



University of Arkansas Division of Agriculture

An Agricultural Law Research Project

Nutrient Management Plans Statutes & Regulations

Georgia

www.NationalAgLawCenter.org



Nutrient Management Plans

STATE OF GEORGIA

1) O.C.G.A. § 12-5-23(a)(1)(A), (F), (N), (O), (Q), (R), (a)(3), (a)(5), (c)(15); Ga. Comp. R. & Regs. r. 391-3-6-.20(1), (2), (3), (4)(a), (c), (d), (e), (i), (j)(1—4), (m), (q), (r), (5), (8)(a)(3), 391-3-6-.21(1), (2), (3), (4)(a)—(d), (j), (l), (m), (n)

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), (a)(5), (c)(15); Ga. Comp. R. & Regs. r. 391-3-6-.20(1), (2), (3), (4)(a), (c), (d), (e), (i), (j)(1—4), (m), (q), (r), (5), (8)(a)(3), 391-3-6-.21(1), (2), (3), (4)(a)—(d), (j), (l), (m), (n)

§ 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;

[. . .]

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

(1) Purpose. The purpose of this paragraph 391-3-6-.20 is to provide for the uniform procedures and practices to be followed relating to the application for and the issuance or revocation of permits for swine feeding operations with more than 3000 Animal Units. Nothing in this paragraph shall be construed to preclude the modification of any requirement of this paragraph when the Division determines that the requirement is not protective of the environment.

(2) Definitions. All terms used in this paragraph shall be interpreted in accordance with the definitions as set forth in the Act unless otherwise defined in this paragraph or in any other paragraph of these Rules:

(a) "Act" means the Georgia Water Quality Control Act, as amended;

(b) "Swine feeding operation" or "operation" means a lot or facility where swine have been, are, or will be stabled or confined or fed or maintained for a total of at least 45 days in any 12-month period, and the confinement areas do not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season.

(c) "Animal Unit" (AU) is a unit of measurement for any swine feeding operation calculated by the number of swine weighing over 25 kilograms (approximately 55 pounds) multiplied by 0.4.

(d) "Barn" means a structure where confinement feeding (feeding in limited quarters under a roof) occurs. Structures where confinement feeding does not occur are not considered "barns" for the purposes of this rule.

(e) "Certified operator" means any person who has been trained and certified by the Georgia Department of Agriculture and has direct general charge of the day-to-day field operation of a swine feeding operation waste storage and disposal system, and who is responsible for the quality of the treated waste.

(f) "Closure plan" means the plan approved by the Division for clean up and closure of the swine feeding operation and associated waste storage and disposal facilities.

(g) "Concentrated Animal Feeding Operation," or "CAFO," means a swine feeding operation which is defined as a Large CAFO or Medium CAFO by 40 CFR 122.23(4) and (6), or that is designated as a CAFO.

(h) "Existing" applies to that which existed prior to the effective date of this rule. "Existing operation" means a swine feeding operation that was in operation prior to September 15, 2003.

(i) "Freeboard" is the extra depth added to a waste storage lagoon or structure as a safety factor between the designed full depth and the overflow depth. This is the vertical distance below the lowest point of the lagoon or structure berm above which the liquid level must never rise except in the case of a storm event exceeding the design maximum precipitation event.

(j) "Natural Resources Conservation Services" (NRCS) is an agency within the United States Department of Agriculture.

(k) "New" applies to that which existed on or after September 15, 2003. "New or expanding operation" or "new swine feeding operation" means a swine feeding operation the construction or expansion of which is commenced on or after September 15, 2003.

(l) "NRCS guidance" means the latest editions of the Natural Resources Conservation Service (NRCS) Agricultural Waste Management Field Handbook, Part 651, Field Office Technical Guidance Section IV Georgia, and other applicable publications of the NRCS. A certified specialist or trained person may use NRCS guidance to develop or modify a NMP.

(m) "Nutrient Management Plan" (NMP) is a plan which identifies actions or priorities that will be followed to meet clearly defined nutrient management goals at an agricultural operation. Defining nutrient management goals and identifying measures and schedules for attaining the goals are critical to reducing threats to water quality and public health. The NMP should address activities related to compliance with effluent limitations and other permit requirements, including manure handling and storage, land application of manure and wastewater, site management, record keeping, and management of other utilization options. For a swine feeding operation with a liquid manure handling system, the NMP must be

developed or modified by a "certified specialist" as defined by the Division. The Division will specify the requirements for certification. For a swine feeding operation that handles dry manure, the NMP must be developed by a person trained in the subject by an academic or trade organization; it should include emergency response planning and a closure plan for abandonment of any facility used for the treatment or storage of animal waste. The requirements for submittal and approval of the NMP are specified in the following paragraphs.

(n) "Owner" means any person owning any system for waste treatment and disposal at a swine feeding operation. "Owner or operator" means any person who owns, leases, controls, or supervises a swine feeding operation. For the purpose of paragraph 391-3-6-.20 (4) of these rules, if a person intends to operate a swine feeding operation with another entity that owns the swine, directs the manner in which the swine will be housed, or controls the inputs or the other material aspects of the operation, this person shall be the operator and the owner shall be the entity that owns the swine, directs the manner in which the swine will be housed, or controls the inputs or the other material aspects of the operation.

(o) "Permit" means a permit applied for and issued in accordance with the terms and conditions for paragraphs 391-3-6-.06, Waste Treatment and Permit Requirements (individual NPDES permits), or 391-3-6-.11, Land Disposal and Permit Requirements (non-NPDES individual land application system or "LAS" permit), or 391-3-6-.15, Non-Storm Water General Permit Requirements (general NPDES permit), or 391-3-6-.19, General Permit - Land Application System Requirements (non-NPDES general LAS permit), of this Chapter.

(p) "Removed from service" means:

1. The waste storage and disposal facilities no longer receive swine wastes and the facilities are not being serviced or maintained; or
2. The owner or operator informs the Division that the swine feeding operation has been closed and removed from service; or
3. The Division has ordered the facilities closed; or
4. An order has been issued by a court to cease operation and close the facilities.

(q) "Wetted area" or "disposal area" is the land area where swine waste is sprayed, spread, incorporated, or injected so that the waste can either condition the soil or fertilize crops or vegetation grown in the soil.

(r) "100-year, 24-hour storm event" is the maximum 24-hour precipitation event expressed in inches with a probable recurrence interval of once in 100 years, as defined by the National Weather Service of the United States Department of

Commerce in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments.

(s) "100-year flood plain" is the land inundated from a flood whose peak magnitude would be experienced on an average of once every 100 years. The 100-year flood has a 1% probability of occurring in one given year.

(t) "3000 AU" means three thousand animal units. Paragraph 391-3-6-.20 (2)(c) notwithstanding, the numbers of animals in any of the following categories are equivalent to 3000 AU:

1. 7,500 swine each weighing 55 pounds or more,
2. 30,000 swine each weighing less than 55 pounds (immature swine or nursery pigs).

(3) Basic Permit Requirement.

(a) Any person who owns or operates a swine feeding operation with greater than 3000 AU shall obtain a permit from the Division in accordance with the following:

1. Any person who is the owner of a swine feeding operation with more than 3000 AU and uses liquid manure handling must apply for an LAS permit from the Division, unless an NPDES permit is required by 391-3-6-.20 (3)(a)(2).
2. Any person who is the owner of a swine feeding operation with more than 3000 AU and uses liquid manure handling is required to obtain an NPDES permit per 40 CFR 122 if there are discharge(s) to a water of the State excluding subsurface water (groundwater).

(b) Two or more swine feeding operations under common ownership are considered to be a single operation subject to this paragraph if they adjoin each other (are contiguous) or if they use a common area system for the disposal of wastes.

(c) Discharges from a CAFO include discharges of manure, litter, or process wastewater from land application areas under the control of the CAFO that are not exempt as "agricultural storm water discharges." Precipitation-related discharges qualifying as agricultural storm water discharges are not subject to these permit requirements. For discharges from the land application area to qualify as agricultural storm water, manure and wastewater must be applied in accordance with site-specific practices that ensure appropriate agricultural utilization of nutrients under 40 CFR 122.23(e) .

(d) The Division will notify the public of a proposal to grant coverage under a general NPDES permit or a proposed individual NPDES permit and make available for public review and comment the permit application, the notice of intent, the NMP, and the draft terms of the NMP to be incorporated into the permit.

(e) The sale, lease, or other transfer of ownership or operating control of any swine feeding operation with greater than 3000 AU to any other corporate or partnership entity or to any individual person or persons unrelated by blood, marriage, or adoption to the existing operator shall require that a new permit be applied for, in accordance with the applicable paragraph or paragraphs of this rule.

(f) Exclusions from all permit requirements of this paragraph are made for the following facilities unless they are defined as a concentrated animal feeding operation per 40 CFR 122, or the Division has made a case-by-case designation as a concentrated animal feeding operation, and they discharge, in which cases NPDES permitting is required by 40 CFR 122.23:

1. A livestock market, sale barn, stockyard, or auction house where animals are assembled from at least two sources to be publicly auctioned or privately sold on a commission basis and that is under state or federal supervision. However, these facilities are defined as swine feeding operations if they meet the definition of a swine feeding operation in 391-3-6-20(2)(b).

(g) Any person who removes and transports animal waste from its point of origin shall conform to the animal manure handler rules of the Georgia Department of Agriculture.

(4) Permit for Swine Feeding Operations with more than 3000 AU.

(a) New swine feeding operations with more than 3000 AU, or existing operations that are expanding production so that they will have more than 3000 AU, which propose to commence operation after September 15, 2003 must obtain an individual permit in accordance with this paragraph prior to commencing construction for the operation. Permit applications should be submitted 180 days in advance. Any existing swine feeding operation which proposes to expand to more than 3000 AU must obtain an individual permit and comply with the requirements of this paragraph prior to any such expansion or operation of such an expanded facility.

[. . .]

(c) The permit applicant shall have waste storage and disposal systems designed by a professional engineer registered in Georgia, at least as stringently as NRCS

guidance, and shall implement an NMP approved by the Division prior to startup. The permittee shall not start feeding any swine at the permitted operation before obtaining written approval from the Division for startup, subsequent to a final construction inspection by the Division.

(d) The operation must have a certified operator prior to startup. The operator must be trained and certified in accordance with 391-3-6-.20 (9).

(e) The owner or operator shall, after completing a site evaluation and before any site preparation or construction commences, notify all adjoining property owners and all property owners who own property located within one mile of any boundary of the swine feeding operation of that person's intent to construct the swine feeding operation. This notice shall be by certified mail sent to the address on record at the property tax office in the county in which the land is located. The written notice shall include all of the following:

1. The name and address of the person intending to construct a swine feeding operation.
2. The type of swine feeding operation and the design capacity (in number of swine) of the proposed swine waste management system.
3. The name and address of the technical specialist preparing the waste management plan.
4. The address of the local Soil and Water Conservation District office.
5. A statement informing the adjoining property owners and the property owners who own property located within one mile of the proposed swine feeding operation that they may submit written comments or questions to the Division.

In addition, the owner or operator must conduct a minimum of one public meeting to present to the public the proposed project, its purpose, design, and environmental impacts. The meeting date and time must be advertised at least 30 days in advance in local newspapers with circulation covering all areas impacted by the project. Provisions to receive written comments should also be made. Evidence of notification of adjoining property owners, minutes of the public meeting, proof of advertisement, and opinions derived from the meeting must be submitted to the Division. Prior to making a decision on whether to issue a permit, the Division will require the permit applicant to run a notice in the largest newspaper of general circulation in the affected county and will provide a 30-day public comment period. Furthermore, the Division may conduct a public hearing on the application prior to making any final decision.

[. . .]

(i) Barns, waste storage lagoons or structures, and wastewater disposal systems shall not be located within a 100-year flood plain.

(j) The following buffers shall be maintained:

1. 750 feet between disposal area and any residence or places of public assembly under separate ownership,
2. 200 feet between disposal area and property lines,
3. 200 feet between disposal area and water wells,
4. 150 feet between disposal area and drainage ditches, surface water bodies, or wetlands,

[. . .]

(m) The permit may require periodic monitoring of any wet weather ditches or perennial streams which are in close proximity to disposal fields.

[. . .]

(q) These operations are prohibited from using spray irrigation of lagoon or structure effluent. Lagoon effluent must be incorporated into the disposal fields using subsurface injection at a depth not less than 6 inches.

(r) These operations shall be assessed penalties for failure to comply with the terms of this paragraph, the Act, or the individual permit according to the following schedule:

1. Lagoon or structure breach or loss of containment, \$50,000 for the first day and \$100,000 per day for each day within a 12 month period thereafter during which a release occurs.
2. Land disposal field runoff, \$25,000 per day.
3. Discharge to ground water on site causing ground water to exceed any maximum contaminant limits in Georgia's Rules for Safe Drinking Water, \$5,000 per day.
4. Discharge to ground water causing increases of pollutant concentrations at the property line above ambient levels, \$5,000 per day and immediate cessation of land disposal.

5. Second occurrence of any of the failures to comply specified above in paragraph 391-3-6-.20 (4)(r)(1),(2),(3),or(4), immediate revocation of the individual permit and assessment of the appropriate penalty.

[. . .]

(5) Degree of Pollutant Treatment Required and Alternative Technology.

(a) The owner or operator of any swine feeding operation covered by rule 391-3-6-.20 shall ensure that all wastes from a swine feeding operation shall receive such treatment or corrective action so as to ensure compliance with the terms and conditions of the permit.

(b) If retrofitting the waste handling storage and disposal system of any swine feeding operation covered by 391-3-6-.20 with alternative technology becomes economically achievable, the Director may require any swine feeding operation to eliminate lagoons or structures or spray fields. Alternative technologies may include, but are not limited to:

1. Drying/dewatering in greenhouse - type facilities,
2. Composting by in-vessel method,
3. Mechanical separation,
4. Biogas production,
5. Soil incorporation, and
6. Soil injection.

[. . .]

(8) Closure.

(a) Closure for new swine feeding operations with more than 3000 AU shall include, but may not be limited to the following:

[. . .]

3. The application of all such wastes to cropland or pasture at agronomic rates;

[. . .]

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

(1) Purpose. The purpose of this paragraph 391-3-6-.21 is to provide for the uniform procedures and practices to be followed relating to the application for and the issuance or revocation of permits for animal feeding operations with more than 300 Animal Units (AU). This paragraph only includes swine feeding operations with more than 300 AU but equal to or less than 3000 AU. The requirements for swine feeding operations with more than 3000 AU are at paragraph 391-3-6-.20. Nothing in this paragraph shall be construed to preclude the modification of any requirement of this paragraph when the Division determines that the requirement is not protective of the environment.

(2) Definitions. All terms used in this paragraph shall be interpreted in accordance with the definitions as set forth in the Act unless otherwise defined in this paragraph or in any other paragraph of these Rules:

(a) "Act" means the Georgia Water Quality Control Act, as amended.

(b) "Animal feeding operation," "operation," or "AFO" means a lot or facility (other than an aquatic animal production facility or swine feeding operation with more than 3000 AU) where animals have been, are, or will be stabled or confined and fed or maintained for a total of at least 45 days in any 12-month period, and the confinement areas do not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season.

(c) "Animal Unit" (AU) is a unit of measurement for any AFO calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 25 kilograms (approximately 55 pounds) multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

(d) "Barn" means a structure where confinement feeding (feeding in limited quarters under a roof) occurs. Structures where confinement feeding does not occur are not considered "barns" for the purposes of this rule.

(e) "Certified operator" means any person who has been trained and certified by the Georgia Department of Agriculture and has direct general charge of the day-to-day field operation of an AFO waste storage and disposal system, and who is responsible for the quality of the treated waste.

(f) "Closure plan" means the plan approved by the Division for clean up and closure of the AFO and associated waste storage and disposal facilities.

(g) "Concentrated Animal Feeding Operation," or "CAFO," means an AFO which is defined as a Large CAFO or Medium CAFO by 40 CFR 122.23(4) and (6), or that is designated as a CAFO.

(h) "Existing" applies to that which existed prior to September 15, 2003. "Existing operation" means an AFO that was in operation prior to September 15, 2003.

(i) "Freeboard" is the extra depth added to a waste storage lagoon or structure as a safety factor between the designed full depth and the overflow depth. This is the vertical distance below the lowest point of the lagoon or structure berm above which the liquid level must never rise except in the case of a storm event exceeding the design maximum precipitation event.

(j) "Natural Resources Conservation Service" (NRCS) is an agency within the United States Department of Agriculture.

(k) "New" applies to that which existed on or after September 15, 2003. "New or expanding operation" or "new AFO" means an AFO the construction or expansion of which is commenced on or after September 15, 2003.

(l) "NRCS guidance" means the latest editions of the Natural Resources Conservation Service (NRCS) Agricultural Waste Management Field Handbook, Part 651, FOTG Section IV Georgia, and other applicable publications of the NRCS. A certified specialist or trained person may use NRCS guidance to develop or modify an NMP.

(m) "Nutrient Management Plan" (NMP) is a plan which identifies actions or priorities that will be followed to meet clearly defined nutrient management goals at an agricultural operation. Defining nutrient management goals and identifying measures and schedules for attaining the goals are critical to reducing threats to water quality and public health. The NMP should address activities related to compliance with effluent limitations and other permit requirements, including manure handling and storage, land application of manure and wastewater, site management, record keeping, and management of other utilization options. For an AFO with a liquid manure handling system, the NMP must be developed or modified by a "certified specialist" as defined by the Division. The Division will specify the requirements for certification. For an AFO that handles dry manure, the NMP must be developed by a person trained in the subject by an academic or trade organization. It should include emergency response planning and a closure plan for abandonment of any facility used for the treatment or storage of animal waste. The requirements for submittal and approval of the NMP are specified in the following paragraphs.

(n) "Owner" means any person owning any system for waste treatment and disposal at an AFO.

(o) "Permit" means a permit applied for and issued in accordance with the terms and conditions for paragraphs 391-3-6-.06, Waste Treatment and Permit Requirements (individual NPDES permits), or 391-3-6-.11, Land Disposal and

Permit Requirements (non-NPDES individual land application system or "LAS" permit), or 391-3-6-.15, Non-Storm Water General Permit Requirements (general NPDES permit), or 391-3-6-.19, General Permit - Land Application System Requirements (non-NPDES general LAS permit), of this Chapter.

(p) "Wetted area" or "disposal area" is the land area where AFO waste is sprayed, spread, incorporated, or injected so that the waste can either condition the soil or fertilize crops or vegetation grown in the soil.

(q) "25-year, 24-hour storm event" is the maximum 24-hour precipitation event expressed in inches with a probable recurrence interval of once in 25 years, as defined by the National Weather Service of the United States Department of Commerce in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments.

(r) "100-year flood plain" is the land inundated from a flood whose peak magnitude would be experienced on an average of once every 100 years. The 100-year flood has a 1% probability of occurring in one given year.

(s) "300 AU" means three hundred animal units. Paragraph 391-3-6-.21 (2) (c) notwithstanding, the numbers of animals in any of the following categories are equivalent to 300 AU:

1. 200 mature dairy cows, whether milked or dry,
2. 300 veal calves,
3. 750 swine each weighing 55 pounds or more.
4. 300 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls, and cow/calf pairs,
5. 150 horses,
6. 3,000 sheep or lambs,
7. 16,500 turkeys,
8. 9,000 laying hens or broilers, if the AFO uses a liquid manure handling system,
9. 1,500 ducks, if the AFO uses a liquid manure handling system.

(t) "1000 AU" means one thousand animal units. Paragraph 391-3-6-.21 (2) (c) notwithstanding, the numbers of animals in any of the following categories are equivalent to 1000 AU:

1. 700 mature dairy cows, whether milked or dry,
2. 1,000 veal calves,
3. 2,500 swine each weighing 55 pounds or more,
4. 10,000 swine each weighing less than 55 pounds (immature swine or nursery pigs),
5. 1,000 cattle other than mature dairy cows or veal calves. Cattle includes but is not limited to heifers, steers, bulls, and cow/calf pairs,
6. 500 horses,
7. 10,000 sheep or lambs,
8. 55,000 turkeys,
9. 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system,
10. 125,000 chickens or broilers (other than laying hens), if the AFO handles dry manure only,
11. 82,000 laying hens, if the AFO handles dry manure only,
12. 30,000 ducks, if the AFO handles dry manure only,
13. 5,000 ducks, if the AFO uses a liquid manure handling system.

(u) "3000 AU" means three thousand animal units. Paragraph 391-3-6-.21 (2) (c) notwithstanding, the numbers of swine in any of the following categories are equivalent to 3000 AU:

1. 7,500 swine each weighing 55 pounds or more,
2. 30,000 swine each weighing less than 55 pounds (immature swine or nursery pigs).

(3) Basic Permit Requirement.

(a) Any person who is the owner of an AFO with more than 300 AU shall obtain a permit from the Division in accordance with this paragraph corresponding to the age and size of the AFO.

(b) Any person who is the owner of an AFO is not required to obtain an NPDES permit unless the AFO is defined as a CAFO per 40 CFR 122 and discharges to a water of the State excluding subsurface water (groundwater), or the Division has made a case-by-case designation as a CAFO and NPDES permitting is required for discharges to a water of the State excluding subsurface water (groundwater) by 40 CFR 122.23. The owner of any AFO with 300 AU or less remains subject to applicable sections of the Act, including civil liability, civil penalty, and criminal penalty, §O.C.G.A. 12-5-51, *et seq.*

(c) Discharges from a CAFO include discharges of manure, litter, or process wastewater from land application areas under the control of the CAFO that are not exempt as agricultural storm water discharges. Precipitation-related discharges qualifying as agricultural storm water discharges are not subject to these permit requirements. For discharges from the land application area to qualify as agricultural storm water, manure and wastewater must be applied in accordance with site-specific practices that ensure appropriate agricultural utilization of nutrients under 40 CFR 122.23(e) .

(d) The Division will notify the public of a proposal to grant coverage under a general NPDES permit or a proposed individual NPDES permit and make available for public review and comment the permit application, the notice of intent, the NMP, and the draft terms of the NMP to be incorporated into the permit.

(e) Two or more AFOs under common ownership are considered to be a single operation subject to this paragraph if they adjoin each other (are contiguous) or if they use a common area or system for the disposal of wastes.

(f) Exclusions from all permit requirements of this paragraph are made for the following facilities unless they are defined as a CAFO per 40 CFR 122 or the Division has made a case-by-case designation as a CAFO and they discharge, in which cases NPDES permitting is required by 40 CFR 122.23:

1. A livestock market, sale barn, stockyard, or auction house where animals are assembled from at least two sources to be publicly auctioned or privately sold on a commission basis and that is under state or federal supervision. However, these facilities are defined as AFOs if they meet the definition of an AFO in 391-3-6-.21 (2)(b).

(g) Any person who removes and transports animal waste from its point of origin shall conform to the animal manure handler rules of the Georgia Department of Agriculture.

(4) Permit for Operations with Liquid Manure Handling Systems.

(a) Any person who is the owner of an AFO with more than 300 AU and uses liquid manure handling must apply for an LAS permit from the Division. The Division may issue an individual or general permit. Permit applications for new or expanding AFOs should be submitted 180 days prior to beginning the AFO. Any person who owns an AFO must have waste storage and disposal systems pursuant to this rule and meet the conditions in subparagraphs (b) through (o) below.

(b) Prior to beginning operation of the AFO, all new operations must have waste storage and disposal systems in operation that have been designed and constructed in accordance with NRCS guidance.

(c) The owner of an existing AFO shall submit to the Division an NMP for the AFO. The NMP shall be of sufficient substance and quality as to be approvable by the Division. The owner of a new operation shall submit to the Division an NMP and obtain approval prior to beginning operation of the AFO.

(d) All operations shall have a certified operator. New operations shall have a certified operator prior to beginning operation of the AFO. The certified operator shall be trained and certified in accordance with 391-3-6-.21 (5).

[. . .]

(j) For all operations with more than 1000 AU, a setback shall be maintained of 100 feet between wetted areas or waste disposal areas and waters of the State excluding subsurface water (ground water). As a compliance alternative, the owner may substitute the 100 feet setback with a 35 feet wide vegetated buffer where waste disposal is prohibited.

[. . .]

(l) For all operations with more than 1000 AU, the permit will contain specific requirements for monitoring the waste storage effluent to be land applied and for the ground water monitoring wells. This will usually consist, at a minimum, of semiannual monitoring of the effluent for Total Kjeldahl Nitrogen (TKN), Nitrate Nitrogen (NO₃-N) and Total Phosphorus (TP) as well as semiannual monitoring of the wells for TKN and NO₃- N.

(m) For all operations with more than 1000 AU, the permittee must submit an annual report to the Division. The annual report must include the items specified in the permit.

(n) For all operations with more than 1000 AU, when the owner ceases operation of the AFO, he must notify the Division of that fact within three months, and he must properly close all waste storage lagoons or structures within twenty-four months. Proper closure of a lagoon or structure entails removing all waste from

the lagoon or structure and land applying it at agronomic rates, and in a manner so as not to discharge to any surface water.

[. . .]