



University of Arkansas Division of Agriculture

An Agricultural Law Research Project

## **Applicator Certification & Education Statutes & Regulations**

**Georgia**

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## Applicator Certification & Education

### STATE OF GEORGIA

**1) O.C.G.A. §§ 12-5-23(a)(1)(A), (F), (N), (O), (Q), (R), (a)(3), (c)(15), 12-5-30; Ga. Comp. R. & Regs. r. 391-3-6-.20(9)**

**2) Ga. Comp. R. & Regs. r. 391-3-6-.21(5), 40-16-5, 40-16-6**

*The statutes and Constitution are current through the 2018 regular and special legislative sessions. The statutes are subject to changes by the Georgia Office of Legislative Counsel.*

**1) O.C.G.A. §§ 12-5-23(a)(1)(A), (F), (N), (O), (Q), (R), (a)(3), (c)(15), 12-5-30; Ga. Comp. R. & Regs. r. 391-3-6-.20(9)**

**§ 12-5-23. Powers and duties of board and director as to control of water pollution and surface-water use generally**

(a) In the performance of its duties, the board shall have and may exercise the power to:

(1) Adopt, promulgate, modify, amend, and repeal rules and regulations to implement and enforce the provisions of this article as the board may deem necessary to provide for the control and management of water pollution and surface water use to protect the environment and the health of humans. Such rules and regulations may be applicable to this state as a whole, may vary from area to area, or may vary according to the characteristics of the water pollutants, as may be appropriate, to facilitate the accomplishment of the provisions, purposes, and policies of this article. The rules and regulations may include, but shall not be limited to, the following:

(A) Prescribing the procedure to be followed in applying for permits and requiring the submission of such plans, specifications, verifications, and other pertinent information deemed relevant in connection with the issuance of such permits;

[ . . . ]

(F) Providing minimum standards for treatment of discharges; providing uniform procedures and practices to be followed relating to the application for issuance, modification, revocation and reissuance, and termination of permits for the discharge of any pollutant into the waters of the state;

[ . . . ]

(N) Providing standards for treatment of discharges; providing uniform procedures and practices to be followed relating to the application for issuance, modification, revocation and reissuance, and termination of general permits for the discharge of any pollutant to the waters of the state;

(O) Providing for the uniform procedures and practices to be followed relating to the application for issuance, modification, revocation and reissuance, and termination of permits for the discharge of any storm water into the waters of the state;

[ . . . ]

(Q) Providing for rules and regulations for land disposal;

(R) Providing for matters necessary to carry out the purposes and requirements of this article and relating to the state's participation in the National Pollutant Discharge Elimination System established under the federal Water Pollution Control Act; and

[ . . . ]

(3) Take all necessary steps to ensure the effective enforcement of this article;

[ . . . ]

(5)

(A) By December 31, 2003, the board shall promulgate rules and regulations which establish a fee system designed to offset the costs of the state-wide implementation of the National Pollution Discharge Elimination System general permit or permits for storm-water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of Code Section 12-5-30.

(B) Fees established by the board under this paragraph shall be no less than that which is required to properly administer Chapter 7 of this title, provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity as defined in Code Section 12-7-3.

[ . . . ]

(c) In the performance of his or her duties, the director shall:

[ . . . ]

(15) Perform any and all acts and exercise all incidental powers necessary to carry out the purposes and requirements of this article and of the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., relating to this state's participation in the National Pollutant Discharge Elimination System established under that act and shall administer the fee program established by the board pursuant to paragraph (5) of subsection (a) of this Code section;

[ . . . ]

**§ 12-5-30. Permits for construction, modification, or operation of facilities which discharge pollutants into waters; permits for discharge of dredged or fill material into waters and wetlands; participation in National Pollution Discharge Elimination System**

(a) Any person who owns or operates a facility of any type or who desires to erect, modify, alter, or commence operation of a facility of any type which results or will result in the discharge of pollutants from a point source into the waters of the state shall obtain from the director a permit to make such discharge. Any person desiring to erect, modify, alter, or commence operation of a facility which will result in such discharge but which is not discharging such pollutants as of July 1, 1974, must obtain such permit prior to the discharge of same. Any person who is operating a facility which results in such discharge as of July 1, 1974, may continue to make such discharge pending final action by the director on the application for such discharge permit, provided that such application has been filed with the director by September 29, 1974; and provided, further, that such discharge does not present an immediate health hazard to the public. The director, under the conditions he prescribes, may require the submission of such plans, specifications, and other information as he deems relevant in connection with the issuance of such permits. The director may, after public notice and opportunity for public hearing, issue a permit which authorizes the person to make such discharge, upon condition that such discharge meets or will meet, pursuant to any schedule of compliance included in such permit, all water quality standards, effluent limitations, and all other requirements established pursuant to this article.

(b) Any person desiring to erect or modify facilities or commence or alter an operation of any type which will result in the discharge of pollutants from a nonpoint source into the waters of the state, which will render or is likely to render such waters harmful to the public health, safety, or welfare, or harmful or substantially less useful for domestic, municipal, industrial, agricultural, recreational, or other lawful uses, or for animals, birds, or aquatic life, shall obtain a permit from the director to make such discharge. Any person desiring to erect, modify, alter, or commence operation of a facility which will result in such discharge but which is not discharging such pollutants as of July 1, 1974, must obtain such permit prior to the discharge of same. The director, under the conditions

he prescribes, may require the submission of such plans, specifications, and other information as he deems relevant in connection with the issuance of such permits. The director may, after public notice and opportunity for public hearing, issue a permit which authorizes the person to make such discharge upon condition that such discharge meets or will meet, pursuant to any schedule of compliance included in such permit, all water quality standards, effluent limitations, and all other requirements established pursuant to this article.

(c) The director is authorized to require as conditions in permits issued under subsections (a) and (b) of this Code section the achievement of effluent limitations established pursuant to this article. In imposing effluent limitations as conditions in such permits, the director shall base his determination upon the assessment of technology and processes unrelated to the quality of the receiving waters of this state. Effluent limitations required as conditions of such permits shall be achieved in the shortest reasonable period of time consistent with state law and the Federal Water Pollution Control Act, as amended. The director is further authorized to set schedules of compliance and include such schedules within the terms and conditions of such permits for the discharge of such pollutants into the waters of the state and to prescribe terms and conditions for such permits to assure compliance with applicable effluent limitations and water quality criteria established pursuant to this article, including, but not limited to, requirements concerning recording, reporting, monitoring, entry, and inspection to the extent permissible under this article, and such other requirements as are consistent with the purposes of this article.

(d) Each permit issued under subsections (a) and (b) of this Code section shall have a fixed term set by the director consistent with the federal Clean Water Act of 1977, P.L. 95-217, as now or hereafter amended but not to exceed ten years. Upon expiration of such permit, a new permit may be issued by the director after review by him in accordance with such guidelines as he shall prescribe; after notice and opportunity for public hearing; and upon condition that the discharge meets or will meet, pursuant to any schedule of compliance included in such permit, all applicable water quality standards, effluent limitations, and all other requirements established pursuant to this article. The director is authorized to include in permits issued under this subsection such terms and conditions as are authorized under subsections (a) and (c) of this Code section. The director may revoke, suspend, or modify any permit issued under this subsection or subsection (a) or (b) of this Code section, for cause, including but not limited to the following:

- (1) Violation of any condition of the permit;
- (2) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts;
- (3) Change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

In the event of modification, suspension, or revocation of a permit, the director shall serve written notice of such action on the permit holder and shall set forth in such notice the reason for such action.

(e) Notwithstanding any other provision in this Code section, the director may issue permits, after notice and opportunity for public hearings, for the discharge of dredged or fill material into the waters and wetlands of the state, in accordance with the standards and criteria set forth in Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. Section 1344, as amended by the Clean Water Act of 1977 (P.L. 95-217), upon receiving delegation of such authority, except that this subsection shall not authorize the director to issue permits with respect to projects under review by the United States Army Corps of Engineers as to which a public hearing has been held before July 1, 1974. In administering such a program, the director is empowered with the authority to take such action as is set forth in Section 404(h)(1)(A) through (H) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. Section 1344, as amended by the Clean Water Act of 1977 (P.L. 95-217). No person covered by this subsection shall discharge dredged or fill material into the waters and wetlands of this state except in a manner which complies with this article and Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. Section 1344, as amended by the Clean Water Act of 1977 (P.L. 95-217).

(f) The director may issue general permits for discharges of pollutants from categories of point sources which are subject to the same permit limitations and conditions. Such general permits may be issued without individual applications. At the discretion of the director, numeric effluent limitations and effluent monitoring provisions may be included in general permits or best management practices may be substituted for numeric effluent limitations without a showing that it would be infeasible to include effluent limitations; provided, however, that the director shall incorporate the provisions related thereto as provided in paragraphs (1), (2), and (3) of subsection (a) of Code Section 12-7-6 into any general permit issued for the discharge of storm water from construction activity.

(g) It is declared to be the public policy of this state, in furtherance of its responsibility to protect the public health, safety, and well-being of its citizens and to protect and enhance the quality of its environment, to prevent or mitigate where possible discharges of sediment into the waters of the state. The General Assembly declares its intent to partially fund the execution of the public policy set forth in this subsection and Chapter 7 of this title by and through the division with permit fees for the National Pollution Discharge Elimination System general permit or permits for storm-water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of this Code section. Such fees shall be administered by the division pursuant to rules and regulations established by the board pursuant to paragraph (5) of subsection (a) of Code Section 12-5-23. The General Assembly further declares its intent that the amount of funds provided by such permit fees will not be utilized for any purposes other than the administration of Chapter 7 of this title by the division or a local issuing

authority and the administration of the state general permit defined in Code Section 12-7-3 by the division, which purposes shall specifically include without limitation the study and report required by Code Section 12-7-21; provided, however, that nothing in this subsection shall be construed so as to allow the department to retain any funds required by the Constitution of Georgia to be paid into the state treasury; provided, further, that the department shall comply with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45, the "Budget Act," except Code Section 45-12-92, prior to expending any funds derived from such permit fees.

### **391-3-6-.20 Swine Feeding Operation Permit Requirements For Operations With More Than 3000 Animal Units**

[ . . . ]

#### **(9) Operator Training and Certification Requirements.**

(a) Swine feeding operations are required to have certified operators prior to the feeding of swine.

(b) Swine feeding operators shall be trained and certified by the Georgia Department of Agriculture. Proof of such training, certification, and continuing education shall be maintained by the Department of Agriculture and records provided to the Georgia Environmental Protection Division.

(c) Certification training, agenda, and topics will be determined by the Georgia Department of Agriculture; but will include, at a minimum, best management practices, nutrient management planning, understanding regulations and water quality laws, standards, and practices, siting, pollution prevention, monitoring, and record keeping. Training programs will be structured to address the needs of the operators of differing sizes and various waste management technologies. Continuing education will be required to maintain this certification.

## **2) Ga. Comp. R. & Regs. r. 391-3-6-.21(5), 40-16-5, 40-16-6**

### **391-3-6-.21 Animal Feeding Operation Permit Requirements**

[ . . . ]

#### **(5) Certified Operator - Training and Certification Requirements for Operations With Liquid Manure Handling Systems.**

(a) AFOs shall have certified operators prior to beginning the AFO.

(b) AFO certified operators shall be trained and certified by the Georgia Department of Agriculture. Proof of such training, certification, and continuing education may be maintained by the Department of Agriculture and records provided to the Georgia Environmental Protection Division.

(c) Certification training, agenda, and topics will be determined by the Georgia Department of Agriculture; but will include, at a minimum, best management practices, nutrient management planning, understanding regulations and water quality laws, standards and practices, siting, pollution prevention, monitoring, and record keeping. Training programs will be structured to address the needs of the certified operators of differing sizes and various waste management technologies. Continuing education will be required to maintain this certification.

#### **40-16-5-.01 Definitions**

(1) A Swine Feeding Operator means a person who is designated as such by the owner of a swine feeding operation which is permitted by the Georgia Department of Natural Resources Environmental Protection Division.

(2) An Animal (Non-Swine) Feeding Operator means a person who is designated as such by the owner of a non-swine (dairy layer) feeding operation which handles liquid manure and is permitted by the Georgia Department of Natural Resources Environmental Protection Division.

(3) Animal Feeding Operators will include Swine Feeding Operators and Animal (Non-Swine) Feeding Operators as herein defined.

#### **40-16-5-.02 Application for Animal Feeding Operator Training and Certification**

Application for Animal Feeding Operator Training and Certification shall be made to the Georgia Department of Agriculture on a form approved by the Department.

#### **40-16-5-.03 Animal Feeding Operator Training**

(1) An Animal Feeding Operator shall be considered trained when the applicant successfully completes a minimum of 2 days instruction on the following:

- (a) Understanding state regulations and water quality laws,
- (b) Comprehensive nutrient management planning,
- (c) Best management practices for manure storage, treatment and land application,
- (d) Monitoring and record keeping,



(e) Pollution prevention and alternative treatment systems, and

(f) Odor and atmospheric emissions.

(2) Training will be developed and delivered by the Georgia Cooperative Extension Service or other subject matter experts as deemed appropriate by the Georgia Department of Agriculture. Training will be structured to address the needs of operators of differing sizes and various waste management technologies. The Georgia Department of Agriculture shall approve the use of all such training materials and methods.

#### **40-16-5-.04 Animal Feeding Operator Certification**

(1) An Animal Feeding Operator shall be considered certified when the applicant demonstrates competency in all of the above listed modules including passing a written examination with a minimum score of 70%. Examinations will be structured to address the needs of operators of various production sizes and waste management technologies. The Georgia Department of Agriculture will administer and grade the examinations and shall issue a certificate to the operator upon the successful completion of training and certification.

(a) An Animal Feeding Operator who fails to make a minimum score of 70% on the initial examination may retake an exam up to three (3) times within a twelve (12) month period, after which he or she must complete an instructional course approved by the Georgia Department of Agriculture before taking another exam.

(2) Animal Feeding Operators must receive a minimum of 4 hours continuing education every two years from the date of the original certification. The Georgia Department of Agriculture shall approve all continuing education instruction and materials and will issue certificates of completion indicating the course topic and hours of instruction.

(3) Failure of an Animal Feeding Operator to receive continued education will result in suspension of certification and require recertification.

(4) The Georgia Department of Agriculture has final authority over all training, certification, and continuing education.

(5) The Georgia Department of Agriculture shall provide the Georgia Department of Natural Resources, Environmental Protection Division with a current list of Certified Animal Feeding Operators upon request.

#### **40-16-6-.01 Definitions**

(1) A Certified Nutrient Management Plan (NMP) Specialist is an individual certified by the Georgia Department of Agriculture to develop and modify NMPs for animal feeding

operations in accordance with the Georgia Environmental Protection Division Rules for Water Quality Control, Chapter 391-3-6.

(2) A Certified Conservation Planner is an individual identified by USDA NRCS as being trained according to criteria set forth in section 40-16-6-.03(2) and competent to develop NMPs.

#### **40-16-6-.02 Application for Nutrient Management Plan Specialist Certification**

Application for NMP Specialist Certification shall be made to the Georgia Department of Agriculture (hereafter in this Chapter referred to as "Department") on a form approved by the Department.

#### **40-16-6-.03 Nutrient Management Plan Training**

(1) An individual may apply to the Department for certification provided one of the following training criteria has been met:

(a) Complete a minimum of two days of NMP training and testing approved by the Department and demonstrate competency by developing an acceptable plan, or

(b) Be a current employee of the USDA, Natural Resources Conservation Service (NRCS) or currently receiving technical supervision from a NRCS employee and be identified by such agency as being a "Certified Conservation Planner," or

(c) Be certified as a Certified Conservation Planner through a NRCS recognized program and curriculum by private organization and professional groups.

(2) Training programs must include, but are not limited to the following:

(a) state water quality laws and rules,

(b) manure and waste water handling and storage,

(c) land application of manure and waste water,

(d) site management,

(e) best management practices,

(f) record keeping,

(g) mortality management,

(h) emergency response, and

- (i) closure plans for waste storage systems.

#### **40-16-6-.04 Nutrient Management Plan Certification**

(1) A NMP Specialist shall be considered certified when the applicant demonstrates competency in all of the above listed areas of training. The Department shall issue a certificate to the NMP Specialist upon the successful completion of training and certification.

(2) A NMP Specialist must receive a minimum of 4 hours continuing education every two years from the date of the original certification. The NMP Specialist should assure that education subject matter is pertinent to nutrient management planning and should maintain documenting records. The Department may request the NMP Specialist to provide proof of such continuing education.

- (a) Failure of a NMP Specialist to receive continuing education will result in suspension of certification and may require recertification.

- (b) Each Certified Nutrient Management Plan Specialist certification may be reviewed at least once every three years by the Department. The Department will review NMPs prepared by the specialist. If an individual fails to meet the criteria for the NMP Specialist, the status will be revoked and the individual must be recertified.

(3) The Department has final authority over training, certification and continuing education.

(4) The Department shall provide the Georgia Department of Natural Resources Environmental Protection Division with a current list of Certified Nutrient Management Plan Specialists upon request.