

### **391-3-6-.06 Waste Treatment and Permit Requirements. Amended**

NOTE: draft amendments to paragraph (7) are excerpted below

(7) **Notice and Public Participation.** The provisions of Rule 391-3-6-.26 will apply to public notice of complete permit applications, draft permits and fact sheets or statements of basis. The public notice for permits with an approved Sludge Management Plan will also include publication in one or more newspapers of general circulation in the area affected by the discharge.

~~(a) — Tentative Determination and Draft Permits:~~

~~1. — When the EPD is satisfied that the application is complete, a tentative determination will be made to issue or deny the permit. If the tentative determination is to issue the permit, a draft permit will be prepared in accordance with Federal Regulations, 40 C.F.R. 124.6, and applicable State laws prior to the issuance of a public notice.~~

~~(b) — Public Notice:~~

~~1. — Public notice of every complete permit application will be prepared and circulated in a manner designated to inform interested and potentially interested persons of the proposed discharge and of the proposed determination to issue or deny a permit for the proposed discharge. Procedures for circulation of the public notice shall include the following:~~

~~(i) — Within the geographical area of the proposed discharge the public notice shall be circulated by at least one of the following: posting in the post office or other public buildings near the premises of the applicant in which the discharge is located; posting at the entrance of the applicant's premises or nearby; or publication in one (1) or more newspapers of general circulation in the area affected by the discharge;~~

~~(ii) — A copy of the public notice shall be mailed to the permit applicant and a copy shall be available at the EPD office in Atlanta;~~

~~(iii) — Mailing of the public notice to any person or group upon written request including persons solicited from area lists from past permit proceedings. The EPD shall maintain a mailing list for distribution of public notices and fact sheet. Any person or group may request that their names be added to the mailing list. The request should be in writing to the EPD office in Atlanta and shall be renewed in December of each year. Failure to renew the request shall result in the removal of such name from the mailing list;~~

~~(iv) — The EPD shall provide a period of not less than thirty (30) days following the date of the public notice in which interested persons may submit their written views on the tentative determination with respect to the NPDES Permit Application. All written comment submitted during the thirty (30) day comment period will be retained by the EPD and considered in the final determination with respect to the permit application and shall be responded to in accordance with Federal Regulations, 40 C.F.R. 124.17. The comment period may be extended at the discretion of the Director;~~

~~(v) — The contents of the public notice will be in accordance with Federal Regulations, 40 C.F.R. 124.10(d);~~

~~(vi) — The EPD will prepare and distribute a fact sheet in accordance with Federal Regulations, 40 C.F.R. 124.8 and 124.56 and applicable State laws. A copy of the fact sheet will be available for public inspection at the EPD office in Atlanta. Any person may request in writing a copy of the fact sheet and it will be provided. The EPD shall add the name of any person or group upon request to the mailing list to receive copies of fact sheet;~~

~~(vii) — The EPD will prepare and distribute a statement of basis in accordance with Federal Regulations, 40 C.F.R. 124.7;~~

~~(viii) — The Director will mail a copy of the public notice to the U.S. Army Corps of Engineers, Federal and State agencies with jurisdiction over fish, shellfish and wildlife resources and to other appropriate governmental authorities and will provide such agencies an opportunity to submit their written views and recommendations in accordance with Federal Regulations, 40 C.F.R. 124.10 and applicable State laws. The comments of the District Engineer of the Corps of Engineers, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, or any State or Federal Agency with jurisdiction over fish, wildlife, or public health shall be considered in accordance with Federal Regulations, 40 C.F.R. 122.59;~~

~~(ix) — Copies of the proposed permits shall be transmitted to the Regional Administrator for review and comments in such manner as the Director and Regional Administrator shall agree;~~

~~(x) — The EPD shall transmit to the Regional Administrator a copy of every issued NPDES Permit, immediately following issuance, along with any and all terms, conditions, requirements or documents which are part of such permit or which affect the authorization by the permit of the discharge of pollutants.~~

~~(c) — Public Hearings:~~

~~1. — The Director shall provide an opportunity for an applicant, any affected state or interstate agency, the Regional Administrator or any other interested agency, person or group of persons to request a public hearing with respect to an NPDES Permit Application. Any such request for a public hearing shall be filed within the 30 day comment period prescribed in subparagraph 391-3-6-.06(7)(b)(v) and shall indicate the interest of the party filing such a request, the reasons why a hearing is requested, and those specific portions of the application or other NPDES form or information to be considered at the public interest in holding such a hearing;~~

~~2. — Any public hearing held pursuant to this subparagraph shall be held in the geographical area of the proposed discharge or other appropriate location at the discretion of the Director;~~

~~3. — The Director may hold one public hearing on related groups of permit applications;~~

~~4. — Public notice of any hearing held pursuant to this subparagraph shall be provided at least thirty (30) days in advance of the hearing date and shall be circulated in accordance with Federal Regulations, 40 C.F.R. 124.10(c) where applicable to State issued permits.~~

~~(d) — Public Access to Information:~~

1. ~~1. — A copy of the NPDES Permit Application, public notice, fact sheet, statement of basis, and draft permit and other NPDES forms related thereto, including written public comments and comments of all governmental agencies thereon and other reports, files and information not involving methods or processes entitled to protection as trade secrets, shall be available for public inspection and copying during normal business hours at the EPD office in Atlanta. Effluent data shall not be considered as information entitled to protection. Public access to such information shall be in accordance with Federal Regulations, 40 C.F.R. 122.7;~~
2. ~~2. — Any information submitted with reports, records or plans that is considered confidential by the permittee (applicant), and that is not specifically excluded in item (d)1. above, should be clearly labeled "Confidential" and be supported by a statement as to the reason that such information should be considered confidential. If the Director, with the concurrence of the Regional Administrator, determines that such information is entitled to confidential protection, he shall label and handle same accordingly;~~
3. ~~3. — Any information accorded confidential status whether or not contained in an NPDES form shall be made available, upon written request, to the Regional Administrator or his authorized representative who shall maintain the information as confidential.~~

#### **Rule 391-3-6-.08 Pretreatment and Permit Requirements**

NOTE: draft amendments to paragraph (7) are excerpted below

##### **(7) Notice and Public Participation.**

Where the Approval Authority is acting as the Control Authority, the following notice and public participation procedures of Rule 391-3-6-.26 shall apply.:

##### **(a) ~~Tentative determination and draft permits:~~**

1. ~~1. — When the Approval Authority is satisfied that the application is complete, a tentative determination will be made to issue or deny the pretreatment permit. If the tentative determination is to issue the permit, a draft permit will be prepared in accordance with applicable Federal regulations and State laws prior to the issuance of a public notice. If the tentative determination is to deny the permit, the applicant will be notified in writing by the Approval Authority and such notification shall include suggested revisions and modifications necessary to meet the requirements for a pretreatment permit.~~

##### **(b) ~~Public Notice:~~**

1. ~~1. — Public notice of every approvable pretreatment permit application will be prepared by the Approval Authority EPD and circulated in a manner designed to inform interested and potentially interested persons of the proposed discharge and of the proposed determination to issue a permit for the proposed discharge by an industrial user into a publicly owned treatment~~

works and then into the waters of the State. ~~The p~~Procedures for circulation of the public notice, as specified in Rule 391-3-6-.26, shall include ~~the following~~providing a:

- ~~(i) — publication in one (1) or more newspaper of general circulation that provides meaningful public notice in the area of the applicant;~~
- ~~(ii) — copy of the public notice shall be mailed to the pretreatment permit applicant and the owner or operator of the publicly owned treatment works that is to receive the discharge from the industrial user.~~
- ~~(iii) — mailing of the public notice to any persons or group upon written request to the EPD. The Approval Authority shall maintain a mailing list for distribution of public notices for pretreatment permits it issues. Any person or group may request that their names be added to the mailing list. The request should be writing to the EPD office in Atlanta and shall be renewed in December of each year. Failure to renew the request shall result in the removal of such name from the mailing list for pretreatment permit notification;~~
- ~~(iv) — a copy of the public notice shall be available for review and inspection at the EPD office in Atlanta;~~
- ~~(v) — the Approval Authority shall provide a period of not less than thirty (30) days following the date of the public notice in which interested persons may submit their written views on the tentative determination with respect to the pretreatment permit application. All written comments submitted during the thirty (30) day comment period will be retained by the Approval Authority and considered in the final determinations with respect to the pretreatment permit application. The comment period may be extended at the discretion of the Approval Authority.~~
- ~~(c) — Public Hearing:~~
  - ~~1. — The Approval Authority shall provide an opportunity for an applicant, any affected state or interstate agency, or any other interested agency, person or group of persons to request a public hearing with respect to a pretreatment permit application. Any such request for a public hearing shall be filed within the thirty (30) day comment period prescribed in Subparagraph 391-3-6 .08 (7)(b) 1.(v) and shall indicate the interest of the party filing such request, reasons why a hearing is requested and those specific portions of the application or other pretreatment form or information to be considered at the public hearing. The Approval Authority shall hold a hearing if it determines that there is sufficient public interest in holding such a hearing.~~
  - ~~2. — Any public hearing held pursuant to this Subparagraph shall be held in the geographical area of the proposed discharge to the publicly owned treatment works or other appropriate location at the discretion of the Approval Authority.~~
  - ~~3. — The Approval Authority may hold one public hearing on related groups of pretreatment permit applications.~~
  - ~~4. — Public notice of any hearing held pursuant to this Subparagraph shall be provided at least thirty (30) days in advance of the hearing date and shall be circulated in accordance with the public notification procedures in Subparagraph 391-3-6 .08 (7)(b)~~

**Rule 391-3-6-.09 Requirements for Approval and Implementation of Publicly Owned Treatment Works Pretreatment Programs and Administration of the EPD Pretreatment Program**

NOTE: draft amendments to paragraph (5) are excerpted below

**(5) Notice and Public Participation.**

**(a) Tentative Determination for POTW Pretreatment Program Approval.**

1. Within 20 work days after the EPD has made a determination that a POTW pretreatment program submission meets the requirements of 40 CFR 403.9(b), a public notice will be issued by the EPD and the city or municipality requesting approval to advise the public that a request has been made for approval of the submission. This public notice shall be published and circulated in a manner designed to inform interested and potentially interested persons of the submission. Procedures for circulation of the public notice shall include the following:

- (i) ~~mailing notice~~ to adjoining State whose waters may be affected;
- (ii) ~~mailing notice~~ to ~~section 208 d~~ Designated ~~208 p~~ Planning ~~a~~ Agencies; Federal and State fish, shellfish and wildlife resources agencies; and, upon request, to other appropriate government agencies; and to any other person or group, including those on the appropriate EPD mailing list;
- (iii) publication in a newspaper(s) of general circulation within the city or municipality in which the POTW pretreatment program has been established;
- (iv) ~~mailing notice~~ to the chief elected official of the city or municipality requesting approval of the POTW pretreatment program submission;
- (v) a copy will be available at the EPD office in Atlanta, posted to the EPD website, and an electronic mailing (e-mail) notification of the public notice will be provided to those persons or groups included on the electronic mailing list to receive such notices. The EPD shall maintain an electronic mailing list for distribution of public notices. Any person or group may request that their e-mail address be added to the electronic mailing list or they may sign-up through the EPD website;
- (vi) the EPD shall provide a period of not less than forty-five (45) days following the date of the public notice during which interested persons may submit their written views on the submission. All written comments submitted during the forty-five day period will be retained by the EPD and considered in the decision on whether or not to approve the submission. The comment period may be extended at the discretion of the Approval Authority; and
- (vii) the contents of the public notice will be in accordance with appropriate Federal requirements and applicable State laws.

2. The Approval Authority shall provide an opportunity for the applicant, any affected State, any interested State or Federal agency, person or group of persons to request a public hearing

with respect to the submission. Any such request for a public hearing shall be filed within the forty-five (45) day comment period described in Subparagraph 391-3-6-.09 (5)(a) 1.(vi) and shall indicate the interest of the person filing such request and the reason why a hearing is warranted. The Approval Authority shall hold the hearing if it determines that there is sufficient public interest in holding such hearing or if the POTW requests a hearing.

(i) any public hearing held pursuant to this Subparagraph shall be held in the geographical area of the applicable submission or other appropriate location at the discretion of the Approval Authority. The Approval Authority may hold one public hearing on related groups of submissions in the same geographical area;

(ii) public notice of any hearing held pursuant to this Subparagraph shall be provided at least forty-five (45) days advance of the hearing date and shall be circulated in accordance with Subparagraph 391-3-6-.09 (5)(a) 1.

(b) Final Determination for POTW Pretreatment Program Approval or Denial.

1. Deadline for review of submission. The Approval Authority shall have 90 days from the date of public notice of any submission complying with the requirements of § 403.9(b) to review the submission. The Approval Authority shall review the submission to determine compliance with the requirements of 40 CFR 403.8(b) and (f). The Approval Authority may have up to an additional 90 days to complete the evaluation of the submission if the public comment period provided for in Subparagraph 391-3-6-.09 (5)(a) 1.(vi) is extended beyond 45 days or if a public hearing is held as provided for in Subparagraph 391-3-6-.09 (5)(a) 2. In no event, however, shall the time for evaluation of the submission exceed a total of 180 days from the date of public notice of a submission meeting the requirements of § 403.9(b)

2. At the conclusion of the public notice comment period or the public comment period allowed following a public hearing or the extension if warranted per Subparagraph 391-3-6-.09 (5)(b) 1. above, the Approval Authority shall make a determination to approve the POTW pretreatment program or deny any approval to the program based on the requirements of Subparagraph 391-3-6-.09 (4) and taking into consideration the comments submitted during the comment period and the record of the public hearing, if held. When the Approval Authority has made a determination to deny approval to the program the POTW shall be notified in writing in accordance with Subparagraph 391-3-6-.09 (4)(b) and each person who has requested individual notice. The Approval Authority shall also notify these persons who submitted comments and participated in the public hearing, if held, of the approval or disapproval of the submission.

3. U.S. EPA's objection to Approval Authority's decision. No POTW pretreatment program shall be approved by the Approval Authority if, following the 45 day (or extended) evaluation period provided for in Subparagraph 391-3-6-.09 (5)(a) 1.(vi) and any hearing held pursuant to Subparagraph 391-3-6-.09 (5)(a) 2 of this section, the Regional Administrator of U.S. Environmental Protection Agency Region 4 (Regional Administrator) sets forth in writing objections to the approval of such submission and the reasons for such objections. A copy of the Regional Administrator's objections shall be provided to the applicant, and each person who has requested individual notice. The Regional Administrator shall provide an opportunity for written comments and may convene a public hearing on his or her objections. Unless retracted, the



Regional Administrator's objections shall constitute a final ruling to deny approval of a POTW pretreatment program 90 days after the date the objections are issued.

4. When the EPD has made a determination to approve the submission, a public notice shall be issued to advise of the decision. This public notice shall be published and circulated in a manner designed to inform interested and potentially interested persons of the decision.

Procedures for circulation of the public notice shall include the following:

- (i) publication in the same newspaper as the original notice of request for approval of the submission was published;
- (ii) ~~mailing~~providing to those persons who submitted comments and participated in the hearing for approval or disapproval of the submission;
- (iii) the Approval Authority shall ensure that the submission and any comments upon said submission are available to the public for inspection and copying at the EPD offices in Atlanta during normal business hours;
- (iv) ~~mailing~~providing to adjoining State whose waters may be affected; and
- (v) ~~mailing~~providing to designated 208 planning agencies; Federal and State fish, shellfish and wildlife resource agencies; ~~and, upon request, to other appropriate government agencies; and to any other person or group including those on the appropriate EPD mailing list.~~

(c) Public Access to Information.

1. A copy of the program submission, and other forms related thereto, including written public comments and comments of all governmental agencies thereon and other reports, files and information not involving methods or processes entitled to protection as trade secrets, may be available online and will be available for public inspection and copying during normal business hours at the EPD office in Atlanta. Effluent data shall not be considered as information entitled to protection. Public access to NPDES information shall be in accordance with Federal Regulations, 40 C.F.R. 122.7;

2. Any information submitted with reports, records or plans that is considered confidential by the POTW, and that is not specifically excluded in paragraph (c)1. above, should be clearly labeled "Confidential" and be supported by a statement as to the reason that such information should be considered confidential. If the Director, with the concurrence of the Regional Administrator, determines that such information is entitled to confidential protection, he shall label and handle same accordingly;

3. Any information accorded confidential status whether or not contained in a program submission shall be made available, upon written request, to the Regional Administrator or his authorized representative who shall maintain the information as confidential.

## **Rule 391-3-6-.11. Land Disposal and Permit Requirements**

NOTE: draft amendments to paragraph (6) are excerpted below

(6) Notice and Public Participation. The notice and public participation procedures of Rule 391-3-6-.26 shall apply. The public notice for permits with an approved Sludge Management Plan will also include publication in one or more newspapers of general circulation in the area affected by the discharge.

(a) ~~Tentative determination and draft permits:~~

1. ~~When the Division is satisfied that the application is complete, a tentative determination will be made to issue or deny the land disposal system permit. If the tentative determination is to issue the permit, a draft permit will be prepared in accordance with applicable State law prior to the issuance of a public notice. If the tentative determination is to deny the permit the applicant will be notified in writing by the Director and such notification shall include suggested revisions and modifications necessary to meet the requirements for a land disposal system permit.~~

(b) ~~Public Notice:~~

1. ~~Public notice of every approvable land disposal system permit application will be prepared and circulated in a manner designed to inform interested and potentially interested persons of the proposed pollutant discharge and of the proposed determination to issue a permit for the proposed pollutant discharge into a land disposal system and then into waters of the State. Procedures for circulation of the public notice shall include the following:~~

(i) ~~Issuance of a news release to one (1) or more newspaper of general circulation in the area of the applicant;~~

(ii) ~~A copy of the public notice shall be mailed to the land disposal system permit applicant and a copy shall be available for review and inspection at the Division office in Atlanta;~~

(iii) ~~Mailing of the public notice to any persons or group upon written request to the Division. The Division shall maintain a mailing list for distribution of public notices for land disposal system permits. Any person or group may request that their names be added to the mailing list. The request should be in writing to the Division office in Atlanta and shall be renewed in December of each year. Failure to renew the request shall result in the removal of such name from the mailing list for the land disposal system permit notification;~~

(iv) ~~The Division shall provide a period of not less than thirty (30) days following the date of the public notice in which interested persons may submit their written views on the tentative determination with respect to the land disposal system permit application. All written comments submitted during the thirty (30) day comment period will be retained by the Division and considered in the final determination with respect to the land disposal system permit application. The comment period may be extended at the discretion of the Director.~~

(c) ~~Public Hearing:~~

1. ~~The Director shall provide an opportunity for an applicant, any affected state or interstate agency, or any other interested agency, person or group of persons to request a public hearing with respect to a land disposal system permit application. Any such request for a public hearing shall be filed within the thirty (30) day comment period prescribed in subparagraph 32-3-6-.11 (6)(b) 1.(iv) and shall indicate the interest of the party filing such request, reasons why a hearing is requested and those specific portions of the application or other land disposal system form or~~



~~information to be considered at the public hearing. The Director shall hold a hearing if he determines that there is sufficient public interest in holding such a hearing;~~

~~2. Any public hearing held pursuant to this subparagraph shall be held in the geographical area of the proposed pollutant discharge into a land disposal system and then into waters of the State, or other appropriate location at the discretion of the Director;~~

~~3. The Director may hold one public hearing on related groups of land disposal system permit applications;~~

~~4. Public notice of any hearing held pursuant to this subparagraph shall be provided at least thirty (30) days in advance of the hearing date and shall be circulated in accordance with the public notification procedures in subparagraph 391-3-6-.11 (6)(b).~~

### **Rule 391-3-6-.13. Underground Injection Control**

NOTE: draft amendments to paragraph (7) are excerpted below

(7) Notice and Public Participation for Class I, II and III Wells.

(a) When the Division is satisfied that the application is complete, a tentative determination will be made to issue or deny the permit. If the tentative determination is to issue the permit, a draft permit will be prepared in accordance with Federal Regulations, 40 C.F.R. 124.6 and applicable State laws prior to the issuance of a public notice. The notice and public participation procedures of Rule 391-3-6-.26 shall apply for Class I, II and III Wells.

~~(b) Public notice of the draft permit will be prepared and circulated in a manner designated to inform interested and potentially interested persons of the proposed injection and of the proposed determination to issue or deny a permit for the proposed injection. Procedures for circulation of the public notice shall include the following:~~

~~1. Within the geographical area of the proposed injection the public notice shall be circulated by at least one of the following: posting in the post office or other public buildings near the premises of the applicant in which the injection is located or posting at the entrance of the applicant's premises or nearby; and publication in one (1) or more newspapers of general circulation in the area affected by the injection;~~

~~2. Posting of the public notice in the Office of the Secretary of State;~~

~~3. A copy of the public notice shall be mailed to the applicant;~~

~~4. Mailing of the public notice to any person or group upon written request including persons solicited from area lists from past permit proceedings. The Division shall maintain a mailing list for distribution of public notices and fact sheets. Any person or group may request that their names be added to the mailing list. The request should be in writing to the Division and shall be renewed in December of each year. Failure to renew the request shall result in the removal of such name from the mailing list;~~

~~5. The Division shall provide a period of not less than thirty (30) days following the date of the public notice in which interested persons may submit their written views on the tentative determination with respect to the draft Injection Well Permit. All written comments submitted during the thirty (30) day comment period will be retained by the Division and considered in the final determination with respect to the permit application and shall be responded to in accordance~~

with Federal Regulations, 40 C.F.R. 124.17. The comment period may be extended at the discretion of the Director;

6. ~~—The contents of the public notice will be in accordance with Federal Regulations, 40 C.F.R. 124.10;~~

7. ~~—The Division will prepare and distribute a fact sheet in accordance with Federal Regulations, 40 C.F.R. 124.8 and applicable State laws. A copy of the fact sheet will be available for public inspection at the Division office in Atlanta. Any person may request in writing a copy of the fact sheet and it will be provided. The Division shall add the name of any person or group upon request to the mailing list to receive copies of fact sheets;~~

8. ~~—The Division will prepare and distribute a statement of basis in accordance with Federal Regulations, 40 C.F.R. 124.7;~~

9. ~~—Copies of the draft permit shall be transmitted to the Regional Administrator for review and comments in such manner as the Director and Regional Administrator shall agree.~~

(c) ~~—The Director shall provide an opportunity for an applicant, any affected state or interstate agency, the Regional Administrator or any other interested agency, person or group of persons to request a public hearing with respect to an Injection Well Permit. Any such request for public hearing shall be filed within the 30 day comment period prescribed in subparagraph 391-3-6-.13 (7)(b) 5. and shall indicate the interest of the party filing such a request, the reasons why a hearing is requested, and those specific portions of the application or information to be considered at the public hearing. The Director shall hold a hearing if he determines that there is sufficient public interest in holding such a hearing or if the Director desires to clarify a permitting decision:~~

1. ~~—Any public hearing held pursuant to this subparagraph shall be held in the geographical area of the proposed injection or other appropriate location at the discretion of the Director;~~

2. ~~—The Director may hold one public hearing on groups of related permit applications;~~

3. ~~—Public notice of any hearing held pursuant to this subparagraph shall be provided at least thirty (30) days in advance of the hearing date and shall be circulated in accordance with Federal Regulations, 40 C.F.R. 124.10(c) where applicable to State-issued permits.~~

(d) ~~—A copy of the administrative record for the final permit ( 40 C.F.R. 124.18(b)(1) ), including but not limited to the Injection Well Permit Application, public notice, fact sheet, statement of basis, draft permit and other well forms related thereto, written public comments of all governmental agencies thereon and other reports, files and information not involving methods or processes entitled to protection as trade secrets, and not including written public comments by any person, shall be available for public inspection and copying during normal business hours at the Division office in Atlanta and in addition shall be distributed in accordance with Federal Regulations, 40 C.F.R. 124.10(e). Public access to such information shall be in accordance with Federal Regulations, 40 C.F.R. 14.5.~~

(e) ~~—Any information submitted in an Injection Well Permit Application form together with reports, records or plans that are considered confidential by the applicant should be clearly labeled "Confidential" and be supported by a statement as to the reasons that such information should be considered confidential. If the Director, with the concurrence of the Regional Administrator, determines that such information is entitled to confidential protection, he shall label and handle same accordingly:~~

1. ~~—When the information being considered for confidential treatment is contained in the application, the Director shall forward such information to the Regional Administrator for his concurrence in any determination of confidentiality.~~

~~2. Any information accorded confidential status, whether or not contained in the application, shall be made available, upon written request, to the Regional Administrator or his authorized representative who shall maintain the information as confidential.~~

~~(f) Claims for confidentiality for the following will be denied:~~

~~1. The name and address of any permit applicant or permittee; or~~

~~2. Information which deals with the existence, absence, or level of contaminants in drinking water.~~

### **Rule 391-3-6.15 Non-Storm Water General Permit Requirements**

NOTE: draft amendments to paragraph (7) are excerpted below

**(7) Notice and Public Participation.** The notice and public participation procedures of Rule 391-3-6-.26 shall apply.

~~(a) Tentative Determination and Draft Permits.~~

~~If the tentative determination is to issue a general permit, a draft permit will be prepared in accordance with Federal Regulations, 40 C.F.R. 124.6, and applicable State laws prior to the issuance of a public notice.~~

~~(b) Public Notice.~~

~~Public notice of every draft general permit will be prepared and circulated in a manner designated to inform interested and potentially interested persons of the proposed discharges eligible for coverage and of the proposed determination to issue a general permit for the proposed discharges. Procedures for circulation of the public notice shall include the following:~~

~~1. Within the geographical area of the proposed discharge the public notice shall be circulated by publication in one (1) or more newspapers of general circulation in the area affected by the discharge;~~

~~2. A copy of the public notice shall be available at the EPD office in Atlanta;~~

~~3. Mailing of the public notice to any person or group upon written request, including persons solicited from area lists from past permit proceedings. The EPD shall maintain a mailing list for distribution of public notices and fact sheets. Any person or group may request that their names be added to the mailing list. The request should be in writing to the EPD office in Atlanta and shall be renewed in December of each year. Failure to renew the request shall result in the removal of such name from the mailing list;~~

~~4. The EPD shall provide a period of not less than thirty (30) days following the date of the public notice in which interested persons may submit their written views on the tentative determination with respect to the draft general permit. All written comments submitted during the thirty (30) day comment period will be retained by the EPD and considered in the final determination with respect to the draft general permit and shall be responded to in accordance~~

with Federal Regulations, 40 C.F.R. 124.17. The comment period may be extended at the discretion of the Director;

5. ~~The contents of the public notice will be in accordance with Federal Regulations, 40 C.F.R. 124.10(d);~~

6. ~~The EPD will prepare and distribute a fact sheet in accordance with Federal Regulations, 40 C.F.R. 124.8 and 124.56 and applicable State laws. A copy of the fact sheet will be available for public inspection at the EPD office in Atlanta. Any person may request in writing a copy of the fact sheet and it will be provided. The EPD shall add the name of any person or group upon request to the mailing list to receive copies of fact sheets;~~

7. ~~The EPD will prepare and distribute a statement of basis in accordance with Federal Regulations, 40 C.F.R. 124.7;~~

8. ~~The Director will mail a copy of the public notice to the U.S. Army Corps of Engineers, Federal and State agencies with jurisdiction over fish, shellfish and wildlife resources and to other appropriate governmental authorities and will provide such agencies an opportunity to submit their written views and recommendations in accordance with Federal Regulations, 40 C.F.R. 124.10 and applicable State laws. The comments of the District Engineer of the Corps of Engineers, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, or any State or Federal Agency with jurisdiction over fish, wildlife, or public health shall be considered in accordance with Federal Regulations, 40 C.F.R. 122.49;~~

9. ~~Copies of the proposed permits shall be transmitted to Regional Administrator for review and comments in such manner as the Director and Regional Administration shall agree;~~

10. ~~The EPD shall transmit to the Regional Administrator a copy of every issued general permit, immediately following issuance, along with any and all terms, conditions, requirements or documents which are part of such permit or which affect the authorization by the permit of the discharge of pollutants.~~

~~(c) — Public Hearings.~~

1. ~~The Director shall provide an opportunity for any potential permittee, any affected state or interstate agency, the Regional Administrator or any other interested agency, person or group of persons to request a public hearing with respect to a draft general permit. Any such request for a public hearing shall be filed within the 30 day comment period described in subparagraph 391-3-6 .15 (7)(b) 4. and shall indicate the interest of the party filing such as request, the reasons why a hearing is requested, and those specific portions of the application or other NPDES form or information to be considered at the public hearing. The Director shall hold a hearing if he determines that there is sufficient public interest in holding such a hearing;~~

2. ~~Any public hearing held pursuant to this subparagraph shall be held in the geographical area of the proposed discharge or other appropriate location at the discretion of the Director;~~

3. ~~The Director may hold one public hearing on related groups of draft general permits;~~

~~4. — Public notice of any hearing pursuant to this subparagraph shall be provided at least thirty (30) days in advance of the hearing date and shall be circulated in accordance with Federal Regulations, 40 C.F.R. 124.10(c) where applicable to State issued permits.~~

~~(d) — Public Access to Information.~~

~~1. — A copy of the draft general permit, public notice, fact sheet, statement of basis, and other NPDES forms related thereto, including written public comments and comments of all governmental agencies thereon and other reports, files and information not involving methods or processes entitled to protection as trade secrets, shall be available for public inspection and copying during normal business hours at the EPD office in Atlanta. Effluent data and Notice of Intent forms shall not be considered as information entitled to protection. Public access to such information shall be in accordance with Federal Regulations, 40 C.F.R. 122.7;~~

~~2. — Any information submitted with reports, records or plans that is considered confidential by the permittee (applicant), and that is not specifically excluded in item (d)1. above should be clearly labeled "Confidential" and be supported by a statement as to the reason that such information should be considered confidential. If the Director, with the concurrence of the Regional Administrator, determines that such information is entitled to confidential protection, he shall label and handle same accordingly.~~

~~3. — Any information accorded confidential status whether or not contained in an NPDES form shall be made available, upon written request, to the Regional Administrator or his authorized representative who shall maintain the information as confidential.~~

### **Rule 391-3-6-.16 Storm Water Permit Requirements**

NOTE: draft amendments to paragraph (7) are excerpted below

**(7) Notice and Public Participation.** The notice and public participation procedures of Rule 391-3-6-.26 shall apply to the tentative determination to issue individual or general permits.

~~(a) — Tentative Determination and Draft Permits.~~

~~1. — If the tentative determination is to issue a general or an area wide permit, a draft permit will be prepared in accordance with Federal Regulations, 40 C.F.R. 124.6, and applicable State laws prior to the issuance of a public notice.~~

~~(b) — Public Notice. Public notice of every draft permit will be prepared and circulated in a manner designated to inform interested and potentially interested persons of the proposed discharges eligible for coverage and of the proposed determination to issue a general permit for the proposed discharges. Procedures for circulation of the public notice shall include the following:~~

1. ~~Within the geographical area of the proposed discharge the public notice shall be circulated by publication in one (1) or more newspapers of general circulation in the area affected by the discharge;~~
2. ~~A copy of the public notice shall be available at the EPD office in Atlanta;~~
3. ~~Mailing of the public notice to any person or group upon written request, including persons solicited from area lists from past permit proceedings. The EPD shall maintain a mailing list for distribution of public notices and fact sheets. Any person or group may request that their names be added to the mailing list. The request should be in writing to the EPD office in Atlanta and shall be renewed in December of each year. Failure to renew the request shall result in the removal of such name from the mailing list;~~
4. ~~The EPD shall provide a period of not less than thirty (30) days following the date of the public notice in which interested persons may submit their written views on the tentative determination with respect to the draft permit. All written comments submitted during the thirty (30) day comment period will be retained by the EPD and considered in the final determination with respect to the draft permit and shall be responded to in accordance with Federal Regulations, 40 C.F.R. 124.17. The comment period may be extended at the discretion of the Director;~~
5. ~~The contents of the public notice will be in accordance with Federal Regulations, 40 C.F.R. 124.10(d);~~
6. ~~The EPD will prepare and distribute a fact sheet in accordance with Federal Regulations, 40 C.F.R. 124.8 and 124.56 and applicable State laws. A copy of the fact sheet will be available for public inspection at the EPD office in Atlanta. Any person may request in writing a copy of the fact sheet and it will be provided. The EPD shall add the name of any person or group upon request to the mailing list to receive copies of fact sheets;~~
7. ~~The EPD will prepare and distribute a statement of basis in accordance with Federal Regulations, 40 C.F.R. 124.7;~~
8. ~~The Director will mail a copy of the public notice to the U.S. Army Corps of Engineers, Federal and State agencies with jurisdiction over fish, shellfish and wildlife resources and to other appropriate governmental authorities and will provide such agencies an opportunity to submit their written views and recommendations in accordance with Federal Regulations, 40 C.F.R. 124.10 and applicable State laws. The comments of the District Engineer of the Corps of Engineers, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service; or any State or Federal Agency with jurisdiction over fish, wildlife, or public health shall be considered in accordance with Federal Regulations, 40 C.F.R. 122.49;~~
9. ~~Copies of the proposed permits shall be transmitted to the Regional Administrator for review and comments in such manner as the Director and Regional Administrator shall agree;~~
10. ~~The EPD shall transmit to the Regional Administrator a copy of every issued permit, immediately following issuance, along with any and all terms, conditions, requirements or documents which are part of such permit or which affect the authorization by the permit of the discharge of pollutants.~~



~~(c) — Public Hearings.~~

- ~~1. — The Director shall provide an opportunity for any potential permittee, any affected state or interstate agency, the Regional Administrator or any other interested agency, person or group of persons to request a public hearing with respect to a draft permit. Any such request for a public hearing shall be filed within the 30-day comment period described in subparagraph 391-3-6.16 (7)(b) 4. and shall indicate the interest of the party filing such a request, the reasons why a hearing is requested, and those specific portions of the application or other NPDES form or information to be considered at the public hearing. The Director shall hold a hearing if he determines that there is sufficient public interest in holding such a hearing;~~
- ~~2. — Any public hearing held pursuant to this subparagraph shall be held in the geographical area of the proposed discharge or other appropriate location at the discretion of the Director;~~
- ~~3. — The Director may hold one public hearing on related groups of draft permits;~~
- ~~4. — Public notice of any hearing held pursuant to this subparagraph shall be provided at least thirty (30) days in advance of the hearing date and shall be circulated in accordance with Federal Regulations, 40 C.F.R. 124.10(c) where applicable to State-issued permits.~~

~~(d) — Public Access to Information.~~

- ~~1. — A copy of the draft permit, public notice, fact sheet, statement of basis and other NPDES forms related thereto, including written public comments and comments of all governmental agencies thereon and other reports, files and information not involving methods or processes entitled to protection as trade secrets, shall be available for public inspection and copying during normal business hours at the EPD office in Atlanta. Effluent data and Notice of Intent forms and permit applications shall not be considered as information entitled to protection. Public access to such information shall be in accordance with Federal Regulations, 40 C.F.R. 122.7;~~
- ~~2. — Any information submitted with reports, records or plans that is considered confidential by the permittee (applicant), and that is not specifically excluded in item (d)1. above should be clearly labeled "Confidential" and be supported by a statement as to the reason that such information should be considered confidential. If the Director, with the concurrence of the Regional Administrator, determines that such information is entitled to confidential protection, he shall label and handle same accordingly.~~
- ~~3. — Any information accorded confidential status whether or not contained in NPDES form shall be made available, upon written request, to the Regional Administrator or his authorized representative who shall maintain the information as confidential.~~

### **Rule 391-3-6-.17 Sewage Sludge (Biosolids) Requirements**

NOTE: draft amendments to paragraph (19) are excerpted below

#### **(19) Notice and Public Participation.**

(a) Notice must be provided for any planned significant changes to the permittee's sewage sludge use or disposal practices or sites.

(b) Notice will be made ~~under one of the following requirements:~~in accordance with the provisions of Rule 391-3-6-.26.

1. ~~For facilities with NPDES permits, 391-3-6-.06 (7),~~

2. ~~For facilities with LAS permits, 391-3-6-.11 (6).~~

### **Rule 391-3-6-.19. General Permit - Land Application System Requirements**

NOTE: draft amendments to paragraph (6) are excerpted below

(6) Notice and Public Participation. The notice and public participation procedures of Rule 391-3-6-.26 shall apply to the tentative determination to issue a general LAS permit.

~~(a) Tentative Determination and Draft Permits:~~

1. ~~If the tentative determination is to issue a general LAS permit, a draft LAS permit will be prepared in accordance with applicable State laws prior to the issuance of a public notice.~~

~~(b) Public Notice.~~

1. ~~Public notice of every draft general LAS permit will be prepared and circulated in a manner designated to inform interested and potentially interested persons of the proposed LAS facilities eligible for coverage and of the proposed determination to issue a general LAS permit for the proposed facilities. Procedures for circulation of the public notice shall include the following:~~

~~(i) Within the geographical area of the LAS facilities proposed to be covered under a general LAS permit, the public notice shall be circulation by publication in one (1) or more newspapers of general circulation in the area affected by operation of the LAS facilities;~~

~~(ii) A copy of the public notice shall be available at the EPD office in Atlanta;~~

~~(iii) Mailing of the public notice to any person or group upon written request shall be done in accordance with subparagraph 391-3-6-.11 (6)(b)(iii).~~

~~(iv) The EPD shall provide a period of not less than thirty (30) days following the date of the public notice in which interested persons may submit their written views on the tentative determination with respect to the draft general LAS permit. All written comments submitted during the thirty (30) day comment period will be retained by the EPD general LAS permit. The comment period may be extended at the discretion of the Director.~~

~~(c) Public Hearings.~~

~~1. Public hearings shall be in accordance with subparagraph 391-3-6-.11 (6)(e).~~

~~(d) Public Access to Information.~~

~~1. A copy of the draft general LAS permit, public notice, fact sheet, statement of basis, and other LAS forms related thereto, including written public comments and comments of all governmental agencies thereon and other reports, files and information not involving methods of processes entitled to protection as trade secrets shall be available for public inspection and copying during normal business hours at the EPD office in Atlanta. Notice of Intent forms shall not be considered as information entitled to protection.~~

### **Rule 391-3-6-.23. Land Disposal of Septage**

NOTE: draft amendments to paragraph (18) are excerpted below

(18) Notice and Public Participation. The notice and public participation provisions of Rule 391-3-6-.26 shall apply.

~~(a) Tentative determination and draft permits:~~

~~1. When the Division is satisfied that the application for an individual permit is complete, a tentative determination will be made to issue or deny the permit. If the tentative determination is to issue the permit, a draft permit will be prepared prior to the issuance of a public notice. If the tentative determination is to deny the permit the applicant will be notified in writing by the Director and such notification shall include suggested revisions and modifications necessary to meet the requirements for a permit.~~

~~2. If the Director makes a tentative determination to issue a general permit, a draft permit will be prepared in accordance with applicable State laws prior to issuance of a public notice.~~

~~(b) Public Notice:~~

~~1. Public notice of every approvable permit application for an individual permit will be prepared and circulated in a manner designed to inform interested and potentially interested persons of the proposed septage system and of the proposed determination to issue a permit for the proposed septage system. Procedures for circulation of the public notice shall include the following:~~

~~(i) Circulation by publication in one (1) or more newspapers of general circulation in the area of the applicant;~~

~~(ii) A copy of the public notice shall be mailed to the permit applicant and a copy shall be available for review and inspection at the Division office in Atlanta;~~

~~(iii) Mailing of the public notice to any persons or group upon written request to the Division. The Division shall maintain a mailing list for distribution of public notices for permits. Any person or group may request that their names be added to the mailing list. The request should be in writing to the Division office in Atlanta and shall be renewed in December of each year. Failure to renew the request shall result in the removal of such name from the mailing list for permit notification;~~

~~(iv) The Division shall provide a period of not less than thirty (30) days following the date of the public notice in which interested persons may submit their written views on the tentative determination with respect to the permit application. All written comments submitted during the thirty (30) day comment period will be retained by the Division, and will be considered in the~~

~~final determination with respect to the permit application. The comment period may be extended at the discretion of the Director.~~

~~2. Public notice of every draft general permit will be prepared and circulated as described in subparagraph 391-3-6.19 (6).~~

~~(c) Public Hearing:~~

~~1. The Director shall provide an opportunity for an applicant, any affected state or interstate agency, or any other interested agency, person or group of persons to request a public hearing with respect to a draft general permit or an application for an individual permit. Any such request for a public hearing shall be filed within the thirty (30) day comment period prescribed, and shall indicate the interest of the party filing such request, reasons why a hearing is requested and identify the specific portions of the general permit, application or other septage system form or information to be considered at the public hearing. The Director shall hold a hearing if he determines that there is sufficient public interest in holding such a hearing;~~

~~2. Any public hearing held pursuant to this subparagraph shall be held in the geographical area of the proposed septage system, or other appropriate location at the discretion of the Director;~~

~~3. The Director may hold one public hearing on related groups of permit applications;~~

~~4. Public notice of any hearing held pursuant to this subparagraph shall be provided at least thirty (30) days in advance of the hearing date and shall be circulated in accordance with the public notification procedures in this chapter.~~

## **DRAFT NEW RULE**

### **Rule 391-3-6.26. Notice and Public Participation**

(1) Tentative Determination and Draft Permits:

(a) When the Division is satisfied that a permit application is complete, a tentative determination will be made to issue or deny the permit. If the tentative determination is to issue the permit, a draft permit will be prepared in accordance with applicable Federal regulations and State laws prior to the issuance of a public notice. If the tentative determination is to deny the permit, the Division will public notice the denial in accordance with applicable Federal regulations and State laws.

(b) If the Division makes a tentative determination to issue a general permit, a draft permit and fact sheet will be prepared in accordance with applicable Federal regulations and State laws prior to issuance of a public notice.

(2) Public Notice: Public notice of every complete permit application will be prepared and circulated in a manner designated to inform interested and potentially interested persons of the proposed permit and of the proposed determination to issue or deny a permit. Procedures for circulation of the public notice shall include the following:

(a) A copy of the public notice will be provided to the permit applicant, will be available at the EPD office in Atlanta, and will be posted to the EPD website;

(b) Electronic mailing (e-mail) notification of the public notice to any persons or groups included on the electronic mailing list to receive such notices. The EPD shall maintain an

electronic mailing list for distribution of public notices. Any person or group may request that their e-mail address be added to the electronic mailing list or they may sign-up through the EPD website;

(c) The EPD shall provide a period of not less than thirty (30) days following the date of the public notice in which interested persons may submit their written views on the tentative determination with respect to the permit application. All written comment submitted during the thirty (30) day comment period will be retained by the EPD and considered in the final determination with respect to the permit application and shall be responded to in accordance with Federal Regulations, 40 C.F.R. 124.17, and applicable State laws. The comment period may be extended at the discretion of the Director;

(d) The contents of the public notice will be in accordance with Federal Regulations, 40 C.F.B. 124.10(d) and applicable State laws;

(e) The EPD will prepare a fact sheet in accordance with Federal Regulations, 40 C.F.R. 124.8 and 124.56, and applicable State laws. A copy of the permit application, draft permit, and fact sheet will be available for public inspection at the EPD office in Atlanta and information on how to access electronic copies of these materials will be included in the contents of the public notice. Any person may request in writing a copy of the permit application, draft permit, and fact sheet and it will be provided;

(f) The Director will provide a copy of the public notice to the U.S. Army Corps of Engineers, Federal and State agencies with jurisdiction over fish, shellfish and wildlife resources and to other appropriate governmental authorities and will provide such agencies an opportunity to submit their written views and recommendations in accordance with Federal Regulations, 40 C.F.R. 124.10 and applicable State laws. The comments of the District Engineer of the Corps of Engineers, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, or any State or Federal Agency with jurisdiction over fish, wildlife, or public health shall be considered in accordance with Federal Regulations, 40 C.F.R. 124.59;

(g) Copies of draft, proposed, and issued NPDES and applicable UIC permits shall be transmitted to the Regional Administrator for review and comments in such manner as the Director and Regional Administrator agree, and in accordance with applicable Federal regulations, and the Memorandum of Agreement between the agencies pursuant to 40 C.F.R. 123.24.

(3) Public Hearings:

(a) The Director shall provide an opportunity for an applicant, any affected state or interstate agency, the Regional Administrator or any other interested agency, person or group of persons to request a public hearing with respect to a permit application. Any such request for a public hearing shall be filed within the 30-day comment period prescribed in subparagraph (2)(c) and shall indicate the interest of the party filing such a request, the reasons why a hearing is requested, and those specific portions of the application or other form or information to be considered at the public interest in holding such a hearing;

(b) Any public hearing held pursuant to this subparagraph shall be held in the geographical area of the draft permit or other appropriate location at the discretion of the Director;

(c) The Director may hold one public hearing on related groups of permit applications;

(d) Public notice of any hearing held pursuant to this subparagraph shall be provided at least thirty (30) days in advance of the hearing date and shall be circulated in accordance with the public notification procedures in subparagraph (2) and in accordance with Federal Regulations, 40 C.F.R. 124.10, or applicable State law.

(4) Public Access to Information:

(a) A copy of the permit application, public notice, applicable fact sheet and draft permit, and other forms related thereto, including written public comments and comments of all governmental agencies thereon and other reports, files and information not involving methods or processes entitled to protection as trade secrets, may be available online and will be available for public inspection and copying during normal business hours at the EPD office in Atlanta. Effluent data, Notice of Intent forms, and information regarding Class I, II and III injection wells that deals with the existence, absence, or level of contaminants in drinking water shall not be considered as information entitled to protection. Public access to NPDES and applicable UIC information shall be in accordance with Federal Regulations, 40 C.F.R. 122.7;

(b) Any information submitted with reports, records or plans that is considered confidential by the permittee (applicant), and that is not specifically excluded in paragraph (4)(a) above, should be clearly labeled "Confidential" and be supported by a statement as to the reason that such information should be considered confidential. If the Director, with the concurrence of the Regional Administrator, determines that such information is entitled to confidential protection, he shall label and handle same accordingly;

(c) Any information accorded confidential status whether or not contained in an application form shall be made available, upon written request, to the Regional Administrator or his authorized representative who shall maintain the information as confidential.