

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

#### **(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).

(e) Any new waste storage lagoon or structure must be constructed to ensure that seepage is limited to a maximum of 1/8 inch per day ( $3.67 \times 10^{-6}$  cm/sec). However, new waste storage lagoons or structures located within significant ground water recharge areas which fall within the categories defined in the Georgia Department of Natural Resources Rules for Environmental Planning Criteria, Chapter 391-3-16-.02(3)(e) must be provided with either a compacted clay or synthetic liner such that the vertical hydraulic conductivity does not exceed  $5 \times 10^{-7}$  cm/sec or other criteria as determined by the Division. If it is determined that an existing waste storage lagoon or structure is creating a ground water contamination problem, the Division may require the lagoon or structure to be repaired.

(f) New barns and new waste storage lagoons or structures for all new AFOs shall not be located within a 100-year flood plain.

(g) For new operations with more than 1000 AU, it is required that a minimum of 1 foot of freeboard plus storage for the 25 year 24 hour storm event be maintained in the waste storage lagoons or structures. The liquid level must not rise into this design storage level for lesser storms.

(h) For new operations with more than 1000 AU, the following buffers and setbacks shall be maintained:

1. 100 feet between wetted areas and water wells that supply water for human consumption;

2. 100 feet between waste storage lagoons, waste storage structures, or barns and waters of the State excluding subsurface water;

3. 500 feet between waste storage lagoons, waste storage structures, or barns and any existing wells that supply water to a public water system, or any other existing well off the owner's property that supplies water for human consumption.

- (i) For all operations with more than 1000 AU, the waste disposal system shall be designed and operated such that it does not cause Nitrate Nitrogen (NO<sub>3</sub>-N) in the ground water at the operation's property line to exceed 10 mg/l. The Division will require the owner to implement corrective actions if the permitted waste disposal system has caused the Nitrate Nitrogen (NO<sub>3</sub>-N) to exceed 10 mg/l as described.
  - (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.
  - (k) For all operations with more than 1000 AU, representative samples shall be collected from each major soil series present within the waste disposal field areas in a manner to be specified in the permit. One down gradient ground water monitoring well shall be installed for each waste storage lagoon or structure or series of lagoons or structures. The number, location, design, and construction specifications of the monitoring wells shall be included in the NMP. Existing wells that are approved by the Division can be used for testing. Monitoring wells shall be properly installed within 24 months of permit issuance.
  - (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 (NO<sub>3</sub>-N) and Total Phosphorus (TP) as well as semiannual monitoring of the wells for TKN and NO<sub>3</sub>-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.
  - (o) Any failure to comply with any condition of (a) through (n) above or any condition of any individual permit issued for the operation shall be deemed a violation of the Act and may be punishable in accordance with the penalties provided in the Act.
- (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.

Authority: §O.C.G.A. Section 12-5-20, et. Seq. **History.** Original Rule entitled "Animal (Non-Swine) Feeding Operation Permit Requirements" adopted. F. Feb. 8, 2001; eff. Feb. 28, 2001. **Amended:** Aug 26, 2003; eff. Sept.

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