



GEORGIA
DEPARTMENT OF NATURAL RESOURCES

ENVIRONMENTAL PROTECTION DIVISION

391-3-7

E&S Rule Amendments

Public Meeting

February 17, 2021



RULE AMENDMENTS

■ SB 445

- Updated Local Issuing Authority (LIA) definition
- Authorized water authorities and water & sewer authorities to be LIAs

■ Clarification regarding current practices

■ Consistency with other laws

■ General clean-up, formatting

■ The draft Rules are available here:

- <https://epd.georgia.gov/watershed-protection-branch/erosion-and-sedimentation>



CHAPTER 391-3-7

- **391-3-7-.01** **Definitions**
- 391-3-7-.02 Repealed
- 391-3-7-.03 Repealed
- 391-3-7-.04 Repealed
- **391-3-7-.05** **Buffer Variance Procedures and Criteria**
- 391-3-7-.06 Turbidity Limits for Stormwater Runoff Discharges
- 391-3-7-.07 Inspection and Compliance
- 391-3-7-.08 Enforcement
- **391-3-7-.09** **Local Issuing Authorities**
- 391-3-7-.10 Site Visit Required
- **391-3-7-.11** **Coastal Marshlands Buffer Variance Procedures and Criteria**



RULE 391-3-7-.01 DEFINITIONS

■ Definition (o)

- Added “water authority, or water and sewer authority” to the list of governing authorities that can be an LIA
- Clarified the reference to O.C.G.A. 12-7-8(a)

■ Definition (dd)

- Added a definition for “Water authority” or “water and sewer authority”



RULE 391-3-7-.05 BUFFER VARIANCE PROCEDURES AND CRITERIA

- (6) Within 60 days of receipt of a complete buffer variance application, the Division will either provide written comments to the applicant or propose to issue a variance
 - Lettering/numbering has been added to clarify new sections
 - (a) remains the same



RULE 391-3-7-.05 BUFFER VARIANCE PROCEDURES AND CRITERIA

■ (6) Public notice rules, continued

- The new content discusses which project changes will result in reissuing a public notice.
 - (b)1. Change in location of impact, increase in impact, change in project concept or design will trigger issuance of public notice
 - (b)2. Changes not included in (b)1. may be approved in writing or the Division may elect to issue a public notice



RULE 391-3-7-.05 BUFFER VARIANCE PROCEDURES AND CRITERIA

- (6) Public notice rules, continued
 - (c) If a new entity other than the original applicant wishes to execute a previously approved project; this requires a new application with public notice
 - Changes in name or corporate structure of applicant does not require submittal of a new application



RULE 391-3-7-.05 BUFFER VARIANCE PROCEDURES AND CRITERIA

- (8) Five year expiration of buffer variance
 - The “unless an extension is granted” language at the end is new
 - (a) Buffer variances can be extended, like before, but verbiage has been added to be more specific
 - (c) Clarified reference to Section 391-3-7-.05(6)(a) due to addition of lettering in that section
 - Lettering has been added for clarity

[OPEN FOR QUESTIONS]



RULE 391-3-7-.09 LOCAL ISSUING AUTHORITIES

- (1) Criteria for Certification of Municipalities or Counties as Local Issuing Authorities.
 - Changed “city” to “municipality”
 - Criteria itself is unchanged



RULE 391-3-7-.09 LOCAL ISSUING AUTHORITIES

- (2) Criteria for Certification of Water Authorities or Water and Sewer Authorities as Local Issuing Authorities
 - Each municipality or county that is served must:
 - (A) Be a certified LIA
 - (B) Have ordinances in compliance with Title 12, Chapter 7 O.G.C.A. as of the date of application or, following the application, must provide documentation of the same
 - (C) Have adopted ordinances or other local laws granting the water authority or water and sewer authority ability to enforce the pertinent ordinances



RULE 391-3-7-.09 LOCAL ISSUING AUTHORITIES

- (2) Criteria for Certification of Water Authorities or Water and Sewer Authorities as Local Issuing Authorities (continued)
 - The water authority or water and sewer authority must:
 - (D) Have inspection personnel, who are or will be qualified personnel (within 6 months of date of hire) in erosion and sediment control
 - (E) Provide documentation ...



RULE 391-3-7-.09(2)(E)1. REQUIRED DOCUMENTATION

- A letter from the water authority or water and sewer authority:
 - Requesting certification as an LIA
 - Identifying each municipality or county that is served
 - Verifying that each municipality or county that is served has granted the same legal authority to the water authority or water and sewer authority to carry out the applicable requirements



RULE 391-3-7-.09(2)(E)2. REQUIRED DOCUMENTATION

- A letter from each municipality or county that is served by that water authority or water and sewer authority:
 - A. Confirming the municipality or county is a certified LIA
 - B. Confirming the intent to allow the water authority or water and sewer authority to operate solely as the LIA within their jurisdictional boundaries
 - C. Statement that the municipality or county has adopted ordinances or local laws granting the same legal authority to the water authority or water and sewer authority to enforce all ordinances required



RULE 391-3-7-.09(2)(E)3. REQUIRED DOCUMENTATION

- Information on inspectors employed by the water authority or water and sewer authority:
 - The number of inspectors employed that will be responsible for land disturbance activity inspections and documentation of proper training for each inspector



RULE 391-3-7-.09(2)(E)4. REQUIRED DOCUMENTATION

- Information on inspectors employed by the water authority of water and sewer authority:
 - Documentation of the estimated workload and inspection frequency schedule for the inspectors

[OPEN FOR QUESTIONS]



RULE 391-3-7-.09(2)(E)5. REQUIRED DOCUMENTATION

- A detailed boundary map for:
 - All areas in which the water authority or water and sewer authority intends to operate as LIA
 - Must be digital (for precision) and must include labels for street names, etc.
 - Must be in format compatible with Division's GIS software



RULE 391-3-7-.09(2)(E)6. REQUIRED DOCUMENTATION

- Copies of ordinances from each municipality or county that is served:
 - Demonstrating compliance with the provisions in O.C.G.A. Title 12, Chapter 7 and related regulation



RULE 391-3-7-.09(2)(E)7. REQUIRED DOCUMENTATION

- Copies of ordinance or local law from each municipality or county that is served:
 - Granting the water authority or water and sewer authority the ability to enforce directly all ordinances required to implement the provisions of O.C.G.A. Title 12, Chapter 7 and related regulation



RULE 391-3-7-.09(2)(E)8. REQUIRED DOCUMENTATION

- A copy of the intergovernmental agreement(s) between each municipality or county and the water authority or water and sewer authority:
 - A. Be executed by duly authorized representative(s) for each party
 - B. Specify how the intergovernmental parties will notify one another regarding any updates to ordinances or local laws
 - C. Specify how changes to the service areas will affect each entity and describe a process for conducting updates of ordinances or laws
 - D. Describe specific areas where each entity will act as LIA



RULE 391-3-7-.09(2)(F) DIVISION WRITTEN NOTIFICATION

- The Division shall provide written notice of the Director's decision
 - No later than 60 days after receipt of request for certification
 - If denied, Division shall explain deficiencies
 - Denial doesn't preclude subsequent application for certification



RULE 391-3-7-.09(3) RESPONSIBILITIES OF CERTIFIED LOCAL ISSUING AUTHORITIES

- Renumbered due to addition of (2)
- The responsibility list remains the same for LIA's, with the exception of:
 - “city” has changed to “municipality”
 - “Water authority or water and sewer authority” has been added
 - Addition of (D), which requires updated information be sent to EPD if the area in the original application a water authority or water and sewer authority is acting as a LIA changes at any time



RULE 391-3-7-.09(4) DE-CERTIFICATION OF A LOCAL ISSUING AUTHORITY

- Renumbered due to addition of (2)
- The conditions of decertification for LIA's remain the same, with the exception of:
 - “city” has changed to “municipality”
 - “Water authority or water and sewer authority” has been added
 - Corrected references to earlier sections of the Rule



RULE 391-3-7-.09(5) CONTINUING CERTIFICATION

- Renumbered due to addition of (2)
- The content of this section is unchanged

[OPEN FOR QUESTIONS]



RULE 391-3-7-.11 COASTAL MARSHLANDS BUFFER VARIANCE PROCEDURES AND CRITERIA

- Makes consistent with 391-3-7-.05
- (6) Within 60 days of receipt of a complete buffer variance application, the Division will either provide written comments to the applicant or propose to issue a variance
 - Lettering/numbering has been added to clarify new sections
 - (a) remains the same



RULE 391-3-7-.11 COASTAL MARSHLANDS BUFFER VARIANCE PROCEDURES AND CRITERIA

- (6) Public notice rules, continued
 - The new content discusses which project changes will result in reissuing a public notice.
 - (b)1. Change in location of impact, increase in impact, change in project concept or design will trigger issuance of public notice
 - (b)2. Changes not included in (b)1. may be approved in writing or the Division may elect to issue a public notice



RULE 391-3-7-.11 COASTAL MARSHLANDS BUFFER VARIANCE PROCEDURES AND CRITERIA

- (6) Public notice rules, continued
 - (c) If a new entity other than the original applicant wishes to execute a previously approved project; this requires a new application with public notice
 - Changes in name or corporate structure of applicant does not require submittal of a new application



RULE 391-3-7-.11 COASTAL MARSHLANDS BUFFER VARIANCE PROCEDURES AND CRITERIA

- (8) Five year expiration of buffer variance
 - The “unless an extension is granted” language at the end is new
 - Language has been added that an extension may be issued only once
 - Added language specifying the process for requesting a time extension
 - Clarified that an expired buffer variance is not eligible for a time extension
 - Clarified reference to Section 391-3-7-.11(6)(a) due to addition of lettering in that section



NEXT STEPS

- Written comments due **Wednesday, February 24, 2021**
 - Subject: “*Watershed Protection Branch Draft Rule Amendments, Chapter 391-3-7*”
 - Email to EPDComments@dnr.ga.gov or
 - Mail to:
 - EPD Watershed Protection Branch
 - 2 Martin Luther King Jr. Drive
 - Suite 1462, East Tower
 - Atlanta, Georgia, 30334