

391-3-6-.01 Organization and Administration

- (1) **Purpose.** The purpose of Rule 391-3-6-.01 is to establish the organizational and administrative procedures to be followed in the administration and enforcement of the Georgia Water Quality Control Act, as amended, and to carry out the purposes and requirements of said Act and of the Federal Water Pollution Control Act Amendments of 1972, as amended.
- (2) **Definitions.** All terms used in this Paragraph shall be interpreted in accordance with the definitions as set forth in the Georgia Water Quality Control Act, as amended, 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) "Board" means the Board of Natural Resources of the State of Georgia;
 - (c) "Department" means the Department of Natural Resources of the State of Georgia;
 - (d) "Director" means the Director of the Division of Environmental Protection of the Department of Natural Resources, State of Georgia;
 - (e) "Division" means the Division of Environmental Protection of the Department of Natural Resources, State of Georgia;
 - (f) "E.P.A." means the United States Environmental Protection Agency;
 - (g) "Federal Act" means the Federal Water Pollution Control Act Amendments of 1972, as amended;
 - (h) "Final Stabilization" means paved areas or areas covered by permanent structures or for unpaved areas and areas not covered by permanent structures, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or equivalent permanent stabilization measures (such as the use of rip rap, gabions, permanent mulches or geotextiles) have been used. Permanent vegetation shall consist of: planted trees, shrubs, perennial vines; a crop of perennial vegetation appropriate for the region. For infrastructure construction projects on land used for agricultural or silvicultural purposes, final stabilization may be accomplished by stabilizing the disturbed land for its agricultural or silvicultural use.
 - (i) "National Pollutant Discharge Elimination System" (NPDES) means the national system for the issuance of permits under Section 402 of the Federal Water Pollution Control Act Amendments of 1972;
 - (j) "Regional Administrator" means the Regional Administrator for the EPA region which includes the State of Georgia.
 - (k) "Primary Permittee" means the owner or the operator of a tract of land for a project covered by the State General Permit.
 - (l) "State General Permit" means the National Pollutant 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.
- (3) **Organization.** The Division of Environmental Protection of the Department of Natural Resources is responsible for enforcing those environmental protection laws of the State of Georgia as specified in the Executive Reorganization Act of 1972, as amended. Requests for information and submission of materials should be made to the Division office.
- (4) **Administrative Hearings.**
- (a) Hearings may be held in accordance with the Act in connection with the following matters:
 - 1. To determine whether or not an alleged pollution is contrary to the public interest;
 - 2. In connection with the securing, within the time specified by order or permit of the Director, of such operating results as are reasonable and practicable of attainment toward the control, abatement or prevention of pollution of the waters of the State and preservation of the necessary quality for the reasonable use thereof;
 - 3. In connection with notice to the holder of a permit of intent to revoke, suspend, or modify the permit;
 - 4. In connection with the refusal of any person to cooperate with the efforts of the Division to reduce pollution, and upon the issuance of an order by the Director, to bring about the reduction or elimination of pollution within a reasonable time;
 - 5. Any person who is aggrieved or adversely affected by any order or action of the Director and who petitions the Director for a hearing within thirty (30) days of the issuance of such order or notice of such action. Such person shall be granted a hearing before a hearing officer appointed by the Board of Natural Resources. The initial hearing any administrative review thereof shall be conducted in accordance with Section 17(a) of the Executive Reorganization Act of 1972, as amended.
 - 6. Any person against whom an emergency order is directed, provided such person petitions the Director for a hearing within the thirty (30) days of the issuance of such order. Such person shall be afforded a hearing as soon as possible.
 - 7. In connection with public hearings required pursuant to Section 402(b)(3) of the Federal Act and Federal Regulations, 40 C.F.R. 124.36.
 - 8. In connection with public hearings or public participation required pursuant to Section 101(e) of the Federal Act.
 - (b) Insofar as applicable to the administrative procedures required pursuant to the Georgia Water Quality Control Act, as amended, Sections 14, 15, 16, 17, and 18 of the Georgia Administrative Procedure Act, as amended, and Section 17(a) of the Executive Reorganization Act of 1972, as amended, shall apply.
- (5) **Public Participation**

- (a) Notice of all hearings provided for above shall be issued in accordance with Section 14 of the Georgia Administrative Procedures Act, as amended, and Federal Regulations, 40 C.F.R. 124.37.
- (b) Interested persons shall have the right to participate in the enforcement of the Georgia Water Quality Control Act and rules promulgated thereunder pursuant to the applicable provisions of the Georgia Water Quality Control Act, ' O.C.G.A. 12-5-20, et seq.; ' O.C.G.A. 50-13-1, et seq.; the Georgia Civil Practices Act, ' O.C.G.A. 9-11-1, et seq.; or any other applicable provision of Georgia law.
- (6) Notice to File Plan of Correction or Improvement.**
- (a) In order to carry out a comprehensive plan to prevent and control pollution, the Division, as required by Section 5 of the Act and Section 303 of the Federal Act, may conduct studies and perform evaluations to determine waste load allocations in order to specify the degree of treatment and/or technology necessary to achieve the established effluent limitations; the maintenance of existing wastewater treatment technology, supplementary treatment or other specific measures necessary to attain and maintain applicable water quality standards, and protect the downstream users; or such other measures necessary to prevent further pollution or reduce existing pollution. Upon the establishment of the necessary corrective action, the discharger will be required to file a plan and schedule of improvement with the Division.
- The Director may issue a notice to any person to submit within a specified time a plan of improvement and schedule for compliance with the specified requirements.
- (b) The Director is authorized to approve plans, specifications, and related material, and to issue permits on behalf of the Division to persons who apply for such permits in accordance with Section 10 of the Act and such rules as are adopted and promulgated pursuant to same.
- (7) Director of the Environmental Protection Division; Conflicts of Interest.** The Director of the Environmental Protection Division shall fully meet and qualify as to the conflict of interest requirements provided for in the Federal Water Pollution Control Act, as amended, 33 U.S.C. ' 1314(l). (D), and the rules and regulations thereunder, particularly Federal Regulations, 40 C.F.R. 123.25 (c).
- (8) Effective Date.** This Rule shall become effective twenty days after filing with the Secretary of State's office.

Authority Ga. Laws 1964. p. 416, as amended: Ga. Laws 1972, p. 1015, as amended. Administrative History. Original Rule as filed on June 10, 1974.; effective June 30, 1974. **Amended:** E. R. 391-3-6 was filed May. 1, 1996, eff. April 25, 1996, the date of adoption to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency. Amended: F. July 10, 1996. Eff. July 30, 1996. **Amended:** Authority: O.C.G.A. ' 12-5-23 (a). Authority: O.C.G.A. ' ' 12-2-2 (a), 12-2-24. **Amended:** F. May 21, 1998; Effective June 18, 1998. Amended F: Nov. 5, 2003; Eff. Nov. 25, 2003.

391-3-6-.22 NPDES General Permit for Construction Activity Fees

- (1) Exclusions.** Those land disturbing activities not subject to regulation under the State General Permit are exempt from the fees required by this section.
- (2) NPDES General Permit for Construction Activity Fees.** The requirements of this subsection are applicable to primary permittees that own or operate a site at which land disturbing activities occur in the State of Georgia.
- (a) For the purpose of determining the disturbed acreage to which the fees of this subsection apply, the primary permittee shall use the erosion, sedimentation and pollution control plan created in compliance with the State General Permit showing the activities to be undertaken by any person at the site. This acreage shall be measured by methods that provide an appropriate measurement of the land area to the closest tenth (1/10th) of an acre of land disturbing activity proposed.
- (b) Any Primary Permittee who has submitted a Notice of Intent to disturb land under a State General Permit, or who submits a Notice of Intent to disturb land under a State General Permit, shall submit a fee on the schedules described below which will cover the fee requirements for all stages or phases of development or land disturbing activity described in the Notice of Intent.
- (3) Fee Schedule for Land Disturbing Activities in a Jurisdiction that is not Regulated by a Local Issuing Authority, after December 31, 2003.**
- (a) Determination of applicable fee. Each Primary Permittee shall determine the proposed extent of land disturbing activities to be performed at the site covered by the permit in number of acres or fraction of acres to the nearest tenth (1/10th) acre to be disturbed. When a Primary Permittee pays the applicable fee of this subsection, that Primary Permittee shall not pay any additional State General Permit fees to the State unless the scope of work covered under the permit so paid for is increased. For each acre of proposed land disturbing activity, each Primary Permittee shall pay the fee established by this section prior to the commencement of any land disturbing activity.
- (b) Primary Permittees shall pay the State of Georgia, as described in section 391-3-6-.22(7) below, \$80.00 per acre of land disturbed in a jurisdiction that is not regulated by a local issuing authority.
- (4) Fee Schedule for Land Disturbing Activities in a Jurisdiction that is Regulated by a Local Issuing Authority, after December 31, 2003.**
- (a) Determination of applicable fee. Each Primary Permittee shall determine the proposed extent of land disturbing activities to be performed at the site covered by the permit in number of acres or fraction of acres to the nearest tenth (1/10th) acre to be

disturbed. When a Primary Permittee pays the applicable fee of this subsection, that Primary Permittee shall not pay any additional State General Permit fee to the State unless the scope of work covered under the permit so paid for is increased. For each acre of land disturbed, each Primary Permittee shall pay the fee established by this section prior to the commencement of any land disturbing activity.

(b) Primary Permittees shall pay the State of Georgia, as described in section 391-3-6-.22(7) below, \$40.00 per acre of land disturbed in a jurisdiction that is regulated by a local issuing authority.

(c) Primary Permittees shall pay to the local issuing authority, as described in section 391-3-6-.22(7) below, \$40.00 per acre of land disturbed in a jurisdiction that is regulated by a local issuing authority.

(5) Fee Schedule for Land Disturbing Activities Performed by Permittees Exempt from Local Issuing Authority Regulation pursuant to O.C.G.A. 12-7-17, after December 31, 2003.

(a) Determination of applicable fee. Each Primary Permittee shall determine the proposed extent of land disturbing activities to be performed at the site covered by the permit in number of acres or fraction of acres to the nearest tenth (1/10th) acre to be disturbed. When a Primary Permittee pays the applicable fee of this subsection, that Primary Permittee shall not pay any additional State General Permit fee to the State unless the scope of work covered under the permit so paid for is increased. For each acre of land disturbed, each Primary Permittee shall pay the fee established by this section prior to the commencement of any land disturbing activity.

(b) Primary Permittees shall pay the State of Georgia, as described in section 391-3-6-.22(7) below, \$80.00 per acre of land disturbed regardless of jurisdiction.

(6) Fee Schedule for Land Disturbing Activities from August 13, 2003 through December 31, 2003.

(a) For on-going or completed projects that have submitted a Notice of Intent to disturb land under a State General Permit the Primary Permittee shall pay a fee based on the following:

- (i) the number of acres or fraction of acres to the nearest tenth (1/10th) acre that have not reached final stabilization before August 13, 2003; and
- (ii) the proposed extent of land disturbing activities yet to be performed at the site covered by the permit in number of acres or fraction of acres to the nearest tenth (1/10th) acre to be disturbed.

(b) For projects that did begin or will begin land disturbing activity during the period of August 13, 2003 through December 31, 2003, the Primary Permittee shall pay a fee based on the proposed extent of land disturbing activities to be performed at the site covered by the permit in number of acres or fraction of acres to the nearest tenth (1/10th) acre to be disturbed.

(c) The dollar amount of the fees paid under this subsection shall be the same as the dollar amounts due in the applicable subsections 391-3-6-.22(3) through (5).

(d) Said payment is due and payable no later than January 31, 2004. Failure to pay outstanding fees under this provision on or before January 31, 2004 is a violation of these rules.

(7) Payment of Land Disturbing Activity Fees.

(a) **Payment due date.** Except as described in subsection 391-3-6-.22(6), all land disturbing activity fees required by this section shall be paid to the Division or to the local issuing authority, as appropriate, prior to the commencement of land disturbing activities at the site. Persons who fail to make appropriate payments and who commence work without payment shall be in violation of the State General Permit and the Georgia Water Quality Control Act, O.C.G.A. 12-5-20 et seq.

(b) **Payment remittance.** Payments required to be made to the State of Georgia, whether in a jurisdiction covered by a local issuing authority or a jurisdiction not covered by a local issuing authority shall be made payable to Georgia Dept. of Natural Resources and submitted on a form provided by the division. Payments required to be made to a local issuing authority shall be made in the manner specified by the local issuing authority and shall not be made to the division.

(c) **Failure to pay.** Failure to make payments required under these rules is a violation of these rules for each day on which land disturbing activity occurs on the site.

(8) Fees for Land Disturbing Activities by Out-of-State Businesses. The requirements of this subsection are applicable to any person performing land disturbing activities in the state of Georgia. Out-of-state businesses shall comply with all applicable state and local laws, rules and regulations.

Authority O.C.G.A. Sec. 12-5-23, 12-5-30, et seq. Filed: Nov. 5, 2003; Eff. Nov. 25, 2003