



SRAP
Socially Responsible
Agriculture Project

Guide to Confronting Concentrated Animal Feeding Operations in

GEORGIA



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A PROJECT BY SOCIALLY RESPONSIBLE AGRICULTURE PROJECT

For more than 20 years, Socially Responsible Agriculture Project (SRAP) has served as a mobilizing force to help communities protect themselves from the damages caused by industrial livestock operations and to advocate for a food system built on regenerative practices, justice, democracy, and resilience. Our team includes technical experts, independent family farmers, and rural residents who have faced the threats of factory farms in their communities. When asked for help, SRAP offers free support, providing communities with the knowledge and skills to protect their right to clean water, air, and soil and to a healthy, just, and vibrant future. For more information, visit www.sraproject.org.

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Facing a factory farm? Contact SRAP for support.

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CAFO Guide Overview

This guide outlines CAFO laws, regulatory processes, and useful resources for advocates. Below is an overview of actions communities can take if a CAFO is being built, expanding, or violating regulations.

EDUCATE YOURSELF

Learn how CAFOs harm communities at sraproject.org. Use this guide to find state agencies that regulate CAFOs; state permitting requirements for zoning, construction, etc.; and public open meetings and records laws. Use SRAP's Federal Guide to learn relevant federal laws like the Clean Water Act, Clean Air Act, and Endangered Species Act.

LOOK FOR PUBLIC NOTICES

Look for public notices of CAFOs in newspapers, state agency websites, and at government buildings. The window for public participation is often brief. Find rules and deadlines for public comment, hearing requests, and appeals. Respond before deadlines.

REQUEST AND REVIEW PUBLIC RECORDS

Search for public records related to the CAFO; if necessary, make a public records request.

NEW OR EXPANDING CAFOS

REVIEW ZONING ORDINANCES

Review municipal or county codes and zoning ordinances to determine if any requirements must be met at the local level.

REVIEW PERMIT APPLICATIONS

Determine if any local, state, or federal permit applications are required; review application materials to make sure all requirements are met.

COLLECT DATA

Test water before the CAFO siting or expansion to establish a baseline. This may show that new pollution came from the CAFO.

EXISTING CAFOS

REVIEW CAFO DOCUMENTS

Review permits, applications, manure management plans, nutrient management plans, monitoring reports, etc. Familiarize yourself with permit and plan provisions so you can spot violations.

COLLECT DATA

Conduct well, soil, water, and/or air testing to establish a connection between the facility and harmful pollution. Keep a log of odor and other impacts.

MONITOR CAFOS AND BUILD A RECORD

Submit complaints to regulators if you observe violations. Take photos and keep a log. Don't trespass!

FOLLOW UP ON AGENCY RESPONSE TO COMPLAINTS

Did the agency take action? If a state agency isn't complying with state or federal environmental laws, contact your U.S. EPA Regional Office.

ORGANIZE A COMMUNITY GROUP

Organize your group and develop a public presence.

Consider forming a nonprofit if you plan long-term advocacy.

SEEK LEGAL ADVICE

Consider contacting law firms or pro-bono clinics for help with legal matters related to CAFOs.

IDENTIFY IMPAIRED WATER BODIES

Determine if impaired waters may be impacted by discharge from the existing or proposed CAFO.

CONTACT STATE OR LOCAL HEALTH DEPARTMENT

The Health Department may monitor or oppose the CAFO due to public health impacts.

CHECK FOR PUBLIC FINANCING

If the CAFO received government-backed loans, see if an Environmental Assessment was conducted.

TRACK PUBLIC NOTICES

CAFO permits come up for renewal, so look for public notices and comment opportunities.

REVIEW STATE RIGHT-TO-FARM LAW

Find exceptions to the law's nuisance liability shield (e.g., compliance with laws and permits is often a prerequisite to nuisance claim protection).

AGENCIES & STATE DEFINITIONS

Familiarize yourself with your state's livestock operation definitions, and with the agencies that regulate the industry. (Definitions and relevant agencies vary by state.)

SEEK PROPERTY TAX ADJUSTMENT

Neighbors may be able to reduce their property taxes due to CAFOs' negative impact on property values.

ENGAGE IN RULEMAKING PROCESSES

Attend regulatory meetings and share your concerns. If your state allows it, develop local ordinances to protect communities.

INTRODUCTION: CAFOs IN GEORGIA

Agriculture plays a significant role in the cultural identity and economy of Georgia. It is a nine-billion-dollar industry, with approximately 42,000 farming operations across the state.¹ Animal agriculture in Georgia is dominated by poultry and cattle operations; the state ranks first in the nation for broiler production, fourth for egg production, and seventh for dairy products.²

Most of Georgia's livestock is housed in animal feeding operations (AFOs), which pose serious risks to water, air, and soil quality, local ecosystems, and public health. These risks are a result of the vast amount of animal waste generated by these facilities, and the logistical difficulties of responsibly disposing of so much waste. One CAFO can produce as much waste as a large U.S. city, but unlike human waste, which is subject to thorough processing to remove contaminants, AFO waste is largely untreated and is then spread onto land where it can easily seep into groundwater and surface waters. Georgia has implemented programs to control agricultural pollution but compared to other states, its regulations are not particularly strong.

Georgia has regulations for CAFOs, some AFOs, and large swine operations. In many states, an operation is regulated as a large CAFO if it has over 1,000 animal units. However, Georgia is one of the states that maintains that a National Pollutant Discharge Elimination System (NPDES) CAFO permit is only required if the CAFO is actively discharging into a water of the state. This approach minimalizes the applicability of NPDES permits for AFOs. According to the U.S. Environmental Protection Agency, only 53 of the state's 828 CAFOs have NPDES CAFO permits.³ While many of Georgia's AFOs avoid NPDES permits, Georgia has developed a state Land Application System (LAS) permit for AFOs with more than 300 animal units and has relatively strict requirements for large swine operations with more than 3,000 animal units.

¹ Georgia Agricultural Facts, United States Department of Agriculture, National Agricultural Statistics Service, https://www.nass.usda.gov/Statistics_by_State/Georgia/Publications/More_Features/GABragSheet2017.pdf.

² Id.

³ NPDES CAFO Permitting Status Report, U.S. Environmental Protection Agency, https://www.nass.usda.gov/Statistics_by_State/Georgia/Publications/More_Features/GABragSheet2017.pdf.

The Georgia Department of Natural Resources Environmental Protection Division (GEPD) is the lead agency for administering NPDES, enforcement of AFO rules, and approving nutrient management plans, but the Georgia Department of Agriculture (GDA) plays the primary role in most AFO pollution management. GDA processes permits, conducts inspections, handles complaints from the public, and reviews nutrient management plans.

It's essential that local residents participate in the process by requesting public hearings, voicing concerns, and reporting permit violations. While Georgia appears to be trying to address the environmental issues associated with CAFOs, it's a work in progress and local advocates will play a critical role in its improvement.

STATE CAFO DEFINITIONS

[Defining AFOs and CAFOs](#)

Familiarize yourself with your state's livestock operation definitions, and with the agencies that regulate the industry. Definitions and agency authorities vary by state.

[Animal Feeding Operation \(AFO\)](#)

An "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.⁴ All AFOs with greater than 300 animal units and a liquid manure handling system must obtain a state Land Application System (LAS) permit, unless the AFO is discharging and would be required to get a CAFO NPDES permit instead. For NPDES permits, state regulations refer to the 40 C.F.R. 122.23 CAFO and AFO definitions.

[Animal Unit \(AU\)](#)

"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

⁴ Ga. Comp. R. & Regs. 391-3-6-.21(b).

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 2.0.⁵

Land Application System (LAS)

AFOs that must apply for the LAS-AFO permit include animal feeding operations that have a liquid manure handling system and confine more than 300 Animal Units. There are different permits for [facilities holding 300 to 1000 animal units](#),⁶ and [facilities holding more than 1000 animal units](#).⁷

Concentrated Feeding Operation (CAFO)

Concentrated animal feeding operation (CAFO) is an AFO that is defined as a Large CAFO or Medium CAFO by 40 CFR 122.23(4) and (6), or that is designated as a CAFO.⁸

The designation is based on the type of animal production, the size of the individual operation, and whether waste is discharged from the site. CAFOs are subject to NPDES permitting and GA follows the federal requirements for CAFO designations.⁹

⁵ Ga. Comp. R. & Regs. 391-3-6-.21(c).

⁶ General Permit No. GAG920000, Georgia Department of Natural Resources Environmental Protection Division,
https://epd.georgia.gov/sites/epd.georgia.gov/files/related_files/site_page/General%20LAS%20Animal%20Feeding%20Operation%20Permit%20%20GAG920000%20%28300-1000%20au%29%20Issuance%204-1-2014.pdf

⁷ General Permit No. GAG940000, Georgia Department of Natural Resources Environmental Protection Division,
https://epd.georgia.gov/sites/epd.georgia.gov/files/related_files/site_page/General%20LAS%20Animal%20Feeding%20Operation%20Permit%20%20GAG940000%20%28greater%20than%201000%20au%29%20Issuance%204-1-2014.pdf

⁸ Ga. R. & Regs. 391-3-6-21(g).

⁹ General Permit No. GAG 930000, Georgia Department of Natural Resources Environmental Protection Division,
https://epd.georgia.gov/sites/epd.georgia.gov/files/related_files/site_page/General%20NPDES%20Permit%20No.%20GAG930000.pdf.

AFO/CAFO animal unit sizes¹⁰

Animal	Large	Medium	Small
Cattle (bull, steer, heifer, or calf)	≥ 1,000	300–999	< 300
Dairy cow	≥ 700	200–699	< 200
Horses	≥ 500	150–499	< 150
Veal	≥ 1,000	300–999	< 300
Swine (≥ 55 pounds)	≥ 2,500	750–2,499	< 750
Swine (< 55 pounds)	≥ 10,000	3,000–9,999	< 3,000
Sheep/lambs	≥ 10,000	3,000–9,999	< 3,000
Ducks (with liquid manure handling)	≥ 5,000	1,500–4,999	< 1,500
Ducks (with dry manure handling)	≥ 30,000	10,000–29,999	< 10,000
Chickens (with liquid manure handling)	≥ 30,000	9,000–29,999	< 9,000
Laying hens (with dry manure handling)	≥ 82,000	25,000–81,999	< 25,000
Chickens (other than laying hens) with dry manure handling	≥ 125,000 Or ≥ 100,000 square feet	37,500–124,999 Or < 100,000 square feet	< 37,500
Turkeys	≥ 55,000	16,500–54,999	< 16,500

¹⁰ 40 C.F.R. §122.23; https://www3.epa.gov/npdes/pubs/sector_table.pdf.

Comparing CAFO permits with Georgia LAS-AFO permits¹¹

FEDERAL NPDES – CAFO Permit	STATE LAS – AFO Permit
Allows for the discharge of wastewater from a treatment pond to waters of the U.S. due to weather related discharges, most likely under extreme weather events, and only if the permittee is in compliance with their nutrient management plan (NMP) and permit.	Does not address the discharge of wastewater from a treatment pond to waters of the U.S.
Georgia is authorized to implement the NPDES Program and is under the authority of the U.S. EPA.	Georgia has the right to issue LAS permits and the U.S. EPA has no oversight or regulatory authority over state-issued LAS permits.
The Storm Water Agricultural Runoff Exemption (40 CFR 122) is applicable. This exemption says that an NPDES permit is not required for runoff from agricultural activities provided the permittee is in compliance with their nutrient management plan (NMP).	The Storm Water Agricultural Runoff Exemption (40 CFR 122 and GA Rule 391-3-6-.21(3)(c)) is applicable. This exemption says that an NPDES permit is not required for runoff from agricultural activities provided the permittee is in compliance with their NMP.
A public comment period is required.	There is no requirement for a public comment period.
All compliance-related reports, corrective action plans, and permit applications are subject to U.S. EPA oversight and comment.	The State of Georgia is not required to submit permits, compliance-related reports, corrective action plans, Notices of Intent, or Notices of Termination to U.S. EPA.

¹¹ Comparison of State and Federal Permit Options for Animal Feeding Operations, EPD Watershed Protection Branch,
[https://epd.georgia.gov/sites/epd.georgia.gov/files/related_files/site_page/Fact%20Sheet_Compariso%20of%20State%20and%20Federal%20Permit%20Options%20for%20Animal%20Feeding%20Operations%20\(June%202014\).pdf](https://epd.georgia.gov/sites/epd.georgia.gov/files/related_files/site_page/Fact%20Sheet_Compariso%20of%20State%20and%20Federal%20Permit%20Options%20for%20Animal%20Feeding%20Operations%20(June%202014).pdf)

Who decides if they need a permit?

The operator decides if they need a permit, but GA EPD has the final say. The owner or operator of the facility determines whether to apply for a LAS-AFO or NPDES. The GA EPD will let the owner or operator know if their determination is incorrect by the application and through inspection.¹² If nearby residents believe that an AFO should obtain an LAS AFO or CAFO NPDES permit, but it has not filed with the appropriate state agency, residents can contact the GEPD to look into the matter. Failure to obtain the necessary permits can result in fines and sets an example for other operations.

RESPONSIBLE REGULATORY AGENCIES

Georgia Environmental Protection Division

The Georgia Environmental Protection Division develops, implements, and enforces state and federally authorized environmental laws and regulations. It is composed of several administrations or sub-departments that help implement the variety of environmental laws and programs that regulate AFOs in Georgia. See GA EPD's [LAS & NPDES Program website](#) for information about permits, forms, guidance documents, and AFO-related resources.¹³

Watershed Protection Branch

The Watershed Protection Branch of GEPD issues permits for discharges to surface and groundwater. They issue permits for alterations to wetlands, animal waste storage construction, and construction stormwater permits. For more information, visit the [Watershed Protection Branch Website](#).¹⁴

GEPD's Watershed Protection Branch is responsible for the NPDES and LAS permits but is assisted by the Georgia Department of Agriculture (GDA) to carry out most AFO implementation and oversight.

¹² 40 C.F.R. §122.23(C).

¹³ Wastewater Disposal Applications & Forms, Georgia Environmental Protection Division, <http://epd.georgia.gov/wastewater-disposal-applications-forms>.

¹⁴ Watershed Protection Branch, Georgia Environmental Protection Department, <http://epd.georgia.gov/watershed-protection-branch>.

- GDA reviews permit application, approves NMPs, and conducts CAFO inspections.
- Authority remains with GA EPD
- GA EPD Issues LAS-AFO/CAFO General Discharge Permits
 - For more information on LAS-AFO/CAFO permitting, see [GEPD's Fact Sheet Comparing State and Federal Permit Options for AFOs](#).¹⁵

Air Protection Branch

The Air Protection Branch of GEPD seeks to improve and maintain air quality, and handles air quality planning and support, monitoring, permitting, and compliance programs. The Branch also handles radioactive materials. Learn more about Air Protection permits and approvals on their [website](#).¹⁶

Department of Agriculture

Georgia Department of Agriculture (GDA)

GDA is responsible for reviewing CAFO and AFO permit applications, approving the Nutrient Management Program, and conducting CAFO inspections. GDA also provides educational, financial, and technical assistance to farmers and agricultural communities. Learn more about GDA on their [website](#).¹⁷

USDA Natural Resource Conservation Service (USDA NRCS)

The USDA NRCS is a federal office that provides technical assistance for agricultural operations and certifies technical service providers to develop and write Comprehensive Nutrient Management Plans. However, it does not have enforcement responsibilities.

U.S. EPA Region 4

Georgia is part of the U.S. EPA Region 4, the Southeast, which also includes Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and six Tribes. While considerable CAFO regulation happens at the state level, EPA has

¹⁵ Comparison of State and Federal Permit Options for Animal Feeding Operations, Georgia Environmental Protection Division, [https://epd.georgia.gov/sites/epd.georgia.gov/files/related_files/site_page/Fact%20Sheet_Comparison%20of%20State%20and%20Federal%20Permit%20Options%20for%20Animal%20Feeding%20Operations%20\(June%202014\)](https://epd.georgia.gov/sites/epd.georgia.gov/files/related_files/site_page/Fact%20Sheet_Comparison%20of%20State%20and%20Federal%20Permit%20Options%20for%20Animal%20Feeding%20Operations%20(June%202014)).

¹⁶ Air Protection Branch, Georgia Environmental Protection Department, <https://epd.georgia.gov/air/>.

¹⁷ Georgia Department of Agriculture, <http://www.agr.georgia.gov/>.

oversight authority, and individuals and organizations can reach out to their regional office if the state is not performing its duties or is failing to regulate CAFOs under the applicable federal and state environmental laws.

WATER

[Georgia's Water Quality Control](#)

Georgia's Water Quality Control Act, codified at OCGA § 12-5-20 et seq., is the primary authority to regulate actions that could impact water quality in the state. Water-quality-based requirements for AFOs in Georgia are found in Georgia's Rules & Regulations, Chapter 391-3-6. The regulations include requirements regarding AFO permits, discharges, nutrient management, lagoon construction, and setbacks. Most of the stronger requirements only apply to operations that discharge, large AFOs with over 1,000 AUs that use liquid manure handling systems, or large swine operations. As a result, the state's AFO-related water quality rules and regulations do little to address the many large poultry AFOs that use dry litter waste systems.

Setbacks

New barns and new waste storage lagoon structures for all new AFOs with liquid manure handling systems shall not be located within a 100-year flood plain.¹⁸

For operations using liquid manure handling systems and more than 1,000 AU, the following setback apply:¹⁹

- 100 feet between wetted areas and water wells that supply water for human consumption;
- 100 feet between waste storage lagoons, waste storage structures, or barns and waters of the state excluding subsurface water;
- 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.

¹⁸ Ga. R & Reg. 391-3-6-21(4)(f)

¹⁹ Ga. R & Reg. 391-3-6-21(4)(h)

Groundwater

For operations with more than 1,000 AU that use liquid manure handling systems, their waste storage and disposal system “shall be designed and operated such that it does not cause Nitrate Nitrogen (NO₃-N) in the ground water at the operation's property line to exceed 10 mg/l” and the Division of Water will require the owner to implement corrective actions if the operation exceeds those nitrate levels.²⁰

Sampling and Monitoring

Operations with more than 1,000 AU that use liquid manure handling systems must collect representative soil samples at waste disposal field areas and must install one downgradient water monitoring well for each waste storage lagoon within 24 months of permit issuance.²¹ These operation's permits must also contain requirements for monitoring waste effluent that will be land applied. At a minimum, they must monitor effluent for nitrogen and phosphorous.²²

Lagoon Liner

Georgia specifies liner requirements for waste lagoons to limit seepage into groundwater.

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 (3.67×10^{-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 5×10^{-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.²³

Georgia's National Pollutant Discharge Elimination System Program

²⁰ Ga. R & Reg. 391-3-6-21(4)(i)

²¹ Ga. R & Reg. 391-3-6-21(4)(k)

²² Ga. R & Reg. 391-3-6-21(4)(l)

²³ Ga. R & Reg. 391-3-6-21(4)(e)

The U.S. EPA has authorized Georgia to implement the National Pollutant Discharge Elimination System (NPDES), a component of the Clean Water Act, at the state level.²⁴ The Environmental Protection Division of Georgia's Department of Natural Resources is the primary agency involved in issuing permits for a variety of activities that result in a discharge of pollutants into waters of the state. These permits may be required for existing or new facilities that discharge, or for discharges associated with construction.

Public Participation

NPDES permit drafts provide an opportunity for public comment.²⁵ Additionally, GEPD will notify the public of a proposal to grant coverage under an NPDES permit. GEPD must make the permit application, notice of intent, NMP, and draft terms available for the public to review and comment on.

For details about public notice of NPDES permits, see Georgia's Rules & Regulations, Chapter 391-3-6-.15, .20.

For public notice for NPDES permits, see [GEPD's Public Announcements website](#).²⁶

Discharge Permits for Concentrated Animal Feeding Operations

Georgia's NPDES CAFO permit regulates the confinement, storage, handling, and land application of manure of operations that discharge pollutants to waters of the state. For operations with NPDES permits, Georgia's discharge requirements reflect federal requirements, which prohibit any discharge unless the discharge is overflow from a 25-year, 24-hour storm event. Due to the discharge requirement for Georgia's NPDES CAFO permit, few operations are required to obtain this permit.

For more details about the permit requirements, see the current permit—[Permit No. GAG930000](#).²⁷ This permit is valid through November of 2022.

²⁴ 40 CFR 123.24 (memorandum of agreement).

²⁵ Ga. R. & Reg. 391-3-6.15(7).

²⁶ Watershed Protection Branch Public Announcements, Georgia Environmental Protection Division, <https://epd.georgia.gov/watershed-protection-branch-public-announcements>.

²⁷ Authorization to Discharge Under the National Pollutant Discharge Elimination System Animal Feeding Operations, Permit No. GAG930000, Georgia Department of Natural Resources, Environmental Protection Division, https://epd.georgia.gov/sites/epd.georgia.gov/files/related_files/site_page/General%20NPDES%20Permit%20No.%20GAG930000.pdf.

Georgia's Stormwater Discharges Associated with Construction Activity

Georgia requires a permit for discharges associated with construction activity. If an operation has begun construction on a project that will disrupt one acre or more of land without a permit, they are violating state law. The permit includes requirements regarding notice to EPD, non-stormwater discharges, reportable quantities, management practices, proximity to impaired waters, and erosion, sedimentation, and pollution control plans. The public is not given an opportunity to comment but the operator is supposed to send notice to EPD for approval at least 14 days before they begin construction.

For details about the permit requirements, see the current permit—[Permit No. GAR100001](#).²⁸ This permit is valid through July of 2023.

Georgia's Land Application System Permit for Animal Feeding Operations (LAS-AFO) Permit

Due to the discharge requirement for NPDES permits, few operations obtain the NPDES CAFO permit. However, Georgia has enacted provisions regarding land application systems for AFOs of a certain size that use liquid manure handling systems. In accordance with Georgia's Water Quality Control Act²⁹ and the state's rules and regulations,³⁰ owners of existing, new, or expanding AFOs of certain size categories must have a land application system permit, which includes Notice of Intent and approval of coverage by EPD requirements, as well as limitations, monitoring, reporting, best management practices, liners, nutrient management plans, and enforcement actions.

A few requirements include:

- Submitting a Notice of Intent and approved Nutrient Management Plan 180 days prior to coverage under the permit.
- No application of manure or process wastewater to frozen, flooded, rain soaked, or snow-covered ground.

²⁸ Authorization to Discharge Under the National Pollutant Discharge Elimination System Storm Water Discharges Associated With Construction Activity for Stand Alone Construction Projects, Permit No. GAR100001, Georgia Department of Natural Resources, Environmental Protection Division, https://epd.georgia.gov/sites/epd.georgia.gov/files/related_files/site_page/General%20NPDES%20Permit%20No.%20GAG930000.pdf.

²⁹ OCGA §12-5-20 et seq.

³⁰ Ga. R. & Reg. 391-3-6.21

- The operation must maintain all permit-related records for at least three years.
- Submitting annual reports to EPD.
- Lagoon construction requirements.

There are two LAS AFO Permits, depending on the size of the operation.

Between 300 and 1,000 Animal Units

For details about the permit requirements, see the current permit—[Permit No. GAG920000](#).³¹ This permit is valid through March of 2024.

Over 1,000 Animal Units

For details about the permit requirements, see the current permit—[Permit No. GAG940000](#).³² This permit is valid through March of 2024.

Public Participation

Georgia does not provide an opportunity for public notice and public comment on LAS-AFO permit approvals. While there's minimal opportunity for the public to participate in the grant or denial of LAS-AFO permits, the NPDES CAFO and LAS-AFO general permit are reissued every five years or so and a draft of the new permit is placed on public notice for public comment. This is an opportunity to advocate for requirements that better protect the state's air, water, and quality of life in rural communities. You can request to be put on a mailing list to be informed whenever a new draft permit is available for public comment.

Georgia's Swine-Specific Requirements

Georgia imposes additional requirements for swine facilities with LAS permits that have more than 3,000 AU's. See Georgia's Rules & Regulations Chapter 391-3-6-.20 for details about the requirements. These requirements have contributed to the fact that, as of 2019, no swine operations of greater than 3,000 AU exist in the state.

³¹ General Land Application System Permit for Animal Feeding Operations- 301 to 1000 Animal Units, Permit No. GAG920000, Georgia Department of Natural Resources, Environmental Protection Division, https://epd.georgia.gov/sites/epd.georgia.gov/files/related_files/site_page/General%20LAS%20Permit%20No.%20GAG920000.pdf.

³² General Land Application System Permit for Animal Feeding Operations- More Than 1000 Animal Units, Permit No. GAG940000, Georgia Department of Natural Resources, Environmental Protection Division, https://epd.georgia.gov/sites/epd.georgia.gov/files/related_files/site_page/General%20LAS%20Permit%20No.%20GAG940000.pdf.

- Operations must have a waste handling system that contains runoff from a 100-year, 24-hour storm even without overflowing the waste storage lagoon/structure
- The operation may not be located within a 100-year flood-plain
- The operation's waste and storage systems must be designed by a professional engineer
- The operation must have a certified operator prior to startup, trained and certified by GDA, with continuing education requirements
- The operation must abide by the following buffers/setbacks:
 - 750 feet between disposal areas and any residence or place of public assembly
 - 200 feet between disposal areas and property lines
 - 200 feet between disposal areas and water wells
 - 150 feet between disposal areas and drainage ditches, surface waters, or wetlands
 - 1,750 feet between barns or waste storage lagoons/structures and any property boundary
 - 1,750 feet between barns or waste storage lagoons/structures and occupied residences, public use areas, and wells that supply water to a public water system or are used for human consumption
 - 2,640 feet between barns or waste storage lagoons/structures and waters of the state
- Waste storage lagoons should have synthetic liners and should not exceed 100 acre-feet in volume
- At least one up-gradient and at least two down-gradient ground water monitoring wells shall be installed
- The permit should contain specific requirements for monitoring effluent and groundwater.
- The owner must provide evidence of financial responsibility and a closure plan
- The operation is prohibited from using open lagoons or structures
- Lagoons and waste structures must be covered with airtight covers and air pollution control devices covering vents to remove ammonia, hydrogen sulfide, methane, formaldehyde, and other air pollutants
- The operation needs an air quality control permit in order to get a permit to operate
- The operation is prohibited from using spray irrigation of lagoon waste—it must be injected at least six inches deep.

Public Participation

The GDPE must notify the public of a proposal to grant NPDES coverage to a swine operation with greater than 3,000 AUs. This provides an opportunity for the public to review and comment on the permit application, notice of intent, nutrient management plan, and terms incorporated in the permit.³³ The owner is also required to notify by certified mail all adjoining property owners and all property owners located within one mile of any part of the swine AFO. The owner/operator must conduct at least one public meeting to present the proposed project to the public. The meeting must be advertised at least 30 days in advance in local newspapers.

Georgia Nutrient Management Program

AFOs in Georgia are required to obtain a Nutrient Management Plan (NMP), which identifies actions, restrictions, and priorities that must be followed to achieve the nutrient management goals at an AFO. It is supposed to ensure that AFOs aren't spreading more waste than the land and crops can absorb. Proper NMPs must contain the following types of information:

- Adequate storage of manure, litter, and process wastewater
- Proper management of mortalities
- Diversion of clean water from the production area
- Preventing direct contact between animals and waters of the state
- Disposal and handling of chemicals and contaminants
- Site-specific conservation practices
- Best management practices
- Emergency response
- Testing of manure, wastewater, and soil
- Protocols for land application of manure, litter, or wastewater
- Maintenance of records
- Closure plans

NMPs for permitted AFOs must be developed and signed by a GDA Certified Specialist or Conservation Planner in accordance with Georgia Rules and Regulations chapter 40-16-6. For permitted AFOs, NMPs should be submitted to GDA. Once the NMP is approved by GDA, it goes to GEPD for final approval.

³³ Ga. R. & Reg. 391-3-6-20.

NMPs are still required for non-permitted AFOs. AFOs with dry waste handling operations, like poultry, must implement an NMP that is developed by a person with training in the subject. The AFO doesn't have to submit the NMP to GDA or GEPD, but they should maintain a copy of the NMP on the facility and produce it if requested by GDA or GEPD.

Wetlands

Wetlands are a critically important resource that require strong protections from federal and state government. Wetlands influence groundwater discharge rates, assist with stormwater and flood control, filter pollutants and nutrients from the water, reduce erosion, and provide critical habitat for plant and animal species. Georgia has approximately 7.7 million acres of diverse wetlands due to its unique geologic and hydrologic characteristics.³⁴ Most of the state's wetlands are forested freshwater habitats associated with streams and the state is home to Okefenokee Swamp, one of the largest freshwater wetlands in the U.S.³⁵ Various federal and state laws are designed to protect wetlands from degradation and destruction.

Generally, any modification to wetlands, including depositing fill, excavating, or draining, will require a federal 404 permit from the U.S. Army Corps of Engineers (US ACoE). However, Section 401 of the CWA prevents a federal agency from issuing a permit for any activity that may result in a discharge to water (including wetlands) until the state where the discharge would occur has granted or waived Section 401 certification. Denying 401 certification prevents the federal permit or license from being issued. This process ensures that the issuance of federal permits will not violate state water quality standards. If a new or existing facility is engaging in or will engage in activities that will impact wetlands, raise the issue. See if the operation has sought the appropriate permits. If they haven't, submit a complaint to the appropriate agency.

Learn more about U.S. ACoE role in 404 wetland permitting on [U.S. ACoE's Regulatory website](#).³⁶

³⁴ National Summary on Wetland Resources, U.S. Geological Survey, https://water.usgs.gov/nwsum/WSP2425/state_highlights_summary.html.

³⁵ Id.

³⁶ Regulatory, U.S. Army Corps of Engineers South Atlantic Division, <https://www.lrh.usace.army.mil/Missions/Regulatory.aspx>

Find nearby wetlands using U.S. Fish & Wildlife Service's [Wetlands Mapper](#).³⁷

Ground Water Use Permits

Large scale animal agriculture is a resource- and water-intensive industry. Federal laws do not regulate the usage of groundwater but states often do. In Georgia, a person must obtain a permit to withdraw groundwater in excess of 100,000 gallons per day.³⁸ (See O.C.G.A § 12-5-90 et seq. for the full text of the state's Groundwater Use Act for more details.) Agricultural uses are given preferential status compared to other industries and the requirements for farms are weaker, but they are not exempt from the permit requirement. Most AFOs probably will not trigger this requirement, but a large AFO may, depending on the size of the operation and the type of livestock.

AIR

Air Quality

Animal agriculture is a significant source of air pollutants like ammonia, hydrogen sulfide, particulate matter, volatile organic compounds and other contaminants. In theory, AFOs may be regulated since they're stationary sources that emit pollutants in amounts that jeopardize the environment and public health, but the agricultural industry has largely evaded meaningful regulation. The agricultural industry points to a number of reasons why it should not be regulated—such as monitoring difficulties, variable climates, data collection methods, etc. Learn more about the Clean Air Act, air quality agreements, and applicable regulations in the Federal Guide.

Georgia's Air Quality Act, O.C.G.A. 12-9-1 et seq., and its attendant regulation at Georgia's Rules & Regulations Chapter 391.3.1, do little to address the air pollution caused by most AFOs. The state does require an air permit and pollution controls on swine operations with over 3,000 AUs, but the majority of operations avoid air pollution regulation. However, since Georgia has local control, local governments may enact and enforce their own odor ordinances. Check your local codes for any odor control measures that may be available.

³⁷ Wetland Mapper, US Fish and Wildlife Service, <https://www.fws.gov/wetlands/data/Mapper.html>

³⁸ O.C.G.A. § 12-5-96(a).

RIGHT TO FARM & NUISANCE CLAIMS

When state and federal regulations fail to protect people from the harmful impacts of industrial livestock facilities, these individuals may consider filing a nuisance lawsuit. A nuisance is something that interferes with the right to use and enjoy real property (e.g., noise, odors, dust, smoke, pollution, pests, illness, or light). Many individuals describe CAFOs as nuisances since they can decrease local property values, prevent people from using and enjoying their homes or yards, and can impair human health. While this sounds like a perfect example of a nuisance, many states—including Georgia—have enacted laws to shield livestock operations from nuisance liability.

State Right-to-Farm Laws

Right-to-farm laws exist in most states and seek to protect farmers from nuisance suits brought by neighbors and communities experiencing unpleasant effects of agricultural production. Georgia's Right-to-Farm Law, codified at Ga. Code Ann. § 41-1-7, protects agricultural facilities by giving them an affirmative defense to nuisance suits.³⁹ While this provides considerable protection to farms, it is not without limits—CAFOs/AFOs are not invulnerable to nuisance suits.

Below are a few of important sections:

It is the declared policy of the state to conserve, protect, and encourage the development and improvement of its agricultural and forest land and facilities for the production or distribution of food and other agricultural products, including without limitation forest products. When nonagricultural land uses extend into agricultural or agriculture-supporting industrial or commercial areas or forest land or when there are changed conditions in or around the locality of an agricultural facility or agricultural support facility, such operations often become the subject of nuisance actions. As a result, such facilities are sometimes forced to cease operations. Many others are discouraged from making investments in agricultural support facilities or farm improvements or adopting new related technology or methods. It is the purpose of this Code section to reduce losses of the state's agricultural and forest land resources by limiting the circumstances under which agricultural

³⁹ O.C.G.A. § 41-1-7.

facilities and operations or agricultural support facilities may be deemed to be a nuisance.⁴⁰

No agricultural facility, agricultural operation, any agricultural operation at an agricultural facility, agricultural support facility, or any operation at an agricultural support facility shall be or shall become a nuisance, either public or private, as a result of changed conditions in or around the locality of such facility or operation if the facility or operation has been in operation for one year or more. The provisions of this subsection shall not apply when a nuisance results from the negligent, improper, or illegal operation of any such facility or operation.⁴¹

See the full text of the law [here](#).⁴²

Georgia's right-to-farm law reveals the importance of careful monitoring and reporting violations as they occur. A successful nuisance claim will rely on a record demonstrating the operation's failure or continued inability to comply with applicable federal, state, local, zoning, health, and permitting laws and regulations.

PUBLIC INFORMATION LAWS

One of the first steps when dealing with a new, expanding, or problematic industrial livestock operation is gathering information through research online, submitting record requests, and attending public meetings. Fortunately, there are state laws that increase government transparency and provide public access to certain types of information.

[Freedom of Information Act](#)

The Freedom of Information Act (FOIA), 5 U.S.C. § 522 et seq., is federal law that allows individuals to access and request information from government agencies, subject to some restrictions. Each federal agency will have its own regulations and contacts for FOIA requests so find that information for each agency you'd like to request records from. The most common agencies for AFO-related records requests are the

⁴⁰ O.C.G.A. § 41-1-7 (a)

⁴¹ O.C.G.A. § 41-1-7 (c).

⁴² O.C.G.A. § 41-1-7.

Environmental Protection Agency, Department of Agriculture, and Small Business Administration.

A variety of maps, reports, and databases are also available through the EPA to find information and documents about regulated facilities. For example, EPA's [MyPropertyInfo](#) database can provide information about a facility without having to file a FOIA request for the same records. While searching EPA's websites may prove helpful, state or federal FOIAs will produce more records and information.

See the Federal CAFO Guide for more about FOIAs, agency contacts, and fee waiver requests.

Georgia Open Records Act

GA's Open Records Act, OCGA § 50-18-70 et seq., obligates public agencies and officials to grant the public access to public records. In short, anyone may request public records that are not privileged for a fee. This is a powerful tool for those seeking information about impending or noncompliant AFOs. Subject to a number of exceptions listed in the Act, the public has access to all permit records, including fact sheets, permits, enforcement actions, and correspondence.

Learn more about open records requests in Georgia's [Directions on How to Make an Open Records Request](#).⁴³

It's a good idea to learn as much as possible about the operation you're challenging. Try to find information online before submitting a records request; you can search for all kinds of Georgia public records using [Georgia's Free Public Records Search](#).⁴⁴

Georgia Open Meetings Act

In addition to access to public records, Georgia law provides that agency meetings shall be open to the public. Georgia's Open Meetings Act, codified at O.C.G.A. §50-14-1 et seq., sets out the definitions, protections, notice requirements, and limitations regarding the public's access to agency meetings in the state. Read the full text of

⁴³ How to Make an Open Records Request, Georgia.gov, <https://law.georgia.gov/how-make-open-records-request>; Georgia Open Records Act § 50.18.71.

⁴⁴ Georgia Public Records Search, Georgia Superior Court Clerks' Cooperative Authority, <https://www.gsccca.org/>.

the Act to learn your rights and the government's responsibilities to promote transparency and facilitate public involvement.

For more detail, see [Georgia's Open Meetings and Open Records Laws: A Guide for County Officials](#).⁴⁵

PROPERTY TAX APPEAL

[Georgia Property Tax Appeals](#)⁴⁶

Industrial livestock operations have been shown to reduce nearby property values by as much as 80 percent. Unfortunately, local governments often fail to adjust property value assessments accordingly, causing owners of nearby properties to pay more than their fair share of property taxes, in addition to enduring the other harmful impacts of industrial livestock production. In these cases, property owners may be able to seek a property tax reduction. This may also help convince local government officials that CAFOs aren't as economically beneficial to communities as their proponents claim.

Under Georgia law, a property owner may appeal when they believe that their property tax assessment does not reflect the market value of the property.⁴⁷ Property owners may file an appeal upon receipt of their assessment notice, to a hearing officer, and to an arbitrator. Georgia provides a [uniform form](#) for property owners.

Appeal to the County Board of Equalization

The appeal based on value, uniformity, taxability, or denial of exemption is filed by the property owner and reviewed by the board of assessors. The board of assessors may change the assessment and send a new notice. Property owners may appeal this notice within 45 days of receipt by signing and mailing the appeal form to the county board of assessors.

Appeal to a Hearing Officer

⁴⁵ Georgia's Open Meetings and Open Records Laws: A Guide for Country Officials, 7th edition (2016), ACCG, <https://www.accg.org/library/legal/Open%20Meetings%20and%20Open%20Records%20Laws%202016.pdf>.

⁴⁶ Georgia Dept. of Rev., <https://dor.georgia.gov/property-tax-appeals>.

⁴⁷ O.C.G.A. § 48-5-6.

The taxpayer may appeal to a Hearing Officer, who is a state-certified general real property or state-certified residential real property appraiser and is approved as a hearing officer by the Georgia Real Estate Commission and the Georgia Real Estate Appraiser Board.

Appeal to an Arbitrator

An appeal of value may be filed to Arbitration by filing an appeal specifying Arbitration with the board of assessors within 45 days of the date of the notice.

For more information about assessment and Georgia property taxes, see the [Homeowner's Guide to Property Taxes and Assessments](#).⁴⁸ For a detailed description of the tax appeal process, see the [Georgia Department of Revenue's Property Tax website](#).⁴⁹

OTHER RESOURCES

Protecting your community from factory farms is difficult. Avoid working alone by building relationships in your community, consulting with experts, and collaborating with groups working on similar issues.

Socially Responsible Agriculture Project (SRAP)

SRAP provides free advice and technical assistance to communities throughout the U.S. facing factory farms. Find additional resources at www.sraproject.org, and contact SRAP for support at 503-632-8303 or through our [website](#).⁵⁰

State Organizations

[Environment Georgia](#)⁵¹

[Sierra Club Georgia Chapter](#)⁵²

[Southeast Land Preservation Trust](#)⁵³

[Southern Environmental Law Center](#)⁵⁴

⁴⁸ http://dor.wa.gov/docs/Pubs/Prop_Tax/HomeOwn.pdf

⁴⁹ Georgia Dept. of Rev., Property Tax, <https://dor.georgia.gov/property-tax-real-and-personal-property>.

⁵⁰ Contact, SOCIALLY RESPONSIBLE AGRICULTURE PROJECT, <http://www.sraproject.org/contact/>

⁵¹ Environment Georgia, <http://www.environmentgeorgia.org/>

⁵² Sierra Club, <http://www.sierraclub.org/georgia>.

⁵³ South East Land Preservation Trust, <http://www.slpt.org/>.

⁵⁴ Southern Environmental Law Center, <https://www.southernenvironment.org/>.

[Savannah River Keeper](#)⁵⁵

[Protect Georgia](#)⁵⁶

[State Pro-Bono Clinics](#)

Emory Law Turner Environmental Law Clinic

“The Turner Environmental Law Clinic provides important pro bono legal representation to individuals, community groups, and nonprofit organizations that seek to protect and restore the natural environment for the benefit of the public.”⁵⁷

LIST OF STATUTES & REGULATIONS

Below is a list of relevant statutes and regulations to serve as a reference point for additional research or in-depth analysis of environmental authority in Georgia.

Statute	Subject
Ga. Comp. R. & Regs. 391-3-6-.21 (2017)	Georgia Animal Feeding Operation Permit Requirement
Ga. Code Ann. § 12-5-20	Georgia Water Quality Control Act
Ga. Code Ann. § 12-5-29	Unlawful Water Pollution
Ga Comp. R. & Regs. 391-3-6-.06	General Discharge Permit Requirements
Ga. Code Ann., § 12-5-30	Permits required to discharge pollutants; revocation;
Ga Comp. R. & Regs. 391-3-6-.21	General AFO Permit Requirements
Ga Comp. R. & Regs. 391-3-6-.19	LAS-AFO Permit Requirements
Ga Comp. R. & Regs. 391-3-6-.03	Water Quality Standards
Ga Comp. R. & Regs. 391-3-6-.20	Swine Feeding Operation Permit Requirements For Operations With More Than 3000 Animal Units

⁵⁵ Savannah River Keeper, <http://www.savannahriverkeeper.org/>.

⁵⁶ Protect Georgia, <http://www.protectgeorgia.org/#/>.

⁵⁷ Turner Environmental Law Clinic, Emory University School of Law, <http://law.emory.edu/academics/clinics/turner-environmental-clinic.html>

Ga Comp. R. & Regs. 391-3-6-.15(7)	Notice and Public Participation
Ga Comp. R. & Regs. 391-3-6-.06(4)	Effluent limitations
Ga Comp. R. & Regs. 391-3-6-.21(3)-(5)	Nutrient Management Certification and Licensing
Ga Comp. R. & Regs. 391-3-4-.06	Permit by Rule for Solid Waste Collection, Transportation, Processing, and Disposal.