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IN AND OUT OF

In Georgia

The Georgia General Assembly has passed an act that amends Georgia law relating to the withdrawal, diversion, or impoundment of surface and groundwater by farmers. The legislation offers existing agricultural users of water the opportunity to apply for state permits. These permits would establish priority for the continued use of water based upon previous usage. Given recent drought conditions and competition for water in some areas of the state, these permits offer significant property rights to some producers.

The legislation specifically addresses farm uses of water through permit applications and a classification system based upon time and usage. Farm uses include the irrigation of general agricultural acreage and qualifying recreational turf, and the processing of perishable agricultural products.

Permit applications based upon farm usage of surface and groundwater prior to July 1, 1988, receive special treatment. Essentially, such applications must be granted provided they meet the enumerated requirements. Farmers have 3 years in which to make such applications based on pre-1988 farm usage of water. The amount of usage is based upon the greatest operating capacity during a 5-year period.

Permits for farm uses have no term and may be transferred or assigned. However, such permits may be modified if the quantity of water allowed under the permit prevents other applicants from reasonable use of surface waters for farm use.

Farmers who fail to apply within the 3-year time period, or who have not established water usage prior to July 1, 1988, are subject to a different set of rules. Such permit applications will be evaluated by the Georgia Department of Natural Resources and classified according to a classification system to be developed.

Farm uses of water also receive special consideration in emergencies. Orders issued by the state concerning action to meet an emergency water situation are not effective immediately against farm users, and farm users may continue to make use of water during an appeal process. During emergency periods of water shortage, farm use receives priority after human consumption.

*Contributed by Terence J. Centner
University of Georgia*