Landfill siting:** Prior to selecting a site for a municipal solid waste facility, local governments must publicize and hold a public meeting to discuss site selection.^[17]
 - See **Solid Waste Management and Landfill Permitting** for more information about the landfill siting process.

Submitting Public Comments

Many environmental statutes are written broadly and require the agencies charged with implementing those laws to interpret the language. One way they

do this is through a process called **notice and comment rulemaking**, wherein agencies issue rules that interpret and enforce the laws.

If an agency has issued a proposed rule relevant to your community, you can provide the agency with information through public comments to influence the development of the final regulation. In addition to requirements imposed on all notice and comment rulemaking, some laws and agency regulations specifically require agencies to solicit public participation before making major decisions that will impact the environment.

One of the strongest tools for public participation in environmental law is the National Environmental Policy Act, discussed in **The National Environmental Policy Act**. Other opportunities for submitting public comments include comments on proposed permits, licenses, and enforcement decisions. For guidelines on submitting public comments, see **Submitting Public Comments**.

If you submit scientific data as part of a public comment, and the agency relies on that information as the basis for its decision, then the information must meet certain quality standards.

Agency actions are subject to judicial review under the Administrative Procedures Act (APA). That means that if a federal agency decision is challenged in court, the decision will be overturned if it is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law” or “unsupported by substantial evidence.”^[18] Generally, courts give a high degree of deference to agency decisions, but this requirement means that your information must meet certain credibility standards if an agency is to rely upon it in official decisions.

For a discussion of applicable quality standards and how to improve your data quality, see *Part 5: Gathering New Information* below.

Petitions for Rulemaking

Rulemaking is one way federal and state agencies interpret and enforce environmental laws. If there is not currently a proposed rule, or if you think a current rule is outdated or insufficient, you can petition the agency to adopt a new one. Under the APA and Georgia law, federal and state agencies must give interested persons the right to petition for the issuance, amendment, or repeal of a rule.^[19] The EPA provides previously submitted petitions on its [website](#).

Solicit Agency Enforcement Action

When a polluter is in violation of the law and the government takes action to force it to stop violating the law, that process is called enforcement. You may want to provide information to a government agency in order to spur an enforcement action against a polluter. For instance, the government may bring a criminal prosecution in federal or state court or pursue enforcement through an administrative adjudication.

Again, if the agency relies on your information, it will need to comply with certain quality standards (see the *Lawsuit section* below).

Stimulate Independent Agency Action

You can also use community science data as a tool to stimulate future independent agency action. For instance, you might collect data on elevated pollutant levels in a waterway and corresponding exceedances in a polluter's self-reported permit allowances and pass that information on to the agency.

Once you have called attention to the problem, the agency may then take independent action to verify your information or gather its own information. Then, based on its own independent investigation, the agency might bring an enforcement action against the polluter.

Many environmental laws create affirmative obligations on agencies to solicit public participation and consider public comments. Additionally, action taken by agencies to independently verify community science data may help address

quality standards that might otherwise prevent the use of community science data in certain contexts.

File a Lawsuit

Finally, you might use your data to support a citizen suit against a polluter. Many environmental laws include citizen suit provisions, which allow for private citizens to bring lawsuits directly against a polluter to enforce the law. Essentially, private citizens step into the shoes of the government to enforce environmental laws through the courts. For more information on citizen suits generally, see **Citizen Suits**.

If scientific or technical data gathered by community scientists is offered in court, it must satisfy the requirements for expert testimony under the Federal Rules of Evidence and applicable case law.^[20]

These requirements relate to both the method of data collection as well as the method of interpreting results.^[21] Though there is nothing inherently disqualifying about community science data, to be admissible in court it will need to be adequately supported by a qualified expert.^[22]

There are a few overarching requirements, including the need to record ***how and when*** samples are collected and what methods were used to interpret data. These basic concepts are covered in *Part 5: Gathering New Information* below, which discusses procedures for gathering new information. For an in-depth discussion of using community science in lawsuits, see Harvard's Citizen Science Manual Supplement, **Using Citizen Science Data in Litigation**.^[23]

Importantly, not every piece of information collected by community scientists will constitute "scientific" evidence in court.^[24]

In court, there are more stringent requirements for "expert testimony" made by a qualified person about a scientific or technical issue. But these more stringent requirements do not apply to non-expert testimony that does not require technical or specialized knowledge.

For example, photos or personal observations about bad smells at a facility would not need to be introduced via expert testimony, because they are testimony about what you directly experienced with your own senses. However, evidence about the quantity of certain possible pollutants that could be causing the smell would likely need to be introduced in court via expert testimony.

3. Survey Existing Information

As mentioned in the overview of community science, one way to participate in community science is by contributing to an existing project. Even if there is not an ongoing project that directly matches your project focus, there is still a wealth of existing publicly available information that may help you narrow your research. By exploring available resources, you may also be able to connect with other individuals or organizations, whether in your neighborhood or more broadly, who are interested in solving similar problems.

Reaching out to government agencies at this stage may help you identify existing sources of information relevant to your project. Additionally, non-profits, universities, and other experts may be able to provide helpful information. For resources on existing community science projects and programs that help connect communities with expert facilitators, see **Appendix E: Community Science Resources**.

For information concerning specific pollutants or environmental problems in your area, you can find information through the media, academic research, and state and federal agency websites.

If you have identified a specific pollutant in your community, you can check agency websites to learn about its health effects and how to limit potential health risks.

If you have identified a specific pollutant source, you may also want to investigate that facility. Information regarding a facility's permitting, compliance history, and enforcement actions is available through the EPA or the EPD websites.

If you are having trouble locating information about a specific facility, you can submit a Freedom of Information Act (FOIA) request or Georgia Open Records Act request, described in **Accessing Public Records and Meetings**. Templates for these requests can be found in **Appendix C-1** and **Appendix C-2**.

For a list of common pollutants, see Tables 1.1 and 1.2 in **Where You Live Affects Your Health**, and for a collection of resources to learn more about existing pollutants, see **Appendix 3** and **Appendix 4** of **Harvard's Citizen Science Manual**.^[25]

4. Consider Potential Liability

When designing and implementing your project, there are important potential liabilities to be aware of and avoid:

Trespass

In Georgia, you commit trespass when you go onto someone else's property without permission. If you are collecting data on public land or on private property *with permission*, you will not be trespassing.

If you will be entering or crossing private land to collect samples, you can avoid potential trespass claims by seeking permission from the owner – preferably permission in writing. **If you enter private property without permission, you may be criminally or civilly liable for trespassing.**

Drone Use

If you intend to use drones to take photographs or collect data during your community science project, there are some restrictions you should keep in mind.

First, there are certain federal drone laws that apply in every state. The **Federal Aviation Administration** (FAA), which is the federal agency that regulates drones, has different standards for commercial and recreational use. For community scientists, as long as you are not being paid to operate a drone, you

should not need to comply with commercial standards.^[26] If you are flying as a recreational user, there is a different set of rules. One key rule is that if your drone weighs 0.55 pounds (250 grams) or more, you must register it with the FAA.^[27]

Second, Georgia has some additional rules concerning drone use. According to Georgia Department of Natural Resources Park Rules and Regulations, drone use and operation is prohibited in Georgia's state parks and historic sites.^[28]

A few counties in Georgia have their own local ordinances that regulate drone use as well. For instance, the City of Augusta prohibits drone use in populated areas in Richmond County (outside of designated model aircraft fields) without prior authorization from both the FAA and the Augusta, Georgia Commission.^[29] Check with the county and city you live in to see if there are other rules you should know about regarding drone use.

Privacy

If your project area includes residential areas,^[30] you should be aware of privacy laws, especially if your project involves taking photos or videos. Georgia law recognizes four categories of privacy claims:

1. Intrusion into private affairs
2. Public disclosure of private facts
3. False light publicity and invasion of privacy
4. Appropriation of name or likeness

Likely, the first category is going to be the most relevant to community science activities. **Intrusion into private affairs** involves "an unreasonable and highly offensive intrusion upon another's seclusion."^[31] In Georgia, it is unlawful to photograph or record the activities of another which occur in private and out of public view, whether or not that information is published.^[32]

Generally, you should be aware of privacy issues whenever you are collecting information in residential areas. You should let community members know about your project and its goals and be mindful of what photographs you take

and make publicly available. Unless you are in a public place, it is best to avoid taking pictures that include individuals, especially children. If you are using volunteers to gather data, you should communicate privacy concerns to volunteers as well and make sure that they understand how the information they gather will be used and whether it will be publicly available.

Stalking

In Georgia, a person commits the crime of stalking when they “follow, place under surveillance, or contact another person . . . without the consent of the other person for the purpose of harassing and intimidating the other person.”^[33] Because stalking in Georgia requires a specific intent to harass or intimidate,^[34] community scientists generally will not be liable for stalking.

Ag-Gag Laws

In addition to trespass, Georgia law prohibits certain activities at animal and crop facilities. These facilities include the premises where animals and crops are actually located as well as any “office, building, or structure where records, documents, or electronic data” relating to research, testing, or production of the crops and animals are kept.^[35]

The law states: “A person commits an offense if, without the consent of the owner, the person . . . enters or remains on an animal [or crop] facility with the intent to disrupt or damage the enterprise conducted at the . . . facility” and the person had notice that entry was forbidden.^[36]

Generally, as with trespass, you should get permission from private property owners before entering agricultural property.

Loitering

Loitering laws are likely only relevant if you are already violating some separate criminal law. Criminal loitering statutes cannot simply criminalize a person’s presence in an area without some other criminal element.^[37] If you are not violating some other criminal law, you are unlikely to be liable for loitering.

Scientific Collecting Permits

Georgia also prohibits the collection of wildlife for scientific purposes without a permit:

“It shall be unlawful for any person to take, possess, or transport any of the wildlife of this state, or the plumage, skin, or body thereof, or the nests or eggs of the same for scientific purposes without obtaining a scientific collecting permit.”^[38]

If you are collecting samples, make sure to only collect water or soil samples, not living creatures.

5. Gathering New Information

Hopefully, all the information you needed to meet your project goal is already available through other sources. But more likely, your community science project will require you to gather your own information that is not already available from some other source.

As discussed above, the use of community science information may be limited based on quality standards. Even where no formal standards exist, higher-quality information will have the most credibility and be the most effective for achieving your project goals.

However, any information you generate may still help to stimulate independent agency action or raise public awareness about an issue. Even if you cannot comply with the most strict and rigorous sampling and quality control procedures, your work as a community scientist can still have an impact on decision-making.

Quality Assurance Project Plans

An important way to keep track of your data collection methods and improve the credibility of your data is to develop a **Quality Assurance Project Plan (QAPP)**.^[39]

A QAPP is a written document prepared at the start of your project that outlines the **methods you will use** to collect and analyze data. Not only does a QAPP improve your data's credibility, but it also provides a valuable resource to volunteers participating in data collection and to others who may want to use or add to your work in the future.

Data collected in accordance with written and standardized procedures, such as those in a QAPP, is also more likely to be accepted as evidence that can be used in a lawsuit.

There are five main indicators that are used to assess data quality.

Before preparing your QAPP or collecting samples, you should understand these concepts and how they relate to the quality of your data.

(1) Precision refers to the degree of agreement, or similarity, among multiple measurements of the same characteristic on either a) the same sample, or b) multiple samples collected at the same time and place.^[40] A high degree of precision indicates that your methods are consistent and can be reproduced, which indicates higher-quality information.

(2) Accuracy measures how close your results are to a true or expected value. Accuracy can be determined by analyzing a sample with a known value and comparing your results to that known value.^[41]

(3) Representativeness is the extent to which samples collected at a particular site or particular time actually represent the true environmental conditions being evaluated.^[42] If you do not collect *representative*

samples, your results may be biased because they do not reflect the actual conditions you are trying to measure. For example, if you are sampling a stream for water pollution, you probably do not want to collect a single sample directly below a pipe outfall, because this sample would not be representative of the entire stream; consider collecting samples both upstream and downstream of the pipe. Similarly, a sample collected after heavy rainfall could be representative of the condition of the stream after heavy rain, but not be representative of the stream in other weather conditions.

(4) Completeness can be determined by comparing the number of samples you planned to collect with the number of valid samples you actually collected. In general, you should make an effort to collect more samples than you think will actually be necessary.^[43] Having extra samples can also increase the representativeness of your data.

(5) Comparability refers to the extent to which data can be compared either a) between different samples in the same project, or b) between different projects.^[44] The best way to ensure comparability is to use standardized methods of sampling and analysis and to record your methods.

You should make your QAPP as detailed as possible.

Regardless of how in-depth your QAPP is, there are a few key practices that you should follow and record in your project plan.

- *Always record* your procedures, the date and time of the activity, and the name of the person conducting them.
- Even if the data you collect is qualitative rather than quantitative, you should record all observations in *as much detail as possible*.
- You should also keep a *written record of who has possession* of samples if they need to be stored or transported to different locations.

Community science projects vary widely in both project focus and specific scientific procedures used. For that reason, this guide does not provide a comprehensive methodology for different community science projects. Instead, it highlights some general questions you should ask as you plan your project and provides additional resources that cover technical suggestions in more detail.

Look at the following list of potential questions to help you design your project, and then investigate the resources listed after it to narrow down the specifics of how you will collect, analyze, and use information. Once you have gathered this information, prepare a project plan that outlines your project goals and procedures.

Step One: Collecting Samples

- What are you sampling?
 - For example: air, water, soil, etc.
- What are you looking for in the samples?
 - You might be looking for a specific pollutant such as lead, or any pollutants being discharged by a nearby facility.
- How will you collect samples? Will you use any special equipment?
 - Make sure that you always use clean and sterilized equipment and containers for your sample collection.
- How will you document your sample collection procedures?
 - You should always record the location and time samples were taken and the name of the person who took the sample, as well as any other important characteristics. Make sure to label all your samples.
- If you are analyzing samples at a secondary location, how will you store and transport samples from the field to that location?
 - You should make a plan for how you will store and transport samples to prevent contamination and be sure to keep track of who is in possession of the samples at each stage throughout the process. Maintaining records for chain-of-custody information is also important for authentication if your data is used in a lawsuit later on.
- What procedures do EPA or EPD recommend for this type of sampling?

- If you are using an agency-approved method, specify what method it is.
- If you are using a different protocol, specify how it is different from an official agency protocol.

Step Two: Analysis

- How will you analyze samples?
- Where will you analyze samples?
 - Whether your analysis occurs in the field or in a laboratory, you should record each step in the process. Even if you are analyzing samples in the field or without specialized equipment, you still need to record the methods you use.
- What equipment will you use to analyze samples?
 - There may be a local organization, school or university that provides resources for community scientists.
 - Check the EPA and the EPD online resources for approved instruments and procedures.
 - If you are using special equipment to test for certain pollutants, you should be aware of any limitations that tool might have. For instance, many instruments will only detect pollutants within a certain range. Knowing that detection range will help you evaluate the reliability of your analysis.^[45]
- How will you document your results and procedures?
- What methods do EPA or EPD recommend for this type of analysis?
 - If your procedure differs from an agency approved method, record how it is different.

Step Three: Interpretation

- What methods will you use to interpret the results of your analysis?
- Will you interpret the data yourself, or will you seek assistance from experts?
- What kind of expert would be best able to interpret your data?

- Though you may be able to interpret some data yourself, having an expert interpretation will improve the quality and credibility of the data.
- Possible resources for expert assistance might include local universities, non-profit organizations, or companies.
- How will you document your procedures and conclusions?
- What methods do the EPA or the EPD recommend for interpreting this type of data?

Additional Resources: Collecting, Analyzing, and Using Scientific Data

For more information on technical suggestions for data collection, see **Chapter 5 of Harvard's Citizen Science Manual**.

The **Federal Crowdsourcing and Citizen Science Toolkit** also provides a resource library and step-by-step guides to designing community science projects.

Additionally, the EPA provides detailed resources for evaluating information credibility and for designing QAPPs. Any project that seeks funding from the EPA must have an EPA-approved QAPP before collecting samples. Even if you are not seeking EPA funding, having a QAPP will improve your data credibility, especially if you plan to provide it to agencies. EPA resources include:

- **The Volunteer Monitor's Guide to Quality Assurance Project Plans**
- **The Quality Assurance Template for Citizen Science Projects**
- **Guidance on Choosing a Sampling Design for Environmental Data Collection**
- **Collection of Methods used in Environmental Measurements and Modeling**
- **List of Designated Reference and Equivalent Methods** (for measuring air pollutants)

Appendix E of the EJ Green Book also provides descriptions of and links to numerous additional community science resources. These resources may be helpful in designing your data collection and interpretation methods as well as keeping track of information, collaborating with other community members, and connecting you with experts or other facilitators.

6. Meeting Your Goal

After you have identified a project focus, surveyed existing information, and collected and analyzed new data, the final step is using your newly generated data to meet your project goal.

What you do with your community science data depends on the goal you identified at the beginning of your project, but generally you will want to compile your data and provide it to someone else — whether it be an agency, an elected official, an attorney, the media, or other residents in your community. You may also want to provide your data to a polluter to put them on notice of the violations you have documented.

Depending on who your intended audience is, you may want to format or structure your information in a certain way to make it most effective.

For instance, if you are targeting a non-technical audience, try to use plain language or visual aids, such as graphs, to communicate quantitative results. If you are planning to submit your information to an agency or use it in a court proceeding, there may be formatting requirements for how information is presented.

Though you may have had a very specific goal in mind at the outset of your project, consider other possible uses for your information. Additionally, you may want to consider making your data and procedures publicly available as a resource for others who might build on your work or start their own community science projects.

Success Story: What Does Success Mean?

For six decades, primarily Black areas of DeKalb County have been suffering from sewage spills into the South River.

Though the 1972 Clean Water Act's purpose is to restore and maintain the integrity of the Nation's waters, sewage spills have been impacting DeKalb County's streams as far back as the late 1800s.^[46] Until the late 1990s, the EPA, EPD, and DeKalb County did almost nothing to fix the problem. These powerful actors get to decide which areas and groups to prioritize in their decision making, and they know that it takes education, perseverance, and enormous effort to effectively advocate against them so usually they can simply wait until advocates wear themselves out.

Dr. Jacqueline Echols, Board President of **South River Watershed Alliance** (SRWA) has been fighting with these powers for ten years.^[47] Enactment of the Clean Water Act has not led to a cleaner South River, and neither have numerous unsuccessful EPD consent orders issued in the late 1990s aimed at addressing the problem.

In 2006 DeKalb County discharged ten million gallons of raw sewage into Snapfinger Creek, about 200 yards from its confluence with the South River. Four years later, in 2010, the EPA and EPD sued DeKalb County for Clean Water Act violations. This lawsuit led to a federal consent decree which was signed by U.S. District Judge William Duffey Jr. in December 2011. This legal action set a ten-year deadline for the County to eliminate the spills in priority areas.

The 2011 Consent Decree divided the County into priority areas and nonpriority areas. The Consent Decree established a deadline of June 2020 to eliminate spills in the priority areas but did not establish a deadline to eliminate spills in nonpriority areas. However, spills in nonpriority areas, including the location of the Snapfinger Wastewater Treatment Facility (4124

Flakes Mill Road), discharge millions of gallons of sewage into the South River with each heavy rain.^[48] Nonpriority areas are constant sources of pollution with no deadline for cleanup.^[49] In addition, two-thirds of DeKalb County is designated as nonpriority and this area accounted for more than half of the sewage spills that have occurred in the county since 2014.^[50] The priority area only covers 838 miles of the county's 2,600 miles of sewer pipe, leaving 1,762 miles of sewer infrastructure outside the authority of the Consent Decree's deadlines.

The 2010 Consent Decree was modified in October 2020; however, this modification did not create a deadline for the cleanup of the nonpriority area.^[51] Without coverage under a Consent Decree-driven deadline, these locations and their inhabitants have no guarantee that they will ever be free of the pollution and public health threats that come with sewage spills — even though the Clean Water Act's purpose is to restore and maintain the integrity of the nation's waters.^[52] And despite this fact, EPA Region 4 Acting Deputy Administrator John Blevin said the modification “presents the best path forward to eliminating sanitary sewer overflows in the County.”^[53]

When environmental laws and their enforcers fail, at least individuals and communities can get involved.

That's what Dr. Jackie Echols and SRWA have done. SRWA was founded in 2000 to prevent the expansion of Live Oak Landfill in DeKalb County. In 2011, the organization was allowed by the court to intervene into the EPA lawsuit against DeKalb County. **This intervention provided the only access for the public to monitor implementation of the Consent Decree and push for stronger enforcement.**

In 2019 SRWA filed a Clean Water Act citizen suit alleging that EPD and EPA were not diligently prosecuting the case against DeKalb County. This led to an August 2020 ruling by U.S. District Judge Steven Grimberg in which the judge sided with DeKalb County, the EPD, and the EPA and decided the EPA was diligently prosecuting the case.^[54] Judge Grimberg relied on a 2007 Oklahoma federal court ruling^[55] to conclude the omission of a deadline for

the nonpriority areas and their inhabitants was a “negotiation concession” by the EPA and the EPD to reach agreement on the Consent Decree.

Dr. Echols and SRWA are appealing Judge Grimberg’s ruling against the EPD and the EPA in the Eleventh Circuit Court of Appeals in Atlanta.

Though the battle over whether DeKalb County’s nonpriority areas will receive a deadline and whether DeKalb County will finally clean up its act is ongoing, the SRWA has had many successes. Here are three:

First, SRWA’s intervention into the 2010 Consent Decree was a success because this intervention enabled the organization to actively monitor implementation through periodic meetings with EPA, EPD, and the Department of Justice.

Second, even a weak consent decree such as the 2010 action is better than no consent decree because consent decrees are relatively rare.

Third, SRWA has sustained its effort for a long time and drawn attention to its cause. We often don’t notice progress until the moment of big change, but a big change requires constant, sustained, quiet, often thankless effort.

As Dr. Echols says, “Being relentless is the only thing EPA, EPD, and DeKalb County understand. Success is being a constant pain in their ass.”

By that metric, Dr. Echols and SRWA have been immensely successful.

Collecting and Using Scientific Data Citations

^[1] For more information about citizen science definitions and citizen science generally, see *Citizen Science: Definition*, Citizen Science Center, <http://www.citizensciencecenter.com/citizen-science-definition/>.

^[2] *Water Quality Monitoring*, Chattahoochee Riverkeeper, <https://chattahoochee.org/our-work/water-quality-monitoring/>.

^[13] *Clearing the Air in the Historic West End*, Clean Air Carolina 2 (2018), available at <https://drive.google.com/file/d/1XGwXe27TMmzAxyB-BYpyftykNyrFYTRz/view>.

^[14] *Id.* at 11.

^[15] *Id.* at 1.

^[16] *Clearing the Air in the Historic West End: Citizen Science and Environmental Justice in Charlotte, NC*, <https://storymaps.arcgis.com/stories/5071792639ef47729fad54da835d37d3>.

^[17] For additional examples, see *The Citizen Science Manual*, Harv. L. Sch. Emmett Env't L. and Pol'y Clinic, 9-15 (2017), <https://citizenscienceguide.com/homepage>; George Wyeth et al., *The Impact of Citizen Environmental Science in the United States*, 49 *Env'tl. L. Rep.* 10237-63 (2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3344638.

^[18] *The Citizen Science Manual*, Harv. L. Sch. Emmett Env't L. and Pol'y Clinic, at 9.

^[19] *Id.* at 10.

^[10] *The Citizen Science Manual*, Harv. L. Sch. Emmett Env't L. and Pol'y Clinic, at 17.

^[11] See James Mcelfish, John Pandergrass & Talia Fox, *Clearing The Path: Citizen Science and Public Decision Making in the United States* (2016), <https://www.eli.org/researchreport/clearing-path-citizen-science-and-public-decision-making-united-states>.

^[12] Due to pre-existing bias and an institutional failure to effectively integrate community science into policymaking decisions, many policymakers generally view community science with skepticism. Annie E. Brett, *Putting the Public on Trial: Can Citizen Science Data Be used in Litigation and Regulation?*, 28 *Vill. Env't L.J.* 163, 175 (2017). This creates an uphill battle for community scientists to persuade policymakers.

^[13] George Wyeth et al., *The Impact of Citizen Environmental Science in the United States*, 49 *Env't L. Rep.* 10244-47 (2019).

^[14] *Id.*

^[15] O.C.G.A. § 36-66-4.

^[16] Ga. Comp. R. & Regs. 110-12-1-.02.

^[17] O.C.G.A. § 12-8-26.

^[18] 5. U.S.C § 706.

^[19] 5 U.S.C. § 553(e), O.C.G.A. § 50-13-9.

^[20] Fed. R. Evid. 702; see also *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993).

^[21] George Wyeth et al., *The Impact of Citizen Environmental Science in the United States*, 49 Env't L. Rep. 10245 (2019).

^[22] *Id.*

^[23] *The Citizen Science Manual*, Supplement 2, Harv. L. Sch. Emmett Env't L. and Pol'y Clinic, (2017), <https://citizenscienceguide.com/supplement-2-using-citizen-science-data-litigation>.

^[24] *Id.*

^[25] *The Citizen Science Manual*, Resources Appendices 3-4, Harv. L. Sch. Emmett Env't L. and Pol'y Clinic, (2017), <https://citizenscienceguide.com/resources#3>.

^[26] *Getting Started*, Federal Aviation Administration, https://www.faa.gov/uas/getting_started/. To fly a drone as a commercial drone pilot, you must comply with FAA's Part 107 Small UAS Rule. The Federal Aviation Administration requires you to obtain a Remote Pilot Certificate, which includes registration, a knowledge test, and a fee. *Certified Remote Pilots including Commercial Operators*, FAA, https://www.faa.gov/uas/commercial_operators/.

^[27] *How to Register Your Drone*, FAA, https://www.faa.gov/uas/getting_started/register_drone/. Additional recreational rules can be found on the FAA's website at https://www.faa.gov/uas/recreational_fliers/.

^[28] *Park Rules & Regulations*, Ga. Dep't Nat. Res., <https://gastateparks.org/ParkRules>.

^[29] *Georgia Drone Regulations*, UAV Coach, <https://uavcoach.com/drone-laws-georgia/>. Other examples include the City of Conyers, which prohibits the use of drones in the city horse park or within the boundaries of the Cherokee Golf Course. *Id.* Cherokee County limits drone use to areas specifically designated for drones. *Id.*

^[30] Generally, observations in a public place, including outside someone's home, are not intrusions upon the person's privacy. *Summers v. Bailey*, 55 F.3d 1564, 1566 (11th Cir. 1995); see also *U.S. v. Santana*, 427 U.S. 38, 42 (1976) (no expectation of privacy when an individual is "exposed to public view, speech, hearing, and touch as if she had been standing completely outside her house").

^[31] *Id.*

^[32] O.C.G.A. § 16-11-62(2).

^[33] O.C.G.A. § 16-5-90(a)(1).

^[34] *State v. Rooks*, 266 Ga. 528, 529 (1996).

^[35] O.C.G.A. §§ 4-11-31(3) and 4-11-31(5).

^[36] O.C.G.A. § 4-11-32(c)(1).

^[37] See *Papachristou v. City of Jacksonville*, 405 U.S. 156 (1972).

[381] O.C.G.A. § 27-2-12(a).

[391] Sometimes called a Quality Assurance Protection Plan.

[401] *The Volunteer Monitor's Guide to Quality Assurance Project Plans*, EPA 16 (1996), https://www.epa.gov/sites/production/files/2015-06/documents/vol_qapp.pdf.

[411] *Id.* at 18

[421] *Id.* at 19.

[431] *Id.*

[441] *Id.* at 20.

[451] *Id.*

[461] See 33 U.S.C. §1251(a); Clean Water Act (CWA) and Federal Facilities, EPA, <https://www.epa.gov/enforcement/clean-water-act-cwa-and-federal-facilities>.

[471] South River Watershed Alliance, History, <https://www.southeriverga.org/history>.

[481] Asia Ashley, *SRWA: 'Most DeKalb County sewer spill areas not covered under consent decree'*, *The Champion* (May 8, 2020), <http://thechampionnewspaper.com/news/local/srwa-most-dekalb-county-sewer-spill-areas-not-covered-under-consent-decree/>.

[491] See *id.*

[501] *Id.*

[511] *DeKalb County, Georgia Clean Water Act Settlement Modified to Further Address Sanitary Sewer Overflows*, EPA News Releases from Region 04, (Oct. 22, 2020), <https://www.epa.gov/newsreleases/dekalb-county-georgia-clean-water-act-settlement-modified-further-address-sanitary>.

[521] See 33 U.S.C. §1251(a); Clean Water Act (CWA) and Federal Facilities, EPA, <https://www.epa.gov/enforcement/clean-water-act-cwa-and-federal-facilities>.

[531] *DeKalb County, Georgia Clean Water Act Settlement Modified to Further Address Sanitary Sewer Overflows*, EPA News Releases from Region 04, (Oct. 22, 2020), <https://www.epa.gov/newsreleases/dekalb-county-georgia-clean-water-act-settlement-modified-further-address-sanitary>.

[541] *South River Watershed Alliance, Inc. et al. v. DeKalb County, Georgia*, 484 F.Supp.3d 1353 (August 31, 2020).

[551] *Karr v. Hefner*, 475 F.3d 1192 (10th Cir. 2007).

Part IV:

Using the Laws

Accessing Public Records and Meetings

All levels of government — federal, state, and local — possess records that can be accessed by the public. At the federal level, these requirements are governed by the **Freedom of Information Act (FOIA)**. In Georgia, the **Georgia Open Records Act (GORA)** covers the state government and all of its subdivisions, such as county and city governments.

Knowing how to use these laws can be an important tool for obtaining the necessary information to protect your neighborhood. In addition, all levels of government are required to allow the public to attend and observe their meetings.

This chapter outlines how to request records and access public meetings at both the federal and state levels. It also provides additional resources to aid your efforts.

Federal Records and Meetings

Getting Records: The Freedom of Information Act (FOIA)

If you are seeking documents from a federal agency, such as the United States Environmental Protection Agency (EPA) or the United States Army Corps of Engineers, you should file a **Freedom of Information Act (FOIA)** request.

FOIA is an extremely powerful tool. In contrast to some of the other tools discussed in the EJ Green Book, environmental groups and concerned citizens frequently file FOIA requests without needing to consult with lawyers.

FOIA is often used by non-lawyers, especially journalists, to get documents from a federal agency. An excellent guide to federal law governing open documents and meetings, the **Federal Open Government Guide**, published by the Reporters Committee for Freedom of the Press. The Reporters Committee also operates the **FOIA wiki**, which provides excellent breakdowns of different FOIA topics.

FOIA states that agencies must disclose “records” upon request unless those records fall within one of nine exempt categories. FOIA defines “records” quite broadly, including all types of documentary information such as papers, reports, e-mail, films, and photographs.

Preparing and Submitting a FOIA Request

The first step in preparing a FOIA request is identifying the *agency* to whom you will be sending the request.

Remember, FOIA only applies to federal agencies. Which agency you will be writing to depends on your individual situation.

For example, if you are looking for records relating to an investigation into a polluting factory by the EPA, you would direct your FOIA request to the EPA. If you are looking for records relating to the licensing of a nuclear power plant, you would direct your FOIA request to the Nuclear Regulatory Commission. If you are looking for records relating to a permit to fill a wetland for construction, you would direct your FOIA request to the Army Corps of Engineers.

Agencies are also divided into offices. While you don’t have to direct your request to a specific office, directing your request to a specific recipient (for example, Region 4 of EPA, which is the region that includes Georgia) can make for faster turnaround time from the agency.

The second step is to figure out *what records* from the agency you want to request.

In broad terms, FOIA requires disclosure of records, but it does not require an agency to *create* records, so your request should be targeted at records you think are already in the possession of the agency. You are also more likely to

get a useful response to your request if it is targeted as closely as possible to the records you need.

For example, asking for “all records” related to a polluting factory may result in years of reports irrelevant to your problem, but asking for records related to the EPA’s investigations of the polluting factory in the last two years or five years may result in more useful records.

The third step is to *submit* your FOIA request.

A FOIA request needs to be in writing. A sample request for records under FOIA is available in [Appendix C-1](#).

Agencies *are* allowed to charge fees for looking for and copying the records you request. However, FOIA has a provision for **waiving fees** if you can demonstrate that disclosure of the records you are seeking is in the **public interest**.

If you are asking for records to protect your neighborhood from environmental harm or to document pollution from an industrial facility in order to stop the pollution, your request is likely to be in the **public interest**. In these circumstances, include a request that the agency waive your fees. You can also ask that the agency notify you ahead of time if it anticipates that responding to your request will cost more than a certain amount, so you’re not surprised by a high fee.

If you are comfortable with computers, you can request that the documents be produced electronically, either by e-mail to you or through a file-sharing service like Dropbox. Getting your documents electronically can eliminate the copying fees the agency may charge if you do not get a fee waiver.

You can submit your FOIA request by mail, but many agencies are now accepting submissions through [FOIA’s webpage](#) (select “Start your request”) or on the individual agency’s website. Using an online submission form can be easier than writing a request and can get a quicker response from the agency.

What happens after you submit your FOIA request?

Once your FOIA request has been received by the agency, they will acknowledge that they have received it and give you a tracking number. Agencies receive hundreds of FOIA requests, so if you have not gotten an acknowledgement within a few weeks of mailing in your request, or within a few business days of submitting an online request, you should call or e-mail the agency to check in and ask for your tracking number. **When dealing with agency FOIA officers, a polite and collaborative attitude can go a long way towards resolving problems.**

Once the agency has acknowledged receipt of your request, the agency must make a “determination” on your request within 20 working days, unless the agency informs you that the request is unusually complex or that the agency needs some more information to be able to decide. A determination must include a statement of what documents the agency will produce or withhold and, if withheld, why the agency will not produce those documents. The determination will also inform you that you can appeal any part of the determination that is not in your favor to the agency.

If the agency fails to respond to your request in time, don't give up!

Continue to contact the FOIA officer and ask for updates on your request. If you feel like the agency is not cooperating, you can hire a lawyer to file a lawsuit based on the agency's failure to respond to your request.

If the agency responds to your request but refuses to turn over documents, you can also hire a lawyer to appeal that decision. Keep in mind that you must appeal an adverse determination (the agency's refusal to turn over documents) within 90 days.^[1]

Attending Meetings: The Federal Advisory Committee Act and The Federal Sunshine Act

In the same way that FOIA mandates disclosure of records, federal agencies are also subject to the **Federal Sunshine Act** and the **Federal Advisory Committee Act (FACA)**, which require open meetings and disclosure of meeting records to the public, with limited exceptions.

The **Federal Sunshine Act** applies to all meetings of federal agencies and Congressional committees at which official action is taken, considered, or discussed.^[2] The definition of agency here is any multimember federal authority not including courts, the military, Congress, or the governments of the District of Columbia or U.S. territories. The Act requires these agencies to:

- give notice in the **Federal Register** of their meetings at least one week prior to the meeting, which are to be open to the public;
- keep transcripts of meetings; and
- disclose all records (such as minutes, agendas, reports, memos, drafts, etc.) upon request.

There are ten exemptions within the Act that restrict access to information by the public. Courts can be used to gain access to information under the Sunshine Act, or to force the disclosure of transcripts of meetings that were closed to the public in violation of the Sunshine Act, but they cannot stop any agency action based solely on the agency violating the Sunshine Act.

FACA regulates committees that advise the President or any agency or officer of the federal government.^[3] The public may obtain information from these committees in many ways. Advisory committee meetings must be open to the public unless exempted through the Federal Sunshine Act, and they must be announced in the **Federal Register** at least 15 days in advance. Individuals may attend these meetings and may file statements and appear before committees.

All documentation of the committee (records, reports, minutes, agendas, working papers, transcripts, drafts, etc.) must be made available to the public

unless a FOIA exemption applies. The committee must also provide copies of transcripts of any proceedings to anyone who requests them and pays duplication costs.

Like the Federal Sunshine Act, FACA provides that courts may be used to force a committee to turn over information, but it cannot by itself prevent or reverse any agency action due to noncompliance with FACA.

State Records and Meetings

Getting Records: The Georgia Open Records Act

Like the federal government, Georgia has a law mandating disclosure of official records upon request by citizens. Georgia's law is called the **Open Records Act (GORA)**, O.C.G.A. § 50-18-70 through 77. **Compared to FOIA, the Georgia Open Records Act (GORA) is easier to use and provides for a faster turnaround.**

GORA applies to agencies of state or local government in Georgia, or groups of agencies.

Georgia law defines "agency" to include all state government organizations, public corporations, counties, municipal corporations, school districts, cities, municipal authorities, or subgroups of those entities like departments, boards, or committees. In addition, nonprofit organizations count as agencies if more than one third of the nonprofit's funding is provided by a direct allocation of tax funds from the government. However, nonprofit hospitals, nursing homes, or other healthcare services are exempt from GORA.

GORA gives the public access to see, inspect, and copy all **"public records," which are defined as including documents, papers, letters, maps, books, tapes, photographs, computer-based information, and computer data.**

Like FOIA, the law entitles requesters only to documents that already exist, and like FOIA, some records are exempt from disclosure, generally because they

have to do with medical records, criminal investigations, or personally identifiable information of citizens.

Preparing and Submitting a GORA Request

Making a request for records under GORA is easy.

The request can be made either orally or in writing, and you do not have to state the purpose of your request, only specify what documents you are seeking. Some agencies require that requests under GORA go to a specific records custodian or open records officer, so look at the agency website or call and ask who to direct your open records request to.

It is generally smart to send a request in writing so you can show exactly what you are asking for and prove that the request was sent on a specific date. Also, you are only able to file lawsuits to enforce your request if the request was made in writing.

A sample GORA request can be found in [Appendix C-2](#).

What happens after you submit your GORA request?

Once the agency receives your request, they must produce the records you requested within three business days. If the records are stored electronically, you can obtain copies either of the electronic files or printouts. If the agency is not able to produce the records within three business days, then within that three-day period the agency must provide a description of the available records and a timetable for their availability.

Like FOIA, agencies can charge for the copies of records you receive and for the time it takes the agency to search for and find the records. Agencies cannot charge for the first 15 minutes of search time, and they must charge remaining search time at the salary rate of the lowest-paid full-time employee who has the necessary skills to perform the search for your request. Agencies may only charge up to 10¢ per page for copies, or for the cost of electronic media (like a CD) on which copies of records are produced.

Note that if the agency predicts the costs of responding to your request to be more than \$25, the agency must notify you within three business days and provide an estimate of the costs. In this case, the agency is allowed to wait and not work on your request until you have agreed to pay the estimated costs. If the agency estimates the costs of your request will exceed \$500, they may ask you to pay before beginning work on your request.

If the agency decides an exemption to GORA applies to your request, the agency is required to provide any non-exempt portions of the records you have requested and must notify you of the specific reason for the exemption.^[4]

If you think records have been improperly withheld, the Georgia Attorney General's office has an optional informal mediation process to try to help citizens resolve open records and open meetings complaints without having to file a lawsuit. The mediation process is free, and you do not need an attorney; the Georgia Department of Law will have an attorney look at the situation as a mediator and try to negotiate a resolution between you and the agency. You can file a complaint with the **mediation program**.

If you are not successful in resolving your problem through the mediation program (or if you do not want to try mediation), you can file a lawsuit against the agency. If you win the lawsuit and the Court finds that the agency's actions were "without substantial justification," the Court can make the agency pay your attorney's fees and costs of filing the lawsuit.^[5]

Attending Meetings: The Georgia Open Meetings Act

Georgia's Open Meetings Act, O.C.G.A. § 50-1-41 to 46, is similar to the federal open meetings laws in that it mandates that all meetings of state and local government bodies be open to the public unless an exemption applies.

Under the Open Meetings Act, Georgia's governmental bodies must provide reasonable notice of all meetings.

The Act applies to:

- City councils
- County commissions
- Regional development authorities
- Library boards
- School boards
- Commissions or authorities established by state or local governments
- Planning commissions
- Zoning boards
- Nonprofit corporations operating public hospitals
- Most committees of the University System of Georgia that are not specifically related to education

Note what this list does not cover: the Georgia General Assembly. While the Georgia Constitution requires that state legislative sessions be open to the public, the state legislature’s committees and subcommittees are not covered by the Open Meetings Act.

The Open Meetings Act covers most meetings of governmental bodies: any meeting where official action is taken or the discussion of official business or policy takes place must be open to the public. This applies to meetings held electronically as well: phone calls or online meetings must be open to the public. Meetings must be open if any official business or policy is discussed, even if no action is taken at the meeting.

The only meetings that are exempt are related to law enforcement, lawsuits, purchasing of property, and personnel discussions. For exempt topics, the agency may go into “executive session,” which means that portion of the meeting is closed to the public. However, agencies may not make final decisions on personnel or real estate matters in closed meetings. The final vote must be held in a public meeting.^[6]

At public meetings, the public must have full access and you may make video and audio recordings of the meeting.^[7] Agencies must inform the public of

meetings by providing notice to the local newspaper at least one week in advance, and at least 24 hours in advance of emergency meetings.

If you are not able to attend a meeting, agencies are required to keep minutes of all public meetings (a written log of what happened at the meeting) which must be made available to the public for inspection no later than immediately after the next agency meeting. The agency must also provide a summary of the meeting within two business days after the meeting.^[8]

If an agency does not abide by the terms of the Open Meetings Act and passes a resolution, rule, ordinance, or other official action at a meeting that was not open to the public, that action is invalid and not binding.

If you want to challenge an action taken at a meeting that was improperly closed to the public, you must file a lawsuit challenging that action within 90 days of the date the action was taken, or within 90 days from the date you found out about the action, as long as it has not been more than six months. After six months from the action, the window for challenging it under the Open Meetings Act has closed.

Like GORA, if you are successful in your lawsuit and the Court finds that the agency's actions were "without substantial justification," the Court can make the agency pay your attorney's fees and costs of filing the lawsuit.^[9]

Additional Resources

Federal Resources

The **Reporters Committee for Freedom of the Press** publishes the **Federal Open Government Guide**, which provides an excellent guide to using FOIA and Federal open meetings laws.

The **Reporters Committee** also provides the **FOIA Wiki**, which breaks down the components of the law in a useful wiki format. The FOIA Wiki is a great tool for figuring out how exemptions or other specific portions of the law work.

FOIA.gov provides [online tools](#) for filing FOIA requests. Some agencies use one site, some use the other, and some use neither, preferring to receive online requests through their own website. When you are preparing to file a FOIA request with a federal agency, check the FOIA website and the agency’s website to find the right place to file your request. If you can’t tell, you can always call the agency and ask how to file a FOIA request with them. Remember that FOIA officers and state agency recordkeepers are the ones standing between you and the documents you are seeking, so it’s always good to treat them respectfully.

State Resources

The **Georgia First Amendment Foundation** publishes [Sunshine Laws: A Guide to Open Government in Georgia](#). This handbook is often called “The Redbook.” The Redbook includes the text of the Georgia Open Records Act and Open Meetings Act.

The **Office of the Attorney General of Georgia** maintains a [page with frequently asked questions](#) regarding the Open Records Act and Open Meetings Act.

Accessing Public Records and Meetings Citations

^[1] 5 U.S.C. § 552(a)(6)(A)(iii)(aa).

^[2] 5 U.S.C. § 552(b).

^[3] 5 U.S.C. App. 1, §§ 1-15.

^[4] O.C.G.A. § 50-18-72(b); O.C.G.A. § 50-18-71(d).

^[5] O.C.G.A. § 50-18-73(b).

^[6] O.C.G.A. § 50-14-3(b)(1) and (2).

^[7] O.C.G.A. § 50-14-1(c).

^[8] O.C.G.A. § 50-14-1(e)(2)(A) and (B).

^[9] O.C.G.A. § 50-14-5(b).

Submitting Public Comments

This chapter outlines the importance and purpose of the public commenting process; provides an overview of different types of public comments you may submit; and walks through step-by-step instructions for writing effective public comments and staying involved in the process.

Public Comment Overview

Government agencies are in charge of developing and enforcing the rules that affect our everyday lives. One of the most important aspects of their rulemaking process is that they are often required to provide the public with an opportunity to participate. Your feedback on government regulations is a necessary and vital part of our democracy and gives you a chance to tell the government your opinion!

What is a public comment?

When federal agencies implement laws passed by Congress, they do so by creating rules and regulations. These rules and regulations go through several stages, and agencies must first file regulations as proposals in the Federal Register (a publication containing all federal regulations).

The **Federal Register** is kind of like the government's daily newspaper, listing all the actions taken that day. You can access the [Federal Register online](#), and you can [sign up to receive an email](#) with the Federal Register's new additions every day.

Agencies are then typically **required to accept comments on their proposal from all members of the public**, and they are required to respond to those comments. Agencies also solicit public comments on other types of decisions

besides new regulations, such as issuing certain permits, and when conducting some kinds of environmental reviews under the National Environmental Policy Act (NEPA). For more about NEPA, see **National Environmental Policy Act**.

Public comments are a powerful way for you and your community to share your thoughts, concerns, and priorities with a government agency. To be effective, these comments should be:

- Clearly written;
- Detailed; and
- Directly applied to the proposed rule, regulation, permit, or project that the government is considering.

In general, all public comments must be read and acknowledged by the agency, but government agencies can produce one response that addresses several related comments together.

Summary: Public Comment Contents

Public Comments Are:	Public Comments Are Not:
An opportunity to educate the agency with information that is relevant to the rules or actions proposed in the regulation, from public input on community impacts to scientific research.	A space to share personal views or objections against an agency broadly, outside the context of a specific project.
A way to provide constructive solutions and recommendations to an agency. Make sure to include any knowledge, experience, or evidence that helps back up your observations and comments, and make sure to clearly tell the agency what you think they should do.	A space to include sensitive, personally identifiable, or confidential information. Remember that your comment will be publicly viewable by anyone.
A space to identify potential violations of the law or serious community concerns about the impact that a specific proposal, regulation or permit might have.	A place to call out specific individuals by name or to present only conclusions about an agency's officials or their past actions.

Who can make a public comment?

Because public comments are an important part of our democracy and the rulemaking process, **all people**, not just lawmakers or government officials, can participate in this process. The law protects your right to participate in the decision-making process and encourages everyone to submit relevant and specific feedback to help improve the rules, permits, and regulations proposed by our government.

For this reason, any person, group, or organization, as well as other government agencies can submit a public comment. Comments can be submitted anonymously or prepared on behalf of another person, organization, group, or federal agency.

Why are public comments so important?

Public comments are a very important part of the law-making process because they offer normal people like you and me (the “public”) the opportunity to actively participate in the creation of the rules and regulations that impact our everyday lives.

Public comments can provide lawmakers with a perspective that they may not have considered when they were writing a specific regulation.

The people who draft laws are not all-knowing. Using your comments to illustrate the specific ways in which a proposal might impact your particular community can lead to changes in the proposal for the better.

When it comes to the environment, public comments are a powerful tool for providing a government agency with facts and perspectives that might not have been considered in its original proposal. Remember to clearly tell the agency what *you* think they should do. Comments are not a vote – the agency will not add up the comments in favor and comments opposed and then act with the majority – but your comments can help an agency create a better, more informed proposal that addresses the public’s concerns.

When do public comments take place?

The timeline for submitting a public comment can change depending on the number of comments an agency receives or expects to receive, the size of the regulation being discussed, or the complexity of the proposal. For this reason, the process below is simply meant to provide **a general idea** of what this process might look like.

If you are considering submitting comments on a specific rule, proposal, or permit, **contact the agency receiving the comments and ask what the applicable deadline is.**

As a community advocate, you can request that an agency allow for more time for you to submit comments, and agencies may even consider comments that were filed late if there is a good reason for the delay. That said, you should be aware that government agencies are generally **not required to consider comments that are filed late.** Agencies will usually provide specific information in their proposal laying out the comment period and explaining whether they will consider comments that are filed late.

Federal Agency Public Comments – General Timeline

Step 1

An agency will first publish any proposed regulations, amendments, or changes to a law in the Federal Register as well as on its official website.

Step 2

There is normally a 60-day period that starts right after the publication for public commenting. This period is called the notice and commenting period. **This is the time in which you and your community can submit your feedback!**

Step 3

The public comment period is typically followed by a 30-day reply period. This is the time when the agency is required to respond to the comments that were submitted during the 60-day period. Public comments can still be submitted during this time, but agencies are not required to respond to these comments.

Step 4

After the agency has considered and responded to the public comments, it will typically publish its final regulation which will include its response to the

public comments. Agencies are typically required to also explain their responses to these comments.

Types of Public Comments

An agency's work does not consist only of rulemaking. Agencies sometimes recommend legislation to Congress and even help draft laws. Some other functions of government agencies can include deciding administrative legal cases, issuing orders, or even imposing penalties. For this reason, it is very important to know what kind of agency action you are dealing with when you choose to submit a public comment.

Rulemaking Comments

Rulemaking comments are often considered the most common type of public comments. Because environmental laws are very broad, the agencies enforcing these laws are required to create specific rules to carry out their overall plan.

Many – but not all – federal agencies publish their proposals **online**. On **regulations.gov**, you can see a list of proposals with upcoming comment deadlines, as well as those which have just been published for comment. You can search for any proposals that might be relevant to your community, or you can browse the proposals available for comment. On any list of results, you can select a specific agency (like EPA) from the list on the left-hand side of your screen. You can also submit comments on any proposed rules through this site.

Proposed Georgia EPD rules are **available online**. This site is easier to use than regulations.gov: it lists all of the proposed EPD rules, the dates of public hearings, and the deadlines for public comments. Click on any rule to see a list of documents about that proposal. Deadlines and instructions for submitting comments are usually included in the “notice” of the proposal, so make sure to read that document to see how EPD wants you to submit comments.

You can also get proposed rules mailed to you by adding your name to the EPD Environet database by calling 888-373-5947, or emailed to you by registering on the EPD Proposed Rules site. The site also provides information on public hearings to be held on proposals.

Permitting Comments

Another process that benefits from public participation is the environmental permitting process. **An environmental permit is a legal document that establishes the rules and conditions that a specific business must follow when doing things that impact the environment, like discharging pollution into air or water.** These permits can focus on the type and quantity of a specific pollutant that a business is allowed to discharge, the reporting requirements it should follow, or when and where it must take samples to show that it is following the law.

A permit is not just a license that allows a business to pollute, it is a tool used by government agencies to determine how businesses should operate and to require them to comply with their environmental obligations. As a community member, you can play an important part in the environmental permitting process.

When an agency receives an application for an environmental permit it will either deny the application or will start to draft a permit. As part of the drafting process, the agency will typically notify the public of its decision and will often provide an opportunity for public comment. This is your opportunity to determine the potential threats or adverse effects that a specific permit would have on your community.

It is important to note that many of these permits are very technical, and the public can request a less technical summary of the proposed permitting requirements, which the agency may offer as additional clarification. Remember, environmental organizations in your community might be a great resource to help interpret the permit language and figure out what issues might be presented.

In 2014, the EPD introduced a new online portal for permitting decisions called **GEOS**. This portal is free (but requires registration) and will allow you and your community to participate in obtaining public notices, provide comments on draft permits proposed by EPD, investigate environmental permits, and submit complaints. You can access GEOS through the EPD's **website**. The EPD also offers a full **community guide** on how to use the system effectively.

Enforcement Decision Comments

Another type of public comment is related to an agency's enforcement decisions. When someone violates environmental law or the terms of a permit, the EPD can take action to require them to obey the law and pay penalties. Typically, the EPD will first notify the wrongdoer that it has violated the law through a Notice of Violation or a formal letter.

If the EPD believes that the violations are sufficiently serious, it can issue a **Consent Order**. A Consent Order is an agreement between the EPD and the wrongdoer to address their illegal activities. A typical consent order will include a statement describing the violations, the plans to fix the problem, and the penalties that must be paid to the State. **As an individual or community, you can let the EPD know whether the Consent Order correctly addresses all the relevant issues by commenting.**

You can find proposed Consent Orders on the EPD's **website**. You can also get the EPD to send all proposed Consent Orders directly to you for \$50 a year. To join the mailing list simply call the EPD at (404) 657-5947 or, if you are located inside Georgia but outside the Atlanta calling area, at (888) 373-5947.

As with other public comments, be thoughtful. Consent Orders have a few unique considerations, as well.

Questions you should address include:

1. Will the Consent Order actually fix the problem?

2. Is the fine adequate? Is it enough to deter the polluter from violating the law again?
3. Has the community been involved? Will the Consent Order address the community's concerns?
4. Is it just one more in a long series of Consent Orders? (Does this polluter have a pattern of breaking the law, signing a Consent Order, and then breaking the law again?)

Any comments must be mailed to the address indicated on the proposed Consent Order. As always, be sure to comply with stated deadlines for submitting comments. If you have any questions about how or when to submit comments, you can call or email the EPD contact person listed on the proposed Consent Order.

Lawmaking Comments

Finally, we arrive at public commenting on local lawmaking issues. Most states do not expressly require that government meetings provide time for the public's participation. However, it has become a **common practice in many cities, counties, and states to allow individuals to speak on laws affecting the community at public hearings or meetings of the local government.**

Members of the public are sometimes required to provide notice or to register with their local officials before a specific meeting if they want to make a public comment. If you want to make sure you will have a chance to speak at a meeting, contact the meeting officials well in advance and notify them.

You can start by contacting your local officials to find out what is happening in your community. You can find your state representatives [here](#). Also, find your county commissioners [here](#) and city council [here](#). Ask to be informed of agenda items and notified of any upcoming meetings and start taking action on the issues affecting your neighborhood or community.

Before Writing a Public Comment

Setting the Stage

As you have already learned, commenting periods are typically short (normally 30-60 days). This means that if you know you will be filing comments on a particular permit or decision, it is very important to gather as much of the information you will need to write your public comment before the commenting period starts.

Some important steps you can take to prepare are:

1. Identify the Issues

One of the easiest ways to learn of a potential project is by reading the local news. Newspapers (in print or online) frequently contain announcements that a new plant is moving into town, or that an existing plant plans to expand. Also, some laws *require* that a permittee place a public notice of its plans in the newspaper — but these notices are usually very small and located in the back of the paper so you will need to look closely.

You can also learn about projects simply by being aware of what is happening in your community. If you see a large tract of land for sale, notice bulldozers, or other similar large-scale construction activities, it may be that a new polluter is coming to your neighborhood.

Try talking to local businesses and government officials. **One of the best ways to know about the plans of industry or the government is to ask them!** Work with your neighborhood coalition, your church, or other neighbors and ask for a meeting to discuss the operation of facilities in your town. This has the added benefit of letting the polluters know that the community is watching them and will hold them accountable. Industries that know they are closely watched by the community are more likely to be good neighbors.

If your town has a few large industrial facilities, like factories, power plants, or mills, you can look for existing permits for those facilities, which will also tell you

when the permit will expire and need to be re-issued. See **Knowing What's in Your Neighborhood** for more info on finding these types of permits.

For rulemaking comments, you can visit the federal government's official on-line commenting system where you will be able to access all the materials related to EPA rulemakings. You can submit your comments on the proposed agency regulations **here**.

For environmental permitting you can sign up to be on public notice lists. Most government agencies will send you, free of charge, a list of all the proposed permits. **You may contact the environmental agencies operating in Georgia here: Georgia Environmental Protection Division: Toll-free in Georgia: (888) 373-5947 or askEPD@gaepd.org.**

2. Collect Relevant Information

Talk to your neighbors. They may have valuable information about a particular facility or the impact that it may have on the community. Industries that are renewing a permit may have had a history of environmental problems in the area. You can use the EPA's **Enforcement and Compliance History online tool** to find this information.

Explore near the site to find out what details are significant. For instance, there may be special areas — parks, schools, playgrounds, or other important places — that could be impacted by the project. There may be streams that would be impacted by water pollution but that have not been considered. There may also be sensitive populations, such as children or the elderly, that are near the site.

Make sure to document in detail and with pictures anything that may be important or special. Take care, though, that you ***do not trespass!*** Not only is trespassing illegal, but it may harm your ability to make your case that the project should not be permitted. Instead of focusing on pollution, the focus will be on your illegal trespassing.

Collect scientific observations. Depending on the project, see what you can find out about the animals and plants that live on any land that might be developed. Try to find out if any of those species are endangered or threatened. For more information about collecting community science data, see **Collecting and Using Scientific Data**.

3. Do Your Research

Once you know about a proposed agency rule or permit, it is important to learn more about how it will impact your community. You can take several steps to understand more about the permit's effects.

First, review the public file on the rule or permit application. Public agencies are required to allow you access to the file. Some agencies will charge you to make copies. For the EPA and other federal agencies, you can access **GovInfo**, an online platform maintained by the Government Printing Office, which provides access to any regulation that is published in the Federal Register. This website also offers other government publications which may be helpful as you start drafting your comment. The platform allows you to search by category, date, or even by directly citing the document number you are looking for.

In Georgia, the EPD allows members of the public to obtain proposed permits and/or up to 25 pages of documents for free. After that, there is a 10-cent charge per page. See **Accessing Public Records and Meetings** for more information about your rights to access government records and about how to use the Georgia Open Records Act (GORA) and the Freedom of Information Act (FOIA).

If you need help finding information, or understanding the information you have found, you can get in touch with experts. Call local, state, and national groups to find someone who may have expertise with the issues confronting your community. We have provided contact information for various groups in **Appendix B**. If you need a referral, or don't know where to start, you can always reach out to us for assistance.

Getting Others Involved

Remember, there is always strength in numbers! Here are a few ways you can help get other voices involved in your project to increase the likelihood that your public comments will be successful.

Community Organizing

Organizing your community is often necessary in the fight for clean air, water, or land. Through community action, citizens can bring a stronger voice for environmental justice. This voice is a powerful tool for positive change. **Never doubt the strength of numbers throughout this whole process.** Putting pressure on a public agency will result in better government accountability and may produce more corporate responsibility.

For advice on how to organize your community, see [Understanding Grassroots Organizing](#).

Identifying Community Partners

Building an effective community partnership can help you address the environmental needs and concerns of your community. These partnerships allow specialized organizations and community members to join together to identify a common problem which they can then address together.

These types of partnerships are sometimes called **community-based participatory partnerships (CBPP)**. CBPPs are often formed to strengthen the impact of community education, outreach, or advocacy programs.

You can also consider forming a partnership with a specialized partner, such as a nonprofit organization or a university, that can help you identify resources and scientific information that can help add substance to your public comments. Together you can develop and implement a research plan to learn more about the problem. Results of the research can be included in your comments to illustrate the problems and can be presented to the community at large to develop a plan to address the issue. For advice on collecting scientific data, see

Collecting and Using Scientific Data. For a list of various community organizations and contact information, see **Appendix B.**

An important part of your job will be education. Many people, for instance, may not know that even if a particular facility is complying with its permit, it may still be discharging cyanide, lead, copper, and zinc into your local river. A partner organization can help you inform your community members in a way that rallies them to prevent environmental harm.

Specifically, in the context of this chapter, you should try to encourage your neighbors, community groups, local nonprofits, or local churches to join you in submitting comments on a proposed facility. One set of comments can be signed by many individuals or groups.

You can also request a public hearing before (or after) the commenting deadline. Before the commenting deadline, a hearing can be a useful time to clarify issues, ask questions you may have, and find out if other people are concerned about the same problems. After the commenting deadline, a hearing can give you a chance to state your comments in person and ask questions of the agency.

If the project is particularly controversial, asking for a hearing can be a great tool to raise awareness in your community – even if the agency says no! An agency refusal to host a public hearing can work against them in the media because it looks like they have something to hide.

Reach out to the agency involved to request a public hearing, or find out if one is already scheduled. The EPD, for example, has a **specific contact person for community engagement** who you can reach out to about public hearings.

If you are successful in getting a public hearing, ask the local newspaper to include the notice and encourage your family, friends, neighbors, and local organizations to attend the hearing.

Writing a Good Public Comment

Once you have compiled your information, it is time to write your comment on the proposed project. The public notice should tell you the date that the comments are due and where to send the comments. It is important to submit comments by the stated deadline; you may lose the opportunity to challenge agency decisions if you do not submit comments within this period, and the agency may not review or respond to comments received after the deadline.

What makes a good public comment?

The most valuable public comments will be **clear, organized, fact-driven, and to the point**. Remember that the agency will have to read through many hundreds of similar comments and opinions, some of which can be very long, so making yours easy to read, direct, and clearly written will help you stand out. **You can find an example of a public comment template in [Appendix C-5](#).**

You should give your comments careful thought and make every word count. **Keep in mind your ultimate goal.** Is it to stop the facility from being built at all, or is it to ensure that particular safeguards are put into place? What you say in your comments and how you say it will depend on your goal, and on the harm you are trying to avoid.

Here are some general tips to consider when writing your public comment:

Do your research: You must be well informed on the rule or regulation you are planning to comment on, as well as the specific issue you want to address. When possible, try to use clearly presented facts or scientific data to make your opinion more persuasive, and make sure you stay up to date with any news about the project you are addressing.

Establish your credentials: Make sure your comment identifies any authority or expertise you might have to speak on a certain matter. This might be professional experience, the support of a community partner, your personal connection to the planned site, or academic background.

Not all expertise is formal or academic though – if you’ve lived in a threatened location your whole life, include that!

Use clear language:

- Introduce yourself and your background.
- State your objectives.
- Use clear organization and formatting, and precise language.
- Present an argument, supported with data if needed, and show how your argument is related to the issue you are commenting on.
- Pay special attention to any requests for information or questions presented for comment within the document.
- Cite or include sources if you refer to outside material in your comment.
 - Your citations do not need to be formal, but be as thorough as you can. Make it easy for a reader to find your source.
 - If you are citing to a website, give the link.
 - If you are citing to a newspaper article, give the author, name of the newspaper, and date.
 - If you are citing to a book, give the title, author, and page number.

Be respectful: Use appropriate language and make sure to address officials and agencies courteously and appropriately. Your comment should not raise the attention of the agency for being improper or rude. Remember this will go into a public record.

Tell your story: make sure to tell your unique story and identify the community where you reside and why this issue matters to you. It is important to show a connection between your story and the issue you are commenting on. Personal anecdotes can be quite powerful, but make sure that they are clear and concise. The agency understands the project, but they might not understand your community, or know about other facilities, pollutants, or challenges faced by your community. Educating the agency

about your experience can help them to see the situation from your point of view.

Include *all* your concerns: In the event that you need to file a lawsuit regarding this agency action in the future, **you will only be able to bring up the issues that you raised in your comments in court.** Other issues are considered 'waived,' because the agency was not notified of those issues at the commenting stage. So, make sure to include ALL your concerns in your comments, even if you don't have any immediate plans to file a lawsuit.

Connect the dots: Agencies have a purpose, and their actions are typically guided by that mission. You can make your comments stronger by explaining how your comment relates or contributes to the agency's mission. **Most importantly, tell the agency specifically what you think it should do.** Connect the dots of why you think that this proposal will harm your community, and then make the last dot your request, whatever that may be, like a modification of a term or the denial of the project.

Be concise: Agencies receive thousands of comments on proposals. You want your comment to be memorable and impactful, so keep it as short as you can while delivering your message. Stay on topic and make every word count. Read your comment to yourself and ask whether each sentence is necessary and is targeted at your goal.

What if, even after conducting your research, you have unanswered questions?

Include those questions in your comment! Even if you do not know the answer, you can ask questions in your comment about the possible impacts of the facility, and you can tell the agency that no information is available about your concern.

You can even ask the agency to delay making any decision until more information is available, and tell them what information you think they specifically need to gather and publish before making an informed decision.

Remember that as a member of the community, you are likely to know more about the project's neighborhood and the surrounding areas than the government agency does. Tell them about local resources that will be impacted, playgrounds, other pollution sources, or whatever information you think will be helpful. Say *why* these resources are important – don't assume the reader will understand.

Finally, be sure to include your name, address, email, and telephone number so that the agency can respond to your comments.

What type of information should you include?

Public Comment Do's and Don'ts	
Do Include:	Do Not Include:
Relevant scientific data (this could include your own community science!), fact-driven information that you have gathered in your research, or relevant news about the project.	Theories about a project that cannot be demonstrated, gossip, or exaggerated claims that might make an agency not take your comments seriously.
Any specific violations of the law that you may have identified. Is a specific project going to break environmental regulations, or was there something that the agency missed?	Vague concerns that cannot be backed up with specific examples or reliable information.
The agency name, the regulation name, and the proposal's docket ID number, as well as your name, address, telephone, and any community partners that might be supporting you.	Personal information about yourself such as financial information, medical records, or anything that you would not want someone else to read on a public record.
Your story (personal or community) and how it directly relates to the proposal.	Hearsay (things other people have told you but <i>you</i> have not experienced), confidential personal information, or accounts of any conflicts you may have had with specific public officials.

What to Do After You Submit Your Public Comment

Stay involved!

Congratulations! You have finally submitted your public comment. Now what? Don't forget about it – one thing that you can do to increase the chances that your comment is addressed by an agency is to follow up after the comment has been submitted. When you submit your comment, usually you will be provided with a comment tracking number by the agency or by the regulations.gov system. Write down that tracking number!

Here are some ideas on how you can stay involved:

- You can track your comments through the **Federal Register**. Search for your comment tracking number in the search box.
 - Note: There may be a delay between when you submit your comment and when it appears in the search results. If you are concerned that your comment has gotten lost, reach out to the agency directly and verify that it was received.
- Continue to have community meetings about this issue where you can rally additional support for your position amongst other citizens and community groups.
- Meet with a public official or an agency representative to learn more about the status of the proposal and inform yourself further on the process and what decision makers are taking into consideration.
- Attend any public meetings about the proposal.
- Going to the press might be a good way to create additional awareness about a specific project.
 - Be aware that you should not use the press as a way to raise theories or concerns that you cannot support or are unrelated to the issues raised by your comment.

Additional Resources

Here are a few external resources that may be particularly helpful:

- Regulations.gov, [FAQs](#)
- Environmental Law Institute, [*Step-by-Step Tips for Writing Effective Public Comments*](#)
- Office of the Federal Register, [*A Guide to the Rulemaking Process*](#)
- EPA, [Dockets Open for Public Comment](#)
- EPA, [Tips for Effective Comments](#)

The Title VI Environmental Justice Complaint

A Title VI Environmental Justice (EJ) Complaint is a **formal complaint** to the Environmental Protection Agency (EPA), under Title VI of the Civil Rights Act of 1964, **alleging that a recipient of EPA funding is illegally discriminating**.

Filing a Title VI EJ Complaint is not the same as filing a lawsuit. Instead, filing a Title VI EJ Complaint compels the EPA to investigate your claim and decide if the program is discriminatory. Depending on its findings, EPA could force the program at issue to substantially change or shut down altogether.^[1]

The Title VI EJ Complaint historically has not been as successful as some of the other tools in this toolkit.^[2] However, it is a tool you should be aware of, because it *can* lead to good results, and may become a more potent tool in the future as EPA increases its commitment to environmental justice.

In recent years, beginning in 2017, EPA has taken steps to improve the procedures of the External Civil Rights Compliance Office, and has indicated that the office will continue to be improved. The current EPA Administrator Michael Regan has made strengthening EPA's use of Title VI a priority, and under his administration EPA has begun several investigations into alleged discrimination.^[3]

This chapter introduces the Complaint and gives its legal framework. Then, it explains the process of filing a Title VI Environmental Justice Complaint with EPA and attempts to help you set your expectations for the EPA's response.

Though you do not need a lawyer to file a Title VI EJ Complaint, we recommend consulting with a lawyer to help you draft a strong complaint and make sure your complaint meets EPA’s requirements to be considered.

Any person who believes that they individually, or a specific group of people, have been discriminated against by a recipient of EPA assistance may file a Title VI Environmental Justice Complaint.^[4]

The person files an Environmental Justice Complaint against a **recipient** — “a program or activity receiving EPA assistance.”^[5] Recipients may be state or local governments or private parties.^[6] EPA assistance includes any grants, loans, cooperative agreements, donations of Federal property or use of Federal property, services of EPA personnel, or any other arrangement providing financial value to a recipient.^[7]

The Title VI Legal Framework and Environmental Justice Complaints

In legalese, the word “title” sometimes refers to a section or chapter of a law. Title VI of the Civil Rights Act of 1964 seeks to ensure ***equal treatment*** under the law and consistent and effective enforcement of the law regardless of race, color, national origin, sex, disability, and age.^[8]

The notion of *equal treatment* comes from the Fourteenth Amendment of the U.S. Constitution, which states that **no person shall be denied the equal protection of the law.**^[9] Sections 601 and 602 of Title VI incorporate these Fourteenth Amendment ideals into legal requirements by prohibiting agencies like the EPA from *intentionally or unintentionally* discriminating.^[10]

Section 601: Intentional Discrimination

Section 601 of Title VI says “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”^[11]

To establish a case of discrimination under Section 601, complainants challenging an agency decision must demonstrate that the agency’s decision was motivated by a desire to intentionally discriminate.^[12] This requirement has proved to be a difficult burden for environmental justice complainants to satisfy.^[13]

Section 602: Unintentional Discrimination

Section 602 of Title VI directs agencies distributing federal funds to issue regulations implementing Section 601, and mandates that these agencies create a mechanism for processing complaints of racial discrimination.^[14]

Like other agencies, EPA issued regulations implementing Section 601.^[15] Under Section 602, proof of unintentional discrimination or “disparate impact” can establish a violation.

A program has a disparate impact if it disproportionately excludes people from benefits or services or inflicts a disproportionate share of harm based on race, color, or national origin (including disparate impacts upon people who have limited English-language skills), *even though the agency did not intend to discriminate.*

If an agency makes a finding of disparate impact, Title VI allows for it to revoke, amend, or suspend funds or permits issued to a state or local government agencies or private parties.^[16]

The EPA External Civil Rights Compliance Office (ECRCO)

The EPA External Civil Rights Compliance Office (ECRCO) is responsible for ensuring that recipients of EPA financial assistance comply with EPA's non-discrimination policies pursuant to EPA's regulations implementing Title VI of the Civil Rights Act of 1964 and is responsible for investigating and responding to Title VI Complaints.^[17]

What to Expect from the EPA

EPA's Response Record is Poor

The EPA can use Title VI as a powerful tool to address environmental justice and remediate discrimination, but ECRCO has historically been unable to meet regulatory deadlines, has delayed responding to and addressing Title VI complaints, and has never denied or withdrawn financial assistance from a program due to a Title VI complaint.^[18] It has only made one finding of discrimination, in 2017, and that finding came 25 years after the St. Francis Prayer Center of Flint, Michigan filed its Title VI Complaint in 1992.^[19]

In 2016, the U.S. Commission on Civil Rights published a report entitled "Environmental Justice: Examining the Environmental Protection Agency's Compliance and Enforcement of Title VI and Executive Order 12,898" where it documented two disheartening themes.^[20]

First, EPA has struggled to provide procedural and substantive relief to communities of color impacted by pollution and failed to provide substantive results that would improve the lives of people living in already overly-burdened communities.

Second, EPA has not acted when faced with environmental justice concerns until forced to do so — and when it has acted, it has done the minimum possible.

According to the U.S. Commission on Civil Rights' report:

EPA is known for administrative delay in processing complaints, having an inadequate system for resolving complaints, referring the majority of the complaints to other agencies, not engaging complaints in alternative dispute resolution, and for timid (if not entirely lacking) enforcement . . . EPA's inability to timely process or resolve Title VI complaints has resulted in recipients of EPA funding not being held accountable for alleged discrimination.^[21]

The EPA Rejects the Majority of Title VI Complaints

ECRCO has historically rejected or dismissed a majority of the Title VI Environmental Justice Complaints that it received.^[22] A Center for Public Integrity study also indicated that ECRCO has neglected to conduct investigations even when it had reason to believe that an EPA recipient has a discriminatory policy.^[23]

ECRCO rejects complaints for three main legal reasons.

You should be aware of these reasons and ensure that any complaint you file with EPA does not fall into one of these three traps.

1. Failure to target a recipient of EPA financial assistance.

The EPA will reject your complaint if the target of the complaint is not a recipient of EPA financial assistance, because the EPA only has jurisdiction over complaints if the target is a recipient of EPA financial assistance. The Center for Public integrity found that ECRCO rejected 95 complaints (out of a study of 265) because the target of the complaint was not a recipient of EPA financial assistance.^[24]

2. The Complaint falls outside of the 180-day time limit to file a complaint with EPA.

A Title VI Complaint must be filed within 180 calendar days of the last act of alleged discrimination.^[25] ECRCO has the authority to waive the 180-day time limit for good cause, but the Center for Public Integrity noted that of the complaints where the target of the complaint did receive EPA financial assistance, ECRCO rejected 62 complaints because the complaints fell outside of the 180-day time limit to file a complaint with the EPA.^[26]

3. Failure to properly allege a forbidden discriminatory act pursuant to Title VI.

Additionally, the Center for Public Integrity found that ECRCO rejected 52 complaints for failing to properly allege a forbidden discriminatory act pursuant to Title VI.^[27]

ECRCO Fails to Include Community Stakeholders When Settling Complaints

When ECRCO accepts a complaint for investigation, it will often attempt to resolve the complaint through informal methods such as alternative dispute resolution – meaning that the EPA will seek to negotiate a resolution with the alleged discriminating party. In this process ECRCO has often excluded the affected communities from the settlement process.

Issue Spotlight: ERCO and the *Angelita C. Case*

ECRCO's handling of the *Angelita C.* case exemplifies the practices that can exclude the impacted communities.

On June 20, 1999, **residents of California filed a Title VI complaint with ECRCO alleging that the California Department of Pesticide Regulation was discriminating against Latino school children by permitting the use of**

methyl bromide, a highly toxic fumigant agricultural chemical, near schools.

The complaint stated that school children of color in California suffer a much greater risk of exposure to methyl bromide than their white counterparts. ECRCO accepted the complaint for investigation on December 11, 2001 — **more than two years after the plaintiffs filed their complaint.**

ECRCO did not issue its preliminary findings until April 22, 2011, when it concluded there was sufficient evidence to make a preliminary finding of a violation of Title VI because the application of methyl bromide between 1995 and 2001 had caused an adverse disparate impact upon Latino schoolchildren in California. **ECRCO did not notify the complainants or their attorneys about its findings.** EPA entered negotiations with the California Department of Pesticide Regulations to settle the complaint.

The EPA entered into a settlement agreement that changed little because it knew methyl bromide use would be discontinued before entering it. The settlement agreement specified that the agreement did not constitute a determination that the party using methyl bromide was noncompliant with either Title VI or EPA's regulations. The settlement required additional monitoring of the soon-to-be-discontinued methyl bromide near schools and public outreach by the California Department of Pesticide Regulation.^[28]

So, what the plaintiffs got — *after 12 years of waiting* — was exclusion from the settlement process, no formal recognition of the environmental injustice they faced, and a promise to monitor the methyl bromide that was already slated to be discontinued.

The history of EPA's management of Title VI complaints does not inspire confidence.

On the other hand, there is no state environmental justice law in Georgia as of the time of publication, and EPA's Title VI program does exist

specifically to remediate discriminatory and disparate impacts of EPA actions.

With public scrutiny and pressure, and EPA's growing institutional commitment to environmental justice, Title VI complaints could become much more powerful. EPA has also taken steps to improve ECRCO's procedures, beginning in 2017, has indicated that the office will continue to be improved, and has made Title VI enforcement a priority of Administrator Regan's tenure.

While success (especially quick success) is unlikely to result from filing a Title VI complaint with EPA, the program remains a tool that you should be aware of, and one we can all hope will deliver better results in the future.

How to File a Title VI Complaint with the EPA

What follows is a three-step procedure for filing a Title VI Environmental Justice Complaint and a timeline of how EPA should respond. If you believe you have been discriminated against, either intentionally or unintentionally through a disparate impact, and therefore wish to file a Title VI Environmental Justice Complaint, you must follow EPA's requirements. If you fail to follow these procedures, EPA will likely not consider your complaint.

Three-step Procedure for Filing and Pursuing a Title VI Environmental Justice Complaint

Step 1: Determine Whether the Party Discriminating Against You is a Recipient of EPA Funding or Assistance

The EPA sometimes directly issues permits, and frequently funds programs or activities administered by state level agencies or other organizations, including private parties.

Organizations receiving EPA financial assistance are called “recipients.”^[29] You can view recipients of EPA grants in the **USA Spending online database**. Enter “Environmental Protection Agency” under “Awarding Agency” and/or “Funding Agency,” and set the location to Georgia.

However, even if the organization does not appear in this database it could still be a recipient of EPA support or funding, so be sure to research where the project in question obtained its funding or permit. Many local governments and utilities receive EPA assistance for activities such as maintaining sewage treatment plants.

Step 2: Make Sure Your Complaint Meets All Four of EPA’s Title VI Requirements

Your complaint must comply with four requirements for the EPA to act upon your claim.^[30] **If all four requirements are not met, the EPA will not accept your allegations for investigation.** If you fail, for example, to file the complaint within 180 days or clearly allege how the act was discriminatory, the EPA can deny your claim without investigating your allegations.

If you realize after the complaint has been sent that it does not meet all the requirements, you can amend it before the EPA renders a decision. To avoid complications and possible denial, the amended complaint should also be filed within the 180-day deadline. Giving yourself time to fix a potential mistake is one reason to file a complaint as soon as possible after the discriminatory act.

EPA’s Four Title VI Requirements

1. The Complaint must be made in writing.

Complaints must be made in writing.^[31] You can submit the Complaint by:

E-mail: **Title_VI_Complaints@epa.gov**

Mail:
U.S. EPA External Civil Rights
Compliance Office, 2310A

1200 Pennsylvania Ave., NW
Washington, D.C. 30460

2. The Complaint must describe a discriminatory act that violates EPA's Title VI regulations.

In other words, the complaint must give a detailed description of discrimination that is based on race, color, or national origin.^[33]

The alleged discriminatory act is the foundation of your complaint. A discriminatory act may be a town hall meeting where the affected community was not represented, the passing of a discriminatory zoning ordinance, the approval of a landfill site, or many more. See below for more detail on discriminatory acts.

Be as specific and detailed as possible when describing the discrimination and consult with a lawyer if possible. State everything you know about:

- Each discriminatory act (like dates and locations)
- Who or what organization or individuals were involved
- Who was affected
- The discriminatory effects the program has had on you, your group, or your community
- Any other information that may be pertinent

If you believe the recipient had a discriminatory *intent*, you should also:

- Describe the actions or statements that show discriminatory intent.
- Explain how they show discriminatory intent.
- State how you gained knowledge of these actions or statements.

Include copies of any source material you have to provide more information or back up your statements.

Determining Whether You Have Been Discriminated Against Within the Meaning of the Regulations

Intentional Discrimination

Discriminatory intent requires that the recipient *intended* to affect a person or group based on *race, color, national origin, age, or sex*. Discriminatory intent (also called disparate treatment) is harder to prove than unintentional discrimination through a discriminatory effect (also called disparate impact).

You can make a claim alleging intentional discrimination by showing a recipient intentionally treated individuals differently or otherwise knowingly caused them harm because of their race, color, national origin, disability, age or sex. To do this, you must show that “a challenged action was motivated by an intent to discriminate.”^[34] To show *intent to discriminate*, you must show that the recipient was aware of the complainant’s protected status, and that the recipient acted, at least in part, *because of* the complainant’s protected status.^[35]

The clearest way to demonstrate intentional discrimination is through direct evidence like a policy, statement, or decision that clearly and explicitly discriminates.

You can also demonstrate intentional discrimination through circumstantial evidence of discriminatory intent. Below is a non-exhaustive list of the types of evidence may be considered.^[36]

- Decisionmakers’ statements showing discriminatory intent.
- The historical background of the events at issue.
- The sequence of events leading to the decision at issue.
- A departure from standard procedure (such as a hastily-called agency meeting or the failure to consider factors that would ordinarily be considered).
- Legislative or administrative history (like the minutes of official meetings).
- The foreseeability of the effects of the action.

- A history of discriminatory or segregation-promoting conduct.

Determining a decisionmaker's intent will be easier if you have been involved in the decision-making process throughout, using the other tools covered in this toolkit. If you have been in contact with a decisionmaker, or submitted comments on a proposed action, or attended public meetings, you will be in a stronger position to show the sequence of events, statements made by the decisionmakers, or whether your concerns were treated with seriousness and respect.

Unintentional Discrimination

You can also make a claim alleging unintentional discrimination through a *discriminatory effect*, often called a *disparate impact*.^[37]

A program has a disparate impact if it disparately excludes people from benefits or services or inflicts a disproportionate share of harm based on race, color, or national origin. The decisionmaker's intent is not at issue here, only the consequences of the policy or decision.

You can show disparate impact if you can show that a policy or decision does not explicitly differentiate between groups on the basis of race, for example, but the policy is administered in a discriminatory manner.^[38]

To prove a program has a disparate impact you can use the same types of direct and circumstantial evidence referenced above to do the following four things:

1. Identify the specific policy or practice.
2. Show that the recipient's policy or practices causes adversity or harm.
3. Show that there is a disparity in the policy or practice's harm based on membership of a protected class.
4. Show that there is a causal connection between the recipient's policy or practice and the impact, usually shown through statistical data.

3. The Complaint must be filed within 180 days of the alleged discriminatory action.

You must file your complaint **within 180 days after the last discriminatory action occurred**, not 180 days after you first noticed the effects of the discriminatory act.^[39] The safest way is to submit a complaint well before the deadline in case there is some complication concerning its receipt by the proper office.

If your community was not aware of the discriminatory act within 180 days after it occurred, you can request a waiver of the filing time requirement and you might be allowed to file a complaint anyway, depending on the discretion of ECRCO.^[40]

4. The Complaint must allege discriminatory acts committed by an organization that has received funding from the EPA.

Not every organization involved in a project may have received funding from the EPA. Under Title VI, EPA is only responsible for its own actions and for those of organizations over which it has some financial control.^[41]

Regarding subcontractors, EPA-funded organizations may not be responsible for the actions of non-EPA funded organizations, even if they are working on the same project. Furthermore, the EPA cannot be held responsible for the actions of other federal-level agencies, such as the Army Corps of Engineers or the Department of the Interior. Such agencies are directly and separately responsible under Title VI.

If your complaint regards a non-EPA agency funded project, your complaint will need to be filed with the agency in charge of the project. Based on what you have learned in this chapter, search for that agency's Title VI complaint procedures.

Step 3: File the Complaint

File your complaint through mail to the EPA External Civil Rights Compliance Office (ECRCO):

U.S. EPA External Civil Rights
Compliance Office (2310A)
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

You can also file your complaint by e-mail to Title_VI_Complaints@epa.gov. If you have questions, you can contact ECRCO at those addresses or by calling (202) 564-3316.

You filed your complaint! What happens next?

The *Angelita C.* case illustrates that the EPA does not always follow its own legally mandated procedure. However, below is a timeline of what the EPA's regulations say *should* happen once you file your complaint.

First Notification

ECRCO must notify you it has received your complaint within **5 days** of receiving it.^[42] ECRCO will also notify EPA that an Environmental Justice Complaint has been filed against the agency. After acknowledging receipt of the complaint, ECRCO will initiate complaint processing procedures.

Preliminary Investigation

Within **20 calendar days** of acknowledging the complaint, ECRCO should review the complaint for acceptance, rejection, or, if EPA is not the appropriate recipient of the complaint, referral to the appropriate agency.^[43]

Please keep in mind that “accepting” a complaint does not mean that ECRCO has decided to grant any remedy you request in the complaint, it only means that your complaint has met the requirements for EPA to review it.

Complaint Acceptance

If the complaint is accepted, ECRCO will notify you. In addition, ECRCO will notify the recipient of the allegations and give the recipient the opportunity to make a written submission responding to, rebutting, or denying the allegations in your complaint.

The party complained against has **30 calendar days** from receipt of ECRCO's notification to respond to ECRCO acknowledging notice of the complaint.^[44]

Complaint Dismissal

If ECRCO's investigation reveals no violation, it will dismiss the complaint. If this occurs, ECRCO will notify you and the recipient.^[45]

Complaint Resolution

Once the EPA accepts the complaint, the resolution process begins. Whenever possible, complaints are resolved informally. When a complaint cannot be resolved informally, ECRCO will mail a post-review notice to those responsible for the discriminating program within **180 days** of the start of the investigation. This notice will include preliminary findings, recommendations for achieving voluntary compliance, and an explanation of the recipient's right to engage in voluntary compliance negotiations.^[46]

After receiving the post-review notice, the recipient may either agree to ECRCO's recommendations or submit a written response demonstrating that the preliminary findings by ECRCO are incorrect or that compliance may be achieved in a way not suggested by ECRCO. The recipient has **50 days** after receiving the preliminary notice to take either of these steps.^[47] If the recipient takes neither action in that period, then ECRCO has **14 days** to write a formal determination of noncompliance and sends it to both the recipient, the EPA official responsible for funding the program, and the Assistant Attorney General.^[48]

Finally, the recipient has **10 days** from receipt of the formal determination of noncompliance to come into voluntary compliance.^[49] If it does not, ECRCO **must** begin proceedings to deny, suspend, annul, or terminate EPA’s assistance to that program.^[50]

The Title IV Environmental Justice Complaint

^[1] 40 C.F.R. §§ 7.115, 7.120.

^[2] U.S. Commission on Civil Rights, *Environmental Justice: Examining the Environmental Protection Agency’s Compliance and Enforcement of Title VI and Executive Order 12,898*, 41 (2016).

^[3] Halle Parker, *In ‘groundbreaking’ decision, EPA to investigate 2 state agencies over discrimination claims*, WWNO – New Orleans Public Radio (Apr. 7, 2022), <https://www.wwno.org/coastal-desk/2022-04-07/in-groundbreaking-decision-epa-to-investigate-2-state-agencies-over-discrimination-claims>.

^[4] 40 C.F.R. § 7.120; EPA, Programs and Projects of the Office of General Counsel, *Complaints and Petitions for Review*, <https://www.epa.gov/ogc/complaints-and-petitions-review>.

^[5] 40 C.F.R. §§ 7.30, 7.35, 7.120.

^[6] 40 C.F.R. § 7.25.

^[7] *Id.*

^[8] 42 U.S.C. § 2000d.

^[9] U.S. Constitution, Amendment XIV.

^[10] 42 U.S.C. § 2000d; 42 U.S.C. § 2000d-1.

^[11] 42 U.S.C. § 2000d.

^[12] See *Alexander v. Sandoval*, 532 U.S. 275 (2001).

^[13] See *Bean v. Southwestern Waste Mgmt. Corp.*, 482 F. Supp. 673, 680 (S.D. Tex. 1979). The plaintiffs alleged the EPA intentionally discriminated against them based on the siting of a solid waste facility in a minority community. To show intentional discrimination, the plaintiff relied on statistical data. The court ruled against the plaintiffs because they were unable to provide sufficiently detailed facts to show that the decision was based on intentional discrimination.

^[14] 42 U.S.C. § 2000d-1.

^[15] 40 C.F.R. § 7.30 and 7.35.

^[16] See EPA, Title VI Laws and Regulations, <https://www.epa.gov/ocr/title-vi-laws-and-regulations>.

^[17] EPA, Civil Rights, <https://www.epa.gov/ocr>.

^[18] *Id.*

^[19] U.S. EPA Office of Inspector General, *Improved EPA Oversight of Funding Recipients' Title VI Programs Could Prevent Discrimination* 4 (Sept. 28, 2020), https://www.epa.gov/sites/production/files/2020-09/documents/_epaig_20200928-20-e-0333.pdf.

^[20] U.S. Commission on Civil Rights, *Environmental Justice: Examining the Environmental Protection Agency's Compliance and Enforcement of Title VI and Executive Order 12,898* 2 (2016).

^[21] *Id.* at 2-3.

^[22] Kristen Lombardi et al., *Environmental Justice Denied: Environmental Racism Persists, and the EPA is One Reason Why*, Center for Public Integrity (last updated Sept. 4, 2015), <http://www.publicintegrity.org/2015/08/03/17668/environmental-racism-persists-and-epa-one-reason-why>.

^[23] *Id.*

^[24] *Id.*

^[25] EPA, How to File a Complaint of Discrimination, <https://www.epa.gov/sites/production/files/2017-08/documents/how-to-file-a-complaint-of-discrimination-brochure.pdf>.

^[26] Kristen Lombardi et al., *Environmental Justice Denied: Environmental Racism Persists, and the EPA is One*

Reason Why, Center for Public Integrity (last updated Sept. 4, 2015), <http://www.publicintegrity.org/2015/08/03/17668/environmental-racism-persists-and-epa-one-reason-why>.

^[27] *Id.*

^[28] U.S. Commission on Civil Rights, *Environmental Justice: Examining the Environmental Protection Agency's Compliance and Enforcement of Title VI and Executive Order 12,898* 42-43 (2016).

^[29] 40 C.F.R. §§ 7.30, 7.25, 7.35 & 7.120.

^[30] EPA, *How to File a Complaint of Discrimination* (2017), <https://www.epa.gov/sites/production/files/2017-08/documents/how-to-file-a-complaint-of-discrimination-brochure.pdf>; External Civil Rights Compliance Office, *Case Resolution Manual: Executive Summary* (Jan. 2017),

https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf.

^[31] 40 C.F.R. § 7.120(b)(1).

^[32] EPA, *How to File a Complaint of Discrimination* (2017), **<https://www.epa.gov/sites/production/files/2017-08/documents/how-to-file-a-complaint-of-discrimination-brochure.pdf>**.

^[33] 40 C.F.R. § 7.120(a); 40 C.F.R. § 7.120(b)(1).

^[34] EPA, *External Civil Rights Compliance Office Toolkit* at 3 (Jan. 18, 2017), **https://www.epa.gov/sites/production/files/2017-01/documents/toolkit-chapter1-transmittal_letter-faqs.pdf**.

^[35] *Id.* Protected status means that the individual (or group) is being discriminated against based on their race, color, national origin, disability, age or sex.

^[36] *Id.* at 5.

^[37] EPA, *External Civil Rights Compliance Office Toolkit* at 8 (Jan. 18, 2017), **https://www.epa.gov/sites/production/files/2017-01/documents/toolkit-chapter1-transmittal_letter-faqs.pdf**.

^[38] *Id.*

^[39] 40 C.F.R. § 7.120(b)(2).

^[40] 40 C.F.R. § 7.120(b)(2).

^[41] 40 C.F.R. § 7.15.

^[42] 40 C.F.R. § 7.120(c).

^[43] 40 C.F.R. § 7.120(d)(1)(i).

^[44] 40 C.F.R. § 7.120(d)(1)(ii) and (iii).

^[45] 40 C.F.R. § 7.120(g).

^[46] 40 C.F.R. § 7.115(c).

^[47] 40 C.F.R. § 7.115(d)(1)-(2).

^[48] 40 C.F.R. § 7.115(d).

^[49] 40 C.F.R. § 7.115(e).

^[50] 40 C.F.R. § 7.115(e); 40 C.F.R. § 7.130.

Administrative Appeals in Georgia

This chapter explains the purpose and importance of administrative appeals; outlines the requirements for bringing an administrative appeal; and details what to expect and prepare for in the administrative appeal process.

What is an Administrative Appeal?

Industries and companies must obtain permits from the Environmental Protection Division (EPD) of the Georgia Department of Natural Resources to ensure that they comply with environmental laws and regulations when building new facilities or when making major changes to an existing facility.

For instance, if a company wishes to build a new power plant near your community, it must acquire the necessary air and water quality permits which regulate the type and quantity of pollutants it may emit into the air and water.

In this case, the owners of the proposed facility would send an application with their plans for the power plant to the EPD. Afterwards, they will meet with the EPD and other regulatory agencies to ensure the plans comply with the necessary environmental laws and regulations.

Then, the EPD will prepare a draft permit for the facility. Next, the public gets to submit comments, as discussed in **Submitting Public Comments**. The EPD must publish the proposed permit for public comment and respond to all substantive comments. If the permit is issued anyway, and you are harmed by the facility, you may be able to challenge the permit through an **administrative appeal**.

An administrative appeal is the process of asking an agency to reconsider its decisions when issuing permits and getting an Administrative Law Judge to review a permit issuance when you disagree with how the process was done.

When an agency fails to act in accordance with its duties under the law, it often has a direct effect on your rights as an individual and your desires for your community.

Terms to Know:

Administrative Hearing: a hearing to resolve disputes between government agencies and people affected by their decisions. This is like a lawsuit in court, but it takes place at the Office of Administrative Hearings before an Administrative Law Judge.

Administrative Law Judge (ALJ): a type of judge who presides over administrative hearings and makes legal rulings and factual determinations in a case

Why Do Appeals Matter?

Imagine a construction company comes into your neighborhood to develop a series of fancy condominiums in what is currently a forested area used by the community to birdwatch, hike, and enjoy nature. The company will need to apply for certain permits with the EPD to ensure it complies with environmental regulations. Sometimes the EPD makes a mistake and issues these permits without upholding all of its obligations under environmental and administrative laws, or without considering all the potential impacts of the facility.

Administrative appeals allow you as an individual or community to force the EPD to review the permits it has issued allowing a particular company to use (or pollute) some public resource.

What Do You Need for an Administrative Appeal?

Standing

Unfortunately, a general concern for the environment is not enough to get a hearing before EPD. A petitioner (the person or group filing a complaint) needs ***standing***.

Standing refers to whether a person/party has the right to bring a case in front of the court.

To have standing, you need to show:

1. **Actual injury** – you are “aggrieved or adversely affected” by the permit. This could involve damage to your property costing you money, but could also include nuisance, harm to a place you enjoyed recreating in, or similar non-monetary injuries.^[1]
2. **Causation** – the contested activity is what caused your injury.^[2]
3. **Redressability** – the injury is the kind that the laws governing the permit at issue were designed to protect against, and successfully challenging the permit will get you relief in the form of striking down or improving the permit.^[3]

Final Agency Action

To be able to sue, there must have been a *final agency action*. You do not have standing to sue if EPD decides not to issue a permit or is in the intermediate stages of considering whether to issue a permit, but has not yet actually issued the permit.

However, there is an additional timing component – **you must file your appeal within 30 days after the final action.**^[4] This is where it is helpful to stay informed about projects in your community and sign up to get agency notices, so that you will have a sense of when permit decisions are likely to be made.

Start Early and Seek Advice

In addition, depending on the law governing a particular decision, you may not be able to file an appeal if you did not participate in the public comment period for the proposal. See **Submitting Public Comments** for more on the process for comment submission, and **Appendix C-5** for a sample comment letter.

We recommend you talk to a lawyer to make sure you can show that you have standing before filing a petition for review, because if the judge decides you don't have standing, your case stops immediately.

Grounds to Appeal

Ultimately, in order to invalidate the permit or proposal at issue, the person or group bringing the appeal must prove that EPD violated the law. There are two basic types of challenges that you can bring: *procedural* challenges and *substantive* challenges.

Procedural Challenges – this entails the *process* EPD is supposed to follow when issuing permits, such as allowing public comment at certain times.

A few of the grounds for procedural challenges include:

- If EPD does not respond to your comments when it issues the final permit, you may have grounds for appeal. As discussed in previous chapters, EPD must give the public an opportunity to comment and make suggestions on a draft permit and must respond to those comments when it issues the final permit. However, EPD does not always comply with these requirements. Therefore, it is a good idea to periodically check in with EPD to see if the permit has been issued and if responses to the submitted comments have been published.
- Also, as discussed in previous chapters, EPD must prepare documents explaining the reasons for granting permits under the applicable environmental laws. If EPD failed to do so, you may have grounds for challenging the issuance of the permit.

- If substantial modifications were made to a permit without providing additional notice and comment procedures, you may have grounds for challenging the modified permit.

Substantive Challenges – available if there are provisions *of the permit itself* that do not comply with Georgia law.

- The exact substantive reasons for appealing a permit will depend a great deal on the information that you uncover during your permit review, and the answers to questions regarding the impact of the proposed operations.
 - For more information on uncovering public records, see **Accessing Public Records and Meetings**. For sample records requests, see Appendices **C-1** and **C-2**.
- For example, consider the construction company example above. If Georgia law required that 25% of the trees on the property remain uncut, but the EPD issued a permit saying only 10% of the trees on the property needed to remain uncut, the permit would be open to a substantive challenge.

Both procedural and substantive challenges can be combined in a single appeal.

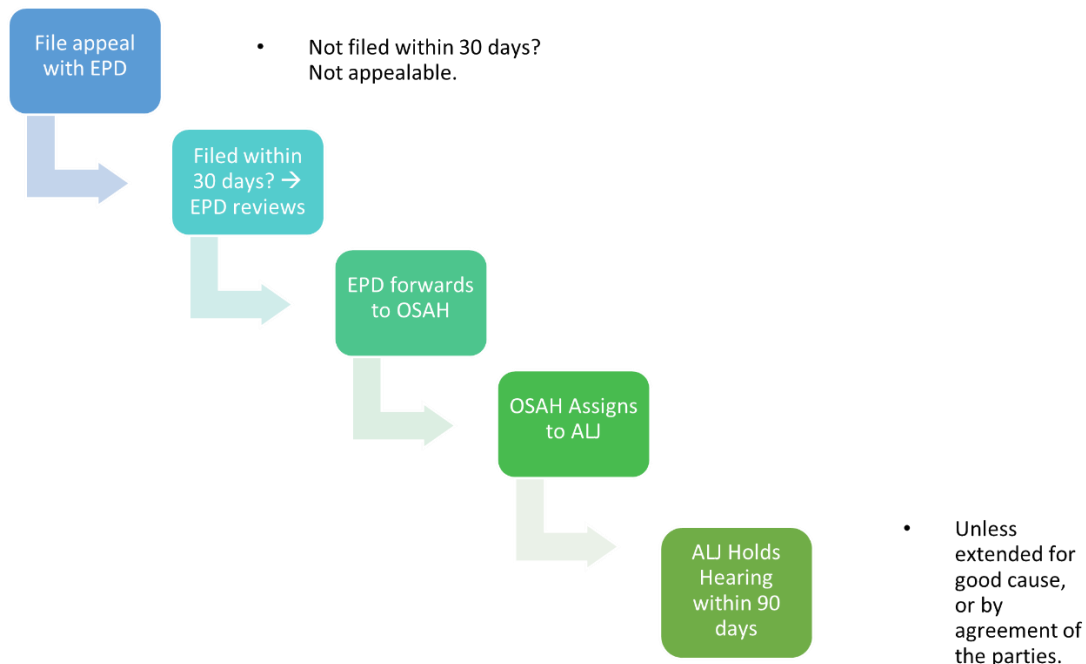
Administrative Appeal Process and Timing

Anyone who has standing – who is “aggrieved or adversely affected” by a permit issuance or some other action of EPD – may qualify for an administrative hearing before an ALJ.^[5]

In Georgia, an appeal must be filed with the EPD. The EPD then forwards the appeal to the Office of State Administrative Hearings (OSAH), who is responsible for assigning an ALJ to the claim and setting up your hearing.^[6]

To qualify for a hearing, **you must file the appeal with EPD within 30 days of the day of issuance of the permit** (or other action being appealed).^[7] If an appeal is not filed within 30 days from the day of issuance, you will lose your chance to appeal. This is true *even if you did not know the permit was issued*, so it is important to keep checking on the status of permits you think may be issued soon.

Georgia law requires the ALJ to hold the hearing and issue a decision within 90 days after the appeal is filed. However, if the ALJ finds “good cause,” the ALJ may extend the hearing for up to 60 additional days. Additionally, all parties may agree to an extension of any length.^[8] See the flow chart below for an illustration of this process.



During the time of the hearing and before the ALJ makes a decision, the effectiveness of the permit is “stayed,” meaning that the permittee may not do whatever the permit authorizes until the stay expires.^[9] Consider the “posh condominium” example from the beginning of this chapter: if you appealed the issuance of the permit to the construction company, a stay would mean the company would not be able to move forward on any construction while the administrative hearing process is ongoing.

The Hearing and Beyond

The ALJ hears the case presented by the person injured by the permit and EPD (who issued the permit). The company or industry whose permit is being challenged often “intervenes” (meaning that it joins in the case) so that it may present evidence as well. Each side presents its own evidence, including any experts. For instance, the condominium construction company from the example above would likely join the hearing so it could present its own evidence and argue that there were no legal flaws in the permit.

The administrative proceeding is “de novo” in nature, meaning the ALJ looks at the issue with fresh eyes and can look at evidence that may not have been considered by EPD when making its decision.^[10] *De novo* is a Latin term meaning from the beginning.

Consider the process in light of the condominium example:

- The EPD evaluated what it considered to be relevant evidence and issued the permit.
- You believe there was a problem when the EPD issued that permit and you appeal with the EPD.
- The ALJ will review the case on their own, which is the *de novo* part, in that the ALJ will consider the issue without giving any weight to why the EPD came to its conclusion, and will consider any evidence you are able to present even if EPD did not consider that evidence.
- After all parties have had an opportunity to be heard, the ALJ makes a decision.
 - There are no juries at administrative hearings.

Whichever side loses the case has a right to appeal the ALJ’s decision to the Superior Court of either Fulton County (where EPD headquarters is located) or the county in which the person or company challenging the ALJ’s decision resides.^[11] Superior Courts have the power to reverse the ALJ’s decision. This new petition for appeal must be filed within 30 days after the ALJ has made their determination.^[12]

Appealing the ALJ's decision will not continue to stay the permit's effectiveness the way the initial permit appeal did, unless you ask the Superior Court for a restraining order or injunction.^[13] The Superior Court will conduct a review without a jury, based on the record made by the ALJ. However, upon request, the court may also hear oral arguments and receive written briefs.^[14]

If a party appeals to the Superior Court, there are different ways in which the court will consider the evidence – called the **standard of review**. This is also the case if the losing side before the Superior Court appeals the Superior Court's decision to an even higher court.

If the issue concerns a **question of fact**, the court is limited to referencing facts and evidence from the record (i.e. the materials that you and EPD presented to the ALJ). Factual disputes are likely a losing battle for the appealing party because the higher court must not substitute its judgment for that of the agency regarding whether factual evidence is persuasive.^[15] This is because higher courts usually trust lower courts to understand the facts of the case, as the lower court typically spends more time with the evidence than the higher court.

But if there is a **question of law**, then the higher court reviews the case to see if the ALJ made a mistake in applying the law.^[16] If the court finds that the ALJ's decision was in error, then it may modify the decision or send the decision back to the agency to be re-done.

The following is an illustration of questions of fact versus law:

Question of **Fact**: Did the condominium developers hire an ecologist to review the construction site?

Question of **Law**: Did the law *require* that the condominium developers hire an ecologist to review the construction site?

Do You Need a Lawyer?

There are no requirements that you have an attorney to file an appeal with EPD, or to appeal an ALJ's decision to Superior Court. However, **it is recommended that you contact an attorney** because environmental laws and regulations can be complex, permit language can be confusing, and a lawyer can help you present your arguments in a way that will be familiar for a judge. No one wants to waste time or money, but sometimes hiring an attorney can help you save both because they will know the right strategies to employ to win the battle.

SELC, Hummingbird, and the Turner Clinic can help connect you with a lawyer, and we strongly recommend contacting us if you decide to appeal a permit or appeal an ALJ's decision to Superior Court. You can also find more contact information in **Appendix B**. Companies and industries in particular will often hire prestigious law firms to represent them, so you want to be as prepared as you can!

Administrative Appeals in Georgia Citations

^[11] O.C.G.A. § 12-2-2(c)(2).

^[91] O.C.G.A. § 12-2-2(c)(2)(B).

^[12] *Allen v. Wright*, 468 U.S. 737 (1984).

^[101] Georgia Rule 616-1-2-.21(3).

^[13] O.C.G.A. § 12-2-2(c)(3)(A)

^[111] O.C.G.A. § 50-13-19(a) and (b).

^[14] O.C.G.A. § 12-2-2(c)(2)(A)

^[121] O.C.G.A. § 50-13-19(b).

^[15] O.C.G.A. § 12-2-2(c)(2)(A).

^[131] O.C.G.A. § 50-13-19(d)(2).

^[16] *Id.*; Georgia Rule 391-1-2-.06.

^[141] O.C.G.A. § 50-13-19(g).

^[17] O.C.G.A. § 12-2-2(c)(2)(A).

^[151] O.C.G.A. § 50-13-19(h).

^[18] O.C.G.A. § 12-2-2(c)(2)(B).

^[161] O.C.G.A. § 50-13-19(h).

Citizen Suits

For much of American legal history, individuals and communities had little legal recourse to fight against polluting facilities. Then, in the 1970s, Congress passed most of our modern environmental laws and created government agencies to enforce them. Many of these environmental laws include “citizen suit” provisions which allow citizens to ‘step into the shoes’ of a government agency to enforce environmental laws directly by bringing lawsuits against polluters.

This chapter gives you six types of information about citizen suits:

- 1) Introduction to the citizen suit.
- 2) Explanation of who you can sue with a citizen suit.
- 3) Overview of the judicially imposed requirements on stating a claim.
- 4) Explanation of what you must do to prepare a citizen suit
- 5) Outline of what you may be able to achieve with a citizen suit.
- 6) Final concluding recommendations.

Introduction to Citizen Suits

Most of the major federal environmental laws have sections — known as “citizen suit” provisions — allowing citizens to sue violators of the law in federal court.^[1] Each of these provisions is slightly different, but they all have common features. Though this section discusses some of the common features and requirements, it is best to consult a lawyer before considering bringing a citizen suit because environmental litigation is complicated.

Litigation can take years to complete and is unpredictable. But groups of concerned individuals have taken on this process and won,^[2] sometimes when many others doubted them and indeed pressured them to not file the suit in the first place.

Remember that beginning a citizen suit is like starting any other serious and difficult challenge, and you might doubt your intentions, any possibility of victory, and whether you can endure the highs and lows of the case. Life will happen to you, so it is important to remind yourself of why you cared enough to start the litigation in the first place.

Even if you don't win, being involved in litigation can provide many experiences where you can learn about advocacy and other unforeseen opportunities. Litigation can attract attention to your cause, including media attention. Litigation can also help you experience the hope and purpose of fighting a battle that you know needs to be fought, even if it seems unwinnable. You can feel the pride of being a part of an endeavor that could positively benefit lives in your community. And, you might feel the pleasure of putting some real fear in an unrepentant polluter's mind and heart.

Who You Can Sue

Typical citizen suit provisions allow individuals or groups to sue *any* person and *any* governmental instrumentality or agency currently violating a federal environmental statute's requirement.^[3] Typical citizen suit provisions also allow citizens to sue the Environmental Protection Agency (EPA) Administrator for failing to perform a "nondiscretionary" duty.^[4] This means that if a law *requires* (and does not merely allow) the EPA to do something but the EPA does not do it, an individual or group may sue the EPA Administrator to compel that action.

The most common type of citizen suits are filed against permit holders who have violated their permit's provisions. A polluter violates its permit when it does something its permit says not to do, so you have to look at the permit to determine if a polluter is violating it.

For example, a typical Clean Water Act citizen suit might allege that a facility is discharging wastewater with higher levels of zinc (or some other pollutant) than its permit authorizes. Note here that facilities can discharge wastewater with

zinc (or some other pollutant) without violating their permits, but they violate their permit when they discharge *more than the permit allows*.

Judicially Imposed Limitations on Stating a Claim

To properly state a claim, a plaintiff must prove two requirements. The plaintiff must:

1. Show that the polluter's violation is an "ongoing" violation.
2. Show that the state is not diligently prosecuting an enforcement action against the polluter.

First, although none of the citizen suit provisions explicitly say this, **courts require that the violation is "ongoing" at the time of suit.**^[5] To meet this requirement, the citizen must be able to show either that at least one violation occurs after the suit is filed or that, based on the pattern of violations before the filing, it is highly likely that violations will continue.

The Resource Conservation and Recovery Act's citizen suit provision is unusual because it allows citizens to sue for both past and present violations instead of just ongoing violations.^[6] It allows citizens to sue any person whose actions relating to solid or hazardous waste may present "an imminent and substantial endangerment to health or the environment."^[7]

Second, because a citizen suit allows citizens to "step into the shoes" of the EPA or state, **if EPA or the state "has commenced and is diligently prosecuting"**^[8] **enforcement against the polluter, citizens may not use the citizen suit provision.**

Whether the government is "diligently prosecuting" its enforcement depends on the specific situation. For example, if the government orders the facility to take certain measures to protect water quality but then continuously extends the

time period in which the facility must implement those measures so that the facility never actually improves its pollution, a court might find that the government is not “diligently prosecuting” the issue and allow a citizen suit to proceed.

Advance Preparation for a Citizen Suit

Before filing a citizen suit, you must be sure that you:

1. Have standing to sue (just as you must have for administrative appeals as described in **Administrative Appeals in Georgia**).
2. Document the relevant violation and its ongoing nature.
3. Meet the 60-day notice requirement.

If you do not meet *all* of these requirements, your suit will be dismissed. Even if you decide not to hire a lawyer to represent you in your citizen suit, we strongly recommend having a lawyer review your notice letter before you send it out. These requirements are explained in greater detail below.

(1) Standing

The U.S. Constitution limits the authority of federal courts to “cases” and “controversies.”^[9]

Standing is a judicial concept describing who has the right to bring an action in court. In legal speak, it means that the party with standing has a sufficient connection to and has been harmed by the law or action challenged, and thus presents a case or controversy to the court.

There are three standing requirements: **Injury-in-fact**; **Causation**; and **Redressability**.

1. ***Injury-in-fact***: The plaintiff must either have suffered or be in a position where it seems likely the plaintiff will imminently suffer injury — an

invasion of a legally protected interest that is (1) concrete and particularized, and (2) actual or imminent.^[10] The injury can be either economic, non-economic, or both.

2. **Causation:** There must be a causal connection between the injury and the conduct complained of, so that the court can fairly trace the injury to the defendant's action. The injury must not be the result of a third party's independent action.
3. **Redressability:** There is only standing to sue in a court if that court can offer a remedy for the injury. This ability to offer a remedy is referred to as redressability.^[11]

(2) Documentation of the Violation and its Ongoing Nature

The requirement that you **document the violation and its ongoing nature** really just means you have to prove that the violation is still going on. You can do this several ways:

- Use the facility's own reports to show violations.
- Document the facility's failure to file necessary reports.
- Use your own (or your expert's) observations or tests.

To strengthen your claims' credibility, **keep thorough records.**

For example, if you are relying on water samples, you should establish a "chain of custody" and document the testing methods you used so that you can prove that the pollution came from the facility. Document these violations as carefully as possible because **even if you are right, the other side is going to have lawyers and their own experts trying to disprove every possible part of your story.**

For further information about how to document violations, see:

- **Protecting Your Community: Getting Started** and **Knowing What's in Your Neighborhood** (material on locating permits for facilities)

- **Collecting and Using Scientific Data** and **Accessing Public Records and Meetings** (obtaining publicly available information)
- The relevant chapter of this toolkit for the type of violation at issue (for example, **Air Pollution** or **Water Quality Permitting**).

(3) 60-Day Notice Requirement

Once you have the data you need for your claim, you **must provide notice of your intent to sue** before filing your lawsuit.

Typically, the environmental statutes require you to mail a letter explaining that you are giving 60 days advance notice and laying out the specific facts that violate the law or the terms of the permit and the basis for claiming they are violations.^[12]

This period gives the polluter a chance to come into compliance with the law, and gives agencies a chance to enforce the law on their own. The law or agency regulations will specify to whom you must send this notice letter.

If you are filing a citizen suit under the Clean Water Act in Georgia because of a company causing pollution, for example, this notice must be sent to:

- the company's owner,
- the company's registered agent (which you can find on the **Georgia Secretary of State's webpage**),
- the head of Georgia EPD's water pollution branch,
- the Regional Administrator of EPA Region 4 (Atlanta headquarters), and
- the EPA Administrator at EPA headquarters in Washington, D.C.^[13]

If these government officials fail to act, and the polluter fails to achieve compliance within sixty days, then you can file a lawsuit. Under all the federal environmental statutes with citizen suit provisions, you can file a complaint laying out your claims in federal District Court.

Available Relief

Courts may grant relief if a plaintiff bringing a citizen suit wins, but you should know that the plaintiff who brings a citizen suit usually does not win any *money*.

If the plaintiff wins, the court’s goal is to provide for future compliance with permit terms and to compensate for the damage caused by past noncompliance. The court’s goal is not to compensate the harmed party with money, and if the polluter loses, it will likely pay penalties which go to the U.S. Treasury and *not* to the citizens bringing the suit.^[14]

The relief against the polluter as a result of a citizen suit may include extremely steep penalties — in some cases, over \$50,000 *per day per violation* (payable to the U.S. Treasury, not to the plaintiff) or injunctive relief (orders requiring the polluter to do or not to do something).^[15] Typical subjects of injunctive relief include requiring the polluter to comply with its permit’s terms, installing pollution control measures, replacing equipment, undergoing training, undertaking “supplemental environmental projects” (SEPs), and more.^[16]

Courts can award plaintiffs the cost of their attorney’s fees in citizen suits. So, if you are considering filing a citizen suit and think your suit meets the requirements outlined in this chapter, **we strongly suggest you talk to an attorney, even if you do not have the money to pay the attorney up front.** Since it is possible to recover the costs of the lawsuit, some attorneys may be willing to represent you without charging up-front, depending on your situation.

Concluding Remarks

Citizen suit provisions can be very powerful tools to help stop polluting facilities, but they can also be expensive, time-consuming, and stressful.

Sometimes it’s more efficient to convince either the polluter to clean up voluntarily or the government to force the polluter to clean up. But sometimes the polluter or the government will not cooperate, or will not agree to make

sufficient changes to remedy your situation. If it seems like the polluter won't work with you, filing a citizen suit could be a way to get the polluter's attention and could lead to a solution for your problem.

You also do not necessarily need to win in a courtroom to win for your community. If you have a good case, the potential penalties for violating the law that a company could face are so costly that the company may be willing to negotiate a settlement with you, which could involve cleaning up pollution in your community, installing better control technology on its facilities, or taking some other action to compensate the community for the harm it has caused, in exchange for your group dropping the lawsuit. An attorney can help you to negotiate with a company and secure a good settlement agreement.

And don't forget — sometimes it feels really good to make powerful and unrepentant polluters start to question their choices. Filing a citizen suit is a great way to do just that. If you think you have a claim that supports a citizen suit and want to file one, we encourage you to contact SELC, Hummingbird, or the Turner Clinic for advice, encouragement, and a referral to an attorney who might be able to help you!

Success Story: Coming Together to Save a River

Having fresh, clean water is an essential need for all people, and many people depend directly on rivers for their way of life and their livelihood.

In Georgia, many farming communities use the water provided by local rivers as a way to irrigate their croplands and sustain their families.

This is why when the agricultural community of southwest Georgia, an area with more than 550,000 acres of irrigated cropland, began to see the waters of their precious Flint River dwindle, they decided to work together to address

this environmental concern. **The Flint River is among Georgia's greatest rivers**, spanning 346 miles and draining an area of almost 8,460 square miles. As one of only 40 large rivers unimpeded by a dam in the entire United States, the Flint River flows south from Atlanta, through the rural western and southwestern regions of Georgia, providing drinking water to many rural communities and irrigation for farms.

One of these communities is Upson County, Georgia, where the vast majority of the area's landscape and culture is dominated by the presence of the Flint River. It was here that the **Flint Riverkeeper organization** was born in 2008, intended as a way for citizens of the area to discuss their growing concerns regarding the draining and pollution of the river. In total, 35 people joined the group, which started hosting meetings where community members could discuss their relationship with and concerns about the river. These concerns were compiled and consolidated into a list of issues that the group wanted to address.

Near the top of that list was the need to address the dry spells affecting the Flint River's dwindling water flow. The group started seeking the assistance of other organizations with a similar mission, who could help provide support, identify solutions, and help restore the river's flow. This led the group to a partnership with **American Rivers**, a national nonprofit that combines advocacy with fieldwork as a way to solve problems affecting key rivers in the United States.

Working together, both groups were able to compile scientific evidence and data that showed that the Flint River's flow had decreased due to increased droughts. The groups decided to take this information and publish it in a 2013 study they entitled "**Running Dry.**"

This study helped **raise awareness** about how construction practices such as paving over the headwaters and damming tributaries of the river near Atlanta were decreasing the amount of water that reached downstream

municipal water supplies and groundwater recharge areas which rural communities depend on.

The publication of this study gained attention, but both groups recognized that it would not be enough to address their growing concerns. So that same year, the partners decided to **form a coalition** called the “**Upper Flint River Working Group**,” made of up of leaders from the local water utilities, conservationists, and national and local environmental nonprofit organizations.

The purpose of the coalition is to allow diverse partners with a shared vision for the Flint River to work together on ways to maintain the river system’s health and ensure its ecological, social, and economic value for generations to come. The Upper Flint River Working Group is a great example of how a collaborative approach can help address issues as complex as water scarcity and build bridges between different organizations.

Since its formation in 2013, the working group has implemented several successful projects that are focused on improving drought resiliency and water availability for the communities that depend on the Flint River.

One of these projects is the creation of a wastewater treatment plant which will help return two million gallons of unpolluted water back into the river each day! The group has also been successful in helping Newnan Utilities upgrade its pumping facilities on the Flint River, helping to reduce the need to withdraw water from the river’s creeks during low flow seasons.

The group’s latest success has been to work with Atlanta’s Hartsfield-Jackson International Airport, the world’s busiest airport since 1998, to develop green infrastructure projects on the airport’s campus. If successful, this project would increase the amount of rainwater that manages to filter into the ground instead of being trapped on the surface by large, paved areas. More water making it to the river means a healthier flow for the mighty Flint and a new achievement for the hardworking and dedicated group.

Although the work and challenges faced by the group are still ongoing, the coalition has already helped create an increased awareness of the critical role played that the Flint River plays for both agriculture and community drinking water in Georgia.

Their success was highlighted by the Georgia Water Coalition, an environmental nonprofit group, in its annual Clean 13 report of 2019, who named the Upper Flint Working Group one of the year's "Clean Water Heroes."

As the story of the Upper Flint River Working Group shows, **no issue is too hard to challenge when we find the right partnerships, build bridges with related organizations, and collaborate toward our shared goals.**

Citizen Suit Citations

^[1] Clean Water Act (CWA) § 505, 33 U.S.C. § 1365; Clean Air Act § 304, 42 U.S.C. § 7604; Resource Conservation and Recovery Act (RCRA) § 7002, 42 U.S.C. § 6972; Comprehensive Environmental Response, Compensation, and Liability Act § 310, 42 U.S.C. § 9659; Safe Drinking Water Act § 1449, 42 U.S.C. § 300j-8; Toxic Substances Control Act § 20, 15 U.S.C. § 2619.

^[2] Zygmunt Plater, *Things I Learned From a Very Small Fish*, TEDx Talks, <https://www.youtube.com/watch?v=55nVQWiC2bw>.

^[3] CWA § 505(a)(1), 33 U.S.C. § 1365(a)(1).

^[4] 33 U.S.C. § 1365(a)(2).

^[5] *E.g., Gwaltney of Smithfield, Ltd. v. Chesapeake Bay Found.*, 484 U.S. 49 (1987) (Clean Water Act case). Because of slightly different statutory language, it remains uncertain whether this limitation applies to Clean Air Act citizen suits.

^[6] 42 U.S.C. § 6972 (a)(1)(B).

^[7] 42 U.S.C. § 6972(a)(1)(B).

^[8] 33 U.S.C. § 1365(b)(1)(B).

^[9] U.S.C.A. Const. Art. III § 2, cl. 1.

^[10] *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 528 U.S. 167, 181-82 (2000).

¹¹¹ *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.*, 528 U.S. 167, 181-82 (2000).

¹²¹ 33 U.S.C. § 1365(b)(1)(A).

¹³¹ 40 C.F.R. § 135.2.

¹⁴¹ 40 C.F.R. § 135.2.; 40 C.F.R. § 19.4.

¹⁵¹ 33 U.S.C. § 1365(a).

¹⁶¹ Supplemental environmental projects are projects implemented by the permit violator that are designed to benefit the community impacted by the illegal discharges. *Supplemental Environmental Projects*, EPA, <https://www.epa.gov/enforcement/supplemental-environmental-projects-seps>.

Appendices

Appendix A: Legal Resources

Appendix B: Contact Information

Appendix C: Sample Forms

Appendix C-1: Sample Freedom of Information Act (FOIA) Request

Appendix C-2: Sample Open Records Act Request

Appendix C-3: Sample Complaint Form

Appendix C-4: Sample Pollution Logs

Appendix C-5: Sample Public Comment Letter

Appendix D: Resources for Coastal Georgia

Appendix E: Community Science Resources

Appendix F: Glossary of Environmental Justice Terms

Appendix G: The 17 Principles of Environmental Justice

Appendix A: Legal Resources

Legal Representation

The **Environmental Law Institute (ELI) Pro Bono Clearinghouse** connects attorneys and communities to tackle environmental problems. For more information or to be connected with an attorney or law clinic regarding your community's concerns, submit a form at ELI Pro Bono Clearinghouse's **contact page** for communities and organizations.

Federal Laws

United States Code: Official law of the U.S. (for example, the Clean Air Act).

- Official website: <https://www.govinfo.gov/app/collection/USCODE>
- User friendly version: www.law.cornell.edu/uscode

Code of Federal Regulations: Regulations created by federal governmental agencies (for example, the EPA).

- Official website: <https://ecfr.federalregister.gov/>
- User friendly version: www.law.cornell.edu/cfr

Agenda of Regulatory Actions: Yearly Plans for actions for federal agencies.

- <https://www.reginfo.gov/public/do/eAgendaMain>

Free U.S. Supreme Court Opinions:

- Official Reporter (1754-2003): <https://www.loc.gov/collections/united-states-reports>
- Opinions and Arguments of all Supreme Court cases: <https://www.oyez.org/cases/2020>

Free Federal Court Opinions:

- <https://law.justia.com/cases/federal>
- **Note:** Georgia is located in the Eleventh Circuit

State Laws

Official Code of Georgia Annotated: Official law of the state of Georgia.

- www.lexis-nexis.com/hottopics/gacode/default.asp

Georgia Regulations: Regulations created by state governmental agencies (for example, Georgia Department of Natural Resources).

- <https://rules.sos.state.ga.us/gac/>

Proposed Georgia Regulations: Information about upcoming regulations is available on each of the relevant agencies' websites with instructions on how to comment.

- **Environmental Protection Division:** <https://epd.georgia.gov/public-announcements>
- **Coastal Resources Division:** <https://coastalgadnr.org/> at the bottom of the page is an updated listing of the "Public Meetings" and "Public Notices."

Free Georgia Court Opinions:

- <https://law.justia.com/cases/georgia/>

Local Laws

Municipal and County Codes:

- <https://library.municode.com/ga>
- **Note:** Municode does not include codes from all Georgia counties. For more information about using Municode, see **Land Use Planning and Zoning**.

County or City Websites:

- Information on local council meetings is often available on their official websites, and sometimes on county, town, or city social media pages as well.

Appendix B: Contact Information

This page provides a range of contact information for legislators, government agencies and departments, and various environmental, social justice, and community interest organizations that address the issues presented in the EJ Green Book.

- [Legislators](#) (federal and state)
- [Federal Governmental Agencies](#)
- [State Governmental Agencies](#)
- [Environmental, Social Justice, and Community Interest Groups](#)
- [Community Health Agencies in Selected Georgia Counties](#)

Legislators

Federal Legislators

Find federal elected officials here: <https://www.usa.gov/elected-officials>

State Legislators

Find state legislators here: https://openstates.org/find_your_legislator/

Federal Government

Agency for Toxic Substances and Disease Registry, Region 4

Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303
(770) 488-3000
www.atsdr.cdc.gov

Centers for Disease Control

1600 Clifton Road NE
Atlanta, GA 30333

(404) 639-3534 / (800) 232-4636
www.cdc.gov

Natural Resources Conservation Service

355 East Hancock Avenue
Athens, GA 30601
(706) 546-2272
www.ga.nrcs.usda.gov

U.S. Army Corps of Engineers—Savannah District

100 W. Oglethorpe Avenue
Savannah, GA 31401
(912) 652-5893
[serves portions of Georgia]
www.sas.usace.army.mil

U.S. Army Corps of Engineers—Jacksonville District [serves portions of Georgia]

701 San Marco Blvd.
Jacksonville, FL 32207
(904) 232-2568
www.saj.usace.army.mil

U.S. Army Corps of Engineers—Mobile District [serves portions of Georgia]

P.O. Box 2288
Mobile, AL 36628
(251) 690-2505
www.sam.usace.army.mil

**U.S. Environmental Protection Agency
Region 4**

Sam Nunn Atlanta Federal Center
61 Forsyth Street SW
Atlanta, GA 30303
(404) 562-9900
www.epa.gov/region4

**U.S. Fish and Wildlife Service
Southeast Region 4**

1875 Century Blvd., Room 230
Atlanta, GA 30345
(404) 679-4000
www.fws.gov/southeast

**U.S. Food and Drug Administration
SE Region**

60 Eighth Street NE
Atlanta, GA 30309
(404) 253-1175
www.fda.gov

State Government

Georgia Department of Community Affairs

60 Executive Park South, NE
Atlanta, GA 30329
(404) 679-4840; 1-(800) 436-7442
www.dca.ga.gov

Georgia Department of Community Affairs

Historic Preservation Division

60 Executive Park South NE
Atlanta, GA 30329
(404) 679-4840; 1-(800) 436-7442
www.dca.ga.gov/georgia-historic-preservation-division

Georgia Department of Community Health

2 Martin Luther King Jr. Dr. SE
Atlanta, GA 30334
(404) 656-4507
www.dch.georgia.gov

Georgia Department of Public Health

200 Piedmont Ave. SE
Atlanta, GA 30334
(404) 657-2700
www.dph.georgia.gov

Georgia Department of Public Health, Environmental Health & Injury Prevention Branch

200 Piedmont Ave. SE
Atlanta, GA 30334
(404) 657-6534

<https://dph.georgia.gov/environmental-health>

Georgia Department of Natural Resources

Coastal Resources Division

One Conservation Way
Brunswick, Georgia 31510
(912) 264-7218
<https://coastalgadnr.org/>

Georgia Department of Natural Resources

Environmental Protection Division

2 Martin Luther King Drive
Suite 1152 East Tower
Atlanta, GA 30334
(404) 657-5947
www.epd.georgia.gov
[different subdivisions handle air, land and water issues]

Georgia Department of Natural Resources

Wildlife Resources Division

2067 U.S. Hwy. 278 SE
Social Circle, GA 30025
(706) 557-3333
Ranger Hotline (to report poaching):
800-241-4113
www.georgiawildlife.com

Georgia Public Service Commission

244 Washington Street SW
Atlanta, GA 30334-9052
(404) 656-4501

Toll-free in Georgia: (800) 282-5813

Email: gaps@psc.ga.gov

www.psc.ga.gov

Environmental, Social Justice, and Community Interest Groups

Altamaha Riverkeeper

127 F Street Suite 204
Brunswick, GA 31520
(404) 985-9606
www.altamahariverkeeper.org

American Civil Liberties Union (ACLU) of Georgia

Post Office Box 570738
Atlanta, GA 30357
info@acluga.org
www.acluga.org

Anthropocene Alliance

105 NE Bay Ave
Micanopy, FL 32667
(617) 583-3457
info@anthropocenealliance.org
<https://anthropocenealliance.org/>

Birds Georgia

825 Warner St. SW, Ste. B
Atlanta, GA 30310
(678) 973-2437
www.birdsgeorgia.org

Center for a Sustainable Coast

221 Mallory Street, Suite B
St. Simons Island, GA 31522
(912) 689-4471
susdev@gate.net
www.sustainablecoast.org

Chattahoochee Riverkeeper, Atlanta Office

6020 River View Rd., Ste. 100
Smyrna, GA 30126
(404) 352-9828
info@chattahoochee.org
www.chattahoochee.org

Chattahoochee Riverkeeper, Middle Chattahoochee Region Office

300 Kingfisher Lane
LaGrange, GA 30240
(404) 352-9828

Chattahoochee Riverkeeper, Headwaters Office

104 Washington Street SE
Gainesville, GA 30501
(404) 352-9828

Chattooga Conservancy

867 Chattooga Ridge Rd
Mountain Rest, SC 29664
(864) 647-9849
www.chattoogariver.org

Coosa River Basin Initiative (CRBI)

5 Broad Street
Rome, GA 30161
(706) 232-2724
www.coosa.org

Dogwood Alliance

P.O. Box 7645
Asheville, NC 28802
(828) 251-2525
info@dogwoodalliance.org
www.dogwoodalliance.org

ECO-Action (Environmental Community Action, Inc.)

250 Georgia Avenue, SE
Suite 212
Atlanta, GA 30312
(404) 584-6499
www.eco-act.org

Environment Georgia

P.O. Box 5207

Atlanta, GA 31107
(404) 370-1764
www.EnvironmentGeorgia.org

**The Environmental Justice Academy
Alumni Association**
ejalumni4@gmail.com
[https://sites.google.com/view/ej-
academy-alumni-assoc/](https://sites.google.com/view/ej-academy-alumni-assoc/)

**The Environmental Protection
Network**
P.O. Box 42022
Washington, DC 20015
[info@environmentalprotectionnetwor
k.org](mailto:info@environmentalprotectionnetwork.org)
[https://www.environmentalprotection
network.org/](https://www.environmentalprotectionnetwork.org/)

**Federation of Southern
Cooperatives/Land Assistance Fund**
2769 Church Street
East Point, GA 30344
(404) 765-0991
www.federation.coop

Flint Riverkeeper
102 Pine Avenue
Albany, GA. 31701
(229) 435-2241
www.flintriverkeeper.org

Georgia Community Coalition
(678) 733-1479
coakley_pendergrass@att.net
[https://www.facebook.com/GeorgiaC
ommunityCoalition](https://www.facebook.com/GeorgiaCommunityCoalition)

The Georgia Conservancy
230 Peachtree Street NW
Suite 2275
Atlanta, GA 30303
(404) 876-2900
www.georgiaconservancy.org

Georgia Conservation Voters
565 Northside Dr. SW
Atlanta, GA 30310
(404) 955-7013
hello@gcvoters.org
www.gcvoters.org

**Georgia First Amendment
Foundation**
7742 Spalding Drive, Suite 209
Norcross, GA 30092
info@gfaf.org
www.gfaf.org

Georgia ForestWatch
81 Crown Mountain Place
Building C, Suite 200
Dahlonega, GA 30533
(706) 867-0051
info@gafw.org
www.gafw.org

Georgia Interfaith Power and Light
701 S Columbia Dr.
Campus Box 326
Decatur, GA 30030
(404) 377-5552
info@gipl.org
www.gipl.org

Georgia River Network
126 South Milledge Avenue, Suite E3
Athens, GA 30605
(706) 549-4508
info@garivers.org
www.garivers.org

Georgia Solar Energy Association
1199 Euclid Avenue
Atlanta, GA 30307
(404) 522-4775
admin@gasolar.org
www.gasolar.org

Georgia WAND

250 Georgia Avenue
Suite 202
Atlanta, GA 30312
(404) 524-5999
info@georgiawand.org
www.gawand.org

Georgia Water Coalition

Part of the Georgia River Network
126 South Milledge Avenue, Suite E3
Athens, GA 30605
706-549-4508
info@garivers.org
www.gawater.org

Georgia Wildlife Federation

11600 Hazelbrand Road NE
Covington, GA 30014
(770) 787-7887
info@gwf.org
www.gwf.org

Glynn Environmental Coalition

P. O. Box 2443
Brunswick, Georgia 31521
(912) 466-0934
GEC@glynnenvironmental.org
www.glynnenvironmental.org

Morehouse School of Medicine

720 Westview Drive SW
Atlanta, GA 30310
(404) 752-1500
www.msm.edu

**National Association for the
Advancement of Colored People
(NAACP) – Atlanta Chapter**

1147 Calhoun Avenue
Atlanta, GA 30344
(404) 524-0580
www.atlantanaacp.org

**National Association for the
Advancement of Colored People
(NAACP) – Georgia Chapter**

1691 Phoenix Blvd., Ste. 150
College Park, Georgia 30349
(404) 577-8977
statesecretarygscnaacp@gmail.com
www.georgianaacp.org

Newtown Florist Club

1064 Desota St SE
Gainesville, GA 30501
(770) 718-1343
newtown193@gmail.com
[www.facebook.com/NewtownFloristC
lub/](http://www.facebook.com/NewtownFloristClub/)

Ogeechee Riverkeeper, Inc.

Post Office Box 16206
Savannah, GA 31416
1-866-942-6222
info@ogeecheeriverkeeper.org
www.ogeecheeriverkeeper.org

One Hundred Miles

P. O. Box 2056
Brunswick, GA 31521
912-264-4111
www.onehundredmiles.org

Partnership for Southern Equity

667 Fairburn Rd. NW
Atlanta, GA 30331
(678) 383-7774
info@psequity.org
www.psequity.org

The Peoples 'Agenda

501 Pulliam St SW #310
Atlanta, GA 30312
(404) 653-1199
info@thepeoplesagenda.org
www.thepeoplesagenda.org

Peopletown Revitalization Corporation

1044 Washington Street
Atlanta, GA 30315
(404) 521- 9070

Sapelo Island Cultural and Revitalization Society (SICARS)

P.O. Box 6
Sapelo Island, GA 31327
(912) 485-2197
sicarsoffice@sicars.org
www.sicars.org

Satilla Riverkeeper

5700 Okefenokee Swamp Park Rd.
Waycross, GA 31503
(912) 421-8972
riverkeeper@satillariverkeeper.org
www.satillariverkeeper.org

Savannah Riverkeeper

P.O. Box 60
Augusta, GA 30903
(706) 826-8991
info@savannahriverkeeper.org
www.savannahriverkeeper.org

The Sierra Club

Georgia Chapter
PO Box 1281
Decatur, GA 30031
(404) 607-1262
georgia.chapter@sierraclub.org
www.sierraclub.org/georgia

Southern Alliance for Clean Energy (SACE)

PO Box 1842
Knoxville, TN 37901
(865) 235-1448
www.cleanenergy.org

Southern Christian Leadership Conference

320 Auburn Avenue NE
Atlanta, GA 30303
(404) 522-1420
info@nationalsclc.org
www.nationalsclc.org

Southern Environmental Law Center

Ten 10th Street NW, Suite 1050
Atlanta, GA 30309
(404) 521-9900
www.southernenvironment.org

Southface

241 Pine St NE
Atlanta, GA 30308
(404) 872-3549
www.southface.org

St. Marys Riverkeeper

300 Osborne St
St. Marys, Georgia 31558
(904) 875-6255
www.stmarysriverkeeper.org

St. Marys Earthkeepers

902 Ann St.
St Marys, GA 31558
(912) 322-7367

Suwanee Riverkeeper/WWALS Watershed Coalition

P.O. Box 88
Hahira, GA 31632
(229) 242-0102
wwalswatershed@gmail.com
www.wwals.net

The Turner Environmental Law Clinic

Emory School of Law
1301 Clifton Road
Atlanta, GA 30322

(404) 727-5542

www.law.emory.edu/turnerclinic

West Atlanta Watershed Alliance

1442 Richland Rd. SW

Atlanta, GA 30310

404-752-5385

info@wawa-online.org

www.wawa-online.org

The Wilderness Society

Southeast Headquarters

71 Broadway, Suite 203

Asheville, NC 28801

(828) 505-7977

www.wilderness.org

Community Health Agencies in Selected Georgia Counties

To find a community health clinic in your area, search the Georgia Primary Care Association's **listings**. The Georgia Primary Care Association is comprised of all the Federally Qualified Health Centers in Georgia, and works to improve access to primary medical care for medically underserved Georgians.

Bibb County

Macon-Bibb County Public Health

1600 Forsyth Street
Macon, GA 31201
(478) 745-0411

<https://northcentralhealthdistrict.org/macon-bibb-county-health-department/>

Chatham County

Chatham County Health Department, Midtown Clinic

1602 Drayton St.
Savannah, GA 31406
(912) 356-2441
www.gachd.org/counties/chatham_county_health_department/

Chatham County Health Department, Eisenhower Clinic

1395 Eisenhower Drive
Savannah, GA 31406
(912) 651-2587
www.gachd.org/counties/chatham_county_health_department/

Chatham County Environmental Health Department

1395 Eisenhower Dr.
Savannah, GA 31406
(912) 356-2160
www.gachd.org/counties/chatham_county_health_department/

Chatham CARE Center/Infectious Disease Clinic

107 B Fahm St.
Savannah, GA 31401
(912) 651-2253
www.gachd.org/counties/chatham_county_health_department/

Dougherty County

Dougherty County Health Department

1710 S. Slappey Blvd.
P.O. Box 3048
Albany, GA 31706
(229) 438-6424
www.southwestgeorgiapublichealth.org/dougherty/

Dougherty County Environmental Health

240 Pine Avenue, Suite 360

Albany, GA 31702-1827
(229) 438-3943
www.southwestgeorgiapublichealth.org/dougherty/

Southwest Georgia Public Health

District 8-2
1109 North Jackson Street
Albany, GA 31701
(229) 352-4275
www.southwestgeorgiapublichealth.org/

Fulton County

Fulton County Department of Public Health

10 Park Place, South SE
Atlanta, GA 30303
(770) 520-7500
www.fultoncountygga.gov/services/health-services/public-health

Adamsville Regional Health Center

Fulton County Department Public Health
3700 Martin Luther King Jr. Drive SW
Atlanta, GA 30331
(770) 520-7323

Center for Health and Rehabilitation

Fulton County Department of Public Health
265 Boulevard NE
Atlanta, GA 30312
(404) 665-8600

Willie J. Freeman College Park Regional Health Center

Fulton County Department of Public

Health
1920 John Wesley Avenue
College Park, GA 30337
(770) 520-7201

Neighborhood Union Health Center

Fulton County Department of Public Health
186 Sunset Ave.
Atlanta, GA 30314
(770) 520-7351

North Fulton Regional Health Center

Fulton County Department of Public Health
3155 Royal Drive, Suite 125
Alpharetta, GA 30022
(770) 520-7241

North Fulton Service Center

Fulton County Department of Public Health
7741 Roswell Road
Sandy Springs, GA 30350
(404) 612-6372

Oak Hill Child, Adolescent, and Family Health Center
Fulton County Department of Public Health

2805 Metropolitan Parkway SW
Atlanta, GA 30315
(404) 612-4111

Glynn County

Glynn County Environmental Health
1725 Reynolds Street, Suite 105
Brunswick, GA 31520
(912) 279-2940
www.gachd.org/glynn_county_food_service_perm/

Glynn County Health Department
2747 Fourth Street
Brunswick, GA 31520
(912) 264-3961
www.gachd.org/counties/glynn_county_health_department_1/

Glynn County Health Department CARE Center
2747 Fourth Street, #101
Brunswick, GA 31520
(912) 264-3236
www.gachd.org/counties/glynn_county_health_department_1/

Richmond County

Richmond County Health Department
950 Laney-Walker Blvd.
Augusta, GA 30901
(706) 721-5800
<https://ecphd.com/counties/richmond-county-health-department/>

Richmond County Health Department, Environmental Health Section
1916 North Leg Road, Building K
Augusta, GA 30909
(706) 667-4234

Richmond County Health Department, South Augusta Clinic
2420 Windsor Spring Road
Augusta, GA 30906
(706) 721-5800

Richmond County Health Department, Laney Walker Clinic
950 Laney-Walker Blvd.
Augusta, GA 30901
(706) 721-5800

Appendix C-1: Sample Freedom of Information Act (FOIA) Request

In the sample letter below, instructions are in **bolded green text** to indicate where you need to add information.

You can submit a FOIA request via the mail, e-mail, or online through an agency website or [FOIA.gov](https://www.foia.gov). If you use the mail, e-mail, or directly through an agency website, change the subject line to state how you sent in the request.

[Insert date]

[Insert agency address]

RE: *Freedom of Information Act Request [by mail/e-mail/online]*

Dear Freedom of Information Act Officer:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and relevant U.S. Environmental Protection Agency (EPA) regulations set forth in 40 C.F.R. §§ 2.100—2.108 (part 2, subpart A), I hereby request disclosure of records.

[This sample letter is directed to the EPA. If you are requesting records from a different agency than the EPA, you do NOT need to change any citations that start with “5 U.S.C. § 552.” These are citations to the Freedom of Information Act itself.]

Each agency will have their own regulations that state how they will respond to FOIA requests. This example cites to the EPA’s regulations. If you are writing a request to a different agency than the EPA, find the agency’s FOIA regulations on the agency’s website and replace the “40 C.F.R. §§ 2.100—2.108 (part 2, subpart A)” and any other cites that begin “40 C.F.R.” with the appropriate agency regulations. If you are having trouble finding the agency’s FOIA regulations, contact the agency, the Turner Clinic, or SELC for help.]

I: Records Request

Please produce the following records¹ in the possession, custody, or control of EPA:

¹ “Records” means anything denoted by the use of that word or its singular form in the text of FOIA and includes correspondence, minutes of meetings, memoranda, notes, reports, emails, notices,

1. **[Describe documents requested as specifically as possible. Separate categories of documents into numbered paragraphs.]**

EPA is required to issue written documentation in response to information requests within twenty working days from the date the request is received and logged in by EPA, stating which records will, and which will not, be released and the reason for any denial of any portion of this request. 40 C.F.R. 2.104(a), (i). **[See the note above about changing these citations to be specific to agencies other than the EPA.]**

If it is your position that records exist that are responsive to this request, but that those records (or portions thereof) are exempt from disclosure under FOIA, please identify the records that are being withheld and state the basis for denial for each record (or portion) being withheld. In addition, please provide the non-exempt portions of the records.

Time is of the essence with respect to this request. Accordingly (and pursuant to 5 U.S.C. § 552(a)(7)(B)), we respectfully request the estimated date upon which you will complete action on this FOIA request. In addition, we request to be informed of the tracking number of this FOIA request as soon as one has been assigned. Please either email responsive records to me at **[insert your email address]** or email me to request a link to a Dropbox folder where you can upload the records. Please release responsive records to me on a rolling basis. If you determine that any of the records described are already publicly available, please let me know where to find them.

To the extent that EPA can do so, I request to be furnished with electronic copies of the above requested documents so as to minimize the expense and burden of copying. In the event that files cannot be transmitted electronically, please send the requested documents to the following address:

[Your Address]

II: Request for Waiver or Reduction of Fees

Pursuant to 40 C.F.R. § 2.107(l) **[See the note above about changing these citations to be specific to agencies other than the EPA.]** and 5 U.S.C. § 552(a)(4)(A)(iii), I hereby request a waiver of all fees and other costs related to locating and tendering the records requested, because disclosure of the requested records would be in the public interest. FOIA mandates a waiver or reduction of fees associated with a request if “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the

facsimiles, charts, tables, presentations, orders, filings, and other writings (handwritten, typed, electronic, or otherwise produced, reproduced, or stored). **[Make sure to include this footnote! It is important to define what you mean by ‘records,’ and this is a good definition.]**

operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). “Congress amended FOIA to ensure that it be ‘liberally construed in favor of waivers for noncommercial requesters.’” *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (internal citation omitted); see *Natural Res. Def. Council v. United States Env'tl. Prot. Agency*, 581 F. Supp. 2d 491, 498 (S.D.N.Y. 2008).

Under 40 C.F.R. § 2.107(l) **[See the note above about changing these citations to be specific to agencies other than the EPA.]**, EPA considers six factors in acting on fee waiver requests. Each of these factors supports a fee waiver in this instance:

1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government. **[Explain why the records you are requesting are about actions taken by the government, even if obvious.]**
2. The disclosure should be “likely to contribute” to an understanding of government operations or activities. **[Explain why the records you are requesting will help you understand how the government works, even if obvious.]**
3. The disclosure must contribute to the understanding of the public at large, as opposed to the requester or a narrow segment of interested persons. **[Explain why making the records you are requesting public would be valuable to other people or organizations, even if obvious.]**
4. The disclosure must contribute “significantly” to the public understanding of government operations. **[Explain what the records you requested can provide information about, even if obvious.]**
5. The disclosure will not serve my commercial interest. **[Explain why you will not be making money from the records you requested, even if obvious.]**
6. The public interest in disclosure far outweighs the commercial interest. **[Explain why you will not be making money from the records you requested and summarize why disclosure of the records is important, even if obvious.]**

In light of the above, I believe that this request falls squarely within the guidelines for fee waivers pursuant to 40 C.F.R. § 2.107(l) **[See the note above about changing these citations to be specific to agencies other than the EPA.]** and 5 U.S.C. § 552(a)(4)(A)(iii), and request a waiver of all fees for locating and duplicating the requested records. If, however, a waiver is not granted, then please

advise me of the amount of any proposed search, review, and reproduction charges before those activities are carried out.

III: Conclusion

Thank you for your assistance, and I look forward to your determination within twenty (20) working days, as provided by 40 C.F.R. § 2.104(a) **[See the note above about changing these citations to be specific to agencies other than the EPA.]** EPA staff may contact me at **[Your phone number]** or via email at **[Your e-mail]**, to discuss EPA's response to this request.

Sincerely,

[Insert your name]

Appendix C-2: Sample Open Records Act Request

In the sample letter below, instructions are in **bolded green text** to indicate where you need to add information.

Some agencies have records custodians and regulations that state all open records act requests must be directed to a specific employee called a “records custodian.” Check the website for the agency you are requesting records from to see if they state who to send the request to.

[Insert date]

[Insert agency address]

RE: Open Records Act Request Pursuant to O.C.G.A. §§ 50-18-70, et seq.

To Whom It May Concern:

Pursuant to O.C.G.A. §§ 50-18-70, et seq., I am requesting that you allow me access to inspect and copy any and all public records, as defined in O.C.G.A. § 50-18-70(b)(2), including but not limited to reports, correspondence, facsimiles, electronic mail, computer records, and any other documents that pertain to the following:

[Description: For example, if a new development being built, the name of the development, name of the developer, location of the development, or any other information that will identify what records you are looking for. Be as specific as you can with regard to what records you are asking for. This will help the agency respond more quickly and make sure you *don't get charged for copies of records that aren't helpful.*]

The records provided should include any and all information pertaining to implementation of the **[insert relevant law; for example: Georgia Erosion & Sedimentation Act, the General Construction Discharge Permit]** and any other laws, regulations, or ordinances pertaining to **[insert the issues raised by the project or facility; for example, land disturbing activities]**. **[Provide examples of the documents you want, if possible. For example, please provide me with the Notice of Intent, the Erosion & Sedimentation Plan, any Notices of Violation, receipts demonstrating that the appropriate fees have been paid, other**

documents pertaining to compliance with the applicable laws, photographs of the site, inspection reports, and any other documents regarding the operation of this site. Replace this list with examples of the documents you would like.]

As the Georgia Open Records Act requires, please let me know if search, retrieval, and copying fees are estimated to exceed \$25 before those activities are carried out. **[Agencies are allowed to charge requesters for the time spent looking for the requested documents and for copies (at 10 cents per page) or for electronic media like CDs. The agency is required to notify you if it estimates costs will exceed \$25.]**

As I am sure you are aware, Georgia law does not require Open Records Act requests to be in writing. Nevertheless, I have provided this letter to memorialize my request for the above-referenced records.

If for any reason you determine that certain portions of the requested documents or information are exempt from disclosure under the Georgia Open Records Act, please delete any such allegedly exempt materials and furnish copies of those portions of the documents that are not exempt. If any documents are withheld or portions deleted, please identify those documents, the substance of such documents/deletions and the grounds for withholding such documents or making such deletions. Consent to such deletions in no way waives any right to appeal any determination that may be made concerning the applicability of any exemptions under the Open Records Act.

By law, you are required to make these records available to me within three business days of this request. O.C.G.A. §§ 50-18-70(f) (specifying that the time for a response shall not “exceed three business days”).

If the requested documents are available electronically, please e-mail them to me at **[insert your e-mail address]**. If not, please send the requested documents to the following address:

[Insert your address]

Thank you for your assistance and attention to this request. Please do not hesitate to contact me if you need clarification on this request or have a suggestion on how to access the requested records. I can be contacted at **[insert your phone number]** or **[insert your e-mail]**. I look forward to hearing from you.

Sincerely,

[Your name]

Appendix C-3: Sample Complaint Form

COMPLAINT

I am hereby filing a complaint regarding the problems described below. I request that you or the appropriate member of your agency take action to remedy the situation as soon as possible. I also request that you contact me regarding the resolution of this complaint.

This Complaint is submitted by:

Name: **[Insert your name]**

Phone: **[Insert your phone number]** E-mail: **[Insert your e-mail]**

Date: **[Insert date submitted]** Time: **[Insert time submitted]**

Description of the Problem:

Could this problem involve issues of public health? Yes / No

Category:

Erosion/Sediment

Water Quality

Sewage Spills

Buffers

Stormwater/Flooding

Land Usage

Rezoning Land Usage

Spills

Air Pollution

Dumping

Other

Description: **[Insert brief description of the complaint]**

First noticed: **[Insert date you first noticed the problem]**

Is the violation ongoing? **[Answer whether the issue is ongoing]**

Location: **[Insert the location of the problem]**

Other Information: **[Insert any other information relevant to the problem]**

Other government agencies reported to: **[List any other agencies you reported the problem to]**

Appendix C-4: Sample Pollution Log

SAMPLE POLLUTION LOG

Name: _____ Date: _____

Address: _____

What did you observe? _____

Did anyone else observe this? _____

For how long did you personally observe this activity?

Did the activity continue after you stopped observing it? For how long?

Do you think this activity poses a health risk to you or your community?

Why? _____

Appendix C-5: Sample Public Comment Letter

[Insert date submitted]

[Insert agency address]

RE: [Docket ID Number, Name of Proposal.]

To Whom It May Concern:

Thank you for the opportunity to provide comments on [the proposal]. I am [introduce yourself or your group, whoever the comments are from. Give a few sentences about your background, your credentials, and why you are interested in this proposal. If you are commenting because you live near a proposed landfill, for example, say exactly how close your home is to the landfill: *"I have lived in Town, Georgia, for twenty years, and my home is less than three miles from the proposed landfill site."*].

I would like to [state the purpose of your comment. Do you want to raise concerns, suggest an alternative, or ask the agency to consider something specific about the project? Make sure to clearly state what you want the agency to do! In our landfill example, you might say *"I would like to ask that you deny this proposed landfill's permit, for the following reasons:"*].

1. [First (the most important) reason why the agency should do what you want. Keep each reason a separate number or bullet point. Include all the information you have that supports this point. It's okay for each point to be several paragraphs, or even pages. Reference any sources, like newspaper articles, that support your position. You can put references in footnotes or include a bibliography (a list of your sources) after your signature.]

2. [Second reason why the agency should do what you want.]

3. [Put as many reasons as you have, but try to order them from most important to least important. Make sure to include all your concerns, because if you eventually need to file a lawsuit about this issue, any concerns you do not raise at the commenting stage can be considered "waived," and you won't be able to include them in your lawsuit.]

Therefore, [re-state what you want the agency to do, like deny the permit or choose an alternative site.].

Thank you for the opportunity to comment.

Sincerely,

[Your name or your organization's name. Additional individuals or organizations can also sign on to your comment.]

Appendix D: Resources for Coastal Georgia

Building Resilience: Climate Change and Flooding

As the world becomes warmer, we will experience more frequent and intense weather events. According to NASA, 19 of the 20 hottest years have been recorded since 2001, and scientists estimate the global atmospheric temperature will rise two degrees Celsius by the year 2100.^[1] Warmer temperatures cause land ice to melt, which leads the ocean water to warm and expand and accelerates sea level rise. Since the sea level is rising, storm surge worsens since the water begins at a higher level.

In Savannah, for example, the sea level has risen 10 inches since 1935.^[2] In 1950, the Georgia coast used to flood about every one to three years, but in 2019, the Savannah area flooded 42 times using that same flood threshold.^[3] Coastal Georgia is expected to experience 31% higher sea levels than the national average in 2100, leading to consistent nuisance flooding and damaging homes and businesses.^[4] The **Federal Emergency Management Agency** (FEMA) estimates that just one inch of water can cause \$25,000 of property damage.^[5] While flooding is an obvious concern for coastal communities, flooding will become more common in all areas Georgia as the duration and intensity of rainfall increases.

Beyond property damage, there are other potential environmental and public health hazards after the water recedes. The water and land can be contaminated with dangerous materials such as sharp debris, pesticides, fuel, and untreated sewage. If you reside near an industrial site, you may have an increased risk of exposure to hazardous chemical and waste spills. Toxic mold can spread quickly through water damaged property, and there are crucial steps before and after a storm to protect yourself and your neighbors.

This section will discuss how to build **resilience**, or the ability of a community to recover after hazardous events such as hurricanes and flooding rather than just reacting to impacts. The concept of climate change can be overwhelming, but you are not alone in preparing for and recovering from severe weather events.

Know Your Flood Risk

As climate change leads to increased rainfall, it is not only coastal areas that are at risk of flooding. Sustained rain can cause waterways to overflow or overwhelm inland drainage systems. Climate change, and specifically flood damage, disproportionately impacts people of color and low-income residents. This is in part due to the fact more affordable housing and historically redlined areas are in higher risk flood zones and near industrial sites, but also because landlords are only required to disclose previous flooding or flood risk to tenants only if the property has flooded three times or more in the previous five years.^[6] Before you rent or buy a house, you can check the flood risk of the property at FEMA's **Flood Map Service Center**.

Emergency Preparedness

The American Red Cross outlines what to do before, during and after a flood on its **website**.^[7] It is important that you know your hurricane and flood risk, make an emergency plan, know your evacuation zone, and take safety measures when cleaning your home after a flood. You can download the **FEMA phone application** for weather alerts and specific hazards that impact your area. You can find more information about emergency preparedness in Georgia at Georgia Emergency Management and Homeland Security's **website**.

Review your important documents, make sure to have electronic copies, and strengthen your home by clearing gutters and potentially installing hurricane shutters. Standard homeowners' insurance does not cover flood damage, and although insurance does not prevent damage, it can significantly help as you rebuild and recover. You can learn more about at insurance at **FEMA's National Flood Insurance Program**.

Clean and Retrofit Your Home

If your house has flooded, it is important to review proper clean-up procedures and begin drying out the flooded area within 48 hours before mold grows in the home.^[8] Make sure to take photos of all the damage for insurance purposes.

Even if your house repeatedly floods, there are ways to retrofit your home to prevent future flooding. **FEMA's Homeowners Guide to Retrofitting: Six Ways to Protect Your Home from Flooding** contains guidance on how to protect your property from damage and how local officials and organizations can support you.^[9]

Buyout Programs

If no amount of retrofitting prevents repetitive flooding, or retrofitting is financially infeasible, it may be necessary to move. The FEMA buyout program purchases properties in high risk flood zones, enabling successful applicants to relocate. Contact your local floodplain or housing manager to begin the application. If there is major flood event in your county, there may be opportunities to participate in a local buyout program. After a devastating flood in 2009, for example, Cobb County purchased 75 homes in flood hazard areas.^[10] Learn more about buyout programs at FEMA's **website** or at your county's floodplain and wastewater webpages.

Industrial Spills

If you are concerned about your environment or health as a result of a hurricane or flooding event, there are several organizations that can guide you through various processes. For concerns regarding coastal hazardous waste spills or other pollutant discharges, contact **One Hundred Miles** or your local environmental organization for inland concerns (see **Appendix B: Contact Information**). Learn more about statutes that cover chemical releases and relevant contacts in **Solid Waste Management and Landfill Permitting** and Hazardous Waste, Toxic Substances, and Contamination Land Cleanup.

Appendix D: Resources for Coastal Georgia Citations

^[1] *Global Temperature*, NASA, <https://climate.nasa.gov/vital-signs/global-temperature/>.

^[2] *Relative Sea Level Trend 8670870 For Pulaski, Georgia*, NOAA, https://tidesandcurrents.noaa.gov/sltrends/sltrends_station.shtml?id=8670870.

^[3] *Sea Level Rise and Tidal Flooding in Savannah and Tybee Island, Georgia*, Union of Concerned Scientists (Mar. 30, 2016), <https://www.ucsusa.org/resources/sea-level-rise-and-tidal-flooding-savannah-and-tybee-island-georgia>.

^[4] *Sea Level Rise*, Georgia Sea Grant, <https://gacoast.uga.edu/research/major-projects/sea-level-rise>.

^[5] *The Cost of Flooding*, FEMA <https://www.floodsmart.gov/flood-insurance-cost/calculator>.

^[6] O.C.G.A § 44-7-20.

^[7] *Flood Safety*, American Red Cross, <https://www.redcross.org/get-help/how-to-prepare-for-emergencies/types-of-emergencies/flood.html>.

^[8] Ga. Dep't of Pub. Health, *Creating A Healthy Home: A Field Guide for Clean-Up of Flooded Homes* (2014).

^[9] *Homeowners Guide to Retrofitting: Six Ways to Protect Your Home From Flooding*, FEMA (3d ed. 2014), https://www.fema.gov/sites/default/files/2020-08/FEMA_P-312.pdf.

^[10] Arielle Kass, *Ten Years Later: The epic 2009 flood that submerged metro Atlanta*, Atlanta Journal Constitution (September 18, 2019), <https://www.ajc.com/news/local/ten-years-later-the-epic-2009-flood-that-submerged-metro-atlanta/FwqsjsMsUZXwiQPtnvbHMM/>.

Appendix E: Community Science Resources

Community science refers to public participation in the scientific process, especially to achieve community (rather than institutional) goals.

For communities facing environmental issues, collecting scientific data can be a powerful tool to investigate problems and document environmental and health impacts on communities. These resources provide more information about community science:

Resource	Description	Website
Aneccdata	Aneccdata allows you to locate existing projects as well as design your own. Once you start a project, you can invite your community to join through the Aneccdata app. Using the app, you can collect pictures, record observations, and input other data that will be saved as part of your community project. The website also includes helpful information about best practices for citizen science projects and a community forum.	www.Aneccdata.org
ArcGIS StoryMaps	Esri StoryMaps provide a user-friendly interface that allows users to create interactive maps with photos and text. This is not a data collection tool. Rather, it's an advocacy tool that can be used to communicate your scientific findings to a wide audience. With StoryMaps, you can create a strong visual narrative that's easy to publish and share.	https://storymaps.arcgis.com/ Note: Some features are behind pay wall. For an example of using StoryMaps as an advocacy tool to highlight environmental injustice, see the story "Clearing the Air in the Historic West End": https://storymaps.arcgis.com/

		om/stories/5071792639ef47729fad54da835d37d3
ATL Soil Safety	A partnership between the Saikawa lab at Emory University and Historic Westside Gardens, this project aims to measure the concentration of heavy metals in urban gardens.	https://atlsoilsafety.com/
The Center for Applied Environmental Science	The Center for Applied Environmental Science seeks to advance environmental justice by ensuring that communities and environmental advocates have access to high-quality science and engineering expertise. CAES provides grants to community organizations and NGOs from about \$3,000 to \$30,000 to hire scientists and engineers to assist with permitting and siting decisions, legal challenges, and rulemaking efforts. They have built a roster of over twenty-five experts with a wide range of skills, including air dispersion modeling, watershed modeling, engineering, hydrology, geology, remediation, exposure assessment, acoustics, and urban planning. For more information, please contact Abel Russ: aruss@environmentalintegrity.org .	https://caes.info/
Chattahoochee Riverkeeper Neighborhood Water Watch	Invites citizens in to bring water samples from over 200 designated sampling locations to Chattahoochee Riverkeeper for analysis.	https://chattahoochee.org/our-work/water-quality-monitoring/

CitizenScience.gov	Official government website designed to facilitate crowdsourcing and citizen science across the U.S. The site provides an overview of citizen science, step-by-step guides to participating in projects, and a library of resources and examples. It also provides a searchable catalog of existing projects.	www.citizenscience.gov
Community Collaborative Rain, Hail, and Snow Network (CoCoRaHS)	This organization is dedicated to weather monitoring and mapping, but it also has training videos and slide shows available that may be helpful.	https://www.cocorahs.org/Content.aspx?page=aboutus
CyanoTracker	The University of Georgia's CyanoTracker uses observations from community scientists to gather information about harmful algae blooms in Georgia waters.	http://www.cyanotracker.uga.edu/
ECHO Database	EPA's Enforcement and Compliance History Online (ECHO) database allows users to access the enforcement history of facilities, investigate pollution sources, and search for EPA enforcement cases.	www.echo.epa.gov
EJSCREEN	EPA's EJSCREEN is an environmental justice that provides the agency and the public with environmental and demographic information for a given area.	https://www.epa.gov/ejscreen
Emory HERCULES	HERCULES supports a variety of environmental health research and aims to engage with community stakeholders to inform research and share findings. They provide	https://emoryhercules.com/community/community-resources/

	community resources, including short summaries of research conducted by HERCULES scientists and Atlanta environmental health resources.	
EnviroFacts	This EPA tool allows you to search for multiple forms of environmental information using location, topic searches, program searches, and multisystem searches.	https://enviro.epa.gov/
EnviroMapper	This EPA tool provides similar information to EnviroFacts, but also provides visualization on an interactive map.	https://enviro.epa.gov/enviro/em4ef.home
Environmental Law Institute Case Studies	The Environmental Law Institute published a report analyzing case studies of citizen science programs at environmental agencies focused on air pollution, water pollution, and enforcement of environmental laws using community-collected data.	https://www.eli.org/sites/default/files/eli-pubs/eli-citizen-science-case-study-report.pdf
The Environmental Protection Network	An organization made up of over 550 former EPA staff, the Environmental Protection Network provides free technical assistance to environmental justice communities and organizations to help them navigate EPA processes, other federal processes, and get publicly available data. Volunteers from the Environmental Protection Network can help you interpret EPA publications, permit terms, environmental impact statements, regulations, and policies. To request assistance, please contact Kathy Pope, Development Director	https://www.environmentalprotectionnetwork.org/

	and Community Outreach Associate: kathy.pope@environmentalprotectionnetwork.org .	
EPA's Air Sensor Toolbox	Provides information on air quality monitoring technologies as well as training videos and other resources.	https://www.epa.gov/air-sensor-toolbox
Georgia EPD Adopt-a-Stream	Provides resources to trainers, volunteers, community scientists, and state organizations to help them perform water quality monitoring throughout the state.	https://adoptastream.georgia.gov/
Local Environmental Observer (LEO) Network	LEO is a network of observers and experts that allows users to share observations, raise awareness, engage with experts, and find answers about significant environmental events.	http://www.leonetnetwork.org/en/docs/about/about
Marine Debris Tracker	This mobile app is a partnership between NOAA and the Southeast Atlantic Marine Debris Initiative at the University of Georgia.	http://marinedebris.engr.uga.edu/
MyEnvironment	This EPA online tool allows you to search for environmental information based on your location. It provides summaries on state environmental reports, health risks, air and water quality, land contamination, and other topics.	https://www3.epa.gov/myem/envmap/find.html
My Right to Know App (myRTK)	Part of EPA's Toxics Release Inventory (TRI) Program, the myRTK app allows users to search and identify nearby facilities that report to the TRI Program as well as	https://www.epa.gov/toxics-release-inventory-tri-program/my-right-know-application

	<p>facilities with EPA air, water, or hazardous waste program permits. Users can also see the effects associated with pollutants and the compliance history of discharging facilities.</p>	
SciStarter	<p>Provides a project finder tool for citizens to search for ongoing projects that might match your project focus. If you're interested in citizen science generally, this site also provides citizen science news and other interesting resources.</p>	<p>https://scistarter.org/</p>
Thriving Earth Exchange	<p>Connects communities with scientists who can help them conduct testing and research. Thriving Earth Exchange volunteers help communities define scientific questions, design protocols, collect and analyze data, and apply this scientific knowledge to help with decision-making. Here are examples of current and past projects. For more information, please contact Natasha Udu-gama, Manager, Community and International Relations: NUdu-gama@agu.org.</p>	<p>https://thrivingearthexchange.org/</p>
Zooniverse	<p>Similar to Anecdata, Zooniverse allows users to search for existing projects as well as design new ones, which you can share with neighbors. You can also find resources for how to most effectively design your own project. Zooniverse also has a smartphone app.</p>	<p>https://www.zooniverse.org/</p>

Appendix F: Glossary of Environmental Justice Terms

Activists and advocates often create new terminology to describe issues and concepts related to environmental justice.

Here are some terms that have become more popular in the years preceding this publication. Some terms refer to tangible circumstances and others are aspirational concepts for envisioning a better world.

Climate Justice

Climate justice^[1] is the remediation of the impacts of climate change on poor people and people of color, and compensation for harms suffered by such communities due to climate change. It has global and domestic implications.

Climate justice advocates recognize that climate change (now and in the future) disproportionately affects those in low- or middle-income countries in Africa, Asia, Oceania, Latin America, and the Caribbean who contributed very little to the problem of climate change in comparison to nations like the United States, European nations, and China. Around the world, those with the least ability to respond to the impacts of climate change—the poor and people of color, including island nations and indigenous peoples—will continue to bear the brunt of its effects.

In the United States, climate justice advocates recognize that the poor and people of color in this country will suffer the deepest impacts of climate change, given our legacies of legalized segregation, redlining, and disinvestment that have often left communities of color and the poor on land and in economic circumstances that make them the most vulnerable to climate change. Adding to the disproportionate burden, such communities typically lack the economic resources to easily recover from climate change related events.

Disaster Capitalism

Disaster Capitalism^[2] is the phenomenon of wealthy individuals and corporations exploiting crises to privatize public goods and services while less resourced people are focused on daily survival. Examples of Disaster Capitalism include the privatization of the energy system in Puerto Rico after Hurricane Maria, and the privatization of the public school system in New Orleans after Hurricane Katrina.

Energy Affordability

Energy Affordability^[3] is a metric that indicates whether energy costs are low enough to allow a household to pay for other basic needs (food, shelter, clothing and medical care). Two households in different parts of the country can have identical incomes and energy costs, but one of them could have less Energy Affordability if the cost of living is relatively higher in their area.

Energy Assistance

Energy Assistance^[4] is an umbrella term describing different types of programs aimed at reducing energy insecurity and burden and increasing energy affordability. These programs typically take the form of direct cash assistance (bill discounts, low-income rates, donation programs, crisis assistance), conservation (low-income energy efficiency or weatherization programs to help customers use less energy) or programs that help customers set up payment plans for overdue energy bills (sometimes called “arrears management”).

Energy Assistance Need

Energy Assistance Need^[5] is the total dollar amount of unaffordable customer energy bills in a given area. Understood differently, Energy Assistance Need is the portion of customer energy bills that exceed a set energy burden threshold on an annual basis for *all* the customers in an area. While Energy Affordability and Energy Burden look at individual households, Energy Assistance Need looks at all the customers of a utility or in a particular area together.

Energy Burden

Energy Burden^[6] is how much of your household income you pay for energy. It typically ranges from close to zero to over 15%.

Energy Democracy

Energy Democracy^[7] refers to the idea that communities should have more of a voice and role in decision-making about their energy supply. Energy Democracy can be used synonymously with Energy Equity, but some groups use Energy Democracy to mean that communities should own and control their sources of energy production directly.

Energy Equity

Energy Equity^[8] relates to how accessible and affordable the energy supply is across a population. Typically, low-income households pay a larger proportion of their incomes for energy than other customers. Energy Equity will exist when there the benefits and burdens from energy production and consumption are distributed fairly across the population.

Energy Insecurity

Energy Insecurity^[9] describes the vulnerability of a household to not making energy bill payments on time, being charged late payment fees, and being disconnected from utility services. Another way to think about Energy Insecurity is the inability to meet basic household energy needs.

In general, Energy Insecurity correlates highly with Energy Burden (households who pay a higher percentage of their income for energy are more vulnerable), but assistance programs can reduce Energy Insecurity for households with a high Energy Burden, and households with a low Energy Burden can experience Energy Insecurity due to other economic crises, like the loss of a job.

Energy Justice

Energy Justice^[10] is a broad concept that is closely related to Energy Equity. Energy Justice includes, but not limited to: Energy Burden—the expense of energy expenditures relative to overall household income; Energy Insecurity—the hardships households face when meeting basic household needs; Energy Poverty—a lack of access to energy itself; and Energy Democracy—the notion that communities should have a say and agency in shaping their energy future.

Like Energy Equity, Energy Justice seeks the equitable sharing of benefits and burdens involved in the production and consumption of energy services, fairness in energy decision-making, and informed citizen participation.

Energy Poverty

Energy Poverty^[11] is defined by the U.N. Development Program as the “inability to cook with modern cooking fuels and the lack of a bare minimum of electric lighting to read or for other household and productive activities at sunset.” Tens of thousands of Americans on Native American reservations live without access to basic electricity services.^[12]

Environmental Justice

Environmental Justice^[13] is both an activist movement and field of scholarship that confronts the fact that communities of color often face disproportionate environmental burdens, and environmental laws do not satisfactorily protect such communities from environmental harm.

Environmental Racism

Environmental Racism^[14] refers to the way in which minority group neighborhoods (populated primarily by people of color and members of low socioeconomic groups) are burdened with a disproportionate number of hazards, including toxic waste facilities, garbage dumps, and other sources of environmental pollution and foul odors that lower the quality of life. All around the globe, members of minority groups bear a greater burden of the health

problems that result from higher exposure to waste and pollution. This can occur due to unsafe or unhealthy work conditions where no regulations exist (or are enforced) for poor workers, or in neighborhoods that are uncomfortably close to toxic materials.

Food Justice

Food Justice^[15] refers to healthy food as a human right and seeks to remove structural barriers to that right. Food justice efforts (generally led by indigenous peoples and people of color) work toward universal access to healthy food and toward an end to the structural inequities in access to healthy food that lead to unequal health outcomes.

Some things to be considered from a Food Justice perspective include access to healthy, nutritious, culturally appropriate food; ownership and control of land for food production, credit, knowledge, technology and other resources; the constituent labor of food production; what kind of food traditions are valued; and how colonialism has affected the food system's development.

Food Sovereignty

Food Sovereignty^[16] refers to people's right to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define and control their own food and agriculture systems.

Food System

A Food System^[17] is the entire path that food travels from crop or livestock production all the way to digestion in the stomach. This includes the growing, harvesting, processing, packaging, transporting, marketing, consuming, and disposing of food.

Just Transition

Just Transition^[18] describes a hypothetical transition away from the 'extractive' fossil-fuel economy to a new, 'regenerative' economy (sometimes described as

a ‘circular economy’) that provides dignified, productive, and ecologically sustainable jobs; democratic governance; and ecological resilience.

Water Equity

Water Equity,^[19] like Energy Equity, refers to the unequal distribution of the benefits and harms of water and wastewater systems, including floods and droughts. Water Equity advocates seek fairness in access to safe, clean, and affordable drinking water and wastewater services and the benefits of those services, and resilience to water risks from climate change.

Appendix F: Glossary of Environmental Justice Terms Citations

^[1] Initiative for Energy Justice, *The Energy Justice Workbook*, <https://iejusa.org/section-1-defining-energy-justice/> (last visited Sept. 9, 2020); Daisy Simmons, *What is ‘climate justice’?*, Yale Climate Connections (2020), <https://yaleclimateconnections.org/2020/07/what-is-climate-justice/>

^[2] Editors, *A Primer on Disaster Capitalism, Our New Normal*, In These Times (April 16, 2020), <https://inthesetimes.com/article/disaster-capitalism-coronavirus-naomi-klein-shock-doctrine-medicare-for-all>.

^[3] Hassan Shaban, *Learn the Lingo: Six key energy equity concepts*, <https://empowerdataworks.com/energy/energy-equity-concepts/>.

^[4] Hassan Shaban, *Learn the Lingo: Six key energy equity concepts*, <https://empowerdataworks.com/energy/energy-equity-concepts/>.

^[5] Hassan Shaban, *Learn the Lingo: Six key energy equity concepts*, <https://empowerdataworks.com/energy/energy-equity-concepts/>.

^[6] Hassan Shaban, *Learn the Lingo: Six key energy equity concepts*, <https://empowerdataworks.com/energy/energy-equity-concepts/>.

^[7] Initiative for Energy Justice, *The Energy Justice Workbook*, <https://iejusa.org/section-1-defining-energy-justice/>.

^[8] Partnership for Southern Equity, *Just Energy*, <https://psequity.org/just-energy/>; Anmar Frangoul, *The WEC’s energy trilemma: What is it?*, CNBC (Oct. 13, 2016), <https://www.cnbc.com/2016/10/07/the-wecs-energy-trilemma-what-is-it.html>.

^[9] Hassan Shaban, *Learn the Lingo: Six key energy equity concepts*, <https://empowerdataworks.com/energy/energy-equity-concepts/>.

^[10] Initiative for Energy Justice, *The Energy Justice Workbook*, <https://iejusa.org/section-1-defining-energy-justice/>.

^[11] Hassan Shaban, *Learn the Lingo: Six key energy equity concepts*, <https://empowerdataworks.com/energy/energy-equity-concepts/>.

^[12] Aaron Larson, *Did You Know There Are 60,000 U.S. Citizens Who Lack Access to Electricity?* Power Magazine (Oct. 1, 2020), <https://www.powermag.com/did-you-know-there-are-60000-u-s-citizens-who-lack-access-to-electricity/>.

^[13] Initiative for Energy Justice, *The Energy Justice Workbook*, <https://iejusa.org/section-1-defining-energy-justice/>.

^[14] Vann R. Newkirk II, *Trump's EPA Concludes Environmental Racism Is Real*, The Atlantic (Feb. 28, 2018), <https://www.theatlantic.com/politics/archive/2018/02/the-trump-administration-finds-that-environmental-racism-is-real/554315/>.

^[15] FoodPrint, *Food Justice*, <https://foodprint.org/issues/food-justice/>.

^[16] FoodPrint, *Food Justice*, <https://foodprint.org/issues/food-justice/>.

^[17] International Food Policy Research Institute, *Food Systems*, <https://www.ifpri.org/topic/food-systems>.

^[18] Initiative for Energy Justice, *The Energy Justice Workbook*, <https://iejusa.org/section-1-defining-energy-justice/>.

^[19] US Water Alliance, *The Pillars of Water Equity*, <http://uswateralliance.org/wec/framework>.

Appendix G: The 17 Principles of Environmental Justice

These are the 17 Principles of Environmental Justice, as adopted October 27, 1991, at The First People of Color Environmental Leadership Summit.

Consider introducing these principles, and requesting their adoption, to your community groups and local leaders.

WE THE PEOPLE OF COLOR, gathered together at this multinational People of Color Environmental Leadership Summit, to begin to build a national and international movement of all peoples of color to fight the destruction and taking of our lands and communities, do hereby re-establish our spiritual interdependence to the sacredness of our Mother Earth; to respect and celebrate each of our cultures, languages and beliefs about the natural world and our roles in healing ourselves; to insure environmental justice; to promote economic alternatives which would contribute to the development of environmentally safe livelihoods; and, to secure our political, economic and cultural liberation that has been denied for over 500 years of colonization and oppression, resulting in the poisoning of our communities and land and the genocide of our peoples, do affirm and adopt these Principles of Environmental Justice:

1. Environmental justice affirms the sacredness of Mother Earth, ecological unity and the interdependence of all species, and the right to be free from ecological destruction.

2. Environmental justice demands that public policy be based on mutual respect and justice for all peoples, free from any form of discrimination or bias.
3. Environmental justice mandates the right to ethical, balanced and responsible uses of land and renewable resources in the interest of a sustainable planet for humans and other living things.
4. Environmental justice calls for universal protection from nuclear testing, extraction, production and disposal of toxic/hazardous wastes and poisons and nuclear testing that threaten the fundamental right to clean air, land, water, and food.
5. Environmental justice affirms the fundamental right to political, economic, cultural and environmental self-determination of all peoples.
6. Environmental justice demands the cessation of the production of all toxins, hazardous wastes, and radioactive materials, and that all past and current producers be held strictly accountable to the people for detoxification and the containment at the point of production.
7. Environmental justice demands the right to participate as equal partners at every level of decision-making including needs assessment, planning, implementation, enforcement and evaluation.
8. Environmental justice affirms the right of all workers to a safe and healthy work environment, without being forced to choose between an unsafe livelihood and unemployment. It also affirms the right of those who work at home to be free from environmental hazards.
9. Environmental justice protects the right of victims of environmental injustice to receive full compensation and reparations for damages as well as quality health care.
10. Environmental justice considers governmental acts of environmental injustice a violation of international law, the Universal Declaration On Human Rights, and the United Nations Convention on Genocide.

11. Environmental justice must recognize a special legal and natural relationship of Native Peoples to the U.S. government through treaties, agreements, compacts, and covenants affirming sovereignty and self-determination.

12. Environmental justice affirms the need for urban and rural ecological policies to clean up and rebuild our cities and rural areas in balance with nature, honoring the cultural integrity of all our communities, and providing fair access for all to the full range of resources.

13. Environmental justice calls for the strict enforcement of principles of informed consent, and a halt to the testing of experimental reproductive and medical procedures and vaccinations on people of color.

14. Environmental justice opposes the destructive operations of multinational corporations.

15. Environmental justice opposes military occupation, repression, and exploitation of lands, peoples and cultures, and other life forms.

16. Environmental justice calls for the education of present and future generations which emphasizes social and environmental issues, based on our experience and an appreciation of our diverse cultural perspectives.

17. Environmental justice requires that we, as individuals, make personal and consumer choices to consume as little of Mother Earth's resources and to produce as little waste as possible; and make the conscious decision to challenge and reprioritize our lifestyles to insure the health of the natural world for present and future generations.