

PROPOSED AMENDMENTS TO THE RULES
OF THE DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION
RELATING TO WATER QUALITY CONTROL, CHAPTER 391-3-6

The Rules of the Department of the Natural Resources, Chapter 391-3-6, Water Quality Control are hereby amended and revised for specific Rules, or such subdivisions thereof as may be indicated.

[**Note: Underlined text is proposed to be added. ~~Lined-through~~ text is proposed to be deleted.**]

CHAPTER 391-3-6 WATER QUALITY CONTROL

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

(1) **Purpose.** The purpose of ~~this Paragraph~~ Rule 391-3-6-.06 is to provide for the degree of waste treatment required and the uniform procedures and practices to be followed relating to the application for issuance, modification, revocation and reissuance, and termination of permits for the discharge of any pollutant into the waters of the State. Requirements applicable to general NPDES permits are provided in ~~subparagraphs~~ Rules 391-3-6-.15 and 391-3-6-.16.

(2) **Definitions.** All terms used in this ~~Paragraph~~ Rule shall be interpreted in accordance with the definitions as set forth in the Act unless otherwise defined in this Paragraph or in any other ~~Paragraph of these Rules of this Chapter:~~

(a) "Annual average stream flow" means that flow measured daily at the nearest listed U.S. Geologic Survey stream gauge, averaged for the entire period of record, and adjusted by comparison to the size of the drainage area in which the discharge is located.

(b) "Aquaculture project" means any point source which meets the criteria set forth in the Federal Regulations, 40 C.F.R. 122.25;

(c) "Concentrated animal feeding operation" means any point source which meets the criteria set forth in the Federal Regulations, 40 C.F.R. 122.23;

(d) "Concentrated aquatic animal production facility" means any point source which meets the criteria set forth in the Federal Regulations, 40 C.F.R. 122.24;

(e) "Construction" means any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises;

(f) "Dilution factor" means a numerical representation of the dilution of the permitted effluent from the wastewater treatment facility in the receiving stream. It shall be used to calculate instream concentrations of priority pollutants when the effluent concentration is known and to calculate effluent limitations from the instream criteria concentration listed in 391-3-6-.03 (5)(e).

1. For constituents and their criteria listed in 391-3-6-.03 (5)(e)(i) and (iii) and for constituents and their chronic criteria in 391-3-6-.03 (5)(e)(ii), the dilution factor equals:

$$[7\text{-day, 10-year minimum stream flow (7Q}_{10}) + \text{discharger design flow}] / \text{discharger design flow}$$
For constituents and their acute criteria listed in 391-3-6-.03 (5)(e)(ii), the dilution factor for the calculation of effluent limitations equals:

$$[1\text{-day, 10-year minimum stream flow (1Q}_{10}) + \text{discharger design flow}] / \text{discharger design flow}$$

For constituents listed in 391-3-6-.03 (5)(e)(iv), the dilution factor equals:

[Annual or long-term average stream flow + Discharger design flow] / discharger design flow

2. The dilution factor equations assume a relatively rapid and complex mix. In situations where this does not occur, the Permittee or EPD may perform field studies to document and describe the mixing zone. The dilution factor in such situations, for the purpose of calculating effluent limitations for chemical constituents, will be determined based on the studies. If a mixing zone is granted, all criteria and requirements of subsection 391-3-6-.03(10) must also be met.

3. In situations where the dilution factor equations do not appropriately describe the dilution capacity of receiving waters, such as for discharges to impounded waters or to tidal estuaries, the dilution factor will be determined through field studies or appropriate analytical procedures.

(g) "Effluent Limitation" means any restriction or prohibition established under the Act on quantities, rates, or concentrations, or a combination thereof, of chemical, physical, biological, or other constituents which are discharged from point sources into the waters of the State, including, but not limited to, schedules of compliance and whole effluent biological monitoring requirements;

(h) "EPD" means the Environmental Protection Division of the Georgia Department of Natural Resources;

(i) "Indirect discharger" means a non-domestic discharger introducing pollutants to a publicly owned treatment works;

(j) "Major discharger" as defined in EPA annual operating guidance for the EPA Regional Offices and the States and specifically listed in the annual State program plan;

(k) "New discharger" means any point source that meets the criteria set forth in the Federal Regulations, 40 C.F.R. 122.29;

(l) "New Source" means any point source that meets the criteria set forth in the Federal Regulations, 40 C.F.R. 122.29;

(m) "NPDES Permit Application" means the application filed by any person with the Director for an NPDES Permit;

(n) "NPDES Permit" means the permit issued by the Division to regulate the discharge of pollutants from any point source into the waters of the State;

(o) "Segment" means a portion of a water quality planning area, the surface waters of which have common hydrologic characteristics (or flow regulation patterns); common natural physical, chemical and biological characteristics and processes; and common reactions to external stresses, such as the discharge of pollutants. Segments will be classified as either a water quality segment or an effluent limitation segment as follows:

1. Water quality segment. Any segment where it is known that water quality does not meet applicable water quality standards and/ or is not expected to meet applicable water quality standards even after the application of the effluent limitations required by sections 301(b)(1)(B) and 301(b)(2)(A) of the Act;

2. Effluent limitation segment. Any segment where it is known that water quality is meeting and will continue to meet applicable water quality standards or where there is adequate demonstration that water quality will meet applicable water quality standards after the application of the effluent limitations required by sections 301(b)(1)(B) and 301(b)(2)(A) of the Act.

(p) "Separate storm sewer" means any point source which meets the criteria set forth in the Federal Regulations, 40 C.F.R. 122.26.

(q) "Silvicultural point source" means any point source which meets the criteria set forth in the Federal Regulations, 40 C.F.R. 122.27;

(3) Permit Requirement.

(a) Any person discharging or proposing to discharge into the waters of the State any pollutant from a point source including those defined in Paragraph 391-3-6-.06 (2) above, under any of the circumstances described in O.C.G.A. Section 12-5-30(a), shall obtain a permit from the EPD to make such discharge.

(b) Any person discharging or proposing to discharge any pollutant from a non-point source into the waters of the State, under the circumstances described in O.C.G.A. Section 12-5-30(b), shall obtain written approval from the EPD and shall be required to use best management practices to minimize to the extent feasible as determined by the EPD the introduction of the pollutant into the waters of the State. The best management practices shall be included in a permit, if the Director has issued one to the same person for a point source discharge.

(c) Any person owning or operating a treatment works, from which a discharge into the waters of the State could possibly occur, excluding discharges which could result from Acts of God, shall apply to the EPD for a permit.

(4) Degree of Waste Treatment Required.

(a) All pollutants shall receive such treatment or corrective action so as to ensure compliance with the terms and conditions of the issued permit and with the following, whenever applicable:

1. Effluent limitations established by EPA pursuant to Sections 301, 302, 303 and 316 of the Federal Act;
 2. Standards of performance for new sources established by the EPA pursuant to Section 306 of the Federal Act;
 3. Effluent limitations and prohibitions and pretreatment standards established by the EPA pursuant to Section 307 of the Federal Act;
 4. Criteria for the issuance of permits to aquaculture projects, as defined in this Paragraph, established by EPA pursuant to Section 318 of the Federal Act;
 5. Criteria and standards for Best Management Practices established by EPA pursuant to Section 304(e) of the Federal Act;
 6. Criteria and standards for imposing conditions for the disposal of sewage sludge established by EPA pursuant to Section 405 of the Federal Act;
 7. Ensure consistency with the requirements of a Water Quality Management plan approved by EPA pursuant to Section 208(b) of the Federal Act;
 8. Criteria for ocean discharges established by EPA pursuant to Section 403(c) of the Federal Act;
 9. Incorporate alternative effluent limitations or standards where warranted by "fundamentally different factors" established by EPA; in accordance with Federal Regulations, 40 C.F.R. 124.62(e);
 10. Notwithstanding the above, more stringent effluent limitations may be required as deemed necessary by the EPD (a) to meet any other existing Federal laws or regulations, or (b) to ensure compliance with any applicable State water quality standards, effluent limitations, treatment standards, or schedules of compliance;
 11. With regard to any non-point source required to obtain a permit, such best management practices as are required to ensure compliance with applicable State water quality standards.
- (b) Calculations and specification of effluent limits and standards shall be made in accordance with the provisions of Federal Regulations, 40 C.F.R. 122.44 and 122.45.

(c) The foregoing requirements shall be applied in considering all applications made pursuant to O.C.G.A. Section 12-5-30, and no such application will be approved unless the waste treatment facilities contemplated thereby will achieve such limitations and standards upon completion thereof or within such reasonable time thereafter as the EPD may provide, consistent with subparagraph 391-3-6-.06 (10).

(d) Until such time as such criteria, standards, limitations, and prohibitions are promulgated pursuant to Sections 301, 302, 303, 304(e), 306, 307 and 405 of the Federal Act, the EPD shall apply such standards, limitations and prohibitions necessary to achieve the purposes of said sections of the Federal Act. With respect to individual point sources, such limitations, standards, or prohibitions shall be based upon an assessment of technology and processes, to wit:

1. To existing point sources, other than publicly owned treatment works, effluent limitations based on application of the best practicable control technology currently available;

2. To publicly owned treatment works, effluent limitations based upon the application of secondary treatment or treatment equivalent to secondary treatment in accordance with Federal Regulations, 40 C.F.R. 133.102 and 105;

3. To any point source, other than publicly owned treatment works, whose construction commences after the initial effective date of this ~~Paragraph~~Rule, and for which there are not new source performance standards, effluent limitations which reflect the greatest degree of effluent reduction which the EPD determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants, consistent with 40 C.F.R. 125.3(c)(2).

4. To any point source, as appropriate, effluent limitations or prohibitions designed to prohibit the discharge of toxic pollutants in toxic amounts or to require pretreatment of pollutants which interfere with, pass through, or otherwise are incompatible with the operation of publicly owned treatment works; and

5. To any point source, as appropriate, more stringent effluent limitations as are required to ensure compliance with applicable State water quality standards, including those to prohibit the discharge of toxic pollutants in toxic amounts. Where necessary, NPDES Permits issued or reissued after the adoption of this paragraph shall include numeric criteria based upon the following procedures to ensure that toxic substances and other priority pollutants are not discharged to surface waters in harmful amounts:

(i) The EPD will review available data for reported concentrations of any of the following chemical constituents detected at levels based upon analytical methods described in Federal Regulations 40 C.F.R. 136, or that have EPA concurrence, which establishes guidelines on test procedures for the analysis of pollutants.

CHEMICAL CONSTITUENT

1. Methoxychlor
2. 2,4-Dichlorophenoxyacetic acid (2, 4-D)
3. 2,4,5-Trichlorophenoxy propionic acid (TP Silvex)
4. Antimony
5. Arsenic
6. Beryllium
7. Cadmium
8. Chromium (III)
9. Chromium (VI)
10. Copper

11. Lead
12. Mercury
13. Nickel
14. Selenium
15. Silver
16. Thallium
17. Zinc
18. Cyanide
19. Acrolein
20. Acrylonitrile
21. Benzene
22. Bromoform (Tribromomethane)
23. Carbon Tetrachloride
24. Chlorobenzene
25. Chlorodibromomethane
26. Chloroethane
27. 2-Chloroethylvinyl Ether
28. Chloroform (Trichloromethane)
29. Dichlorobromomethane
30. 1,1-Dichloroethane
31. 1,2-Dichloroethane
32. 1,1-Dichloroethylene
33. 1,2-Dichloropropane
34. 1,3-Dichloropropylene
35. Ethylbenzene
36. Methyl Bromide (Bromomethane)
37. Methylene Chloride
38. Methyl Chloride (Chloromethane)
39. 1,1,2,2-Tetrachloroethane
40. Tetrachloroethylene
41. Toluene
42. 1,2-Trans- Dichloroethylene
43. 1,1,1-Trichloroethane
44. 1,1,2-Trichloroethane
45. Trichloroethylene
46. Vinyl Chloride
47. 2-Chlorophenol
48. 2,4-Dichlorophenol
49. 2,4-Dimethylphenol
50. 2-Methyl-4,6- Dinitrophenol
51. 2,4-Dinitrophenol
52. 2-Nitrophenol
53. 4-Nitrophenol
54. 3-Methyl-4-Chlorophenol
55. Pentachlorophenol
56. Phenol
57. 2,4,6-Trichlorophenol

58. Acenaphthene
59. Acenaphthylene
60. Anthracene
61. Benzidine
62. Benzo(a)Anthracene
63. Benzo(a)Pyrene
64. 3,4-Benzofluoranthene
65. Benzo(ghi)Perylene
66. Benzo(k)Fluoranthene
67. Bis(2-Chloroethoxy)Methane
68. Bis(2-Chloroethyl)Ether
69. Bis(2-Chloroisopropyl)Ether
70. Bis(2-Ethylhexyl) Phthalate
71. 4-Bromophenyl Phenyl Ether
72. Butylbenzyl Phthalate
73. 2-Chloronaphthalene
74. 4-Chlorophenyl Phenyl Ether
75. Chrysene
76. Dibenzo(a,h)Anthracene
77. 1,2-Dichlorobenzene
78. 1,3-Dichlorobenzene
79. 1,4-Dichlorobenzene
80. 3,3'-Dichlorobenzidine
81. Diethyl Phthalate
82. Dimethyl Phthalate
83. Di-n-Butyl Phthalate
84. 2,4-Dinitrotoluene
85. 2,6-Dinitrotoluene
86. Di-n-Octyl Phthalate
87. 1,2-Diphenylhydrazine
88. Fluoranthene
89. Fluorene
90. Hexachlorobenzene
91. Hexachlorobutadiene
92. Hexachloro- cyclopentadiene
93. Hexachloroethane
94. Indeno(1,2,3-cd) Pyrene
95. Isophorone
96. Naphthalene
97. Nitrobenzene
98. N-Nitrosodimethylamine
99. N-Nitrosodi-n- Propylamine
100. N-Nitrosodiphenylamine
101. Phenanthrene
102. Pyrene
103. 1,2,4-Trichlorobenzene
104. Aldrin

105. a-BHC-Alpha
106. b-BHC-Beta
107. Lindane [Hexachlorocyclohexane (g-BHC-Gamma)]
108. d-BHC-Delta
109. Chlordane
110. 4,4'-DDT
111. 4,4'-DDE
112. 4,4'-DDD
113. Dieldrin
114. a-Endosulfan
115. b-Endosulfan
116. Endosulfan Sulfate
117. Endrin
118. Endrin Aldehyde
119. Heptachlor
120. Heptachlor Epoxide
121. PCBs
122. Toxaphene

(ii) For the chemical constituents identified after completion of (i) above, and/or if other site specific information available to the EPD indicates the presence of one or more of the above chemical constituents at levels of concern to EPD, the EPD will control the chemical constituent with a monitoring provision or with effluent limitations in the NPDES permit.

(a) If there are less than 10 data points available at the time of evaluation, and if the instream concentration, which is measured or calculated by dividing the effluent concentration by appropriate dilution factor from 391-3-6-.06 (2)(f), is greater than or equal to fifty percent of the criteria concentration(s), then the permittee will be required to monitor that constituent for at least ten months. If there is more than one data point at the time of evaluation, then the data will be averaged together in calculating the instream concentration as described above. An exception to this is if the stream concentration is to be compared against an acute criterion. If this is the case, then instead of using the average of the data, the highest data point in the set will be used to calculate the instream concentration. This number will then be compared against 50% of the acute criterion.

(b) The EPD will review the monitoring results after the permittee has monitored the chemical constituents for at least ten months.

(1) In the case of chemical constituents with acute criteria, if the instream concentration (calculated using the highest concentration of at least ten monthly samples and the formula(s) in 391-3-6 -.06 (2)(f) is greater than the acute criterion then an effluent limit(s) for that constituent will be required at permit issuance. If the instream concentration is less than or equal to the acute criterion, then the EPD may terminate or lessen the monitoring requirement for that constituent. In the case of all other chemical constituents with numeric criteria, if the average of at least ten monthly samples indicates that a chemical constituent's instream concentration is less than fifty percent of the instream criteria, based on the formula(s) in 391-3-6-.06 (2)(f), then the EPD may terminate or lessen the monitoring requirement for that constituent. If the average is fifty percent or more of the instream criteria, an effluent limit(s) for that constituent will be required at permit issuance.

(2) If it is determined that an effluent limit(s) is required as described above, then the permit shall be reissued or modified to include an effluent limit(s) for the chemical constituent calculated as follows:

Effluent limit = criteria concentration X dilution factor X translation factor (if necessary).

The translation factor will be used to convert dissolved criteria concentrations into total recoverable permit limits using methods discussed in 391-3-6-.03 (5)(e)(ii). Where a constituent has both an acute and chronic aquatic life criteria, the acute criteria will be used to calculate a daily maximum effluent limitation while the chronic criteria will be used to calculate a monthly average effluent limitation.

(c) If the permit is issued or modified as in (ii)(b)(2) above for a chemical constituent listed in 391-3-6-.03 (5)(e), the limit shall become effective upon issuance or modification of the permit.

(d) At the request of the permittee, a schedule to allow for development of a site-specific effluent limit may be established by the EPD. This schedule would be contained in the permit or in an accompanying Consent Order and include the following:

(1) A requirement for monthly monitoring for all chemical constituents that are limited.

(2) A requirement that the permittee perform site-specific studies, consisting of whole effluent biomonitoring, water-effect ratio tests, stream studies, or other appropriate studies or calculations. The methodology for these tests will be determined by the EPD on a case-by-case basis. Water-effect ratio studies are to be conducted using the EPA guidance document "Interim Guidance on Determination and Use of Water-Effect Ratios for Metals, EPA-823-B-94-001" or "Stream Lined Water-Effect Ratio Procedure for Discharges of Copper, EPA-822-R-01-005" or the most recent EPA guidance document.

(3) A requirement that all data obtained in (2) and (3) be submitted to the EPD for review.

(4) No more than two years following initiation of monitoring under (ii)(a), the EPD will use the data to calculate site-specific limitations for each chemical constituent, and will initiate the process to incorporate the limitation(s) into the permit along with requirements for a minimum of annual whole effluent biomonitoring. At any time during the two year period the EPD may, upon its initiative or that of the permittee, review the data that have been submitted and may determine that limits and monitoring requirements for one or more chemical constituents may be terminated. All modifications of limits and monitoring requirements will comply with anti-backsliding requirements contained in Section 402(o) of the Clean Water Act. Conversely, should the EPD determine that adequate data are available before the two year interim monitoring period, it may develop site-specific limitations for the constituent(s) without additional monitoring.

(e) Any permit modifications or revocation/reissuances pursuant to (ii)(b)(2) or (ii)(d) will be performed in accordance with procedures described in 391-3-6-.06 (7), including public participation requirements.

(f) For any metals monitored during any portion of the limits determination process, measurement will be by the most appropriate analytical technique approved by the U.S. EPA which provides a measurement of the portion of the metal present which may cause toxicity to aquatic life in the receiving stream.

(iii) For other 307(a) chemical constituents, including priority pollutants not identified in 391-3-6-.03 (5)(e)(i) -(vi) whole effluent biomonitoring will be used to develop either a site-specific criteria concentration or a whole effluent toxicity limit, with such limits to be incorporated into permits. This paragraph applies to the following chemical constituents:

(a) Chloroethane

- (b) 1,1-Dichloroethane
- (c) 1,1,1-Trichloroethane
- (d) 2-Nitrophenol
- (e) 4-Nitrophenol
- (f) Bis(2-Chloroethoxy) Methane
- (g) 4-Bromophenyl Phenyl Ether
- (h) 4-Chlorophenyl Phenyl Ether
- (i) 2,6-Dinitrotoluene
- (j) Di-n-Octyl Phthalate
- (k) Naphthalene
- (l) d-BHC-Delta
- (m) Silver
- (n) Beryllium
- (o) 2-Chloro ethyl vinyl ether
- (p) Methyl chloride (chloromethane)
- (q) 3-Methyl-4-Chlorophenol
- (r) Acenaphthylene
- (s) Benzo (ghi) perylene
- (t) Phenanthrene
- (iv) The criteria concentration may be more stringent under either one of the following situations:
 - (a) If the chemical constituent exists in the upstream reaches of the receiving stream at any level greater than zero due to the presence of other direct dischargers. For this situation, the criteria concentration for computation of the effluent limit will be the net value after subtracting out this initial concentration. Unless actual water quality studies and monitoring or calculations indicate otherwise, it will be assumed that the upstream levels of each constituent are zero; or
 - (b) If the EPD determines that more stringent limitations should be imposed in order to reserve some assimilative capacity for future discharges.
 - (v) The effluent limit determined in (ii)(b)(2) above may be adjusted as follows, to determine the actual effluent limit to be used in the permit:
 - (a) If the limit is more stringent than the analytical laboratory detection limit using analytical methods described in Federal Regulations 40 C.F.R. 136 or methods that have EPA concurrence, then the limit will include an accompanying statement in the permit that a reading of not detected using the analytical methods specified in the permit will be considered as being in compliance with the limit;
 - (b) If water quality studies and monitoring indicate that the chemical constituent is present in the water supply or in the upstream reaches of the receiving stream at a concentration equal to or exceeding the daily limit for the specific chemical constituent, and the presence of such cannot be attributed to direct point source dischargers, or nonpoint sources that can be reasonably controlled with best management practices, the limit will be set equal to the natural ambient concentration of the chemical constituent;
 - (c) For industrial point source dischargers, if the specific chemical constituent is regulated by a technology-based effluent guideline limit, the guideline limit will be compared to the calculated limit. The limit will be the more stringent of the two values;
 - (d) For complex effluents, where several chemical constituents exist, the EPD will assign a limit for each specific chemical constituent and may require a whole effluent biomonitoring limit where there is a reasonable potential that the narrative criteria for whole effluent toxicity will be

exceeded. Such whole effluent biomonitoring limitation will consist of a series of bioassays of the wastewater treatment plant effluent, and, if appropriate, toxicity source identification evaluations, and implementation steps to reduce the chronic toxicity. This approach shall not be applied to those chemical constituents considered potential or known carcinogens or to the chemical constituents identified in 391-3-6-.03 (5)(d)(iii).

(vi) NPDES permits issued or reissued after the adoption of this paragraph shall include biological monitoring provisions and, where determined by the State to be necessary, a water quality-based whole effluent provision utilizing numerical pass/fail criteria to manage the effluent for the additive effects of all Section 307(a)(1) Federal Clean Water Act toxic pollutants and other unknown toxic substances or priority pollutants. The water quality-based whole effluent approach will help to ensure that the wastewater treatment plant effluent does not contain unknown sources of acute and chronic toxicity that may interfere with the designated water quality use classifications of the receiving stream. The whole effluent acute biological toxicity monitoring provision ensures protection from acute toxicity within any designated mixing zone and helps to define alternate criteria to allow for the safe passage of aquatic organisms through streams with 7-day, 10-year minimum flows approaching zero. The numerical pass/fail criteria is also a screening technique for use by the EPD to determine priority toxicity reduction needs.

(vii) Permits issued or reissued after the adoption of this paragraph may include site specific temporary exceptions to the applicable water quality standards under ~~Chapter~~subparagraph 391-3-6-.03 (5)(e) when the requirements of this paragraph are met and the temporary exception is specifically authorized herein. Where a discharger cannot meet applicable limits for whole effluent toxicity because of a water quality based whole effluent toxicity criteria, site-specific temporary exceptions may be allowed on effluent dominated receiving streams under 7-day, 10-year minimum stream flow (7Q10) conditions provided that it has been demonstrated that the permitted discharge will comply with all chemical specific and other applicable water quality criteria, that the receiving stream will support a balanced indigenous population of aquatic life, and that controls more stringent than those required by Section 301(b) and 306 of the Federal Act for achieving whole effluent toxicity criteria would result in substantial and widespread adverse economic and social impacts to the affected communities. These site-specific exceptions shall be applicable only to the wastewater discharge as permitted at the time the exception is authorized with no changes in process or wastewater characteristics that would adversely affect water quality in the receiving stream or adversely affect the ability of potential new pollution abatement technologies to attain compliance with the whole effluent toxicity criteria. These site-specific exceptions shall be reviewed consistent with 40 CFR 131.20 at least once in every 3-year period. If it is determined that feasible new pollution abatement technologies or alternatives have become available to allow compliance with whole effluent toxicity criteria, these site-specific exceptions may be revoked and the NPDES permits modified to require implementation of such pollution abatement technologies or alternatives as soon as reasonably practicable. Along with this permit modification will be a requirement for the permittee to comply with the water quality based whole effluent toxicity criteria after installation of these technologies.

(e) To all new dischargers or new sources the following shall apply:

1. Except as provided in subparagraph (e)2. any new discharger on which construction commenced after October 18, 1972, or any new source, which meets the applicable promulgated new source performance standards before the commencement of discharge, shall not be subject to any more stringent new source performance standards, or to any more stringent technology-

based standards under section 301(b)(2) of the Federal Act for the shortest of the following periods:

- (i) Ten years from the date that construction is completed;
- (ii) Ten years from the date the source begins to discharge process or other nonconstruction related wastewater; or
- (iii) The period of depreciation or amortization of the facility for the purposes of Section 167 or 169 (or both) of the Internal Revenue Code of 1986.

Comment: The provisions of this subparagraph do not apply to existing sources which modify their pollution control facilities or construct new pollution control facilities and achieve performance standards, but which are neither new sources nor new dischargers or otherwise do not meet the requirements of this subparagraph.

2. The protection of more stringent standards of performance afforded by subparagraph (e)1. of this section does not apply to:

- (i) Additional or more stringent permit conditions which are not technology based, e.g., conditions based on water quality standards, or effluent standards or prohibitions under Section 307(a) of the Federal Act; and
- (ii) Additional permit conditions controlling pollutants listed as toxic under Section 307(a) of the Federal Act or as hazardous substances under Section 311 of the Federal Act and which are not controlled by new source performance standards. This includes permit conditions controlling pollutants other than those identified as toxic or hazardous where control of those other pollutants has been specifically identified as the method to control the toxic or hazardous pollutant.

3. Where an NPDES permit issued to a source enjoying a "protection period" under subparagraph (e)1. will expire on or before the expiration of the protection period, such permit shall require the owner or operator of the source to be in compliance with the requirements of Section 301 of the Federal Act and any other applicable requirements of the Federal Act immediately upon the expiration of the protection period. No additional period for achieving compliance with these requirements shall be allowed.

4. The owner or operator of a new source, a new discharger, a source recommencing discharge after terminating operations, or a source which has been an indirect discharger which commences discharging into navigable waters shall install and have in operating condition, and shall "startup" all pollution control equipment required to meet the terms and conditions of its permits before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), the owner or operator must meet all permit terms and conditions.

5. After the effective date of new source performance standards, in accordance with Section 306(e) of the Federal Act, it shall be unlawful for any owner or operator of any new source to operate such source in violation of those standards, applicable to such source.

(5) Application for Permit.

(a) Applications for permits under ~~Section 10 of the Act~~ shall be on forms as may be prescribed and furnished from time to time by the EPD. Applications shall be accompanied by all pertinent information as the EPD may require in order to establish effluent limitations in accordance with ~~subparagraph 391-3-6-.06 (4)~~, including, but not limited to, complete engineering reports, schedule of progress, plans, specifications, maps, measurements, quantitative and qualitative determinations, records, and all related materials. In addition, applications will comply with the information requirements specified in the Federal Regulations, 40 C.F.R. 122.21(g)(7) and (j)(4).

(b) Engineering reports, plans, specifications, and other material submitted to the EPD shall be prepared by or under the direct supervision or review of, and bear the seal of, a Professional Engineer competent in the field of sewage and industrial waste treatment. At no time shall this requirement be in conflict with O.C.G.A. Section 43-15 governing the practices of professional engineering and surveying.

(c) Material submitted shall be complete and accurate.

(d) Any State or NPDES Permit Application form submitted to the EPD shall be signed as follows in accordance with the Federal Regulations, 40 C.F.R. 122.22:

1. For a corporation, by a responsible corporate officer. For this subparagraph a responsible corporate officer means:

(i) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision making functions for the corporation, or

(ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

3. For a municipality, State, Federal, or other public facility, by either a principal executive officer or ranking elected official.

(e) All other reports or requests for information required by the permit issuing authority shall be signed by a person designated in (d) above or a duly authorized representative of such person, if:

1. The representative so authorized is responsible for the overall operation of the facility from which the discharge originates, e.g., a plant manager, superintendent or person of equivalent responsibility;

2. The authorization is made in writing by the person designated under (d) above; and

3. The written authorization is submitted to the Director.

(f) Any changes in written authorization submitted to the permitting authority under (e) above which occur after the issuance of a permit shall be reported to the permitting authority by submitting a copy of a new written authorization which meets the requirements of (e)1. and 2. above.

(g) Any person signing any document under (d) or (e) above shall make the following certification: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(h) All municipal discharges with permitted flows equal to or greater than one million gallons per day, or with an approved pretreatment program, or that are required to develop a pretreatment program, must submit with the application results of valid whole effluent toxicity testing.

1. This testing must be conducted using EPA's methods or other established protocols which are scientifically defensible and sufficiently sensitive to detect aquatic toxicity. Such testing must have been conducted since the last NPDES permit reissuance or major modification.

2. In addition to the dischargers listed above, the Director may require other municipal dischargers to submit the results of toxicity tests with their permit applications, based on considerations which the Director determines could cause or contribute to adverse water quality impacts.

Comment: The permit application will be revised to incorporate the statement in 391-3-6-.06 (5)(g) above. Where a permit program document does not contain the statement, the certification must accompany the appropriate document.

(6) Receipt and Use of Application and Data.

(a) Applications for permits will be reviewed together with such other information as may be necessary to ascertain the effect of the discharge of any such pollutant upon the waters into which such pollutant will be discharged.

(b) Copies of the complete NPDES Permit Application received by the EPD shall be transmitted to the Regional Administrator for any comment in such manner as the Director and the Regional Administrator shall agree.

(c) The EPD shall receive any relevant data collected by the Regional Administrator prior to the EPD's participation in the NPDES in such manner as the Director and the Regional Administrator shall agree.

(7) Notice and Public Participation. The provisions of Rule 391-3-6-.26 shall 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.B. 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. 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. 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.~~

(8) Terms and Conditions of Permits.

(a) Terms and conditions under which the discharge will be permitted will be specified on the permit issued.

(b) No NPDES Permit shall be issued authorizing any of the following discharges:

1. The discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste into navigable waters;

2. Any discharge which in the judgment of the Secretary of the Army would substantially impair anchorage and navigation in or on any of the waters of the United States;

3. Any discharge to which the Regional Administrator has objected in writing in accordance with Federal regulations, 40 C.F.R. 123.44, pursuant to any right to object provided the Administrator of EPA under Section 401(d) of the Federal Act;

4. Any discharge from a point source which is in conflict with a plan or amendment thereto approved pursuant to Section 208(b) of the Federal Act;

5. Any discharge to the territorial sea, the waters of the contiguous zone, or the oceans in the following circumstances:

(i) Prior to the promulgation of the guidelines under section 403(c) of the Act, unless the Director determines permit issuance to be in the public interest; or

(ii) After promulgation of guidelines under section 403(c) of the Act, where insufficient information exists to make a reasonable judgment as to whether the discharge complies with any such guidelines.

6. To a facility which is a new source or a new discharger, if the discharge from the construction or operation of the facility will cause or contribute to the violation of water quality standards, except as in accordance with Federal Regulations, 40 C.F.R. 122.4(i).

(c) The terms and conditions specified on the permit issued shall be in accordance with Federal Regulations, 40 C.F.R. 122.41, 122.42 and 122.44 and applicable State laws and regulations promulgated thereunder.

(d) The issuance of a permit does not:

1. Convey any property rights of any sort, or any exclusive privileges;

2. Authorize any injury to private property or invasion of private rights, or any infringement of Federal, State, or local laws or regulations.

(9) Publicly Owned Treatment Works.

(a) If the permit is for a discharge from a publicly owned treatment works, notice shall be required from the applicant to the Director of the following:

1. Any new introduction of pollutants into such treatment works from an indirect discharger which would be subject to Section 306 of the Federal Act if it were directly discharging those pollutants;

2. Any new introduction of pollutants into such a treatment works from an indirect discharger subject to Section 301 of the Federal Act if it were directly discharging those pollutants;

3. Any substantial change in volume or character of pollutants being introduced into such treatment works by a source introducing pollutants into such works at the time of issuance of the permit;

(b) If the permit is for a discharge from a publicly owned treatment works, the permittee shall require any indirect discharger to such treatment works to comply with the requirements of Sections 204(b), 307, and 308 of the Federal Act, including any requirement established under 40 C.F.R. 403. As a means of ensuring compliance with Section 307 of the Federal Act, the permittee shall require each indirect discharger subject to the requirements of said Section 307 to forward to the Director periodic notice of progress (over intervals not to exceed 9 months) toward full compliance with Section 307 requirements.

(c) If the permit is for a discharge from a publicly owned treatment works, the permittee shall identify, in terms of character and volume of pollutant, any significant indirect dischargers into such treatment works subject to pretreatment standards under Section 307(b) of the Federal Act and 40 C.F.R. 403.

(10) Schedules of Compliance.

(a) Any person who obtains an NPDES Permit or other discharge permit pursuant to the Act but who is not in compliance with applicable effluent standards and limitations or other requirements contained in such permit at the time same is issued, shall be required to achieve compliance with such standards and limitations or other requirements in accordance with a schedule of compliance as set forth in such permit, or Order by the Director, or in the absence of a schedule of compliance, by the date set forth in such permit which the Director has determined to be in the shortest reasonable period of time necessary to achieve such compliance, but in no case later than an applicable statutory deadline.

(b) In any case where the period of time for compliance specified in subparagraph 391-3-6-.06 (10)(a) of these Rules exceeds 9 months, a schedule of compliance shall be specified which will set forth interim requirements and the dates for their achievement. In no event shall more than 9 months elapse between interim dates, and, to the extent practicable, the interim dates shall fall on the last day of the months of March, June, September, and December.

(c) Within fourteen (14) days after an interim date of compliance or the final date of compliance, the permittee shall provide the Director with written notice of its compliance or non-compliance with the requirements or conditions specified to be completed by such date. Failure to submit the written notice is just cause for the EPD to pursue enforcement action pursuant to the Act.

(d) On the last working day of February, May, August, and November the Director shall submit to EPA information concerning noncompliance with NPDES Permit requirements by major dischargers in the State.

(e) Any discharger who fails or refuses to comply with an interim or final date of compliance specified in a permit may be deemed by the Director to be in violation of the permit and may be subject to enforcement action pursuant to the Act.

(11) Monitoring, Recording and Reporting Requirements.

Any discharge authorized by a permit issued pursuant to the Act may be subject to such monitoring, recording and reporting requirements as may be reasonably required by the Director including the installation, use and maintenance of monitoring equipment or methods; specific requirements for recording of monitoring activities and results; and periodic reporting of monitoring results. The monitoring, recording and reporting requirements shall be specified in a permit when issued, provided, however, the Director may require additional monitoring, recording and reporting by written notification to the permittee.

(a) The monitoring requirements of any discharge authorized by any such permit shall be consistent with Federal Regulations, 40 C.F.R. 122.41, 122.42, and 122.44 and applicable State laws.

(b) Any permit which requires monitoring of the authorized discharge shall comply with the recording requirement specified by Federal Regulations, 40 C.F.R. 122.41 and applicable State laws. The permittee shall be required to retain any records of monitoring activities and results for a minimum of three (3) years, unless otherwise required or extended by the Director upon written notification.

(c) Any holder of a permit which requires monitoring of the authorized discharge shall report periodically to the EPD the results of all required monitoring activities on appropriate forms supplied by the EPD. The Director shall notify the permittee of the frequency of reporting but in no case shall the reporting frequency be less than once per year.

(12) Modification, Revocation and Reissuance, and Termination of Permits.

(a) The Director may revise or modify the schedule of compliance set forth in an issued permit if the permittee requests such modification or revision in writing and such modification or revision will not cause an interim date in the compliance schedule to be extended more than one hundred twenty (120) days or affect the final date in the compliance schedule. The Director may grant requests in accordance with this subparagraph if he determines after documented showing by the permittee that good and valid cause (including Acts of God, strikes, floods, material shortages or other events over which the permittee has little or no control) exists for such revision.

(b) The Director in accordance with the provisions of Federal Regulations, 40 C.F.R. 122.61, 122.62, 122.63, 122.64, and 124.5, may modify, revoke and reissue, or terminate an issued permit in whole or in part during its term for cause, including, but not limited to, the causes listed in Federal Regulations, 40 C.F.R. 122.62 and 122.64, or the cause listed in the Act or regulations promulgated pursuant thereto. Prior to any such modification, revocation and reissuance, or termination of an issued permit by the Director (other than modification or revision of a compliance schedule pursuant to subparagraph (a) above, or modification in accordance with the provisions of 40 C.F.R. 122.63), the Director will give public notice in accordance with the procedures set forth in subparagraph 391-3-6-.06 (7)(b) and an opportunity for public hearing in accordance with the procedures set forth in subparagraph 391-3-6-.06 (7)(c).

(c) In the case of a POTW which has received a grant under Section 202(a)(3) of the Federal Act to fund 100% of the costs to modify or replace facilities construction with a grant for innovative and alternative wastewater technology under Section 202(a)(2), the schedule of compliance may be modified to reflect the amount of time lost during construction of the innovative or alternative facility. In no case shall the compliance schedule be modified or extend beyond an applicable statutory deadline for compliance.

(d) New sources, new dischargers, sources which recommence discharging after terminating operations and those sources which had been indirect dischargers which commence discharging

directly into navigable waters do not qualify for compliance schedules under this paragraph and are subject of Federal Regulations, 40 C.F.R. 122.29(d)(4).

(13) **Non-governmentally Owned Sewerage Systems.** In cases involving nongovernmentally owned sewerage systems, a trust indenture or other legal contract or agreement, approved by the EPD, assuring continuity of operation of the system, may be required to be filed with the application for a permit. This provision shall not be applicable to systems discharging only industrial waste.

(14) **Control of Disposal of Pollutants into Wells.** If the permit proposes to discharge to a well or subsurface water, the Director shall specify additional terms and conditions which shall (a) prohibit the proposed disposal, or (b) control the proposed disposal in order to prevent pollution of ground and surface water resources and to protect the public health and welfare. Any permit issued for the disposal of pollutants into wells shall comply with Federal Regulations, and applicable State laws.

(15) **Duration, Continuation and Transferability of Permits.**

(a) Any permit issued under ~~Section 10(3) and (4) of the Act~~ shall have a fixed term not to exceed five (5) years. Upon expiration of such permit, a new permit may be issued by the Director in accordance with ~~Section 10(6) of the Act~~ and Federal Regulations 40 C.F.R. 122.9 and 122.64 provided that an application for such new permit is filed with the Director at least 180 days prior to the expiration date of the existing permit. The issuance of such new permit shall likewise have a fixed term not to exceed five (5) years.

(b) A permit may be transferred to another person by a permittee in accordance with 40 C.F.R. 122.61 if:

1. The permittee notifies the Director of the proposed transfer:
2. A written agreement containing a specific date for transfer of permit responsibility and coverage between the current and new permittees (including acknowledgement that the existing permittee is liable for violations up to that date, and that the new permittee is liable for violations from that date on) is submitted to the Director; and
3. The Director within thirty (30) days does not notify the current permittee and the new permittee of the EPD's intent to modify, revoke and re issue, or terminate the permit and to require that a new application be filed rather than agreeing to the transfer of the permit.

Comment: A new application will be required where the change of ownership is accompanied by a change or proposed change in process or wastewater characteristics or a change or potential change in any circumstances that the Director believes will affect the conditions or restrictions in the permit.

(c) When the permittee has submitted a timely and sufficient application for a new NPDES permit and the Director is unable, through no fault of the permittee, to issue the new permit before the expiration date of the existing permit, then the Director shall extend the existing permit until a new permit is issued.

(d) For those industrial categories for which EPA will establish effluent limitations based on best available technology, permits will be issued to ensure compliance with the effluent limit by the statutory deadline. This will be accomplished by utilizing short-term permits and/or reopener clauses that will allow the permit to be modified, revoked, reissued to comply with limitations promulgated pursuant to the Act and subsequent regulations.

(e) Notwithstanding subparagraph (a) above, if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Act for a toxic pollutant which is present in a discharge and such standard prohibition is more stringent than any limitation for such pollutant in a permit,

the permit shall be revised or modified in accordance with the toxic effluent standard or prohibition and the permittee so notified.

(16) **Enforcement.** Any person who violates any provision of the Act, any rule promulgated and adopted pursuant thereto, or any term, condition, schedule or compliance or other requirements contained in a permit issued pursuant to the Act shall be subject to enforcement proceedings pursuant to the Act.

(17) **Outfall Identification.**

(a) In order to provide the public with information as to the location of permitted outfalls in State waters and to provide the public with a way to contact appropriate persons regarding questions and concerns about these outfalls, the following persons or entities are required to identify their permitted outfall(s) to the waters of the State:

1. any person or entity that has been issued an NPDES permit by the Division for a point source discharge of treated process wastewater or treated domestic sewage to waters of the State; or

2. any person or entity that has an NPDES permit for the discharge of cooling water and that discharges one million gallons or more of cooling water per day.

(b) The outfalls are to be identified by attaching a sign to the outfall or by posting a sign adjacent to the outfall in such a way that the sign shall be visible from the receiving water. Should the outfall be submerged, then the sign shall be posted on the bank as close to the outfall as possible. The sign shall be made of materials that are durable to typical weather conditions. At a minimum, the sign shall be 15 inches square.

(c) For facilities that discharge sanitary wastewater, the sign shall include the following information:

1. the words "Treated Wastewater"

2. the facility name including the name of the government body if owned by a local government

3. the words "Permit #" followed by the last five digits of the facility's NPDES Permit number

4. the words "Outfall Number" followed by the actual outfall number

5. the words "Owner Phone" followed by the facility's phone number

6. EPD's name and phone number.

(d) For facilities that discharge treated process wastewater or cooling water, the sign shall include the following information:

1. the words "Treated Industrial Water" or "Cooling Water"

2. the words "Permit #" followed by the last five digits of the facility's NPDES Permit Number

3. the words "Outfall Number" followed by the actual outfall number

4. EPD's name and phone number.

(e) In the case of permittees who have been issued a general permit instead of an individual permit, EPD will provide the permittee with a unique 5 digit number to use as a permit number on the sign.

(f) The sign is to be posted no later than 12 months after the effective date of this rule and it is to be properly maintained from that point forward. Provided that a good faith effort is made and documented by the person or entity to maintain such sign, the person or entity shall be deemed in compliance with this Rule and the Georgia Water Quality Control Act.

(g) The requirement to identify an outfall will not apply if any of the following conditions apply:

1. If the posting of the sign would be inconsistent with any other State or Federal Statute; or
 2. If the outfall to the receiving water is located on private property which is restricted to the public through fencing, patrolling, or posting. If the property access restriction is accomplished by the posting of signs, then in order to qualify under exemption number 2 above the posted signs restricting access must be no more than 100 feet apart along the periphery of the property.
- (18) **NPDES Electronic Reporting.** The federal NPDES Electronic Reporting rule, 40 CFR Part 127 and associated amendments, became effective on December 21, 2015. The requirements of this rule relating to the submission of applications, reports, and compliance notices may include the electronic submission of such items and electronic signature for such items, as applicable and approved by the EPD. The use of the terms "in writing" or "written" in the rule may include such electronic submissions.
- (19) **Effective date.** This Rule shall become effective twenty days after filing with the Secretary of State's office.

Authority: O.C.G.A. Sec. 12-5-20 *et seq.*

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

- (1) **Purpose.** The purpose of Rule 391-3-6-.08 is to provide for the degree of wastewater pretreatment required and the uniform procedures and practices to be followed relating to the application for and the issuance or revocation of pretreatment permits for the discharge of any pollutant into a publicly owned treatment works and then into the waters of the State.
- (2) **Definitions.** All terms used in this ~~Paragraph~~Rule shall be interpreted in accordance with the definitions as set forth in the Act unless otherwise defined in this Paragraph or in any other ~~Paragraph of these Rules of this Chapter.~~
- (a) "Act" or "O.C.G.A." means the Official Code of Georgia Annotated, Title 12, Article 2.
- (b) "Approval Authority" means the Director of the Environmental Protection Division of the Georgia Department of Natural Resources.
- (c) "Approved pretreatment program," "POTW pretreatment program," or "program" means a program administered by a POTW that meets the criteria established in this ~~Paragraph~~Rule and Rule 391-3-6-.09, and which has been approved by the Approval Authority in accordance with Rule 391-3-6-.09.
- (d) "Best management practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- (e) "Control Authority" means:
 1. The POTW if the POTW's pretreatment program submission has been approved by the Approval Authority in accordance with Rule 391-3-6-.09; or
 2. The Approval Authority if the submission has not been approved; or
 3. In cases where categorical or significant non-categorical industrial users discharge to POTWs that are not included in an approved pretreatment program, the Approval Authority shall function as the Control Authority until an approved pretreatment program has been established by the POTW.

- (f) "EPD" means the Environmental Protection Division of the Georgia Department of Natural Resources.
- (g) "Federal Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.
- (h) "Indirect discharge" or "discharge" means the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the Federal Act.
- (i) "Industrial user" means any person that is a source of an indirect discharge or proposed indirect discharge.
- (j) "Interference" or "interfere" means a discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts a POTW's sewer system, treatment processes or operations or its sludge processes, including use of disposal thereof; and such discharge is a cause of a violation of any requirement of the POTW's NPDES Permit (including an increase in the magnitude or duration of a violation). The terms include prevention of sewage sludge use or disposal in accordance with Section 405 of the Federal Act, or any criteria, guidelines, or regulations developed pursuant to State or Federal laws.
- (k) "Limitation" means any restriction or prohibition established under the Act on quantities, rates, or concentration, or a combination thereof, of chemical, physical, biological, or other constituents which are discharged from industrial users into a publicly owned treatment works and then into the waters of the State, including but not limited to schedules of compliance.
- (l) "National pretreatment standard", "pretreatment standard" or "standard" means any regulation containing pollutant discharge limits promulgated by the U.S. Environmental Protection Agency (EPA) in accordance with Section 307(b) and (c) of the Federal Act, which applies to industrial users. This term includes prohibited discharge limits established pursuant to 40 CFR Part 403.5.
- (m) "New source" means:
1. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after publication of proposed pretreatment standards under Section 307(c) of the Federal Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section provided that:
 - (i) the building, structure, facility or installation is constructed at a site at which no other source is located; or
 - (ii) the building, structure, facility or installation totally replaces the process or reduction equipment that causes the discharge of pollutant at an existing source; or
 - (iii) the production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type or activity as the existing source should be considered.
 2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of Subparagraphs 391-3-6-.08 (2)(m) 1. (ii) or (iii) but otherwise alters, replaces, or adds to existing process or production equipment.
 3. Construction of a new source as defined under this Paragraph has commenced if the owner or operator has:
 - (i) begun, or caused to begin as part of a continuous on-site construction program:
 - (I) any placement, assembly, or installation of facilities or equipment; or

(II) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase, or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this Paragraph.

(n) "Pass through" means a discharge which exits the POTW into waters of the State in quantities or concentration which alone or in conjunction with a discharge or discharges from other sources is a cause of a violation of any requirement of the POTW's NPDES Permit (including an increase in the magnitude or duration of a violation).

(o) "Person" means any individual, corporation, company, association, partnership, county, municipality, State agency, Federal agency or facility or other entity.

(p) "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes, process changes or by other means, except as prohibited by 40 CFR Part 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW.

However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR Part 403.6(e).

(q) "Pretreatment permit" means any permit issued by the Control Authority to regulate the discharge of pollutants from any industrial user into a publicly owned treatment works and the waters of the State.

(r) "Pretreatment permit application" means an application filed by any person with the Control Authority for a pretreatment permit.

(s) "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

(t) "Publicly owned treatment works" or "POTW," as applied in Rules 391-3-6-.08 and 391-3-6-.09, means a treatment works as defined by section 212 of the Federal Act, which is owned by the State or a municipality (as defined by section 502(4) of the Federal Act). This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality, as defined in section 502(4) of the Federal Act, which has jurisdiction over the indirect discharges to, and the discharges from, such a treatment works

(u) "Significant Industrial User"

1. Except as provided in Subparagraphs (u) 2. and 3. below, the term Significant Industrial User means:

(i) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and

(ii) Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown

wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

2. The Control Authority may determine that an industrial user subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the industrial user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

- (i) the industrial user, prior to the Control Authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
- (ii) the industrial user annually submits the certification statement required in 40 CFR 403.12(q) together with any additional information necessary to support the certification statement; and
- (iii) the industrial user never discharges any untreated concentrated wastewater.

3. Upon a finding by the Control Authority that an industrial user meeting the criteria in Subparagraph (u)1.(ii) above has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Control Authority may at any time, on its own initiative or in response to a petition received from an industrial user or from a POTW pretreatment program and in accordance with Subparagraph 391-3-6-.09 (7)(d), determine that such industrial user is not a Significant Industrial User.

(v) "Significant noncompliance" for an industrial user means that its violation meets one or more of the following criteria:

1. Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a six month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

2. Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements for the same pollutant parameter taken during a six month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

3. Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

4. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the Control Authority's exercise of its emergency authority to halt or prevent such a discharge;

5. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a control mechanism or enforcement order for starting construction, completing construction or attaining final compliance;

6. Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

7. Failure to accurately report noncompliance; or

8. Any other violations or group of violations which may include a violation of BMPs, which the Control Authority determines will adversely affect POTW operations or violate applicable NPDES Permit effluent limitations and requirements.

(3) Pretreatment Permit Requirements.

(a) Any industrial user discharging or proposing to discharge any pollutant into a publicly owned treatment works and then into the waters of the State, under any of the circumstances described in O.C.G.A. Section 12-5-30, shall be considered for a pretreatment permit by the Control Authority. In addition to other pretreatment permit requirements described in this Paragraph, the permit must contain the following conditions:

1. Statement of non-transferability without, at a minimum, prior notification to the Control Authority and provision of a copy of the existing control mechanism to the new owner or operator;

2. Effluent limits based on national pretreatment standards for prohibited discharges as specified in 40 CFR 403.5(a) and (b), national pretreatment standards for categorical discharges as specified in 40 CFR 403.6 and 40 CFR Chapter 1, Subchapter N, Parts 405-471, and local limits and/or BMPs as specified in 40 CFR 403.5(c);

3. Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule;

4. Conditions and limits to ensure that concentration and mass limits requirements under 40 CFR 403.6(c)(1)-(9), dilution prohibition requirements under 40 CFR 403.6(d) and combined wastestream formula requirements under 40 CFR 403.6(e)(1)-(4) are complied with.

5. Requirements to control slug discharges as defined in 40 CFR 403.8(f)(2)(vi), if determined by the Control Authority to be necessary.

(4) Degree of Pretreatment Required.

(a) All pollutants discharged from an industrial user to a publicly owned treatment works shall receive such pretreatment or corrective action so as to ensure compliance with the terms and conditions of the issued pretreatment permit and with the following whenever applicable:

1. Limitations, prohibitions and pretreatment standards and requirements promulgated by the U.S. EPA pursuant to Section 307 of the Federal Act and as described in Subparagraph 391-3-6.08(3) 2.

2. Until such time as such limitations, prohibitions and pretreatment standards and requirements are formally promulgated pursuant to Section 307 of the Federal Act, the Control Authority shall apply such limitations, prohibitions and pretreatment standards necessary to achieve the purpose of said Section of the Federal Act. With respect to industrial users, such limitations, prohibitions or pretreatment standards shall be based upon an assessment of technology and processes, to wit:

(i) to existing industrial users limitations or pretreatment standards and requirements based on application of the best demonstrated control technology currently available;

(ii) to any industrial user whose construction commences after the effective date of this Paragraph ~~Rule~~, pretreatment standards and requirements which reflect the greatest degree of effluent reduction which the Control Authority determines to be achievable through the application of best demonstrated control technology currently available, or changes in processes

or operating methods or other alternatives including where practical, a standard permitting no discharge of pollutants.

3. Notwithstanding the above, more stringent pretreatment may be required as deemed necessary by the Control Authority to meet:

- (i) any other existing Federal laws or regulations;
- (ii) to ensure compliance with any applicable State water quality standards, POTW effluent limitations, local discharge limitations, national pretreatment standards for prohibited discharges as specified in 40 CFR 403.5, dilution prohibition as specified in 40 CFR 403.6(d), pretreatment standards and requirements, or schedules of compliance;
- (iii) to ensure there is no interference with the operation of a POTW or pass through of pollutants untreated.

4. To any industrial user, as appropriate, pretreatment standards and requirements designed to prohibit the discharge of toxic pollutant in toxic amounts which interfere with, pass through, prevents the use or disposal of sewage sludge, or otherwise interferes with operation of publicly owned treatment works.

5. The foregoing requirements shall be applied in considering all applications for pretreatment permits made pursuant to O.C.G.A. Section 12-5-30 and no such application shall be approved unless the pretreatment facilities will achieve such pretreatment standards and requirements within such reasonable time thereafter as the Control Authority may require.

(5) Application for Pretreatment Permit.

(a) Applications for pretreatment permits under O.C.G.A. Section 12-5-30 shall be on forms as may be prescribed and furnished from time to time by the Control Authority. Applications shall be accompanied by all pertinent information as the Control Authority may require in order to establish pretreatment standards and requirements in accordance with Subparagraph 391-3-6-.08 (4), including but not limited to complete engineering reports, schedule of progress, plans, specification, maps, measurements, quantitative and qualitative determinations, records and all related materials. For industrial users subject to national pretreatment standards for categorical discharges, the application for a pretreatment permit shall contain information for a baseline report as required by 40 CFR 403.12(b)(1)-(7).

(b) Engineering reports, plans, specifications and other materials submitted to the Control Authority in support of a pretreatment permit application shall be prepared by or under the direct supervision or review of, and bear the seal of a Professional Engineer, competent in the field of sewage and industrial waste treatment. At no time shall this requirement be in conflict with O.C.G.A. Section 43-15 governing the practice of professional engineering and surveying.

(c) Materials submitted shall be complete and accurate.

(d) Any pretreatment permit application forms or any other forms submitted to the Control Authority shall be signed as follows:

1. By a responsible corporate officer, if the industrial user submitting the reports is a corporation. For this subparagraph a responsible corporate officer means:

- (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or
- (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that

the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. By a general partner or proprietor if the industrial user submitting the reports is a partnership or sole proprietorship respectively; or

3. By a duly authorized representative of the individual designated in subparagraphs (5)(d)1. and (5)(d)2. of this section if:

(i) The authorization is made in writing by the individual described in subparagraph (5)(d)1. or (5)(d)2.;

(ii) The authorization specifies either an individual or position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

(iii) The written authorization is submitted to the Control Authority.

4. If an authorization under subparagraph (5)(d)3. of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of subparagraph (5)(d)3. of this section must be submitted to the Control Authority prior to or together with any reports to be signed by the authorized representative.

5. For a municipality, State, Federal, or the public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee. The duly authorized employee must be an individual or position having responsibility for the overall operation of the facility or the pretreatment program. This authorization must be made in writing by the principal executive officer or ranking elected official, and submitted to the Control Authority prior to or together with the report being submitted.

(6) Receipt and Use of Pretreatment Permit Application Forms and Data.

(a) Applications for pretreatment permits will be reviewed together with such other information as may be necessary to ascertain the effect of the discharge of any pollutant into a publicly owned treatment works and then the waters of the State.

(b) The Control Authority shall receive any data it finds relevant which is intended to clarify or support the pretreatment permit application.

(c) Any information submitted in a pretreatment permit application form, together with reports, records or plans that are considered confidential by the applicant for a pretreatment permit should be clearly labeled "Confidential" and be supported by a statement as to the reasons that such information should be considered confidential. If the Control Authority determines that such information is entitled confidential protection, it shall label and handle the same accordingly. However, all submitted effluent data shall be available to the public without restriction.

(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. 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. — 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 pProcedures 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)

(8) **Terms and Conditions of Pretreatment Permits.**

(a) Terms and conditions under which the discharge will be permitted will be specified on the permit issued for the industrial user to discharge into a publicly owned treatment works and then into the waters of the State.

(b) No pretreatment permit shall be issued authorizing the discharge into a publicly owned treatment works and then into the waters of the State of any radiological, chemical or biological warfare agent or high-level radioactive waste.

(c) Schedule of compliance:

1. Any person who obtains a pretreatment permit pursuant to the Act but who is not in compliance with applicable pretreatment standards and limitations or other requirements contained in such permit at the time same is issued, shall be required to achieve compliance with such pretreatment standards and limitations or other requirements in accordance with the schedule of compliance as set forth in such permit, or in the absence of a schedule of compliance, by the date set forth in such permit which the Control Authority has determined to be the shortest, reasonable period of time necessary to achieve compliance. Such compliance schedules may not extend the compliance date beyond applicable Federal deadlines. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable pretreatment standards and limitations. No increment referred to in this Subparagraph shall exceed nine months.

2. Within fourteen (14) days of an interim date of compliance or the final date of compliance specified for an industrial user, the industrial user shall provide the Control Authority with written notice of its compliance, or non-compliance with the requirements and conditions specified to be completed by such date. Failure to submit the written notice is just cause for the Control Authority to pursue enforcement action pursuant to its legal authority.

3. An industrial user who fails or refuses to comply with an interim or final date of compliance specified in a pretreatment permit may be deemed by the Control Authority to be in violation of the permit and may be subject to enforcement action by the Control Authority.

4. Within ninety (90) days following the date for final compliance with applicable pretreatment standards or in the case of a new source following commencement of the introduction of wastewater to the POTW, industrial users subject to categorical standards shall submit to the Control Authority a report containing information described in 40 CFR 403.12(b)(4)-(6).

(d) Monitoring, recording and reporting requirements:

1. Any industrial user authorized by a pretreatment permit issued pursuant to the Act may be subject to such monitoring, recording and reporting requirements as may be reasonably required by the Control Authority including the installation, use and maintenance of monitoring equipment or methods; specific requirements for recording of monitoring activities and result; and periodic reporting of monitoring results. The monitoring, record keeping, sampling, notification and reporting requirements including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on national pretreatment standards, including those in 40 CFR 403.12 as applicable, and applicable local limits and requirements shall be specified in a permit when issued, provided however the Control Authority may modify or require additional monitoring, recording and reporting by written notification to the industrial user.

2. The industrial user shall be required, in the pretreatment permit, to retain any records of monitoring activities and results for a minimum of three (3) years, unless otherwise extended by

the Control Authority upon written notification. The period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or POTW.

3. Any holder of a permit, which requires monitoring of the authorized discharge into a publicly owned treatment works and then into the waters of the State, shall report periodically to the Control Authority results of all required monitoring activities on appropriate forms supplied by the Control Authority. The Control Authority shall notify the industrial user of the frequency of reporting. All periodic reporting shall be in accordance with the requirements described in 40 CFR 403.12(e)-(h).

4. The effluent limitations specified in the pretreatment permit will be based on an allowable POTW headworks loading methodology for deriving the value of the limiting pollutant for inclusion in the permit after consideration of State water quality standards, sludge disposal requirements, final determination of NPDES Permit limits, POTW inhibition, and any other applicable criteria. The limiting factor selected will then be compared to appropriate national pretreatment standards for categorical discharges if applicable, and the most stringent will then be incorporated into the permit. In instances where the potable water sources or other incoming water sources have values that exceed limits based on water quality standards, then an alternate limit may be derived on a case-by-case basis after the evaluation of sampling conducted on the water sources by the Control Authority. These alternate effluent limitations will be considered local limits and will be enforced to comply with 40 CFR 403.5(c) and (d) requirements.

(9) Modification, Suspension and Revocation of Pretreatment Permits:

Where the Approval Authority is acting as the Control Authority, the following procedures shall apply:

(a) The Approval Authority may revise or modify the schedule of compliance set forth in an issued pretreatment permit if the industrial user requests such modification or revision in writing and such modification or revision will not cause an interim date in the compliance schedule to be extended more than one hundred and twenty (120) days or affect the final date in the compliance schedule. If the industrial user requests in writing the modification or revision of a schedule of compliance set forth in an issued pretreatment permit which, if granted, would cause an interim date in the compliance schedule to be extended more than one hundred and twenty (120) days or affect the final date in compliance schedule, the Approval Authority may revise or modify such schedule of compliance provided it is in accordance with promulgated Federal regulations. The Approval Authority may grant a request in accordance with this Subparagraph if it determines after documented showing by the industrial user that good and valid cause, including acts of God, strikes, floods, material shortages or other events over which the industrial user has little or no control, exist for such revision.

(b) The Approval Authority may modify, suspend or revoke an issued pretreatment permit in whole or in part during its term for cause, including but not limited to, failure or refusal of the industrial user to carry out the requirements of the Act or regulations promulgated pursuant thereto and/or promulgated Federal regulations, if within thirty (30) days following receipt of such proposed modifications, suspension or revocation from the Approval Authority, there is no objection by the industrial user in writing. In addition prior to any such modifications, suspension or revocation of an issued pretreatment permit by the Approval Authority (other than modification or revision of compliance schedule pursuant to Subparagraph 391-3-6-.08 (9)(a) above or modification of the monitoring, recording and reporting requirements), the Approval Authority will provide public notice in accordance with the procedures set forth in Subparagraph 391-3-6-.08 (7)(b). Where the Approval Authority is acting as the Control Authority, the procedures set forth in Chapter 391-1-2 of these Rules shall apply to any person who is

"aggrieved or adversely affected" as provided for in Title 12 of the Official Code of Georgia Annotated.

(10) **Duration of Pretreatment Permits.**

Any pretreatment permit issued by a Control Authority shall have a fixed term not to exceed five (5) years. When the Approval Authority is acting as the Control Authority, a new pretreatment permit may be issued by the Authority, provided that an application for such new pretreatment permit is filed with the Approval Authority at least one hundred and eighty (180) days prior to the expiration date of the existing permit. The issuance of such new pretreatment permit shall likewise have a fixed term not to exceed five (5) years.

(11) **Enforcement.**

Any person who violates any provision of the Act, any rule promulgated and adopted pursuant thereto, or any term, condition schedule or compliance or other requirement contained in a permit issued pursuant to the Act shall be subject to enforcement proceedings pursuant to the Act.

(12) **NPDES Electronic Reporting.** The federal NPDES Electronic Reporting rule, 40 CFR Part 127 and associated amendments, became effective on December 21, 2015. The requirements of this rule relating to the submission of applications, reports and compliance notices may include the electronic submission of such items and electronic signature for such items, as applicable and approved by the EPD or the Control Authority. The use of the terms "in writing" or "written" in the rule may include such electronic submissions.

Authority: O.C.G.A. Sec. 12-5-20 *et seq.*

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

(1) **Purpose.** The purpose of Rule 391-3-6-.09 is to provide uniform procedures and practices to be followed for the development and submission of POTW pretreatment programs for EPD review and approval or denial, and the public notification methods to be used.

(2) **Definitions.** All terms used in this ~~Paragraph~~Rule shall be interpreted in accordance with the definitions as set forth in the Act unless otherwise defined in this Paragraph or in any other ~~Paragraph of these Rules of this Chapter:~~

(a) "Submission" means a request to the Approval Authority for approval of a POTW pretreatment program by a POTW.

(3) **Required POTW Pretreatment Programs.**

(a) Any POTW or combination of POTWs operated by the same authority with a total design flow greater than 5 million gallons per day (MGD) and receiving from industrial users pollutants which may pass through untreated or interfere with the operation of the POTW or are otherwise subjects to Section 307(b) or 307(c) of the Federal Act will be required to establish a POTW pretreatment program.

(b) The Approval Authority may require in writing that a POTW with a design flow of 5 mgd or less develop a POTW pretreatment program if it finds that the nature or volume of the industrial effluent, treatment process upsets, violations of POTW effluent limitations, contamination of municipal sludge or other circumstances warrant a POTW pretreatment program in order to prevent interference with the POTW or pass through of untreated pollutants.

(c) Any POTW described in Subparagraphs 391-3-6-.09 (3)(a) and (b) must obtain approval of its POTW pretreatment program no later than three (3) years after the reissuance or modification of its existing NPDES permit, but in no case later than July 1, 1983. POTWs whose NPDES permits are modified under Section 301(h) of the Federal Act shall have a pretreatment program within less than three (3) years as provided by 40 CFR Part 125, Subpart G. POTWs identified after July 1, 1983 as being required to develop a POTW pretreatment program under Subparagraph 391-3-6-.09(3)(a) and (b) shall develop and submit such a program for approval as soon as possible to the Approval Authority but in no case later than one (1) year after written notification from the Approval Authority of such identification.

(d) The POTW pretreatment program shall meet the criteria set forth in 40 CFR 403.8(f) and shall be capable of being administered by the POTW to ensure compliance by the industrial users with applicable State and Federal pretreatment standards and requirements in order to be approved by the Approval Authority.

(e) The Approval Authority may hold a public hearing in the geographical area served by any POTW which fails to comply with the Approval Authority's finding and written directive that a POTW pretreatment program is required and a draft submission must be developed and submitted to the Approval Authority within sixty (60) days. The public hearing will be held to advise the public, the industrial users and other concerned parties that the EPD will establish and operate the pretreatment program necessary to meet the Federal requirements as a result of the failure of the POTW to carry out its legal responsibility. The appropriate POTW, city or municipal officials will be requested at the public hearing to explain the reasons why they failed to comply with the Approval Authority's finding and directive. For any public hearing held pursuant to this Subparagraph a public notice shall be provided at least forty-five (45) days in advance of the hearing date and shall be published and circulated in accordance with Subparagraph 391-3-6-.09 (5)(a).

(f) A POTW requesting approval of a POTW pretreatment program shall develop a program submission which includes the information set forth in 40 CFR 403.9(b) and 403.8(f). Any other pertinent information requested by the Director as being necessary to clarify, support or supplement the program description must also be submitted.

(4) POTW Pretreatment Program Approval or Denial.

(a) Any POTW requesting POTW pretreatment program approval shall submit to the EPD three copies of the submission described in 40 CFR 403.9(b). Within 60 days after receiving the submission, the EPD shall make a preliminary determination of whether the submission meets the requirements of 403.9(b) and whether the submission meets the requirements as may be described by the EPD. When the EPD is satisfied that a POTW pretreatment program meets the requirements of 40 CFR 403.8(f), 403.9(b) and such other requirements as may be prescribed by the Approval Authority, the EPD shall notify the POTW that the submission has been received and is under review and commence public notice and evaluation activities set forth in Subparagraph 391-3-6-.09 (5).

(b) When the EPD determines that the POTW pretreatment program does not meet the requirements of Subparagraph 391-3-6-.09 (4)(a), the EPD shall notify the POTW in writing as appropriate and each person who has requested individual notice. This notification shall identify any defects in the submission and advise the POTW and each person who has requested individual notice of the means by which the POTW can comply with the applicable requirements of Subparagraph 391-3-6-.09 (4)(a). Unless the necessary revisions and modifications are made within the time period specified in the notification of denial, not to exceed the one year period specified in Subparagraph 391-3-6-.09 (3)(c), the EPD will proceed to develop and implement a

pretreatment program for the area served by the POTW in accordance with ~~Paragraphs~~Rules 391-3-6-.08 and 391-3-6-.09.

(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 dDesignated ~~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 notice 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 notice to adjoining State whose waters may be affected; and
- (v) ~~mailing~~providing notice to ~~section designated 208 Designated 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 subparagraph (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.

(6) Notification of POTW Pretreatment Program Approval.

(a) Notification of any final approval of a POTW pretreatment program will be forwarded to the POTW in writing including any conditions or special requirements for compliance schedules, monitoring and reporting both for the POTW and the industrial user in accordance with 40 CFR 403.12.

(b) When the POTW accepts the approval and any specific conditions or requirements that are a part of the approval notification by the Approval Authority, procedures will be started to revise, modify and reissue the POTW's discharge permit to include compliance with Rules 391-3-6-.08 and 391-3-6-.09, and the approved POTW pretreatment program as enforceable conditions of the POTW's permit. The modification of a POTW's discharge permit for the purposes of incorporating a POTW pretreatment program approved by the Approval Authority in accordance with 40 CFR 403.11 and this ~~Paragraph~~Rule shall be deemed a minor permit modification subject to the procedures in 40 CFR 122.63.

(7) Modification of POTW Pretreatment Program.

(a) Either the EPD or a POTW with an approved POTW pretreatment program may initiate program modification at any time to reflect exchanging conditions at the POTW. Program modification is necessary whenever there is a significant change in the operation of the POTW pretreatment program that differs from the information in the POTW submission as approved by the Approval Authority. Any approved POTW pretreatment program identified by the EPD that needs to modify its program to incorporate requirements that have resulted from revision to ~~Paragraph~~Rule 391-3-6-.08 through 391-3-6-.10 or any other applicable ~~paragraph~~rule revision shall develop and submit to the EPD for approval such program modification no later than one (1) year after written notification from the EPD to modify the program.

(b) POTW pretreatment program modifications shall be accomplished as follows:

1. For substantial modifications as defined in Subparagraph 391-3-6-.09 (7)(c):

(i) the POTW shall submit to the EPD a statement of the basis for the desired modification, a modified program description or such other documents the Approval Authority determines to be necessary under the circumstances;

(ii) the Approval Authority shall approve or disapprove the modifications based on the requirements of 40 CFR 403.8(f), following the procedures in Subparagraph 391-3-6-.09 (4) -(6);

(iii) the modification shall be incorporated into the POTW discharge permit after approval. The POTW's discharge permit will be modified to incorporate the approved modification in accordance with 40 CFR 122.63(g);

(iv) the modification shall become effective upon approval by the Approval Authority. Notice of approval shall be published in the same newspaper as the notice of original request for approval of the modification under Subparagraph 391-3-6-.09 (5)(a) 1.(iii).

2. The POTW shall notify the EPD of any other (i.e., non-substantial) modifications to its pretreatment program at least thirty (30) days prior to when they are to be implemented by the POTW, in a statement similar to that provided for in Subparagraph 391-3-6-.09 (7)(b) 1.(i). Such non-substantial program modification shall be deemed to be approved by the Approval Authority, unless the EPD determines that a modification submitted is in fact a substantial modification thirty (30) days after the submission of the POTW's statement. Following such approval by the Approval Authority, such modifications shall be incorporated into the POTW's discharge permit in accordance with 40 CFR 122.63(g). If the EPD determines that a modification reported by a POTW in its statement is in fact a substantial modification, the EPD shall notify the POTW and initiate the procedures in Subparagraph 391-3-6-.09 (7)(b) 1.

(c) Substantial modifications.

1. The following are substantial modifications for purposes of this Subparagraph:

- (i) changes to the POTW's legal authorities;
- (ii) changes to local limits;
- (iii) changes to the POTW's control mechanism as described in 40 CFR 403.8(f)(1)(iii);
- (iv) changes to the POTW's method for implementing categorical pretreatment standards;
- (v) a decrease in the frequency of self-monitoring or reporting required of industrial users;
- (vi) a decrease in the frequency of industrial user inspection or sampling by the POTW;
- (vii) changes to the POTW's confidentiality procedures;
- (viii) significant reduction in the POTW's pretreatment program resources (including personnel commitments, equipments, and funding levels); or
- (ix) changes in the POTW's sludge disposal and management practices.

2. The Approval Authority may designate other specific modifications in addition to those listed in Subparagraph 391-3-6-.09 (7)(c) 1. as substantial modifications.

3. A modification that is not included in Subparagraph 391-3-6-.09 (7)(c) 1. is none the less a substantial modification for purposes of this Subparagraph if the modification:

- (i) would have a significant impact on the operation of the POTW's pretreatment program;
- (ii) would result in an increase in pollutant loadings at the POTW's or
- (iii) would result in less stringent requirements being imposed on industrial users of the POTW.

(d) The POTW shall prepare a list of its industrial users meeting the criteria in Subparagraphs 391-3-6-.08 (2)(u) 1.(i) and 2. applicable to each industrial user and, for industrial users meeting the criteria in Subparagraphs 391-3-6-.08 (2)(u) 1.(ii) shall also indicate whether the POTW has made a determination pursuant to Subparagraph 391-3-6-.08 (2)(u) that such industrial user should be considered a significant industrial user. This list, and any subsequent modification thereto, shall be submitted to the EPD as a nonsubstantial program modification pursuant to Subparagraph 391-3-6-.09 (7)(b) 2. Discretionary designations or de-designations by the POTW pretreatment program shall be deemed to be approved by the EPD ninety (90) days after submission of the list or modifications thereto, unless EPD determines that a modification is in fact a substantial modification.

(8) Compliance Monitoring and Reporting Requirements for POTW Pretreatment Programs and the EPD Pretreatment Program.

(a) Both the EPD and each POTW pretreatment program shall develop and implement procedures to ensure compliance with the requirements of a pretreatment program. At a minimum, these procedures shall enable the Control Authority to:

1. Identify and locate all possible industrial users which might be subject to the pretreatment program;
2. Identify the character and volume of pollutants contributed to the POTW by the industrial users identified under Subparagraph 391-3-6-.09 (8)(a) 1.;
3. Notify industrial users identified under Subparagraph 391-3-6-.09 (8)(a) 1. of applicable pretreatment standards and applicable pretreatment requirements under Sections 204(b) and 405 of the Federal Act and Subtitles C and D of the Resource Conservation and Recovery Act. Within 30 days of approval pursuant to 40 CFR 403.8(f)(6), of a list of significant industrial users, notify each significant industrial user of its status as such and all requirements applicable to it as a result of such status;
4. Receive and analyze self-monitoring reports and other notices submitted by industrial users in accordance with the self-monitoring requirements in 40 CFR 403.12;
5. Randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent of information supplied by industrial users, occasional and continuing noncompliance with pretreatment standards. Inspect and sample the effluent from each significant industrial user at least once a year except as otherwise specified below:
 - (i) Where the Control Authority has authorized the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard in accordance with 40 CFR 403.12(e)(3), the Control Authority must sample for the waived pollutant(s) at least once during the term of the categorical industrial user's control mechanism. In the event that the Control Authority subsequently determines that a waived pollutant is present or is expected to be present in the industrial user's wastewater based on changes that occur in the industrial user's operations, the Control Authority must immediately begin at least annual effluent monitoring of the industrial user's discharge and inspection.
 - (ii) Where the Control Authority has determined that an industrial user meets the criteria for classification as a Non-Significant Categorical Industrial User, the Control Authority must evaluate, at least once per year, whether an industrial user continues to meet the criteria in 40 CFR 403.3(v)(2).
 - (iii) In the case of industrial users subject to reduced reporting requirements under 40 CFR 403.12(e)(3), the Control Authority must randomly sample and analyze the effluent from industrial users and conduct inspections at least once every two years. If the industrial user no longer meets the conditions for reduced reporting in 40 CFR 403.12(e)(3), the Control Authority must immediately begin sampling and inspecting the industrial user at least once a year.
6. Evaluate, within one year whether each such significant industrial user needs a plan or other action to control slug discharges. Additional significant industrial users must be evaluated within 1 year of being designated a significant industrial user. If the Control Authority decides that a slug control plan is needed, the plan shall be based on the requirements in 40 CFR 403.8(f)(2)(vi).
7. Investigate instances of noncompliance with pretreatment standards and requirements, as indicated in the reports and notices required under 40 CFR 403.12 or indicated by analysis, inspection, and surveillance activities described in Subparagraph 391-3-6-.09 (8)(a) 5. Sample

taking and analysis and the collection of other information shall be performed using appropriate procedures to produce evidence admissible in enforcement proceedings or in judicial actions;

8. Comply with the public participation requirement of 40 CFR Parts 25 in the enforcement of national pretreatment standards. These procedures shall include provision for at least annual public notification, in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW of industrial users which, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment requirement as defined under Subparagraph 391-3-6-.08 (2)(v); and

9. Deny or condition new increased contributions of pollutants, to the POTW by industrial users where such contributions do not meet applicable pretreatment standards and requirements or where such contribution would cause the POTW to violate its NPDES Permit.

(b) Both the EPD pretreatment program and each POTW pretreatment program shall require the following industrial user reports and notification for their regulated industrial users:

1. Notice of potential problems including slug loading as described in 40 CFR 403.12(f);
2. Report on the monitoring and analysis to demonstrate continued compliance as described in 40 CFR 403.12(g)(1)-(6);
3. Reports for industrial users not subject to categorical pretreatment standards as described in 40 CFR 403.12(h);
4. Notification of changed discharge as described under 40 CFR 403.12(j);
5. Notification of discharge of hazardous waste as described in 403.12(p)(1)-(4).
6. Baseline reports as described in 40 CFR 403.12(b)(1)-(7);
7. Compliance scheduling and progress reports as described in 40 CFR 403.12(c)(1)-(3);
8. Report on compliance with categorical pretreatment standards deadlines as described in 40 CFR 403.12(d);
9. Periodic reports on continued compliance as described in 40 CFR 403.12(e)(1)-(5); and
10. Annual certification by Non-Significant Categorical Industrial Users (as defined in Subparagraph 391-3-6-.08 (2)(r)(2)) as required in 40 CFR 403.12(q).

(c) Signatory requirements for industrial user reports and POTW pretreatment program reports shall comply with requirements described in 40 CFR 403.12(l) and (m), respectively.

(d) Records keeping for industrial users and POTW pretreatment programs shall comply with the requirements described in 40 CFR 403.12(o).

(e) The EPD may require a POTW pretreatment program to sample and analyze the POTW influent, effluent and/or sludge for the toxic priority pollutants as listed under Subparagraphs 391-3-6-.03 (5)(e)(i)(ii) and (iii) and any other identified pollutants at a frequency that adequately characterizes pollutant loading at the POTW. In addition, the POTW pretreatment program may be required to conduct biomonitoring of the POTW effluent.

(f) The federal NPDES Electronic Reporting rule, 40 CFR Part 127 and associated amendments (including amendments to 40 CFR 403.12), became effective on December 21, 2015. The requirements of this paragraph may include electronic reporting, as applicable and approved by EPD or the Control Authority. A Control Authority that receives electronic documents must satisfy the requirements of 40 CFR Part 3 (Electronic Reporting) and the NPDES Electronic Reporting rule.

(9) **Legal Authority Requirements for Control Authorities.**

(a) Each Control Authority shall operate pursuant to a legal authority enforceable in Federal, State or local courts, which authorizes or enables the Control Authority to apply and to enforce the requirements of sections 307(b) and (c), and 402(b)(8) of the Federal Act and any regulations implementing those sections. Such authority may be contained in a statute, ordinance, or series

of contracts or joint powers agreement, which the Control Authority is authorized to enact, enter into or implement and which are authorized by the Act or State law. At a minimum, this legal authority shall enable the Control Authority to:

1. Require compliance with applicable pretreatment standards and requirements by industrial users.
2. Deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit.
3. Control through permit, order, or similar means, the contribution to the POTW by each industrial user to ensure compliance with applicable pretreatment standards and requirements. In case of industrial users identified as significant under Subparagraph 391-3-6-.08 (2)(u), this control shall be achieved through individual permits or equivalent individual control mechanism issued to each such user except as follows.
 - (i) At the discretion of the Control Authority, this control may include use of general control mechanisms if the following conditions are met. All of the facilities to be covered must:
 - (I) Involve the same or substantially similar types of operations;
 - (II) Discharge the same types of wastes;
 - (III) Require the same effluent limitations;
 - (IV) Require the same or similar monitoring; and
 - (V) In the opinion of the Control Authority, are more appropriately controlled under a general control mechanism than under individual control mechanisms.
 - (ii) To be covered by the general control mechanism, a significant industrial user must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general control mechanism, any requests in accordance with 40 CFR 403.12(e)(2) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the Control Authority deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general control mechanism until after the Control Authority has provided written notice to the significant industrial user that such a waiver request has been granted in accordance with 40 CFR 403.12(e)(2). The Control Authority must retain a copy of the general control mechanism, documentation to support the Control Authority's determination that a specific significant industrial user meets the criteria in 40 CFR 403.8(f)(1)(iii)(A)(1) through (f)(1)(iii)(A)(5), and a copy of the significant industrial user's written request for coverage for 3 years after the expiration of the general control mechanism. A Control Authority may not control a significant industrial user through a general control mechanism where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day, or for industrial users whose limits are based on the combined wastestream formula in 40 CFR 403.6(e). Both individual and general control mechanisms must, be enforceable and contain the minimum conditions described in 40 CFR 403.8(f)(1)(iii)(B)(1)-(6). Each pretreatment permit will include, where appropriate, conditions and limits which ensure that concentration and mass limit requirements under 40 CFR 403.6(c)(1)-(9), dilution prohibition requirements under 40 CFR 403.6(d) and combined wastestream formula requirements under 40 CFR 403.6(e)(1)-(4) are complied with;
4. Require the development of a compliance schedule by each industrial user for the installation of technology required to meet applicable pretreatment standards and requirements

and the submission of all notices and self-monitoring reports from industrial users with pretreatment standards and requirements, including, but not limited to the reports required in 40 CFR 403.12;

5. Carry out all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by industrial users, compliance or noncompliance with applicable pretreatment standards and requirements by industrial users. Representatives of the POTW shall be authorized to enter any premises of any industrial user in which a discharge source or treatment system is located or in which records are required to be kept under 40 CFR 403.12(o) to assure compliance with pretreatment standards. Such authority shall be at least as extensive as the authority provided under Section 308 of the Federal Act;

6. Obtain remedies for noncompliance by any industrial user with any pretreatment standard and requirement. All POTW's shall be able to seek injunctive relief for noncompliance by industrial users with pretreatment standards and requirements. All POTW's shall also have authority to seek or assess civil or criminal penalties in at least the amount of \$1,000 a day for each violation by industrial users of pretreatment standards and requirements. Pretreatment requirements which will be enforced through the remedies set forth in this Subparagraph will include but not be limited to, the duty to allow or carry out inspections, entry, or monitoring activities; any rules, regulations or orders issued by the POTW; any requirements set forth in control mechanisms issued by the POTW; or any reporting requirements imposed by the POTW; or any reporting requirements imposed by the POTW or these regulations. The POTW shall have authority and procedures (after informal notice to the discharger) to immediately and effectively halt or prevent any discharge of pollutants to the POTW which reasonably appears to present an imminent endangerment to the health or welfare of persons. The POTW shall also have authority and procedures (which shall include notice to the affected industrial users and an opportunity to respond) to halt or prevent an endangerment to the environment or which threatens to interfere with the operation of the POTW. The EPD shall have the authority to take additional enforcement action when the EPD determines that the Control Authority's enforcement response to noncompliance by an industrial user is insufficient;

7. Comply with the confidentiality requirements set forth in 40 CFR 403.14.

(b) The Control Authority shall develop and implement an enforcement response plan which contains detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance. The plan shall be developed in accordance with requirements described in 40 CFR 403.8(f)(5).

(c) Control Authority shall ensure that industrial users comply with the deadline for compliance with categorical standards as described in 40 CFR 403.6(b) or take appropriate enforcement actions to address noncompliance with 40 CFR 403.6(b) through the enforcement response plan under subparagraph 391-3-6-.09 (9)(b).

(d) Control Authority shall ensure that proper legal authority exists to require industrial user compliance with the general prohibitions under 40 CFR 403.5(a)(1), the specific prohibitions under 40 CFR 403.5(b)(1)-(8) and local limits under 40 CFR 403.5(c) and (d). The Control Authority shall develop and enforce specific limits as described under 40 CFR 403.5(c) and (d) to implement the prohibitions listed in 40 CFR 403.5(a)(1) and 40 CFR 403.5(b)(1)-(8). The Control Authority shall continue to develop these limits as necessary and effectively enforce such limits.

(10) POTW Pretreatment Program Annual Report.

Each POTW pretreatment program shall provide the Approval Authority with a report that describes POTW program activities including activities of all participating agencies if more than

one jurisdiction is involved in the local program. The report required by this subparagraph shall be submitted no later than one year after approval of the POTW's pretreatment program and at least annually thereafter and shall include, at a minimum, the information required in 40 CFR 403.12(i). The federal NPDES Electronic Reporting rule, 40 CFR Part 127 and associated amendments, includes requirements under 40 CFR 403.12(i) for the electronic submission of annual reports on or after December 21, 2020.

(11) Approval Authority Oversight of POTW Pretreatment Programs.

The Approval Authority retains the authority to enforce all pretreatment standards (including categorical standards, prohibited discharge standards, and local limits as described in 40 CFR 403) in cases where the Approval Authority determines that insufficient enforcement action has been taken by the POTW pretreatment program against industrial users. The Approval Authority also has the legal authority to review self-monitoring reports submitted by the industrial users described in 40 CFR 403.10(f)(1)(ii) and to carry out inspection surveillance, and monitoring procedures as described in 40 CFR 403.10(f)(1)(iii). The Approval Authority also has the legal authority to obtain remedies for noncompliance as described in 40 CFR 403.8(f)(1)(vi).

(12) Enforcement.

Any person who violates any provision of the Act, any rule promulgated and adopted pursuant thereto, or any term, condition, schedule or compliance or other requirements contained in a permit issued pursuant to the Act shall be subject to enforcement proceedings pursuant to the Act. Any reports submitted to the Control Authority or Approval Authority are also subject to the conditions of 40 CFR 403.12(n) and applicable Georgia laws.

Authority: O.C.G.A. Sec. 12-5-20 *et seq.*

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

(1) Purpose. The purpose of Rule 391-3-6-.11 is to provide for the degree of pollutant treatment required and the uniform procedures and practices to be followed relating to the application for and the issuance or revocation of permits for the discharge of pollutants into land disposal or land treatment systems and then into the waters of the State.

(2) Definitions. All terms used in this ~~Paragraph~~Rule shall be interpreted in accordance with the definitions as set forth in the Act unless otherwise defined in this Paragraph or in any other ~~Paragraph of these Rules of this Chapter:~~

(a) "Act" means the Georgia Water Quality Control Act, as amended;

(b) "Land disposal system" means any method of disposing of pollutants in which the pollutants are applied to the surface or beneath the surface of a parcel of land and which results in the pollutants percolating, infiltrating, or being absorbed into the soil and then into the waters of the State. Land disposal systems exclude landfills and sanitary landfills but include ponds, basins, or lagoons used for disposal of wastes or wastewaters, where evaporation and/or percolation of the wastes or wastewaters are used or intended to be used to prevent point discharge of pollutants into waters of the State. **Septic** tank systems, as defined in ~~Chapter~~Rule 270-5-25-.01 and as approved by appropriate County Boards of Public Health, are not considered land disposal systems for purposes of ~~Chapter~~Rule 391-3-6-.11.

(c) "Land treatment system" means any land disposal system in which vegetation on the site is used to removed some of the pollutants applied;

(d) "Treatment requirement" means any restriction or prohibition established under the Act on quantities, rates, or concentrations, or a combination thereof, of chemical, physical, biological, or other constituents which are discharged into a land disposal or land treatment system and then into the waters of the State, including but not limited to schedules of compliance;

(e) "Land disposal system permit application" means an application filed by any persons with the Director for a land disposal system permit;

(f) "Land disposal system permit" means any permit issued by the Division to regulate the discharge of any pollutant into a land disposal or land treatment system;

(g) "Hydraulic loading rate" is the rate at which wastes or wastewaters are discharged to a land disposal or land treatment system, expressed in volume per unit area per unit time or depth of water per unit area per unit.

(3) Land Disposal System Permit Requirement. Any person discharging or proposing to discharge domestic, municipal, commercial, or industrial wastes or wastewaters into a land disposal or land treatment system and then into the waters of the State, under ~~any of the circumstances described in Section 10 of the Act~~, shall obtain a permit from the Division to make such a discharge. Owners of land disposal or land treatment systems which employ overland flow, subsurface drain fields, or other techniques which result in one or more point discharges into surface waters of the State, must obtain an NPDES permit and will not be issued a land disposal system permit. The provisions of Section 391-3-6-.08 regarding pretreatment apply to publicly owned treatment works which employ land disposal or land treatment systems.

(4) Degree of Pollutant Treatment Required.

(a) All pollutants discharged into land disposal or land treatment system shall receive such treatment or corrective action so as to ensure compliance with the terms and conditions of the issued land disposal system permit. The Division has the authority to establish the degree of treatment required before the pollutant is discharged to a land disposal or a land treatment system and then into waters of the State.

(b) Any pollutants which are being discharged or are intended to be discharged to a land disposal or land treatment system in amounts or concentrations which could be toxic or otherwise harmful to humans or biota if those pollutants mingle with waters of the State, or in amounts or concentrations which could reduce or impair the usefulness or operation of the land disposal or land treatment system, must receive such treatment as the Division may specify prior to being discharged to the land disposal or land treatment system.

(c) The hydraulic loading rate for any land disposal or land treatment system shall be determined based upon a technical analysis of soils and vegetation in the system area, climatic data characteristics of the wastes to be disposed or treated, and previous experience with similar systems. Hydraulic loading rates may not exceed those established in guidelines issued by the Division unless such technical analysis proves to the satisfaction of the Division that higher rates can be used.

(d) No land disposal system permit shall be issued authorizing the discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste into a land disposal or land treatment system.

(e) The groundwater leaving the land disposal systems boundaries must not exceed maximum contaminant levels for drinking water in accordance with Chapter 391-3-5 and subsequent amendments.

(5) Application for a Land Disposal System Permit.

- (a) Applications for a land disposal system permit under ~~Section 10 of the Act~~ shall be on forms as may be prescribed and furnished from time to time by the Division. Applications shall be accomplished by all pertinent information as the Division may require in order to establish pollutant treatment requirements in accordance with subparagraph 391-3-6-.11 (4), including but not limited to complete engineering reports, schedule of progress, plans, specifications, maps, measurements, quantitative and qualitative determinations, records, and all related materials.
- (b) Engineering reports, plans, and specifications submitted to the Division in support of a land disposal system permit application shall be prepared by a professional engineer, competent in the field of sewage and industrial waste treatment. Other materials in support of engineering reports, plans, specifications, and permit applications may be prepared by other persons competent in the field of land disposal or land treatment system technology.
- (c) Materials submitted shall be complete and accurate.
- (d) Any land disposal system permit application form or any other form submitted to the Division shall be signed as follows in accordance with the Federal Regulations 40 CFR 122.22:
1. For a corporation, by a responsible corporate officer. For this subparagraph a responsible corporate officer means:
 - (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or
 - (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 2. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively;
or
 3. For a municipality, State, Federal, or other public facility, by either a principal executive officer or ranking elected official.
- (e) All other reports or requests for information required by the permit issuing authority shall be signed by a person designated in (d) above or a duly authorized representative of such person; if:
1. The representative so authorized is responsible for the overall operation of the facility from which the discharged originates, e.g., a plant manager, superintendent or person of equivalent responsibility;
 2. The authorization is made in writing by the person designated under (d) above; and
 3. The written authorization is submitted to the Director.
- (f) Any changes in the written authorization submitted to the permitting authority under (e) above which occur after the issuance of a permit shall be reported to the permitting authority by submitting a copy of a new written authorization which meets the requirements of (e)1. and 2. above.
- (g) Any person signing any document under (d) or (e) above shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief,

true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Comment: The permit application will be revised to incorporate this statement. Where a permit program document does not contain the statement, the certification must accompany the appropriate document.

(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).~~

(7) Schedule of Compliance.

(a) Any person who obtains a land disposal system permit pursuant to the Act but who is not in compliance with applicable pollutant treatment requirements and limitations or other requirements contained in such permit at the time same is issued, shall be required to achieve compliance with such pollutant treatment requirements and limitations or other requirements in accordance with the schedule of compliance as set forth in such permit, or in the absence of a schedule of compliance, by the date set forth in such permit which the Director has determined to be the shortest reasonable period of time necessary to achieve compliance;

(b) Within 14 days after an interim date of compliance or the final date of compliance specified in a land disposal system permits, the permittee shall provide the Director with written notice of his compliance or non-compliance with requirements and conditions specified to be completed by such date. Failure to submit the written notice is just cause for the Division to pursue enforcement action pursuant to the Act;

(c) A permittee who fails or refuses to comply with an interim or final date of compliance specified in a land disposal system permit may be deemed by the Director to be in violation of the permit and may be subject to enforcement action pursuant to the act.

(8) Monitoring, Recording and Reporting Requirements.

(a) Any pollutant discharge into a land disposal or land treatment system and then into the waters of the State authorized by a land disposal system permit issued pursuant to the Act may be subject to such monitoring, recording and reporting requirements as may be reasonably required by the Director including the installation, use and maintenance of monitoring equipment or methods, including monitoring wells; specific requirements for recording of monitoring activities and results; and periodic reporting of monitoring results. The monitoring, recording and reporting requirements shall be specified in a permit when issued, provided, however, the Director may modify or require additional monitoring, recording and reporting by written notification to the permittee.

(b) The permittee shall be required to retain any records of monitoring activities and results for a minimum of three (3) years, unless otherwise required or extended by the Director upon written notification.

(c) Any holder of a permit which requires monitoring of the authorized pollutant discharge into a land disposal or land treatment system and then into the waters of the State shall report periodically to the Division results of all required monitoring activities on appropriate forms supplied by the Division. The Division shall notify the permittee of the frequency of reporting but in no case shall the reporting frequency be less than once per year.

(9) Modification, Suspension and Termination of Land Disposal System Permits.

(a) The Director may revise or modify the schedule of compliance set forth in an issued land disposal system permit if the permittee requests such modification or revision in writing. The Director may grant requests in accordance with this subparagraph if he determines after a documented showing by the permittee that good and valid cause (including acts of God, strikes,

floods, material shortages or other events over which the permittee has little or no control) exists for such revision.

(b) The Director may modify, suspend or terminate an issued land disposal system permit in whole or in part during its term for cause, including, but not limited to, failure or refusal of the permittee to carry out the requirements of the Act or regulations promulgated pursuant thereto, and if within 30 days following receipt of such notice of such proposed modification, suspension or termination from the Director there is no objection by the permittee in writing. Prior to any such modification, suspension or termination of an issued land disposal system permit by the Director (other than modification or revision of compliance schedule pursuant to subparagraph (a) above or modification of the monitoring, recording or reporting requirements), the Director will provide public notice in accordance with procedures set forth in subparagraph 391-3-6.11 (6)(b) and an opportunity for public hearing in accordance with the procedures set forth in subparagraph 391-3-6.11 (6)(c)

(10) Non-governmentally Owned Sewerage Systems. In cases involving nongovernmentally owned sewerage systems, a trust indenture or other legal contract or agreement, approved by the Division, assuring continuity of operation of the system, may be required to be filed with the application for a permit. This provision shall not be applicable to systems treating or disposing only industrial waste.

(11) Duration and Transferability of Land Disposal System Permits.

(a) Any land disposal system permit issued under ~~Section 10 of the Act~~ shall have a fixed term not to exceed five years. Upon expiration of such permit a new permit may be issued by the Director, provided that an application for renewal is filed with the Director at least 180 days prior to the expiration date of the existing permit. The issuance of such new permit shall likewise have a fixed term not to exceed five years.

(b) A permit may be transferred to another person by a permittee if:

1. The permittee notifies the Director of the proposed transfer;
2. A written agreement containing a specific date for transfer of permit responsibility and coverage between the current and new permittees (including acknowledgement that the existing permittee is liable for violations up to that date, and that the new permittee is liable for violations from that date on) is submitted to the Director; and
3. The Director within thirty (30) days does not notify the current permittee and the new permittee of the Division's intent to modify, revoke and reissue, or terminate the permit and to require that new application be filed rather than agreeing to the transfer of the permit. A new application will be required when the change of ownership is accompanied by a change or proposed change in process or wastewater characteristics or a change or a potential change in any circumstances that the Director believes will affect the conditions or restrictions in the permit.

(12) Enforcement. Any person who violates any provision of the Act, any rule promulgated and adopted pursuant thereto, or any term, condition, schedule of compliance or other requirement contained in a permit issued pursuant to the Act shall be subject to enforcement proceedings pursuant to the Act.

Authority: Ga. L. 1964, p. 416, *et seq.*, as amended (Ga. Code Ann. Sec. 17-501 *et seq.*); Ga. Laws 1972, p. 1015, as amended (Ga. Code Ann. Sec. 40-3501 *et seq.*).

Rule 391-3-6.13. Underground Injection Control

- (1) Purpose. The purpose of this rule, 391-3-6-.13 is to establish classes of injection wells, prohibitions, criteria and standards applicable to injection wells.
- (2) Definitions. All terms used in this rule shall be interpreted in accordance with the definitions as set forth in the Act, unless otherwise defined in this Paragraph or in any other ParagraphRule of this Chapter. All federal regulations adopted by reference are those in effect as of January 1, 2000.
- (a) "Abandoned well" means a well whose use has been permanently discontinued or which is in a state of disrepair such that it cannot be used for its intended purpose or for observation purposes.
- (b) "Aquifer" means a geological formation, group of formations, or part of a formation that is capable of yielding water to a well or spring.
- (c) "Area of review" means the area surrounding an injection well or field where migration of the injection and/or formation fluid into an underground source of drinking water may occur.
- (d) "Casting" means a pipe or tubing of appropriate material of varying diameter and weight, lowered into a borehole during or after drilling in order to support the sides of the hole and thus prevent the walls from caving, to prevent loss of drilling mud into porous ground or to prevent water, gas or other fluid from entering or leaving the hole.
- (e) "Catastrophic collapse" means the sudden and utter failure of overlying strata caused by the removal of underlying materials.
- (f) "Cementing" means the operation whereby a cement slurry is pumped into a drilled hole and/or forced behind the casing.
- (g) "Cesspool" means a "drywell" that receives untreated sanitary waste containing human excreta, and which sometimes has an open bottom and/or perforated sides.
- (h) "Class V septic system" means a "septic system" that handles sanitary and/or other wastes and has the capacity to serve 20 or more persons a day.
- (i) "Confining bed" means a body of impermeable or distinctly less permeable material stratigraphically adjacent to one or more aquifers.
- (j) "Confining zone" means a geological formation, group of formations, or part of a formation that is capable of limiting fluid movement above or below an injection zone.
- (k) "Contaminant" means any physical, chemical, biological or radiological substance or matter in water.
- (l) "Conventional mine" means an open pit or underground excavation for the production of minerals.
- (m) "Disposal well" means a well used for the disposal of waste into a subsurface stratum.
- (n) "Drainage well" means a well used to drain surface water into a shallow aquifer. An induced recharge well which drains ground water from a shallow aquifer into a deeper aquifer is not a drainage well.
- (o) "Drywell" means a well, other than an improved sinkhole or subsurface fluid distribution system, completed above the water table so that its bottom and sides are typically dry except when receiving fluids.
- (p) "Exempted aquifer" means an aquifer or its portion that meets the criteria in the definition of underground source of drinking water but which has been exempted according to the procedures in ~~RuleParagraph~~ 391-3-6-.13(4) ~~of this Chapter.~~
- (q) "Facility, operations or activity" means any injection well or system.
- (r) "Fluid" means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.

- (s) "Formation" means a body of consolidated or unconsolidated rock characterized by a degree of lithologic homogeneity which is prevailing, but not necessarily, tabular and is mappable on the earth's surface or traceable in the subsurface.
- (t) "Formation fluid" means fluid present in a formation under natural conditions as opposed to introduced fluids, such as drilling mud.
- (u) "Generator" means any person, by site location, whose act or process produces hazardous waste identified or listed in Federal Regulations, 40 C.F.R. Part 261.
- (v) "Groundwater" means water below the land surface in the zone of saturation.
- (w) "Grout" means a mixture of not more than six gallons of clear water to one 95-pound bag of Portland cement or a mixture of clear water and bentonite adequate to create an impervious seal. The mixture may contain additives in proper amounts as necessary to reduce shrinkage and increase compatibility of the grout to injection and formation fluids.
- (x) "Hazardous waste" means a hazardous waste as defined by the Georgia Hazardous Waste Management Act, Georgia Laws 1979, p. 1127, et seq., and the rules adopted pursuant to the Act.
- (y) "Hazardous waste management facility" means all contiguous land and structures, other appurtenances and improvements on the land used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units.
- (z) "Improved sinkhole" means a naturally occurring karst depression or other natural crevice found in other geologic settings which has been modified by man for the purpose of directing and emplacing fluids into the subsurface.
- (aa) "Injection" means the subsurface emplacement of fluids.
- (bb) "Injection well" means a well into which fluids are being or intended to be, injected.
- (cc) "Injection zone" means a geological formation, group of formations, or part of a formation receiving fluids, through a well.
- (dd) "Packer" means a device lowered into a well to produce a fluid-tight seal.
- (ee) "Person" means any individual, corporation, association, partnership, county, municipality, State agency, Federal agency or facility or other entity.
- (ff) "Plugging" means the act or process of stopping the flow of all fluids, including water, oil or gas into or out of a formation through a borehole or well penetrating that formation.
- (gg) "Point of injection" means the last accessible sampling point prior to waste fluids being released into the subsurface environment through an injection well. For example, the point of injection of a Class V septic system might be the distribution box - the last accessible sampling point before the waste fluids drain into the underlying soils. For a drywell, it is likely to be the well bore itself.
- (hh) "Radioactive waste" means any waste which contains radioactive material.
- (ii) "Sanitary waste" means liquid or solid wastes originating solely from humans and human activities, such as wastes collected from toilets, showers, wash basins, sinks used for cleaning domestic areas, sinks used for food preparation, clothes washing operations, and sinks or washing machines where food and beverage serving dishes, glasses, and utensils are cleaned. Sources of these wastes may include single or multiple residences, hotels and motels, restaurants, bunkhouses, schools, ranger stations, crew quarters, guard stations, campgrounds, picnic grounds, day-use recreation areas, other commercial facilities, and industrial facilities provided the waste is not mixed with industrial waste.
- (jj) "Septic system" means a "well" that is used to emplace sanitary waste below the surface and is typically comprised of a septic tank and subsurface fluid distribution system or disposal system.

- (kk) "Site" means the land or water area where any facility, operation or activity is physically located or conducted, including adjacent land used in connection with the facility, operation or activity.
- (ll) "Stratum (plural strata)" means a single sedimentary bed or layer, regardless of thickness, that consists of generally the same kind of rock material.
- (mm) "Subsidence" means the lowering of the natural land surface in response to: earth movements; lowering of fluid pressure; removal of underlying supporting material by mining or solution of solids, either artificially or from natural causes; compaction due to wetting (hydrocompaction); oxidation of organic matter in soils; or added load on the land surface.
- (nn) "Subsurface fluid distribution system" means an assemblage of perforated pipes, drain tiles, or similar mechanisms intended to distribute fluids below the surface of the ground.
- (oo) "Underground source of drinking water" means all aquifers or portions of aquifers which are not exempted aquifers.
- (pp) "Waters or Waters of the State" includes any and all rivers, streams, creeks, branches, reservoirs, ponds, drainage systems, springs, wells, and all other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.
- (qq) "Well" means an open bored, drilled or driven shaft, whose depth is greater than the largest surface dimension; or an open dug hole whose depth is greater than the largest surface dimension; or, an improved sinkhole; or a subsurface fluid distribution system. Ditches and drains, open or filled, are not wells.
- (rr) "Well head protection area" means that land area delineated in accordance with Rule 391-3-5-.40.
- (ss) "Well injection" means the subsurface emplacement of fluids through a well.
- (tt) All other technical terms shall be defined in accordance to the definitions provided in Driscoll, F.G., 1996, Groundwater and wells, Johnson Division, St. Paul MN 55112.
- (3) Classification of Injection Wells.
- (a) Class I Wells. This class consists of industrial and municipal disposal wells that inject fluids other than hazardous waste or radioactive waste below the lowermost formation containing, within two (2) miles of the well bore (or greater distance if determined by the Director), an underground source of drinking water.
- (b) Class II Wells.
1. This class consists of wells which inject fluids:
 - (i) which are brought to the surface in connection with conventional oil or natural gas production and which may be commingled with wastewaters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;
 - (ii) for enhanced recovery of oil or natural gas; and
 - (iii) for storage of hydrocarbons which are liquid at standard temperature and pressure.
- (c) Class III Wells.
1. This class consists of wells which inject fluids for the extraction of minerals including:
 - (i) mining of sulfur by the Frasch method;
 - (ii) in situ production of uranium or other metals; this category includes only in situ production from ore bodies which have not been conventionally mined. Solution mining of conventional mines such as stops leaching is included in Class V; and
 - (iii) solution mining of minerals, such as salt or potash.

(d) Class IV Wells.

1. This class consists of injection wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste into the subsurface or ground water.
2. Any septic tank, well or cesspool used by generators of hazardous or radioactive waste, or by owners or operators of hazardous or radioactive waste management facilities, to dispose of fluids containing hazardous or radioactive wastes into the subsurface or ground water.
3. The subsurface emplacement of hazardous waste or radioactive waste by well injection into the subsurface or waters of the State is hereby prohibited. No permit authorizing or establishing an effluent limitation inconsistent with the foregoing shall be issued.

(e) Class V wells consists of all injection wells not included in Classes I, II, III, or IV. Typically, Class V wells are shallow wells used to place a variety of fluids directly below the land surface. However, if the fluids placed in the ground qualify as a hazardous waste under the Resource Conservation and Recovery Act (RCRA), the well is a Class IV well, not a Class V well. Class V wells include, but are not limited to:

1. Air conditioning return flow wells or any other open-loop system used to return to the supply aquifer or any aquifer the water used for heating or cooling in a heat pump;
2. Large-capacity cesspools including multiple dwelling, community or regional cesspools, or other devices that receive sanitary wastes, containing human excreta, which have an open bottom and sometimes have perforated sides. These requirements do not apply to single family residential cesspools nor to nonresidential cesspools which receive solely sanitary waste and have the capacity to serve fewer than 20 persons a day;
3. Cooling water return flow wells used to inject water previously used for cooling;
4. Drainage wells used to drain surface fluid, primarily storm runoff, into a subsurface formation;
5. Drywells used for the injection of wastes into a subsurface formation;
6. Recharge wells used to replenish or store water in an aquifer;
7. Remediation wells used to inject water, air, oxygen, nutrients, or partly clean water to remediate sites contaminated with hydrocarbons or chemicals;
8. Salt water intrusion barrier wells used to inject water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water;
9. Sand backfill and other backfill wells used to inject a mixture of water and sand, mill tailings or other solids into mined out-ports of subsurface mines whether what is injected is a radioactive waste or not;
10. Septic system wells used to inject the waste or effluent from a multiple dwelling business establishment, community or regional business establishment septic system. These rules do not apply to single family residential septic system wells, nor to non-residential septic system wells that are used solely for the disposal of sanitary waste and have the capacity to serve fewer than 20 persons a day.

(4) Identification of Underground Sources of Drinking Water and Exempted Aquifers.

(a) The Director may identify by narrative description, illustrations, maps, or other means, and shall protect, except where exempted under subparagraph (b) of this paragraph, as an underground source of drinking water, all aquifers or parts of aquifers which meet the definition of an "underground source of drinking water" for the purposes of these rules. Unless specifically exempted by the Director under subparagraph (b) of this paragraph, all aquifers shall be considered, for the purposes of these rules, as underground sources of drinking water.

(b) The Director may identify by narrative description, illustrations, maps, or other means, all aquifers or parts of aquifers which the Director proposes to designate as an exempted aquifer, for the purposes of these rules, if it meets the following criteria:

1. It does not currently serve as a source of drinking water;
2. The total dissolved solids (TDS) is greater than 3,000 milligrams per liter;
3. Injection into the aquifer will not cause salt water to move into and contaminate underground sources of drinking water; and
4. It cannot now and will not in the future serve as a source of drinking water because:
 - (i) it is mineral, hydrocarbon or geothermal energy producing or can be demonstrated by a permit applicant for a Class II or III operation to contain minerals or hydrocarbons, that considering their quantity and location, are expected to be commercially producible based on available information; or
 - (ii) it is situated at a depth or location which makes recovery of water for drinking water purposes economically or technologically impractical; or
 - (iii) it is so contaminated that it would be economically or technologically impractical to render the water fit for human consumption; or
 - (iv) it is located over a Class III mining area subject to subsidence or catastrophic collapse.

(c) For Class III wells, the Director shall require an applicant for a permit which necessitates an aquifer exemption to furnish the data necessary to demonstrate that the aquifer is expected to be mineral or hydrocarbon producing. Information contained in the mining plan for the proposed project, such as a map and general description of the mining zone, general information on the mineralogy and geochemistry of the mining zone, analysis of the amenability of the mining zone to the proposed mining method and a timetable of planned development of the mining zone shall be considered by the Director in addition to the information required by Rule 391-3-6-.13(6).

Approval of the aquifer exemption shall be treated as a program revision under this paragraph.

(d) For Class II wells, a demonstration of commercial productibility shall be made as follows:

1. For a class II well to be used for enhanced oil recovery processes in a field or project containing aquifers from which hydrocarbons were previously produced, commercial productibility shall be presumed by the Director upon a demonstration by the applicant of historical production having occurred in the project area or field.
2. For Class II wells, not located in a field or project containing aquifers from which hydrocarbons were previously produced, information such as logs, core data, formation description, formation depth, formation thickness and formation parameters such as permeability and porosity shall be considered by the Director, to the extent such information is available.

(e) No designation of an exempted aquifer, for the purposes of these rules, shall be final until the Director has provided public notice and opportunity for a public hearing on the proposed designation and the designation has been approved by the Administrator.

(5) Prohibition of Movement of Fluid into Underground Sources of Drinking Water.

(a) No owner or operator shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under Georgia's Rules for Safe Drinking Water, Chapter 391-3-5-~~1 B~~, or may otherwise adversely affect the health of persons. The applicant for a permit shall have the burden of showing that the requirements of this paragraph are met.

(b) Except for remediation wells, injection of fluids shall be prohibited in the inner management zone of any wellhead protection area defined by Rule 391-3-5-.40.

(6) Permit Application for Class I, II and III Wells.

(a) No person shall, in accordance with ~~Section 10 of the Act~~, construct or operate a Class I, II, or III injection well without first having applied for, and obtained, an injection well permit from the Director. The requirements for Class II wells do not include permits for exploration, drilling and well construction for oil and/or gas production.

(b) The subsurface emplacement of hazardous waste or radioactive waste by well injection into the subsurface or waters of the State is hereby prohibited. No permit authorizing or establishing an effluent limitation inconsistent with the foregoing shall be issued.

(c) Applications for injection well permits for Class I, II or III injection wells shall be in accordance with Federal Regulations, 40 C.F.R. 144.11, 144.21, and 144.31. Applications shall be on forms as may be prescribed and furnished from time to time by the Division and shall be accompanied by all pertinent information as the Division may request including, but not limited to, the information the Director must consider for authorizing Class I, II or III wells as set forth in the Federal Regulations, 40 C.F.R. 146.14, 146.24 and 146.34.

(d) All permit applications and reports for Class I, II, or III injection wells shall be signed in accordance with the Federal Regulations, 40 C.F.R. 144.32, 146.12 and 146.22.

(e) When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit.

(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.

(e) — 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.~~

(8) Terms and Conditions of Permits for Class I, II, or III Wells.

(a) Terms and conditions under which an Injection Well will be permitted will be specified on the permit issued and shall be in accordance with Federal Regulations, 40 C.F.R. 144.4, 40 C.F.R. 144.51 and 40 C.F.R. 144.52, RuleParagraph 391-3-6-.13(9) of this ~~Chapter~~Rule and as may be additionally required by the Director.

(b) No Injection Well Permit shall be issued authorizing the movement of fluid containing any contaminant into underground sources of drinking water if the presence of that contaminant may cause a violation of any primary drinking water regulation set forth in Georgia Rules for Safe Drinking Water, Chapter 391-3-5, or may otherwise adversely affect the health of persons. The applicant for a permit shall have the burden of showing that the requirement of this paragraph is met.

(c) When the corrective action plan as required in Paragraph 391-3-6-.13(9) is adequate, the Director shall incorporate it into the permit as a condition. Where the Director's review of an application indicates that the permittee's plan is inadequate (based on the factors in Federal Regulations, 40 C.F.R. 146.07), the Director shall require the applicant to revise the plan, prescribe a plan for corrective action as a condition of the permit under paragraph (b) of this section, or deny the application.

1. No owner or operator of a new injection well may begin injection until all required corrective action has been taken.

2. The Director may require as a permit condition that injection pressure be so limited that pressure in the injection zone does not exceed hydrostatic pressure at the site of any improperly completed or abandoned well within the area of review. This pressure limitation shall satisfy the corrective action requirement. Alternatively, such injection pressure limitation can be part of a compliance schedule and last until all other required corrective action has been taken.

3. When setting corrective action requirements for Class III wells the Director shall consider the overall effect of the project on the hydraulic gradient in potentially affected underground sources of drinking water, and the corresponding changes in potentiometric surface(s) and flow direction(s) rather than the discrete effect of each well. If a decision is made that corrective action is not necessary based on the determinations above, the monitoring program required in Federal Regulations, 40 C.F.R. 146.33(b) shall be designed to verify the validity of such determination.

(d) The permittee shall report any monitoring or other information which indicates any contaminant that may cause an endangerment of an underground source of drinking water, any noncompliance that may endanger health or the environment, or any noncompliance with a permit condition or malfunction of the injection system which may cause fluid migration into or between fresh water zones or underground sources of drinking water. Any noncompliance with a permit condition or malfunction of the injection information shall be reported by telephone to the Director within twenty-four (24) hours from the time the permittee becomes aware of the noncompliance and a written submission within five (5) days of the oral notification. The written submission shall contain a description of the noncompliance and its cause, the period of

noncompliance including exact dates and times, the corrective action taken to reduce or eliminate the noncompliance, and the steps planned to prevent a recurrence of the noncompliance.

(e) The permittee is required to maintain financial responsibility and resources to close, plug and abandon the underground injection operation in a manner prescribed by the Director. The permittee must show evidence of financial responsibility to the Director by the submission of surety bond, or other adequate assurance, such as financial statements or other materials acceptable to the Director.

(f) The permittee shall operate the well so as not to exceed maximum injection volumes and pressures as necessary to assure that fractures are not initiated in the confining zone; that injected fluids do not migrate into fresh water zones or underground sources of drinking water; or that formation fluids are not displaced into underground sources of drinking water. The Director shall establish such volumes and pressure limits as permit conditions.

(g) Injection may not commence until construction is complete and written approval to commence has been given by the Director. The permittee shall submit notice of completion of construction to the Director including:

1. All available logging and testing program data on the well;
2. A demonstration of the mechanical integrity of the well;
3. The anticipated maximum pressure and flow rate at which the permittee will operate;
4. The results of the formation testing program;
5. The actual injection procedure;
6. The compatibility of injected waste with the fluids in the injection zone; and
7. The status of corrective action on defective wells in the area of review to prevent fluid movement into underground sources of drinking water.

(h) The permittee shall notify the Director in writing of any proposal to abandon an injection well and that the plugging and abandonment plan approved as part of the permit will be followed.

(i) A permit shall be issued for a period not to exceed five (5) years from the date of issuance. On expiration of the permit the permit shall become invalid and the injection prohibited unless application is made at least ninety (90) days prior to the expiration date for a reissuance of the permit. When a permittee has submitted a timely and sufficient application for a new Injection Well Permit and the Director is unable, through no fault of the permittee, to issue the new permit before the expiration date of the existing permit, then the Director shall extend the existing permit until a new permit is issued.

(j) A permit may be transferred to any person provided the permittee notifies the Director in writing at least 30 days in advance of the proposed transfer date and the transfer is approved by the Director.

(k) The permit does not convey any property rights of any sort or any exclusive privilege.

(l) The permit may be modified, revoked and reissued, or terminated for cause, or minor modifications may be made in accordance with Federal Regulations, 40 C.F.R. 124.5, 144.39 and 144.41. The permittee shall furnish the Director any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing or terminating permit or to determine compliance with the permit.

(m) The Director may terminate a permit during its term or deny a permit renewal for the following causes:

1. Noncompliance by the permittee with any conditions of the permit;
2. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

3. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or

4. A failure by the permittee to demonstrate that continuation of the operation under the permit will not result in degradation of the water quality.

(n) For Class I, II and III Wells, if any water quality monitoring of an underground source of drinking water indicates the movement of any contaminant into the underground source of drinking water, the Director shall prescribe such additional requirements for construction, corrective action, operation, monitoring or reporting (including closure of the injection well) as are necessary to prevent such movement.

(o) Notwithstanding any other provisions of this rule the Director may issue a temporary permit for a specific injection in accordance with the Federal Regulations, 40 C.F. R. 144.34.

(9) Corrective Action.

(a) Applicants for Class I, II, or III injection well permits shall identify the location of all known wells within the injection well's area of review which penetrate the injection zone, or in the case of Class II wells operating over the fracture pressure of the injection formation, all known wells within the area of review penetrating formations affected by the increase in pressure. For such wells which are improperly sealed, completed, or abandoned, the applicant shall also submit a plan consisting of such steps or modifications as are necessary to prevent movement of fluid into underground sources of drinking water (corrective action). Where the plan is adequate, the Director shall incorporate it into the permit as a condition. Where the Director's review of an application indicates that the permittee's plan is inadequate (based on the factors in subparagraph 391-3-6-.13(8)(c)), the Director shall require the applicant to revise the plan, prescribe a plan for corrective action as a condition of the permit under subparagraph (b) of this paragraph or deny the application.

(b) In determining the adequacy of corrective action proposed by the applicant under this paragraph and in determining the additional steps needed to prevent fluid movement into underground sources of drinking water, the following criteria and factors shall be considered by the Director;

1. Nature and volume of injected fluid;
2. Nature of native fluids or by-products of injection;
3. Potentially affected population;
4. Geology;
5. Hydrology;
6. History of the injection operation;
7. Completion and plugging records;
8. Abandonment procedures in effect at the time the well was abandoned; and
9. Hydraulic connections with underground sources of drinking water.

(10) Criteria and Standards Applicable to Class I, II, and III Injection Wells.

(a) Each permittee shall comply with the criteria and standards for underground injection control for Class I, II and III injection wells as set forth in the Federal Regulations, 40 C.F.R. 146.12, 146.22 and 146.32 and as may be additionally prescribed by the Director.

(b) All Class I wells shall be sited in such a fashion that they inject into a formation which is beneath the lowermost formation containing, within a two (2) mile radius of the well bore or greater if determined by the Director, an underground source of drinking water.

(c) All Class II wells shall be sited in such a fashion that they inject into a formation which is separated from an underground source of drinking water by a confining zone that is free of known open faults or fractures within the area of review.

(d) Operating, monitoring and reporting requirements shall be in accordance with Federal Regulations, 40 C.F.R. 146.13, 40 C.F.R. 146.23 and 40 C.F.R. 146.33 and as may be additionally prescribed by the Director.

(11) Permit Application for Class V Wells.

(a) Except as identified in subparagraph 1. below, no person shall, after the effective date of this rule, construct or operate a Class V injection well for the injection of contaminants or fluids unless authorized by a permit issued by the Director.

1. In accordance with O.C.G.A. 12-5-30(f), the use of a Class V septic system that handles only sanitary wastes shall be permitted under a General Permit issued by the Director. The General Permit and a list of all Class V septic systems shall be maintained in the offices of the Division.

(b) After the effective date of this rule, use of a new or existing Class V septic system that handles sanitary and/or other wastes shall be permitted by the Director provided that a written hydrogeologic determination has been made by a professional geologist or professional engineer registered in the State of Georgia in accordance with Chapter 19 or Chapter 15, respectively, of Title 43 that such a system does not endanger an underground source of drinking water nor is such a system within the inner management zone of any existing well head protection area. For those Class V septic systems that will be covered under the general land application system permit for large community systems, the Director will accept a hydrogeologic determination by a professional geologist or professional engineer or a written soil report prepared by a qualified soil scientist. The soil scientist will have qualifications meeting the requirements of O.C.G.A. 12-2-10(b) and must be certified by the Georgia Department of Human Resources to conduct soil investigations for on-site sewage management systems.

(c) The use of a Class V remediation well that is used as part of a Division-approved plan to remediate a site having contaminated soil and/or ground water shall be permitted by the Director provided that such an approved plan has been prepared and signed and sealed by a professional geologist or professional engineer registered in the State of Georgia in accordance with Chapter 19 or Chapter 15, respectively, of Title 43.

(d) Class V wells apply to all injection wells not included in Classes I, II, III or IV. Class V wells are defined in subparagraph 391-3-6-.13(3)(e).

(e) Exclusive of the authorizations indicated in subparagraphs (a)1. above of this paragraph, any person desiring to construct a Class V well shall apply in writing to the Director for an injection well permit. Any persons owning or operating any unpermitted well meeting the definitions of a Class V well, exclusive of the authorizations described in subparagraph (a)1. above of this paragraph, prior to the effective date of this rule shall submit an application and information to the Director no later than July 1, 2001. The application shall include, but need not be limited to, the following information:

1. Name, mailing address, telephone number, latitude and longitude and location of the facility;
2. Name and address of the owner and operator, telephone number, if different than the facility;
3. A map showing the location of each existing or proposed injection well at the facility;
4. A diagram showing the details of the construction existing injection well(s) and the proposed construction of any proposed injection well(s).
5. Proposed or existing injection rate and injection pressure or gravity flow;
6. The chemical, physical and radioactive, characteristics of the fluid injected or to be injected; and

7. Signature of the applicant.
- (f) Upon receipt of the application, the Director shall:
 1. Determine if the facility is a Class V well.
 2. Determine if additional information is required to evaluate the facility.
 3. Assess the potential adverse effect upon the underground source of drinking water.
 4. Determine any construction and operating requirements to protect the underground drinking water source.
- (g) After an evaluation of the application, the Director shall:
 1. Issue a permit in the form of a letter containing any special permit conditions as may be necessary such as well construction, operation, monitoring and reporting. The permit shall be for a period not to exceed ten (10) years.
 2. If the Director determines that the facility is not a Class V well, he shall require the applicant to submit a permit application in accordance with ~~Rule~~Paragraph 391-3-6-.13(6) of this ~~Chapter~~Rule. The application processing and permit issuance shall be in accordance with ~~Rules~~Paragraphs 391-3-6-.13(~~67~~) and 391-3-6-.13(~~78~~).
 3. Deny the issuance of a permit.
- (h) No person shall be issued a permit to operate a Class V well where the movement of fluid, in the judgment of the Director, may cause a violation of any primary drinking water rule under the Georgia Rules for Safe Drinking Water, Chapter 391-3-5, or which may adversely affect the health of persons.
 1. If at any time the Director learns that a permitted Class V well may cause a violation under this ~~paragraph~~rule, the Director shall:
 - (i) order the injector to take such actions as may be necessary to prevent the violation, including where required closure of the injection well; or
 - (ii) take enforcement action.
 2. Notwithstanding any other provisions of this ~~paragraph~~rule, the Director may take emergency action upon receipt of information that a contaminant which is present in, or is likely to enter a public water system, may present an imminent and substantial endangerment to the health of persons.
 - (i) Any persons operating an existing unpermitted Class V well and injecting fluids after the effective date of this rule shall be authorized to continue the operation under conditions of permits or other authorization in effect prior to the effective date of this rule, provided an application is submitted within twelve months after the effective date of this rule. An exception to this rule is that any person injecting fluids that may endanger an underground source of drinking water shall notify the Director within thirty (30) days of the effective date of this rule.
- (12) Standards and Criteria Applicable to Class V Wells.
 - (a) Except as identified in subparagraph 391-3-6-.13(11)(a)1. above, no person shall construct a Class V well without first having applied for and obtained a permit from the Director.
 - (b) Class V wells shall be sited so that the injection fluid does not contaminate an underground source of drinking water.
 - (c) Except for remediation wells, the injected fluid, upon reaching any underground source of drinking water, shall not contain any chemical constituents that exceed any Maximum Contaminant Levels (MCL) identified in Rule 391-3-5-.18. For Class V septic systems, the fluid leaving the subsurface distribution system may exceed any maximum contaminant levels (MCLs) identified in Rule 391-3-5-.18 provided that the MCL is not exceeded upon the fluid reaching any underground source of drinking water.

(d) With the exception of remediation wells, no Class V well shall be located within the inner management zone of any wellhead protection area after the effective date of this rule.

(e) Class V well construction. Subsections 1., 2. and 3. below shall not apply to Class V septic systems as identified in subparagraphs 391-3-6-.13(11)(a)1. and (b) above:

1. The person constructing the well shall be a licensed water well contractor in the State of Georgia in accordance with the provisions of Chapter 5 of title 12.

2. Casing shall extend at least five (5) feet into the injection zone unless otherwise specified by the Director.

3. The annular space around the entire length of the casing shall be grouted and sealed to prevent pollution by surface waters, other formation fluids or pollutants into the formation above the injection zone.

4. Special construction requirements may be specified by the Director or the permit to prevent contamination of an underground source of drinking water.

5. Septic systems shall be constructed in accordance with the Georgia Department of Human Resources requirements in 290-5-26.

(f) An injection permit may be transferred to any person provided the permittee notifies the Director in writing at least 30 days in advance of the proposed transfer date and the transfer is approved by the Director.

(g) A permit issued by the Director may include permit conditions for the monitoring, testing and reporting of the injection facility.

(h) Plugging and Abandonment. Except for septic systems identified in subparagraphs 391-3-6-.13(11)(a)1. and 2. above, the following shall apply:

1. The Director may order a Class V well plugged and abandoned by the owner when it no longer performs its intended purpose, or when it is determined to endanger underground sources of drinking water.

2. It shall be the owner's responsibility to have any injection well plugged and abandoned by the water well contractor before removing the drilling equipment from the site if the well is not completed for its intended purpose.

3. It shall be the owner's responsibility to have any exploratory and/or test well(s) constructed for the purpose of obtaining information on an injection well site, plugged and abandoned by the water well contractor.

4. The entire depth of the well shall be completely filled with cement grout, which shall be introduced into the well by a pipe which extends to the bottom of the well and is raised as well is filled, unless otherwise approved by the Director.

(13) Mechanical Integrity. Except for septic systems as identified in subparagraphs 391-3-6-.13(11)(a)1. and 2. above, the following shall apply:

(a) An injection well has mechanical integrity if:

1. There is no detectable leak in the casing, tubing or packer; and

2. There is no detectable fluid movement into an underground source of drinking water through vertical channels adjacent to the injection well bore.

(b) One of the following methods must be used to evaluate the absence of detectable leaks under subparagraph 391-3-6-.13(13)(a)1.:

1. Monitoring of annulus pressure; or

2. Pressure test with liquid or gas.

(c) The methods used to determine the absence of detectable fluid movement into an underground source of drinking water shall be the results of a temperature or sonic log.

(d) In conducting and evaluating the tests for mechanical integrity, the owner or operator and the Director shall apply methods and standards generally accepted in the industry. When the owner or operator reports the results of mechanical integrity tests to the Director, the report shall include a description of the test(s) and method(s) used. The Director, in making an evaluation shall review monitoring and other test data submitted since the previous evaluation.

(e) The Director may waive mechanical integrity testing of remediation wells in shallow unconfined aquifers.

(14) Plugging and Abandoning Class I, II and III Wells.

(a) The permittee shall inform the Director in writing of the permittee's intent to abandon an injection well at least forty-five (45) working days prior to the abandonment.

(b) The permittee shall be responsible for the plugging of any injection well that is abandoned. Such plugging shall be in accordance with the criteria identified in Chapter 5 (120-138) of Title 12.

(c) Wells shall be plugged with cement in a manner which will not allow the movement of fluids either into or between underground sources of drinking water.

(d) The placement of the cement shall be accomplished under pressure from bottom to top.

(e) The well to be cemented shall be in a state of static equilibrium with the mud weight equalized top to bottom, either by circulating the mud in the well at least once or by a comparable method prescribed by the Director, such as the use of a packer, prior to the placement of the cement plugs.

(f) The Director may require ground water monitoring after well abandonment if contamination of an underground source of drinking water is suspected.

(g) The permittee shall certify to the Director within thirty (30) days of plugging that the injection well was plugged according to permitted procedures.

(15) Emergency Action. If at any time the Director learns that an injection well may cause or has caused the movements of any fluids containing contaminants into an underground source of drinking water or otherwise adversely affect the water quality or adversely affect the public health, the Director shall:

(a) Order the injector to cease the operation and take such actions as may be necessary to prevent the violation;

(b) Order the injector to take such actions as may be necessary to correct the violation;

(c) Take enforcement action; or

(d) Take emergency action upon receipt of information that a contaminant is likely to enter a public water system and present an imminent and substantial endangerment to the health of the public.

(16) Prohibited Wells. The following types of wells are specifically prohibited Statewide.

(a) All Class IV wells that are used to emplace hazardous waste or radioactive waste into the subsurface.

(b) New drainage wells, except where such wells have been permitted and designed by a professional geologist or professional engineer registered in the State of Georgia in accordance with Chapter 19 or Chapter 15, respectively, of Title 43 and the injected fluid does not contain any chemical constituent that exceeds any Maximum Contaminant Level (MCL) identified in Rule 391-3-5-.18.

(c) New large-capacity cesspools are prohibited. A large-capacity cesspool receives sanitary waste from multiple dwellings and community or regional establishments serving more than 20 persons a day. Existing large-capacity cesspools shall be closed by April 5, 2005. Such closure shall include a 30-day notification prior to closure. Well closure shall include removal of

contaminated materials, disinfection, and plugging with an impervious bentonite-cement mixture. Closure shall be in accordance with criteria identified in Chapter 5 (120-138) of Title 12.

- (d) Open loop heat pump systems where return water is discharged into a well.
- (e) Motor vehicle waste disposal wells.

Authority: O.C.G.A. Sec. 12-5-20 *et seq.*

Rule 391-3-6-.15 Non-Storm Water General Permit Requirements

(1) **Purpose.** The purpose of this Rule 391-3-6-.15 is to provide for the degree of waste treatment required and the uniform procedures and practices to be followed relating to the application for issuance, modification, revocation and reissuance, and termination of general permits for the discharge of any pollutant into the waters of the State. Unless specifically adopted by reference herein, no other part of this Chapter 391-3-6 shall govern the issuance of any general permit.

(2) **Definitions.** All terms used in this ~~paragraph~~Rule shall be interpreted in accordance with the definitions as set forth in the Act unless otherwise defined in this Paragraph or in any other ~~Paragraph of these Rules of this Chapter:~~

- (a) "General Permit Application" means any application filed by any person with the Director for a general permit.
- (b) A "General Permit" means an NPDES permit issued under Title 40 of the Code of Federal Regulations (40 CFR), Part 122.28 authorizing a category of discharges under the Federal Clean Water Act (Federal Act) within a geographical area.
- (c) "Notice of Intent" (NOI) means a form used by potential permittee to notify the Division, within a specified time, that they intend to comply with a general permit.
- (d) "Notice of Termination" (NOT) means a form used by a permittee to notify the Division that they wish to cease coverage under a general permit.

(3) **General Permit Requirements.**

- (a) Coverage. The Director may issue a general permit in accordance with the following:
 - 1. Area. The general permit shall be written to cover a category of discharges described in the permit under subparagraph (3)(a)2 of this section, except those covered by individual permits, within a geographic area. The area shall correspond to existing geographic or political boundaries, such as:
 - (i) Designated planning areas under Sections 208 and 303 of the Federal Act;
 - (ii) Sewer districts or sewer authorities;
 - (iii) City, County, or State political boundaries;
 - (iv) State highway systems;
 - (v) Standard metropolitan statistical areas as defined by the Office of Management and Budget;
 - (vi) Urbanized areas as designated by the Bureau of the Census; or
 - (vii) Any other appropriate division or combination of boundaries.
 - 2. Sources. The general permit may be written to regulate, within the area described in subparagraph 1, of this section, a category of point sources other than storm water point sources if the sources all:
 - (i) Involve the same or substantially similar types of operations;

- (ii) Discharge the same types of wastes;
 - (iii) Require the same effluent limitations or operating conditions;
 - (iv) Require the same or similar monitoring; and
 - (v) In the opinion of the Director, are more appropriately controlled under a general permit than under individual permits.
- (b) Administration.
1. General permits may be issued, modified, revoked and reissued, or terminated in accordance with applicable requirements of ~~Paragraph~~Rule 391-3-6-.15. Public notice and public participation for issuance, modification, revocation and reissuance, and termination of general permits shall be in accordance with ~~subp~~Paragraph 391-3-6-.15 (7).
 2. Authorization to discharge.
 - (i) Except as provided for in 40 C.F.R 122.28(b)(2)(v) and (b)(2)(vi), discharges seeking coverage under a general permit shall submit to the Director a written notice of intent to be covered by the general permit. A discharger who fails to submit a notice of intent in accordance with the terms of the general permit is not authorized to discharge under the terms of the general permit. A complete and timely notice of intent to be covered in accordance with the general permit requirements, fulfills the requirements for permit applications for purposes of 40 C.F.R. 122.6, 122.21 and 122.26.
 - (ii) The contents of the notice of intent shall be specified in the general permit and shall conform to the requirements specified in 40 C.F.R. 122.28. The notice of intent shall be signed in accordance with subparagraph 391-3-6-.15 (5)(d).
 - (iii) General permits shall specify the deadline for submitting notices of intent to be covered and the date(s) when a discharge is authorized under the permit.
 - (iv) General permits shall specify whether a discharge that has submitted a timely notice of intent to be covered in accordance with a general permit and that is eligible for coverage under the general permit, is authorized to discharge in accordance with the general permit either upon receipt of the notice of intent by the Director, after a waiting period specified in the general permit, on a date specified in the general permit, or upon receipt of notification of inclusion by the Director. Coverage may be revoked in accordance with subparagraph 391-3-6-.15 (3)(b) 3.
 3. Requiring an individual permit.
 - (i) The Director may require any person authorized by a general permit to apply for and obtain an individual NPDES permit. Any interested person may petition the Director to take action under this ~~paragraph~~rule. Cases where an individual NPDES permit may be required include the following:
 - (I) The discharge(s) is a significant contributor of pollution as determined by the Director. In making this determination, the Director may consider the following factors:
 - I. The location of the discharge with respect to the waters of the State;
 - II. The size of the discharge;
 - III. The quantity and nature of the pollutants discharged to waters of the State; and
 - IV. Other relevant factors.
 - (II) The discharger is not in compliance with the conditions of the general permit;
 - (III) A change has occurred in the availability of demonstrated technology or practices for the control or abatement or pollutants applicable of the point source;
 - (IV) Effluent limitation guidelines are promulgated for point sources covered by the general permit;
 - (V) A Water Quality Management plan containing requirements applicable to such point sources is approved;

- (VI) The requirements of subparagraph (3)(a) of this section are not met; or
- (VII) Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary.
- (ii) Any owner or operator authorized by a general permit may request to be excluded from the coverage of the general permit by applying for an individual NPDES permit. The owner or operator shall submit an application under subparagraph 391-3-6-.06 (5), with reasons supporting the request, to the Director.
- (iii) When an individual NPDES permit is issued to an owner or operator otherwise subject to a general permit, the applicability of the general permit to the individual NPDES permittee is automatically terminated on the effective date of the individual NPDES permit.
- (iv) A source excluded from a general permit solely because it already has an individual NPDES permit may request that the individual NPDES permit be revoked, and that it be covered by the general permit. Upon revocation of the individual NPDES permit, the general permit shall apply to the source.
- (v) Whenever the Director decides an individual NPDES permit is required, the Director shall notify the discharger in writing of the decision and the reasons for it, and shall send an application form with the notice. The discharger must apply for a permit under subparagraph 391-3-6-.06 (5) and 40 C.F.R. 122.21 within sixty (60) days of notice unless a later date is granted by the Director. Public notice and public participation shall be in accordance with subparagraph 391-3-6-.06 (7).
- (4) **Degree of Waste Treatment Required.** All pollutants shall receive such treatment or corrective action so as to ensure compliance with the terms and conditions of the issued permit and with the following, whenever applicable:
- (a) Effluent limitations established by the EPA pursuant to Sections 301, 302, 303, 306, 307, 308, 318, and 405 of the Federal Act;
- (b) Criteria and standards for Best Management Practices established by EPA pursuant to Section 304(e) of the Federal Act;
- (c) Notwithstanding the above, more stringent effluent limitations may be required as deemed necessary by the Division (a) to meet any other existing Federal laws or regulations, or (b) to ensure compliance with any applicable State water quality standards, effluent limitations, treatment standards, or schedules of compliance;
- (d) Calculations and specification of effluent limits and standards shall be made in accordance with the provisions of Federal Regulations, 40 CFR 122.45.
- (5) **Notice of Intent (NOI).**
- (a) A NOI shall be on forms as may be prescribed and furnished from time to time by the Division. A NOI shall be accompanied by all pertinent information as the Division may require in order to establish, where applicable, effluent limitations in accordance with subparagraph 391-3-6-.06 (4), which may include but is not limited to, complete engineering reports, schedule of progress, plans, specifications, maps, measurements, quantitative and qualitative determinations, records, and all related materials.
- (b) Engineering reports, plans, specifications, and other similar material submitted to the Division shall be prepared by or under the direct supervision or review of, and bear the seal of, a Professional Engineer competent in the field of storm water, sewage, or industrial waste treatment, consistent with the type of wastewater involved. At no time shall this requirement be in conflict with O.C.G.A. Section 43-15 governing the practices of professional engineering and surveying.

- (c) Material submitted shall be complete and accurate.
- (d) Any NOI form, NOT form, and permit application submitted to the Division shall be signed as follows in accordance with the Federal Regulations, 40 C.F.R. 122.22:
1. For a corporation, by a responsible corporate officer. For this subparagraph a responsible corporate officer means:
 - (a) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or
 - (b) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
 2. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or
 3. For a municipality, State, Federal, or other public facility, by either a principal executive officer or ranking elected official.
- (e) All other reports, engineering reports, plans, specifications, similar materials, or requests for information required by the permit issuing authority shall be signed by a person designated in (d) above or a duly authorized representative of such person, if:
1. The representative so authorized is responsible for the overall operation of the facility from which the discharge originates, e.g., a plant manager, superintendent or person of equivalent responsibility;
 2. The authorization is made in writing by the person designated under (d) above; and
 3. The written authorization is submitted to the Director.
- (f) Any changes in the written authorization submitted to the permitting authority under (e) above which occur after the issuance of a permit shall be reported to the permitting authority by submitting a copy a new written authorization which meets the requirements of (e)1. and (e)2. above.
- (g) Any person signing any document under (d) or (e) above shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
- (6) **Receipt and Use of Application and Data** shall be in accordance with subparagraph 391-3-6-.06 (6) of this Chapter. Notice of intent forms shall not be required to be transmitted to the Regional Administrator for comments unless requested to do so by the Regional Administrator.
- (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.~~

(8) Prohibitions.

(a) No permit shall be issued authorizing any of the following discharges:

1. The discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste into navigable waters;

2. Any discharge which in the judgement of the Secretary of the Army would substantially impair anchorage and navigation in or on any of the waters of the United States;

3. Any discharge to which the Regional Administrator has objected in writing in accordance with Federal Regulations, 40 C.F.R. 123.44, pursuant to any right to object provided the Administrator of EPA under Section 402(d) of the Federal Act;

4. Any discharge from a point source is in conflict with a plan or amendment thereto approved pursuant to Section 208(b) of the Federal Act;

5. Any discharge to the territorial sea, the waters of the contiguous zone, or the oceans in the following circumstances:

(i) Prior to the promulgation of the guidelines under section 403(c) of the Act, unless the Director determines permit issuance to be in the public interest; or

(ii) After promulgation of guidelines under section 403(c) of the Act, where insufficient information exists to make a reasonable judgement as to whether the discharge complies with any such guidelines.

6. To a facility which is a new source or a new discharge, if the discharge from the construction or operation of the facility will cause or contribute to the violation of water quality standards, except as in accordance with Federal Regulations, 40 C.F.R. 122.4(i).

(b) The issuance of a permit does not:

1. Convey any property rights of any sort, or any exclusive privileges;

2. Authorize any injury to private property or invasion of private rights, or any infringement of Federal, State, or local laws or regulations;

3. Release the permittee of any responsibility or requirement under other environmental statutes or regulations.

(9) Monitoring, Recording, and Reporting Requirements.

(a) Monitoring, recording and reporting requirements shall be in accordance with those outlined in ~~subparagraph~~ 391-3-6-.06 (11) of this Chapter.

(b) General permits that do not require submittal of monitoring reports at least annually shall report to the Director in writing all instances of noncompliance at least annually. These annual reports are due the first working day of each January unless otherwise specified in a permit.

(10) Control of Disposal of Pollutants into Wells shall be in accordance with ~~subparagraph~~ 391-3-6-.06 (14).

(11) Modification, Revocation and Reissuance, and Termination of Permits.

The Director in accordance with the provisions of Federal Regulations, 40 C.F.R.122.61, 122.62, 122.63, 122.64, and 124.5, may modify, revoke and reissue, or terminate an issued permit in whole or in part during its term for cause, including, but not limited to, the causes listed in Federal Regulations, 40 CFR 122.62 and 122.64, or the cause listed in the Act or regulations promulgated pursuant thereto. Prior to any such modification, revocation and reissuance, or termination of an issued permit by the Director (other than modification in accordance with the provision of 40 CFR 122.63), the Director will give public notice in accordance with the procedures set forth in subparagraph 391-3-6-.15 (7)(b) and an opportunity for public hearing in accordance with the procedures set forth in subparagraph 391-3-6-.15 (7)(c).

(12) Duration, Continuation, and Transferability of Permits.

(a) Any permit issued under O.C.G.A. Section 12-5-30 shall have a fixed term not to exceed five_(5) years. Upon expiration of such permit, a new permit may be issued by the Director in accordance with O.C.G.A. Section 12-5-30 and 40 C.F.R. 122.6, 122.28, 122.46, and 122.61. The issuance of such new permit shall likewise have a fixed term not to exceed five (5) years.

(b) Any owner or operator authorized by a general permit may request that coverage under the general permit be terminated by submitting a written Notice of Termination. The contents of the Notice of Termination shall be specified in the general permit and shall be signed in accordance with subparagraph 391-3-6-.15 (5)(d).

(c) When the permittee has submitted a timely and sufficient application for a new individual NPDES permit or a Notice of Intent for a general permit and the Director is unable, through no fault of the permittee, to issue the new permit before the expiration date of the existing permit, then the Director shall extend the existing permit until a new permit is issued.

(d) For those industrial categories for which EPA will establish effluent limitations based on best available technology, permits will be issued to ensure compliance with the effluent limits by the statutory deadline. This will be accomplished by utilizing short-term permits and/or reopener clauses that will allow the permit to be modified, revoked, reissued to comply with limitations promulgated pursuant to the Act and subsequent regulations.

(e) Notwithstanding subparagraph (a) above, if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is

established under Section 307(a) of the Act for a toxic pollutant which is present in a discharge and such standard prohibition is more stringent than any limitation for such pollutant in a permit, the permit shall be revised or modified in accordance with the toxic effluent standard or prohibition and the permittee so notified.

(13) **Enforcement.** Any person who violates any provision of the Act, any rule promulgated and adopted pursuant thereto, or any term, condition, schedule of compliance or other requirement contained in a permit issued pursuant to the Act shall be subject to enforcement proceedings pursuant to the Act.

(14) **NPDES Electronic Reporting.** The federal NPDES Electronic Reporting rule, 40 CFR Part 127 and associated amendments, became effective on December 21, 2015. The requirements of this rule relating to the submission of Notices of Intent, Notices of Termination and reports may include the electronic submission of such items and electronic signature for such items, as applicable and approved by EPD. The use of the terms "in writing" or "written" in the rule may include such electronic submissions.

(15) **Effective Date.** This ~~Paragraph~~Rule shall become effective twenty days after filing with the Secretary of State's Office.

Authority: O.C.G.A. Sec. 12-5-20 *et seq.*

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

(1) **Purpose.** The purpose of this ~~Paragraph~~Rule 391-3-6-.16 is to provide for the uniform procedures and practices to be followed relating to the application for issuance, modification, revocation and reissuance, and termination of permits for the discharge of any storm water into the waters of the State. Unless specifically adopted by reference herein, no other part of this Chapter 391-3-6 shall govern the issuance of any storm water permit.

(2) **Definitions.** All terms used in this ~~Paragraph~~Rule shall be interpreted in accordance with the definitions as set forth in the Act and in 40 C.F.R. 122.26(b) unless otherwise defined in this Paragraph or in any other ~~Paragraph of these Rules of this Chapter:~~

(a) "Area Wide Permit" means either an individual or a general permit issued to a municipality or a group of municipalities.

(b) "Associated with Industrial Activity" means any industrial activity or industrial facility identified in 40 C.F.R. 122.26(b)(14).

(c) "Storm Water Point Source" means a conveyance or system of conveyances (including pipes, conduits, ditches, and channels or sheet flow which is later conveyed) primarily used for collecting and conveying storm water runoff excluding conveyances that discharge storm water runoff combined with municipal sewage.

(d) "Associated with Small Construction Activity" means any construction activity identified in 40 C.F.R. 122.26(b)(15).

(e) "Small Municipal Storm Sewer System" means all separate storm sewers identified in 40 C.F.R. 122.26(b)(16).

(3) **Permit Requirements.**

(a) **Authorization to Discharge.** Storm water point sources, as defined in this ~~Paragraph~~Rule, are point sources subject to the NPDES permit program. The Director may issue an NPDES permit or permits for discharges into waters of the State from a storm water source covering all conveyances which are part of that storm water point source. Where there is more than one

owner or operator of a storm water point source, any or all discharges into that storm water point source may be identified in the application submitted by the owner or operator of the portion of the storm water point source that discharges directly into waters of the State. Any such application shall include all information regarding discharges into the storm water point source that would be required if the dischargers submitted separate applications. Dischargers so identified shall not require a separate permit unless the Director specifies otherwise. Any permit covering more than one owner or operator shall identify the effluent limitations, if any, which apply to each owner or operator. Where there is more than one owner or operator, no discharger into the storm water point source may be subject to a permit condition for discharges into the storm water source other than its own discharges into that system without his consent. All dischargers into a storm water point source must either be covered by an individual permit, an area wide permit or a general permit issued to the owner or operator of that portion of the system that directly discharges into waters of the State.

(b) Applicability. The following discharges composed entirely of storm water are required to obtain an NPDES permit for the storm water discharge:

1. Associated with industrial activity;
2. Large municipal separate storm sewer systems;
3. Medium municipal separate storm sewer systems; and
4. Any storm water point source that the Director determines to contribute to a violation of a water quality standard or is a significant contributor of pollutants to the waters of the State as provided in 40 C.F.R. 122.26. In making this determination the Director shall consider the following factors:

- (i) The location of the storm water point source with respect to waters of the State;
- (ii) The size of the storm water point source;
- (iii) The quantity and nature of the pollutants reaching waters of the State; and
- (iv) Other relevant factors.

5. Case-by-case designation of storm water point sources. The Director may designate a conveyance or system of conveyances primarily used for collecting and conveying storm water runoff as a storm water point source. This designation may be made to the extent allowed or required by effluent limitations guidelines for point sources in the storm water discharge category or when a Water Quality Management Plan under Section 208 of the Federal CWA Act which contains requirements applicable to such point sources is approved.

6. Associated with Small Construction Activity.

7. Small Municipal Separate Storm Sewer Systems which are required to be regulated pursuant to 40 C.F.R. 122.32.

8. Any storm water point source for which the Director determines that storm water controls are needed based on wasteload allocations that are part of total maximum daily loads that address the pollutant(s) of concern.

9. Any municipal separate storm sewer system that the Director determines based on a petition pursuant to 40 C.F.R. 122.26(f).

10. The Director may allow certain industrial activities to receive a conditional exclusion for "no exposure" of industrial activities and materials to storm water based on 40 C.F.R. 122.26(g).

(c) General provisions.

1. General and area wide permits may be issued, modified, revoked and reissued, or terminated in accordance with applicable requirements of ~~paragraph~~ Rule 391-3-6.16. Public notice and public participation for issuance, modification, revocation and reissuance, and termination of general permits shall be in accordance with ~~sub~~ paragraph 391-3-6.16 (7).

2. The contents of the notice of intent shall be specified in the general permit and shall conform to the requirements specified in 40 C.F.R. 122.28. The notice of intent shall be signed in accordance with subparagraph 391-3-6-.16 (5)(a) 6.
3. General permits shall specify the deadline for submitting notices of intent to be covered and the date(s) when a discharge is authorized under the permit.
4. General permits shall specify whether a discharger that has submitted a timely notice of intent to be covered in accordance with a general permit and that is eligible for coverage under the general permit, is authorized to discharge in accordance with the general permit either upon receipt of the notice of intent by the Director, after a waiting period specified in the general permit, on a date specified in the general permit, or upon receipt of notification of inclusion by the Director. Coverage may be revoked in accordance with subparagraph 391-3-6-.16 (3)(c)(5).
5. Requiring an individual permit for storm water discharges.
 - (i) The Director may require any person authorized by a general permit for storm water discharges to apply for and obtain an individual NPDES permit. Any interested person may petition the Director to take action under this paragraph. Cases where an individual NPDES permit may be required include the following:
 - (I) The discharge(s) is a significant contributor of pollution as determined by the Director. In making this determination, the Director may consider the following factors:
 - (1) The location of the discharge with respect to the waters of the State;
 - (2) The size of the discharge;
 - (3) The quantity and nature of the pollutants discharged to waters of the State; and
 - (4) Other relevant factors.
 - (II) The discharger is not in compliance with the conditions of the general permit;
 - (III) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;
 - (IV) Effluent limitation guidelines are promulgated for point sources covered by the general permit;
 - (V) A total maximum daily load containing additional requirements applicable to such point sources is approved; or
 - (VI) Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary.
 - (ii) Any owner or operator authorized by a general permit may request to be excluded from the coverage of the general permit by applying for an individual NPDES permit. The owner or operator shall submit an application under subparagraph 391-3-6-.06 (5), with reasons supporting the request, to the Director.
 - (iii) When an individual NPDES permit is issued to an owner or operator otherwise subject to a general permit, the applicability of the general permit to the individual NPDES permittee is automatically terminated on the effective date of the individual NPDES permit.
 - (iv) A source excluded from a general permit solely because it already has an individual NPDES permit may request that the individual NPDES permit be revoked, and that it be covered by the general permit. Upon revocation of the individual NPDES permit, the general permit shall apply to the source.
 - (v) Whenever the Director decides an individual NPDES permit is required, the Director shall notify the discharger in writing of the decision and the reasons for it, and shall send an application form with the notice. The discharger must apply for a permit under subparagraph 391-3-6-.06 (5) and 40 C.F.R. 122.21 within sixty (60) days of notice unless a later date is

granted by the Director. Public notice and public participation shall be in accordance with ~~sub~~paragraph 391-3-6-.06 (7).

(4) **Degree of Waste Treatment Required.** All pollutants shall receive such treatment or corrective action so as to ensure compliance with the terms and conditions of the issued permit and with the following, whenever applicable:

(a) Effluent limitations established by the EPA pursuant to Sections 301, 302, 303, 306, 307, 308, 318, and 405 of the Federal Act;

(b) Criteria and standards for Best Management Practices established by EPA pursuant to Section 304(e) of the Federal Act;

(c) Notwithstanding the above, more stringent effluent limitations may be required as deemed necessary by the Division (a) to meet any other existing Federal laws or regulations, or (b) to ensure compliance with any applicable State water quality standards, effluent limitations, treatment standards, or schedules of compliance; and

(d) Calculations and specifications of effluent limits and standards shall be made in accordance with the provisions of Federal Regulations, 40 CFR 122.44(k) and 122.45; provided, however, that in regard to 40 CFR 122.44(k)(2), the feasibility of establishing numeric effluent limitations shall be made by the Director based upon best professional judgment.

(5) **Applications.**

(a) Application Requirements.

1. Large and medium municipal separate storm sewer systems shall submit an application in accordance with the requirements specified in 40 C.F.R. 122.26(d) and 40 C.F.R. 122.26(g) unless otherwise modified by the Director.

2. Small municipal separate storm sewer systems shall submit an application in accordance with the requirements specified in 40 C.F.R. 122.33 unless otherwise modified by the Director.

3. Discharges associated with industrial activity and discharges associated with small construction activity shall either submit an application for an individual NPDES permit in accordance with ~~subparagraph~~Rule 391-3-6-.06 or apply for coverage under a general permit in accordance with ~~paragraph~~Rule 391-3-6-.16. Application for an individual NPDES permit shall be made in accordance with ~~subparagraph~~Rule 391-3-6-.06 and 40 C.F.R. 122.26(c) and 40 C.F.R. 122.26(g). A discharger who fails to submit a notice of intent in accordance with the terms of the general permit is not authorized to discharge under the terms of the general permit. A complete and timely notice of intent to be covered in accordance with the general permit requirements, fulfills the requirements for permit applications for purposes of 40 C.F.R. 122.6, 122.21 and 122.26.

4. Notice of Intent (NOI). A NOI shall be on forms as may be prescribed and furnished from time to time by the Division. A NOI shall be accompanied by all pertinent information as the Division may require in order to establish, where applicable, effluent limitations in accordance with ~~sub~~paragraph 391-3-6-.06 (4), which may include but is not limited to, complete engineering reports, schedule of progress, plans, specifications, maps, measurements, quantitative and qualitative determinations, records, and all related materials.

5. Engineering reports, plans, specifications, and other similar material submitted to the Division shall be prepared by or under the direct supervision or review of, and bear the seal of, a Professional Engineer competent in the field of storm water, sewage, or industrial waste treatment, consistent with the type of wastewater involved. At no time shall this requirement be in conflict with O.C.G.A. Section 43-15 governing the practices of professional engineering and surveying. Storm water pollution prevention plans, erosion and sediment control plans, best

management plans and similar reports shall be prepared in accordance with the applicable storm water permit.

6. Material submitted shall be complete and accurate.

7. Any NOI form, NOT form, and permit application submitted to the Division shall be signed as follows in accordance with the Federal Regulations, 40 C.F.R. 122.22:

(i) For a corporation, by a responsible corporate officer. For this subparagraph a responsible corporate officer means:

(a) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or

(b) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(ii) For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

(iii) For a municipality, State, Federal, or other public facility, by either a principal executive officer or ranking elected official.

8. All other reports, engineering reports, plans, specifications, similar materials, or requests for information required by the permit issuing authority shall be signed by a person designated in 6. above or a duly authorized representative of such person, if:

(i) The representative so authorized is responsible for the overall operation of the facility from which the discharge originates, e.g., a plant manager, superintendent or person of equivalent responsibility;

(ii) The authorization is made in writing by the person designated under 6. above; and

(iii) The written authorization is submitted to the Director.

9. Any changes in the written authorization submitted to the permitting authority under 7. above which occur after the issuance of a permit shall be reported to the permitting authority by submitting a copy of a new written authorization which meets the requirements of 7.(i) and 7.(ii) above.

10. Any person signing any document under 6. or 7. above shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(b) Application Deadlines.

1. Application for an individual NPDES permit for storm water discharges associated with industrial activity shall be submitted at least 180 days before the day that the facility commences industrial activity which may result in a discharge of storm water associated with industrial activity, unless permission for a later date is granted by the Director.

2. Facilities with storm water discharges associated with industrial activity that are applying for coverage under a general permit shall comply with the Notice of Intent submittal requirements specified in the general permit.

3. Facilities with stormwater discharges associated with small construction activity that are applying for coverage under a general permit shall comply with the Notice of Intent requirements specified in the general permit.

4. In municipalities with a population of less than 100,000, municipality owned or operated facilities with storm water discharges associated with industrial activity shall submit an application in accordance with 40 C.F.R. 122.26(e)(1) except for airports, power plants, uncontrolled sanitary landfills, and those designated by the Director, which shall follow the application deadlines designated under (1.) above.

5. Large municipal separate storm sewer systems shall submit an application to the Director in accordance with 40 C.F.R. 122.26(e)(3).

6. Medium municipal separate storm sewer systems shall submit an application to the Director in accordance with 40 C.F.R. 122.26(e)(4).

7. Facilities identified in subparagraph 391-3-6-.16 (3)(b) 4., 5. or 6. shall submit an application to the Director within 180 days of notice, unless permission is granted for a later date.

8. Small municipal separate storm sewer systems shall submit an application to the Director in accordance with 40 C.F.R. 122.26(e)(9).

9. Small construction shall apply in accordance with 40 C.F.R. 122.26(e)(8).

(6) **Receipt and Use of Application and Data** shall be in accordance with subparagraph 391-3-6-.06 (6) of this Chapter. Notice of Intent and Notice of Termination forms shall not be required to be transmitted to the Regional Administrator for comments unless requested to do so by the Regional Administrator.

(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.~~

(8) Prohibitions.

(a) No permit shall be issued authorizing any of the following discharges:

1. The discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste into navigable waters;

2. Any discharge which in the judgment of the Secretary of the Army would substantially impair anchorage and navigation in or on any of the waters of the United States;

3. Any discharge to which the Regional Administrator has objected in writing in accordance with Federal Regulations, 40 C.F.R. 123.44, pursuant to any right to object provided the Administrator of EPA under Section 402(d) of the Federal Act;

4. Any discharge from a point source which is in conflict with a plan or amendment thereto approved pursuant to Section 208(b) of the Federal Act;

5. Any discharge to the territorial sea, the waters of the contiguous zone, or the oceans in the following circumstances:

(i) Prior to the promulgation of the guidelines under section 403(c) of the Act, unless the Director determines permit issuance to be in the public interest; or

(ii) After promulgation of guidelines under section 403(c) of the Act, where insufficient information exists to make a reasonable judgment as to whether the discharge complies with any such guidelines.

6. To a facility which is a new source or a new discharger, if the discharge from the construction or operation of the facility will cause or contribute to the violation of water quality standards, except as in accordance with Federal Regulations, 40 C.F.R. 122.4(i).

(b) The issuance of a permit does not:

1. Convey any property rights of any sort, or any exclusive privileges;

2. Authorize any injury to private property or invasion of private rights, or any infringement of Federal, State, or local laws or regulations.

3. Release the permittee of any responsibility or requirement under other environmental statutes or regulations.

(9) Schedules of Compliance. Any person who obtains a permit who is not in compliance with the applicable standards shall be required to achieve compliance with the standards in accordance with a schedule of compliance as set forth in subparagraphs 391-3-6-.06 (10)(a), (b), (c), and (e) of this Chapter. This provision is not applicable to general permits.

(10) Monitoring, Recording, and Reporting Requirements.

Except as provided below, monitoring, recording, and reporting requirements shall be in accordance with those outlined in subparagraph 391-3-6-.06 (11) of this Chapter.

(a) Inspection, monitoring, recording, and reporting requirements for general permits for storm water discharges associated with industrial activity, which do not contain numeric effluent

limitations, shall, at the discretion of the Director, be established for each general permit on a case-by-case basis with a frequency dependent on the nature and effect of the discharge. At a minimum, the permit must require:

1. an annual inspection of the facility site to identify areas contributing to a storm water discharge associated with industrial activity and evaluate whether measures to reduce pollutant loadings identified in a storm water pollution prevention plan are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed;
2. maintaining for a period of three years a record summarizing the results of the inspections and a certification that the facility is in compliance with the storm water pollution prevention plan and the permit, and identifying any incidents of non-compliance;
3. reports and certifications be signed in accordance with 40 CFR 122.22; and
4. where annual inspections are impracticable at inactive mining operations, a certification once every three years by a Georgia Registered Professional Engineer that the facility is in compliance with the permit.

(b) Requirements for area wide permits for storm water discharges from municipal separate storm water sewer systems shall be established for each permit on a case-by-case basis.

(c) General permits that do not require submittal of monitoring reports at least annually shall report to the Director in writing all instances of noncompliance at least annually. These annual reports are due the first working day of each January unless otherwise specified in a permit.

(11) **Control of Disposal of Pollutants into Wells** shall be in accordance with subparagraph 391-3-6-.06 (14).

(12) **Modification, Revocation and Reissuance, and Termination of Permits.**

(a) The Director may revise or modify the schedule of compliance set forth in an issued permit if the permittee requests such modification or revision in writing and such modification or revision will not cause an interim date in the compliance schedule to be extended more than one hundred twenty (120) days or affect the final date in the compliance schedule. The Director may grant requests in accordance with this subparagraph if he determines after documented showing by the permittee that good and valid cause (including Acts of God, strikes, floods, material shortages or other events over which the permittee has little or no control) exists for such revision. This provision is not applicable to general permits.

(b) The Director in accordance with the provisions of Federal Regulations, 40 CFR 122.61, 122.62, 122.63, 122.64, and 124.5, may modify, revoke and reissue, or terminate an issued permit in whole or in part during its term for cause, including, but not limited to, the causes listed in Federal Regulations, 40 CFR 122.62 and 122.64, or the cause listed in the Act or regulations promulgated pursuant thereto. Prior to any such modification, revocation and reissuance, or termination of an issued permit by the Director (other than modification or revision of a compliance schedule pursuant to subparagraph (a) above, or modification in accordance with the provisions of 40 CFR 122.63), the Director will give public notice in accordance with the procedures set forth in subparagraph 391-3-6-.16 (7)(b) and an opportunity for public hearing in accordance with the procedures set forth in subparagraph 391-3-6-.16 (7)(c).

(13) **Duration, Continuation, and Transferability of Permits.**

(a) Any permit issued under O.C.G.A. Section 12-5-30 shall have a fixed term not to exceed five (5) years. Upon expiration of such permit, a new permit may be issued by the Director in accordance with O.C.G.A. Section 12-5-30 and 40 C.F.R. 122.6, 122.28, 122.46, and 122.61. The issuance of such new permit shall likewise have a fixed term not to exceed five (5) years.

- (b) Any owner or operator authorized by a general permit may request that coverage under the general permit be terminated by submitting a written Notice of Termination. The contents of the Notice of Termination shall be specified in the general permit and shall be signed in accordance with subparagraph 391-3-6-.16 (5)(a) 6.
- (c) A general permit may not be transferred to another party. The new owner or operator must submit a new Notice of Intent in accordance with subparagraph 391-3-6-.16 (5).
- (d) Any owner or operator authorized by an individual permit for a storm water discharge may request the permit be transferred to another party in accordance with subparagraph 391-3-6-.06 (15)(b).
- (e) When the permittee has submitted a timely and sufficient application for a new individual NPDES permit or a Notice of Intent for a general permit and the Director is unable, through no fault of the permittee, to issue the new permit before the expiration date of the existing permit, then the Director shall extend the existing permit until a new permit is issued.
- (f) For those industrial categories for which EPA will establish effluent limitations based on best available technology, permits will be issued to ensure compliance with the effluent limits by the statutory deadline. This will be accomplished by utilizing short-term permits and/or reopener clauses that will allow the permit to be modified, revoked, reissued to comply with limitations promulgated pursuant to the Act and subsequent regulations.
- (g) Notwithstanding subparagraph (a) above, if a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Act for a toxic pollutant which is present in a discharge and such standard prohibition is more stringent than any limitation for such pollutant in a permit, the permit shall be revised or modified in accordance with the toxic effluent standard or prohibition and the permittee so notified.
- (14) **Enforcement.** Any person who violates any provision of the Act, any rule promulgated and adopted pursuant thereto, or any term, condition, schedule of compliance or other requirement contained in a permit issued pursuant to the Act shall be subject to enforcement proceedings pursuant to the Act.
- (15) **NPDES Electronic Reporting.** The federal NPDES Electronic Reporting rule, 40 CFR Part 127 and associated amendments, became effective on December 21, 2015. The requirements of this rule relating to the submission of applications, Notices of Intent, Notices of Termination and reports may include the electronic submission of such items and electronic signature for such items, as applicable and approved by EPD. The use of the terms “in writing” or “written” in the rule may include such electronic submissions.
- (16) **Effective Date.** This ~~Paragraph~~Rule shall become effective twenty days after filing with the Secretary of State's Office.

Authority: O.C.G.A. Sec. 12-5-20 *et seq.*

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

- (1) **Purpose.** The purpose of Rule 391-3-6-.17 is to establish requirements for the beneficial use of sewage sludge through land application. This ~~paragraph~~rule includes general requirements, pollutant limits, pathogen and vector attraction reduction requirements, operational standards, management practices, monitoring, record keeping reporting, and permitting requirements.

(2) **Definitions.** All terms used in this ~~paragraph~~Rule shall be interpreted in accordance with the definitions as set forth in the Act unless otherwise defined in this Paragraph or in any other ~~Paragraph of these Rules of this Chapter:~~

- (a) "Aerobic digestion" is the biochemical decomposition of organic matter in sewage sludge into carbon dioxide and water by microorganisms in the presence of air.
- (b) "Agricultural land" is land on which a food crop, feed crop, or a fiber crop is grown. This includes land used as pasture.
- (c) "Agronomic rate" is the sludge application rate based on a dry weight basis determined:
 - 1. to provide the amount of nitrogen needed by the food crop, feed crop, fiber crop, cover crop or vegetation grown on the land; and
 - 2. to minimize the amount of nitrogen in the sewage sludge that passes below the root zone of the crop or vegetation grown on the land to the groundwater.
- (d) "Anaerobic digestion" is the biochemical decomposition of organic matter in sewage sludge into methane gas and carbon dioxide by microorganisms in the absence of air.
- (e) "Annual pollutant loading rate" is the maximum amount of a pollutant that may be applied to a unit area of land during a 365-day period.
- (f) "Annual sludge application rate" is the maximum amount of sewage sludge (dry weight basis) that may be applied to a unit area of land during a 365-day period.
- (g) "Applier" is the person who applies bulk sewage sludge to the land.
- (h) "Biosolids" means any sewage sludge, as defined in 391-3-6-.17 (2)(gg), that fulfills all requirements under this chapter, and is used in a beneficial manner.
- (i) "Bulk sewage sludge" or "bulk biosolids" is sewage sludge that is not sold or given away in a bag or other container for application to the land.
- (j) "Cover crop" is a temporary crop, such as winter rye or clover, planted to protect the soil from erosion and to provide humus or nitrogen when plowed under.
- (k) "Cumulative pollutant loading rate" is the maximum amount of an inorganic pollutant that may be applied to an area of land.
- (l) "Density of microorganisms" is the number of microorganisms per unit mass of total solids (dry weight) in the sewage sludge.
- (m) "Domestic sewage" is water waste and wastewater from humans or from household operations that are discharged to or that otherwise enter a treatment works.
- (n) "Dry weight basis" means calculated on the basis of having been dried at 105 degrees Celsius until reaching a constant mass (i.e., essentially 100 percent solids content).
- (o) "Exceptional quality sludge" is sewage sludge that meets the pollutant concentrations in 391-3-6-.17 (5) Table 3, one of the Class A pathogen requirements in 391-3-6-.17 (7)(a) and one of the vector attraction reduction requirements in 391-3-6-.17 (8)(a) through (h).
- (p) "Facility" means any NPDES point source or any other system or activity that may be regulated by the Water Protection Branch of the EPD, including land application systems regulated under 391-3-6-.11, and industrial pretreatment systems regulated under 391-3-6-.08.
- (q) "Feed crops" are crops produced primarily for consumption by animals.
- (r) "Fiber crops" are crops such as flax and cotton.
- (s) "Food crops" are crops consumed by humans. These include, but are not limited to, fruits, vegetables, and tobacco.
- (t) "Forest" is a tract of land thick with trees and underbrush.
- (u) "Land application" or "applied to the land" means the spraying or spreading of sewage sludge on the land surface; the injection of sewage sludge below the land surface; or the

incorporation of sewage sludge into the soil at agronomic rates for the purpose of soil conditioning or fertilization of crops or vegetation grown in the soil.

(v) "Land with a high potential for public exposure" is land that is frequently used by the public. This includes but is not limited to public parks, ball fields, cemeteries, plant nurseries, turf farms, and golf courses.

(w) "Land with a low potential for public exposure" is land that the public uses infrequently. This includes, but is not limited to, agricultural land, forest, and a reclamation site located in an unpopulated area.

(x) "Monthly average" is the arithmetic mean of all measurements taken during the month.

(y) "Other container" is either an open or closed receptacle. This includes, but is not limited to, a bucket, a box, a carton, and a vehicle or trailer with a load capacity of 2,200 pounds or less.

(z) "Pasture" means land on which animals feed directly on feed crops such as legumes, grasses, grain stubble, or stover.

(aa) "Pathogenic organisms" are disease-causing organisms. These include, but are not limited to, certain bacteria, protozoa, viruses, and viable helminth ova.

(bb) "pH" means the logarithm of the periodical of the hydrogen ion concentration.

(cc) "Pollutant" is an organic substance, an inorganic substance, a combination of organic and inorganic substances, or a pathogenic organism that after discharge and upon exposure, ingestion, inhalation, or assimilation into an organism either directly from the environment or indirectly by ingestion through the food chain, could, on the basis of information available to the Administrator of EPA, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunction in reproduction), or physical deformations in either organisms or offspring of the organisms.

(dd) "Pollutant limit" is a numerical value that describes the amount of a pollutant allowed per unit amount of sewage sludge (e.g., milligrams per kilograms of total solids); the amount of a pollutant that can be applied to a unit area of land (e.g., pounds [per acre]; or the volume of a material that can be applied to a unit area of land (e.g., gallons per acre).

(ee) "Preparer" is either the person who generates sewage sludge during the treatment of domestic sewage or a combination of domestic sewage and industrial wastewater in a treatment works or the person who derives a material from sewage sludge.

(ff) "Reclamation site" means drastically disturbed land that is reclaimed using sewage sludge or product derived from sewage sludge. This includes, but is not limited to, strip mines and construction sites.

(gg) "Sewage sludge" means solid, semi-solid, or liquid residue generated during the treatment of domestic sewage or a combination of domestic sewage and industrial wastewater in a treatment works. Sewage sludge includes, but is not limited to scum or solids removed in primary, secondary, or advanced wastewater treatment processes. Sewage sludge does not include ash generated during the firing of sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, treated effluent, or materials excluded from definition of "sewage sludge" by O.C.G.A. § 12-5-30-3(a)(1).

(hh) "Sludge management plan" means a detailed plan of operation for land application of sewage sludge, or any other method of sewage sludge disposal other than co-disposal in a permitted sanitary landfill. The plan shall, at a minimum, comply with the regulations and any additional requirements established by the EPD pursuant to the Federal Act Section 405(d), the Resource Conservation and Recovery Act (RCRA), and 40 CFR 503.

- (ii) "Specific oxygen uptake rate (SOUR)" is the mass of oxygen consumed per unit time per unit mass of total solids (dry weight basis) in the sewage sludge.
- (jj) "Stockpile" means to place sewage sludge on land in piles or in any other manner that does not constitute application to the land as defined in 391-3-6-.17 (2)(u).
- (kk) "Total solids" are the materials in sewage sludge that remain as residue when the sewage sludge is dried at 103 to 105 degrees Celsius.
- (ll) "Treat or treatment of sewage sludge" is the preparation of sewage sludge for final use or disposal. This includes, but is not limited to, thickening, stabilization, dewatering of sewage sludge.
- (mm) "Treatment works" is either a Federally owned, publicly owned, or privately owned device or system used to treat, recycle or reclaim either domestic sewage or combination of domestic sewage and industrial wastewater.
- (nn) "Unstabilized solids" are organic materials in sewage sludge that have not been treated in either an aerobic or anaerobic treatment process.
- (oo) "Vector attraction" is the characteristic of sewage sludge that attracts rodents, flies, mosquitos, or other organisms capable of transporting infectious agents.
- (pp) "Volatile solids" is the amount of the total solids in sewage sludge lost when the sewage sludge is combusted at 550 degrees Celsius in the presence of excess air.
- (qq) "Wetlands" means those areas that are inundated or saturated by surface water or ground water at a frequency and duration to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(3) **Coverage.**

- (a) This ~~paragraph~~rule applies to any person who prepares sewage sludge for land application or who applies sewage sludge to the land, to any sewage sludge applied to the land, and to the land on which sewage sludge is applied.
- (b) This ~~paragraph~~rule does not apply to:
 - 1. Processes used to treat sewage or processes used to treat sewage sludge before final use or disposal, except as provided in 391-3-6-.17 (7) and 391-3-6-.17 (8).
 - 2. Sewage sludge determined to be hazardous in accordance with 40 CFR 261.
 - 3. Grit and screenings generated during preliminary treatment of domestic sewage or a combination of domestic sewage and industrial wastewater in a treatment works.
 - 4. Sludge generated during treatment of process wastewater at an industrial facility. A facility operated by the federal government is an industrial facility for the purpose of this ~~paragraph~~rule if it treats any wastewater generated by an industrial process.
 - 5. Disposal of sewage sludge by means other than land application at agronomic rates with the exception of sewage sludge applied to reclamation sites.
 - 6. Domestic, commercial, or industrial septage, or any mixture thereof.
 - 7. Sludge generated during treatment of drinking water.
 - 8. Sewage sludge with a concentration of polychlorinated biphenyls (PCBs) equal to or greater than 50 milligrams per kilogram of total solids (dry weight basis).
 - 9. The incineration of sewage sludge.
 - 10. Ash generated during the firing of sewage sludge in a sewage sludge incinerator.
- (c) Other exclusions:
 - 1. The operator of any treatment Processes to Further Reduce Pathogens as described in 40 CFR 503 Appendix B, or any treatment process determined by the EPD to be equivalent to a Process to Further Reduce Pathogens which results in the derivation of compost from sewage

sludge shall obtain a Solid Waste Handling Permit from EPD according to 391-3-4, unless the composting operation is part of a treatment works already regulated by an NPDES, LAS or other permit from EPD, in which case that permit will be modified in accordance with this ~~paragraph~~rule to incorporate any necessary requirements for regulating the composting operation. The end product shall be regulated by the Georgia Department of Agriculture. Compost derived from any Processes to Significantly Reduce Pathogens as described in 40 CFR 503 Appendix B shall comply with the requirements contained in this ~~paragraph~~rule.

2. The operator of any treatment process which consists of heat drying or incinerating sewage sludge shall obtain an Air Quality Permit from EPD in accordance with 391-3-1 and a processing permit by rule in accordance with 391-3-4.06 (3)(d). If the heat drying process results in the derivation of a product for agricultural application, the end product shall be regulated by the Georgia Department of Agriculture.

3. Preparers proposing to sell or give away sewage sludge in a bag or other container for application to the land, must first obtain approval from the Georgia Department of Agriculture.

4. If sewage sludge is ultimately disposed of by land application or surface disposal, and is not beneficially used as a recovered material, the owner or operator of the site shall obtain a Solid Waste Handling Permit from the EPD in accordance with 391-3-4.

(4) **Permits Required.** The requirements in this ~~Paragraph~~Rule shall be implemented through a permit:

(a) All facilities in Georgia which generate sewage sludge from the treatment of domestic (or industrial) sewage shall obtain either an NPDES permit as described in 391-3-6.06, a land application system (LAS) permit as described in 391-3-6.11, or a local or State pretreatment permit as described in 391-3-6.08 through -.10, regardless of their method of handling sewage sludge.

(b) Facilities in Georgia which handle sewage sludge by one or more of the following requirements, as applicable:

1. If a facility intends to utilize land application or intends to sell or give sludge away as a means of sludge handling, the facility shall submit a Sludge Management Plan to the EPD for approval. The Sludge Management Plan shall, at a minimum, comply with the requirements contained in 391-3-6.17 as well as any additional requirements as determined by the EPD. Upon approval by the EPD, the plan will become part of the facility's NPDES or LAS permit.

2. If bulk sewage sludge from more than one permittee will be land applied to the same site or sites, or if both bulk sewage sludge from a permittee and an industrial sludge will be land applied on the same site or sites, the owner or operator of the site shall obtain an LAS permit in accordance with 391-3-6.11.

(c) If the sewage sludge is generated outside of the State of Georgia but will be transported to a site in Georgia for land application, the owner or operator of the site shall obtain an LAS permit in accordance with 391-3-6.11.

(d) Any person who prepares sewage sludge shall ensure that the applicable requirements in this part are met when the sewage sludge is land applied, fired in a sewage sludge incinerator, or disposed of by any means other than landfilling in an approved municipal solid waste landfill.

(e) Any person who uses or disposes of sewage sludge through any practice for which requirements are established in this ~~Paragraph~~Rule shall comply with these requirements.

(5) **Pollutant Limits.**

(a) Bulk sewage sludge and sewage sludge sold or given away in a bag or other container shall comply with the pollutant ceiling concentration limits in Table 1 as well as the following requirements:

1. Bulk sewage sludge applied to agricultural land, forests, public contact sites, or reclamation sites shall comply with either the pollutant concentration limits in Table 3 or, in the event that the pollutant concentration limits in Table 3 cannot be met, with the cumulative pollutant loading rates in Table 2.
2. Bulk sewage sludge applied to lawns and home gardens shall comply with the pollutant concentration limits in Table 3.
3. Sewage sludge sold or given away in bags and containers as defined in 391-3-6-.17 (2)(y) shall with the pollutant concentration limits in Table 3 or the annual sewage sludge application rates which are based on the annual pollutant loading rates in Table 4. Annual sewage sludge application rates shall be calculated in accordance with EPD requirements.

Table 1 -- Ceiling Concentration Limits

Pollutant	Ceiling Concentration (mg/kg)*
Arsenic	75
Cadmium	85
Copper	4300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
Selenium	100
Zinc	7500

* Dry weight basis

Table 2 -- Cumulative Pollutant Loading Rates

Pollutant	Cumulative Pollutant Loading Rate (lbs/acre)
Arsenic	37
Cadmium	35
Copper	1338
Lead	268
Mercury	15
Nickel	375
Selenium	89
Zinc	2498

Table 3 - Pollutant Concentration

Pollutant	Monthly Average Concentrations (mg/kg)*
Arsenic	41
Cadmium	39
Copper	1500
Lead	300
Mercury	17
Nickel	420
Selenium	100
Zinc	2800

* Dry weight basis

Table 4 - Annual Pollutant Loading Rates

Pollutant	Annual Pollutant Loading Rate (lbs/acre/year)
Arsenic	1.8
Cadmium	1.7
Copper	67
Lead	13
Mercury	0.76
Nickel	19
Selenium	4.5
Zinc	125

(6) Operational Standards -- Pathogens and Vector Attraction Reduction.

(a) The Class A pathogen requirements contained in 391-3-6-.17 (7)(a) shall be met when bulk sewage sludge is applied to a lawn or home garden or when sewage sludge is sold or given away in a bag or other container for application to the land.

(b) The Class A pathogen requirements contained in 391-3-6-.17 (7)(a) or the Class B pathogen requirements contained in 391-3-6-.16 (7)(b) and the site restrictions described in 391-3-6-.17 (7)(c) shall be met when bulk sewage sludge is applied to agricultural land, forests, public contact sites, or reclamation sites.

(c) Sewage sludge that is applied to the land shall meet one of the vector attraction reduction requirements contained in 391-3-6-.17 (8)(a) through (h) except that bulk sewage sludge that is applied to agricultural land, forests, public contact sites, or reclamation sites may instead meet the vector attraction reduction requirements contained in 391-3-6-.17 (8)(i) or (j).

(7) **Pathogen Requirements.** This subparagraph contains the requirements for a sewage sludge to be classified as either Class A or Class B with respect to pathogens as well as specific site restrictions for land application of a Class B sewage sludge.

(a) **Class A Sewage Sludge.** To be classified as Class A with respect to pathogens the sewage sludge shall meet the requirements in 391-3-6-.17 (7)(a) 1. as well as the requirements of one of the six alternatives described in 391-3-6-.17 (7)(a) 2. through (a)7. The Class A pathogen requirements shall be met either before or at the same time the vector attraction reduction requirements are met, with the exception of the vector attraction reduction requirements in 391-3-6-.17 (8)(f) through (h).

1. Either the density of fecal coliform in the sewage sludge shall be less than 1000 Most Probable Number per gram of total solids (dry weight basis), or the density of Salmonella sp. bacteria in the sewage sludge shall be less than three Most Probable Number per four grams of total solids (dry weight basis) at the time the sewage sludge is land applied or is prepared for sale or given away in a bag or other container for application of the land.

2. **Alternative 1.** The temperature of the sewage sludge shall be maintained at a specific value for a period of time.

(i) When the percent solids of the sewage sludge is seven percent or higher, the temperature of the sewage sludge shall be 50 degrees Celsius or higher; the time period shall be 20 minutes or longer; and the temperature and time period shall be determined using equation (3), except when small particles of sewage sludge are heated by either warmed gases or an immiscible liquid.

$$(3) D = \frac{131,700,000}{10^{0.1400t}}$$

Where,

D = time in days.

t = temperature in degrees Celsius.

(ii) When the percent solids of the sewage sludge is seven percent or higher and small particles of sewage sludge are heated by either warmer gases or an immiscible liquid, the temperature of the sewage sludge shall be 50 degrees Celsius or higher, the time period shall be 15 seconds or longer, and the temperature and time period shall be determined using equation (3).

(iii) When the percent solids of the sewage sludge is less than seven percent and the time period is at least 15 seconds, but less than 30 minutes, the temperature and time period shall be determined using equation (3).

(iv) When the percent solids of the sewage sludge is less than seven percent; the temperature of the sewage sludge is 50 degrees Celsius or higher; and the time period is 30 minutes or longer, the temperature and time period shall be determined using equation (4).

$$(4) D = \frac{50,070,000}{10^{0.1400t}}$$

Where,

D = time in days.

t = temperature in degrees Celsius.

3. Alternative 2. The sewage sludge pH shall be raised to above 12 standard units and shall remain above 12 standard units for 72 hours. At the end of the 72 hour period, the sewage sludge shall be air dried to achieve greater than 50 percent solids. The temperature of the sewage sludge shall be maintained above 52 degrees Celsius for at least 12 hours while the sewage sludge pH is above 12 standard units.

4. Alternative 3. The sewage sludge shall be analyzed before pathogen treatment to determine whether the sewage sludge contains enteric viruses.

(i) If the density of enteric viruses is less than one Plaque-forming Unit per four grams of total solids (dry weight basis), the sewage sludge shall be considered Class A until the next monitoring episode.

(ii) If the density of enteric viruses is equal to or greater than one Plaque-forming Unit per four grams of total solids (dry weight basis), the sewage sludge shall be analyzed for enteric viruses after pathogen treatment. The sewage sludge shall be considered Class A if the density of enteric viruses after pathogen treatment is less than one Plaque-forming Unit per four grams of total solids and the values or range of values for the pathogen treatment process operating parameters are documented. Once the enteric virus reduction is demonstrated for the pathogen treatment process, the sewage sludge shall be considered Class A as long as the pathogen treatment operating parameters are consistent with the documented values or ranges of values.

5. Alternative 4. The sewage sludge shall be analyzed before pathogen treatment to determine if the sewage sludge contains viable helminth ova.

(i) If the density of viable helminth ova is less than one per four grams of total solids (dry weight basis), the sewage sludge shall be considered Class A until the next monitoring episode.

(ii) If the density of viable helminth ova is equal to or greater than one per four grams of total solids (dry weight basis), the sewage sludge shall be analyzed for viable helminth ova after pathogen treatment. The sewage sludge shall be considered Class A if the density of viable helminth ova after pathogen treatment is less than one per four grams of total solids and the values or range of values for the pathogen treatment process operating parameters are documented. Once the viable helminth ova reduction is demonstrated for the pathogen treatment process, the sewage sludge shall be considered Class A as long as the pathogen treatment operating parameters are consistent with the documented values or ranges of values.

6. Alternative 5. The density of enteric viruses in the sewage sludge shall be less than one Plaque-forming Unit per four grams of total solids (dry weight basis) or the density viable helminth ova in the sewage sludge shall be less than one per four grams of total solids (dry weight basis) at the time the sewage sludge is either land applied, prepared for sale, or given away in a bag or other container for application to the land.

7. Alternative 6. The sewage sludge shall be treated in one of the Processes to Further Reduce Pathogens as described in 40 CFR 503. Appendix B or treated in a process determined by the EPD to be equivalent to a Process to Further Reduce Pathogens.

(b) Class B Sewage Sludge. To be classified as Class B with respect to pathogens the sewage sludge shall meet one of the following alternatives.

1. Alternative 1. Seven samples of the sewage sludge shall be collected at the time of land application. The geometric mean of the density of fecal coliform in the samples shall be less than either 2,000,000 Most Probable Number per gram of total solids or 2,000,000 Colony Forming Units per gram of total solids.

2. Alternative 2. Sewage sludge that is to be land applied shall be treated in one of the Processes to Significantly Reduce Pathogens as described in 40 CFR 503 Appendix B or treated in a process that is equivalent to a Process to Significantly Reduce Pathogens, as determined by the EPD.

(c) Restrictions for Land Application Sites Receiving Class B Sewage Sludge.

1. Food crops with harvested parts that touch the sewage sludge/soil mixture and are totally above the land surface shall not be harvested for 14 months after application of sewage sludge.

2. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months after application of sewage sludge when the sewage sludge remains on the land surface for four months or longer before incorporation, or for 38 months after application when the sewage sludge remains on the land surface for less than four months before incorporation.

3. All other crops, as well as feed crops, and fiber crops shall not be harvested for 30 days after application of sewage sludge.

4. Animals shall not be allowed to graze on the land for 30 days after application of sewage sludge.

5. Turf grown on land where sewage sludge is applied shall not be harvested for one year after application of the sewage sludge when the harvested turf is placed on either land with a high potential for public exposure or a lawn, unless otherwise specified by the EPD.

6. Public access to land with a high potential for public exposure shall be restricted for one year after application of sewage sludge.

7. Public access to land with a low potential for public exposure shall be restricted for 30 days after application of sewage sludge.

8. Additional restrictions as may be determined by the EPD.

(8) **Vector Attraction Reduction.** Sewage sludge that is land applied, including sewage sludge sold or given away in a bag or other container for application to the land, shall meet one of the vector attraction reduction requirements contained in 391-3-6-.17 (8)(a) through (8)(h) except that bulk sewage sludge that is applied to agricultural land, forests, public contact sites, or reclamation sites may instead meet the vector attraction reduction requirements contained in 391-3-6-.17 (8)(i) or (8)(j).

(a) The mass of volatile solids in the sewage sludge shall be reduced by at least 38 percent.

(b) If the mass of volatile solids in an anaerobically digested sewage sludge cannot be reduced by at least 38 percent, vector attraction reduction can be demonstrated by anaerobically digesting a portion of the previously digested sewage sludge in the laboratory in a bench-scale

unit for 40 additional days at a temperature between 30 and 37 degrees Celsius. The volatile solids shall be measured at the beginning and end of the forty day test period. Vector attraction reduction is achieved when the volatile solids in the sewage sludge are reduced by less than 17 percent over the test period.

(c) If the mass of the volatile solids in an aerobically digested sewage sludge cannot be reduced by at least 38 percent, vector attraction reduction can be demonstrated by aerobically digesting a portion of the previously digested sewage sludge that has a maximum of 2 percent solids in the laboratory in a bench-scale unit for thirty additional days at 20 degrees Celsius. The volatile solids shall be measured at the beginning and end of the thirty day test period. Vector attraction reduction is achieved when the volatile solids in the sewage sludge are reduced by less than 15 percent over the test period.

(d) The specific oxygen uptake rate (SOUR) for sewage sludge treated in an aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at 20 degrees Celsius.

(e) Sewage sludge shall be treated in an aerobic process for at least fourteen days. During that time, the temperature of the sewage sludge shall be maintained above 40 degrees Celsius with the average temperature above 45 degrees Celsius.

(f) The sewage sludge pH shall be raised to 12 standard units or higher by addition of alkaline material and shall remain at 12 standard units or higher for two hours and then 11.5 standard units or higher for an additional 22 hours without the addition of more alkaline material.

(g) If sewage sludge does not contain unstabilized solids generated in a primary wastewater treatment process, the percent solids shall be equal to or greater than 75 percent based on the moisture content and total solids before mixing with other materials.

(h) If sewage sludge contains unstabilized solids generated in a primary wastewater treatment process, the percent solids shall be equal to or greater than 90 percent based on the moisture content and total solids before mixing with other materials.

(i) Injection of Sewage Sludge.

1. Sewage sludge shall be injected below the surface of the land.

2. No significant amount of the sewage sludge shall be present on the land surface within one hour after the sewage sludge is injected.

3. Class A sewage sludge shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process.

(j) Incorporation of Sewage Sludge.

1. Sewage sludge shall be incorporated into the soil within six hours after land application.

2. Class A sewage sludge that is to be incorporated into the soil shall be applied to the land within eight hours after being discharged from the pathogen treatment process.

(9) **General Requirements.**

(a) No person shall land apply sewage sludge except in accordance with the requirements in this subparagraph and the permit as well as any additional requirements as determined by the EPD.

(b) No person shall land apply bulk sewage sludge subject to the cumulative pollutant loading rates in 391-3-6-.17 (5) Table 2 to a site on which any of the cumulative pollutant loading rates in 391-3-6-.17 (5) Table 2 have been reached.

(c) No person shall land apply bulk sewage sludge to a site on which the nitrogen requirements have been met for the calendar year.

(d) The preparer shall provide the person who land applies bulk sewage sludge written notification of the analytical results obtained in accordance with 391-3-6-.17 (11) and 391-3-6-.17 (13).

(e) The person who land applies sewage sludge shall obtain information needed to comply with the requirements in this subpart.

1. Before bulk sewage sludge subject to the cumulative pollutant loading rates in 391-3-6-.17 (5) Table 2 is applied to the land, the applier shall contact the EPD to determine if bulk sewage sludge subject to cumulative pollutant loading rates has been previously applied to the site.

(i) If bulk sewage sludge has been applied to the site and the cumulative amount of each pollutant applied to the site is known, that amount shall subtracted from the cumulative pollutant loading rate for each pollutant in 391-3-6-.17 (5) Table 2 to determine the additional amount of each pollutant that can be applied to the site. For arsenic, mercury, and selenium, the cumulative amount of each pollutant applies to the site since July 20, 1993 shall be utilized for the calculations. For copper, lead, zinc, nickel, and cadmium the cumulative amount of each pollution applied to the site since the first bulk sewage sludge application shall be utilized for the calculations.

(ii) If bulk sewage sludge subject to the cumulative pollutant loading rates in 391-3-6-.17 (5) Table 2 has been applied to the site and the cumulative amounts of pollutants applied to the site are unknown, no additional amount of each pollutant shall be applied to the site.

2. Before bulk sewage sludge is land applied, the applier shall contact the EPD to determine whether bulk sewage sludge has been previously applied to the site. If bulk sewage sludge has been previously applied to the site, the amount of mineralized nitrogen from previous sewage sludge applications that is available for crop uptake, as well as the amount of nitrogen from other sources that is available for crop uptake, shall be taken into account in determining the agronomic loading rate.

(f) When a preparer provides bulk sewage sludge to an applier, the preparer shall provide the applier notice and necessary information to comply with the requirements in this subparagraph.

(g) When a preparer provides sewage sludge to another preparer, the person who provides the sewage sludge shall provide the person who receives the sewage sludge notice and necessary information to comply with the requirements in this subparagraph.

(h) The applier shall provide the owner or lease holder of the land application site notice and necessary information to comply with the requirements in this subparagraph.

(i) Any person who land applies bulk sewage sludge subject to the cumulative pollutant loading rates in 391-3-6-.17 (5) Table 2 shall provide written notice to the EPD before the initial application to a site, and the EPD shall retain the notice and provide access to it. The notice shall include:

1. The location, by either street address or latitude and longitude, of the land application site.

2. The name, address, telephone number, and permit number (if appropriate) of the person who will apply the bulk sewage sludge.

(10) **Management Practices.**

(a) Bulk sewage sludge shall not be applied to the land if it is likely to adversely affect a threatened or endangered species listed under section 4 of the Federal Endangered Species Act (16 U.S.C. §§ 1531 - 1544) or its designated critical habitat.

(b) Bulk sewage sludge shall not be applied to an agriculture land, forest, a public contact site, or a reclamation site that is flooded, frozen, or snow covered so that the bulk sewage sludge

enters a wetland or others waters of the State of Georgia except as provided in a permit issued pursuant to the Georgia Water Quality Control Act and 391-3-6-.06-.

(c) Site restrictions, buffer areas, and any additional EPD requirements shall apply to the land application of bulk sewage sludge. Class B sewage sludge shall also be subject to the site restrictions in 391-3-6-.17 (17)(c). Reduction of buffer areas on sites where exceptional quality sludge is land applied will be considered by the EPD upon written request. However, in no case shall bulk sewage sludge be applied to areas located 35 feet or less from waters of the State of Georgia.

(d) Bulk sewage sludge shall not land applied at greater than agronomic rates except on reclamation sites. Agronomic rates shall be calculated using the sludge application rate determination procedures as determined by the EPD. The application rate for sewage sludge on reclamation sites shall be determined on a case-by-case basis.

(e) Sewage sludge that is sold or given away in a bag or other container for land application shall have a label affixed to the bag or other container or an information sheet shall be provided to the person who receives the sewage sludge. The label or information sheet shall contain the following information.

1. The name and address of the person who prepared the sewage sludge.
 2. A statement that application of the sewage sludge to the land is prohibited except in accordance with the instructions on the label or information sheet.
 3. The annual sludge application rate that does not cause any of the annual pollutant loading rates in 391-3-6-.17 (5) Table 4 to be exceeded.
 4. Any additional information required by Georgia Department of Agriculture rules.
- (f) Under no conditions may sewage sludge be stockpiled at a land application site.

(11) **Monitoring.**

(a) The pollutants listed in 391-3-6-.17 (5), the pathogen density requirements listed in 391-3-6-.17 (7) and the vector attraction reduction requirements listed in 391-3-6-.17 (8)(a) through (8)(h), and any additional parameters contained in the permit, shall be monitored at the frequency listed in Table 5.

Table 5 -- Monitoring Frequency

Amount of Sewage Sludge (dry tons/year)*	Frequency
0 – 300	once/year
300 – 1600	once/quarter
1600 – 16000	once/two months
16000 or greater	once/month

*The "amount of sewage sludge" refers to either the amount of bulk sewage sludge (dry weight) applied to the land or the amount of sewage sludge (dry weight) received by a preparer that sells or otherwise distributes sewage sludge in a bag or other container for application to the land.

(b) After the sewage sludge has been monitored at the frequency in Table 5 for two years, the EPD may reduce the monitoring frequency for the pollutants listed in 391-3-6-.17 (5). In no case shall the monitoring frequency be less than once per year.

(12) **Analytical Methods.** Representative sewage sludge samples shall be analyzed in accordance with the methods contained in 40 CFR 503.8. Test methods used to determine toxicity, such as the Toxicity Characteristic Leachate Procedure, may be used to determine whether sewage sludge is hazardous, but shall not be used for the purpose of determining compliance with any of the inorganic pollutant requirements contained in this ~~paragraph~~rule.

(13) Recordkeeping.

(a) Persons who prepare bulk sewage sludge for land application or who sell or give away sewage sludge in a bag or other container, shall develop the following information and retain it for five years:

1. The concentration of each pollutant listed in 391-3-6-.17 (5), and any additional parameters required by the permit.
2. One of the following certification statements.
 - (i) Certification statement of persons preparing bulk sewage sludge for land application: "I certify, under penalty of law, that the Class (insert "A" or "B") pathogen requirement in 391-3-6-.17 (7) and the vector attraction reduction requirements in 391-3-6-.17 [8]) has been met. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the pathogen requirements and the vector attraction reduction requirements have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."
 - (ii) Certification statement for persons preparing sewage sludge that is sold or given away in a bag or other container: "I certify, under penalty of law, that the management practice in 391-3-6-.17 (10)(e); the Class A pathogen requirement in 391-3-6-.17 (7)(a), and the vector attraction reduction requirement in (insert one of the vector attraction reduction requirements in 391-3-6-.17 (8)(a) through [h]) have been met. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the management practice, pathogen requirements, and vector attraction reduction requirements have been met. I am aware that there are significant penalties for false certification including the possibility of the fine and imprisonment."
3. A description of how either Class A or Class B pathogen requirements are met.
4. A description of how the vector attraction reduction requirement is met.
5. The annual sludge application rate that does not cause the annual pollutant loading rates in 391-3-6-.17 (5) Table 4 to be exceeded shall also be retained by the preparer when the sewage sludge is sold or given away in a bag or other container.
6. All other information required as described in the permit.
- (b) The person who land applies bulk sewage sludge shall develop the following information. The information in 391-3-6-.17 (13)(b) 1. through 5. shall be retained indefinitely. The information in 391-3-6-.17 (13)(b) 6. through 10. shall be retained for five years.
 1. The location, by either street address or latitude and longitude, of each site on which the sewage sludge is applied.
 2. The number of acres on which sewage sludge is applied for each site.
 3. The date and time of each application of sewage sludge for each site.
 4. For bulk sewage sludge subject to the cumulative pollutant loading rates in 391-3-6-.17 (5) Table 2, the cumulative amount of each pollutant listed in 391-3-6-.17 (5) in pounds per acre for each site.
 5. The amount of sewage sludge, in dry tons, applied to each site.
 6. The following certification statement: "I certify, under penalty of law, that the management practices in 391-3-6-.17 (10), the site restrictions in (insert 391-3-6-.17 (7)(c) only if the sewage sludge is classified as Class B), the vector attraction requirements in (insert 391-3-6-.17 (8)(i) or (8)(j), if one of those requirements is met), and additional requirements set forth by the EPD, have been met for each site on which bulk sewage sludge is applied. This

determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the management practices and site restrictions (and the vector attraction reduction requirements if applicable) have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

7. A description of how the management practices in 391-3-6-.17 (10) and any additional management requirements set forth by the EPD, or if applicable, contained in the permit, are met for each land application site.

8. A description of how the vector attraction reduction requirements in either 391-3-6-.17 (8)(i) or (j) are met, if applicable, for each land application site.

9. A description of how the site restrictions are met for each land application site.

10. On sites where the sewage sludge is subject to the cumulative pollutant loading rates in 391-3-6-.17 (5) Table 2, the following certification statement and description shall be developed:

(i) "I certify, under penalty of law, that the requirements to obtain information in 391-3-6-.17 (9)(e) have been met for each land application site. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the requirements to obtain information have been met. I am aware that there are significant penalties for false certification including fine and imprisonment."

(ii) A description of how the requirements to obtain information in 391-3-6-.17 (9)(e) are met.

(14) **Reporting.**

(a) Each facility or person that is permitted under this ~~Paragraph~~Rule shall submit to the EPD an annual report containing the information required in 391-3-6-.17 (13) pertaining to the most recent calendar year. The report shall be submitted to the EPD no later than February 19 of the following year.

(b) Any facility permitted under this ~~Paragraph~~Rule that generates sewage sludge shall submit to the EPD a monthly report of the volume and concentration, or weight in dry pounds, of solids removed from the facility during that month. This report may be included with the monthly Discharge Monitoring Report described in 391-3-6-.06 (11) but in any case must be submitted to the EPD no later than the 15th day of the following month.

(c) The federal NPDES Electronic Reporting rule, 40 CFR Part 127 and associated amendments, became effective on December 21, 2015. The monthly and annual reporting requirements noted above may include the electronic submission of such items, as applicable and approved by EPD.

(15) **Compliance Period.** Compliance with the standards for land application of sewage sludge shall be achieved in accordance with the dates contained in 40 CFR 503.2.

(16) **Addition of More Stringent Requirements.** On a case-by-case basis, the EPD may impose additional or more stringent requirements when necessary to protect public health and the environment.

(17) **Right to Monitor and Assess Fees.**

(a) The local governing authority in which a land application site is located may assess the generator of the sewage sludge and the owner of the land application site reasonable fees for environmental monitoring of the site and may hire persons to monitor the site. The assessed fee shall be limited to charges incurred for monitoring those parameters contained in the approved sludge management plan and the permit. Payment of the assessed fee shall be made prior to the

application of sewage sludge. Failure to pay such fees, if assessed, shall be grounds for the local governing authority to seek an injunction to stop the land application of sewage sludge.

(18) Application for a Permit.

(a) Any facility with a Georgia NPDES permit that generate sewage sludge for land application, either as bulk sewage sludge or for sale or given away in a bag or other container, or for disposal by any means other than disposal in an approved municipal landfill, shall submit the following information with a NPDES permit application at least 180 days prior to the expiration date of the existing permit.

1. The information required in 391-3-6-.06 (5).

(b) Any facility with an NPDES permit that proposes to land apply bulk sewage sludge or that currently land applies sewage sludge but does not have an approved sludge management plan, shall submit the following additional information:

1. Description of the proposed land application site(s):

(i) Location map(s) with the site(s) clearly denoted.

(ii) Topographic map(s) with the following features identified and labelled:

I. Site boundaries (including buffer areas);

II. onsite access roads;

III. portions of the 100-year flood plain;

IV. location of any soil borings;

V. location of houses;

VI. location of wells;

VII. surface water, including ditches and intermittent streams.

(iii) Soil survey map(s) with application site(s) clearly denoted.

(iv) An aerial photograph of the site(s), if available.

2. Soil series descriptions for each series represented, as described in the U.S. Department of Agriculture and University of Georgia, College of Agriculture soil survey(s) for the county(ies) in which each site is located.

3. Soil analysis performed within the last six months, conducted in accordance with the requirements set forth by the EPD.

4. Analysis of the sewage sludge performed within the last six months to include the parameters listed in 391-3-6-.17 as well as any additional parameters required by the EPD.

5. The name of the facility generating the sewage sludge.

6. The amount of sewage sludge to be applied per year. If some of the sewage sludge will be dewatered and some will be liquid, state the amount of each type.

7. Whether the sewage sludge is to be dewatered, liquid, or both and the percent solids.

8. The proposed method for meeting the pathogen reduction requirements in 391-3-6-.17 (7) and vector attraction reduction requirements in 391-3-6-.17 (8).

9. The site use, crops to be grown on site and whether site will be used for grazing.

10. The proposed method of application to the land and a description of operational procedures.

11. A letter of agreement between the permittee and the owner of the site, if the owner is not the permittee.

12. The proposed method for transporting the sludge to the application site.

13. Any other information that the EPD may require.

(c) Any facility with a LAS permit that generates sewage sludge for land application and has an approved sludge management plan, or generates sewage sludge for disposal by any means

other than disposal in an approved municipal landfill shall submit the following information with a LAS permit application at least 180 days prior to the expiration date of the existing permit:

1. The information required in 391-3-6-.11 (5).

(d) Any facility with a LAS permit proposing to land apply sewage sludge, or that currently land applies sewage sludge but does not have an approved sludge management plan, shall submit the information listed in 391-3-6-.17 (18)(b) 1. through (b)13.

(e) Any person owning or operating a land application site or sites where bulk sewage sludge from more than one permittee is land applied, or where both bulk sewage sludge from a permittee and an industrial sludge are applied shall submit the following information with a land application system permit application:

1. The information in 391-3-6-.11 (5).

2. The information in 391-6-.17 (18)(b) 1. through (b)13.

(f) Any person owning or operating a land application site on which bulk sewage sludge, generated outside the State of Georgia, is currently land applied, or is proposed to be land applied, shall submit the following information with a land application system permit application:

1. The information in 391-2-6-.11 (5).

2. The information in 391-3-6-.17 (18)(b) 1. through (b)13.

(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. 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.

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

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

(20) Terms and Conditions of Permits. All permits, issued under ~~Paragraph~~ Rule 391-3-6-.17 shall contain the terms and conditions required to comply with one or more of the following: 391-3-6-.06 and 391-3-6-.11.

(21) Schedules for Compliance. Notwithstanding any requirements contained in ~~the Georgia Rules chapters listed in Paragraph~~ Paragraph 391-3-6-.17 (20), should a schedule for compliance with any requirement of 391-3-6-.17 exceed one year, the milestone dates in the schedule shall not be more than six months apart.

(22) Modification, Revocation, Reissuance, and Termination of Permits. Modification, revocation, reissuance, or termination of any permit issued pursuant to this ~~Chapter~~ Rule shall comply with one or more of the Rules listed in 391-3-6-.17 (20) above.

(23) Duration, Continuation and Transferability. Any permit issued under this ~~Chapter~~ Rule will comply with the requirements of one of more of the following: 391-3-6-.06 (15), 391-3-6-.11 (11).

(24) Enforcement. Any person who violates any provision of the Act, any rule promulgated and adopted pursuant thereto, or any term, condition, schedule or other requirements contained in a permit issued pursuant to the Act shall be subject to enforcement proceedings pursuant to the Act.

(25) Effective Date. This ~~paragraph~~ rule shall become effective twenty days after filing with Secretary of State's Office.

Authority: O.C.G.A. Sec. 12-5-20 *et seq.*

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

(1) Purpose. The purpose of Rule 391-3-6-.19 is to provide for the degree of waste treatment required and the uniform procedures and practices to be followed relating to the application for issuance, modification, revocation and reissuance, and termination of general Land Application System (LAS) permits for the discharge of any pollutant to a LAS and then into the waters of the State.

(2) Definitions. All terms used in this ~~subparagraph~~Rule shall be interpreted in accordance with the definitions as set forth in the Act unless otherwise defined in this ~~subparagraph~~ or in any other ~~Paragraph of these Rules of this Chapter~~:

(a) "Land Application System" (LAS) means any method of disposing of pollutants in which the pollutants are applied to the surface or beneath the surface of the parcel of land and which results in the pollutants percolating, infiltrating, or being absorbed into the soil and then into the waters of the State.

(b) "General LAS Permit Application" means any application filed by any person with the Director for a general LAS permit.

(c) A "General of LAS Permit" means a LAS permit issued under this ~~Paragraph~~Rule within a geographical area.

(d) "Notice of Intent" (NOI) means a form used by a potential permittee to notify the Division, within a specified time, that they intend to comply with a general LAS permit.

(e) "Notice of Termination" (NOT) means a form used by a permittee to notify the Division that they wish to cease coverage under a general LAS permit.

(3) General Permit - LAS Requirements.

(a) Coverage. The Director may issue a general LAS permit in accordance with the following:

1. Area. The general LAS permit shall be written to cover a category of LAS facilities described in the permit under subparagraph (3)(a)2. of this section, except those covered by individual permits, within a geographic area. The area shall correspond to existing geographic or political boundaries.

2. Sources. The general LAS permit may be written to regulate, within the area described in subparagraph 1. of this section, a category of LAS facilities if the LAS facilities all:

- (i) Involve the same or substantially similar types of operations;
- (ii) Land apply the same types of wastes; conditions;
- (iii) Require the same treatment requirements or operating conditions;
- (iv) Require the same or similar monitoring; and
- (v) In the opinion of the Director, are more appropriately controlled under a general LAS permit than under individual permits.

(b) Administration.

1. General LAS permits may be issued, modified, revoked and reissued, or terminated in accordance with applicable requirements of ~~subparagraph Rules 391-3-6-.11 (9) and paragraph 391-3-6-.19~~. Public notice for issuance, modification, revocation and reissuance, and termination of general LAS permits shall be in accordance with ~~subparagraph 391-3-6-.11 (6)~~.

2. Authorization to discharge.

(i) Any person seeking coverage under a general LAS permit shall submit to the Director a written notice of intent to be covered by the general LAS permit. Any person who fails to submit a notice of intent in accordance with the terms of the general LAS permit is not authorized to land apply under the terms of the general LAS permit. A complete and timely notice of intent to be covered in accordance with the general LAS permit requirements, fulfills the requirements for the permit applications.

(ii) The contents of the notice of intent shall be specified in the general LAS permit. The notice of intent shall be signed in accordance with subparagraph 391-3-6-.19 (5)(d).

(iii) General LAS permits shall specify the deadline for submitting notices of intent to be covered and the date(s) when land application is authorized under the permit.

(iv) General LAS permits shall specify whether a person that has submitted a timely notice of intent to be covered in accordance with a general LAS permit and that is eligible for coverage under the general LAS permit, is authorized to land apply in accordance with the general LAS permit either upon receipt of the notice of intent by the Director, after a waiting period specified in the general LAS permit, on a date specified in the general LAS permit, or upon receipt of notification of inclusion by the Director. Coverage may be revoked in accordance with subparagraph 391-3-6-.19 (3)(b)(3).

3. Requiring an individual permit.

(i) The director may require any person authorized by a general LAS permit to apply for and obtain an individual LAS permit. Any interested person may petition the Director to take action under this ~~paragraph~~rule.

(ii) Any owner or operator authorized by a general LAS permit may request to be excluded from the coverage of the general LAS permit by applying for an individual LAS permit. The owner or operator shall submit an application under ~~subparagraph~~ 391-3-6-.11 (5), with reasons supporting the request, to the Director.

(iii) When an individual LAS permit is issued to an owner or operator otherwise subject to a general LAS permit, the applicability of the general LAS permit to the individual LAS permittee is automatically terminated on the effective date of the individual LAS permit.

(iv) A source excluded from a general LAS permit solely because it already has an individual LAS permit may request that the individual LAS permit be revoked, and that it be covered by the General LAS permit. Upon revocation of the individual LAS permit, the general LAS permit shall apply to the source.

(v) Whenever the Director decides an individual LAS permit is required, the Director shall notify the permittee in writing of the decision and the reasons for it, and shall send an application form with the notice. The permittee must apply for a permit under ~~subparagraph~~ 391-3-6-.11 (5) within sixty (60) days of notice unless a later date is granted by the Director. Public notice and public participation shall be in accordance with ~~subparagraph~~ 391-3-6-.11 (6).

(4) Degree of Waste Treatment Required.

(a) All pollutants shall receive such treatment so as to ensure compliance with the terms and conditions of the issued permit and with the following, whenever applicable:

1. The requirements established in ~~subparagraph~~ 391-3-6-.11 (4).

2. Notwithstanding the above, more stringent effluent limitations may be required as deemed necessary by the Division (a) to meet any applicable Federal laws or regulations, or (b) to ensure compliance with any applicable State water quality standards, treatment standards, or schedules of compliance.

(5) Notice of Intent (NOI).

(a) A NOI shall be on forms as may be prescribed and furnished from time to time by the Division. A NOI shall be accompanied by all pertinent information as the Division may require in order to establish permit limitations in accordance with subparagraph 391-3-6-.11 (4), which may include but is not limited to, complete engineering reports, schedule of progress, plans, specifications, maps, measurements, quantitative and qualitative determinations, records and all related materials.

(b) Engineering reports, plans, specifications, and other similar material submitted to the Division shall be prepared by or under the direct supervision or review of, and bear the seal of, a Professional Engineer competent in the field of storm water, sewage and industrial waste treatment. At no time shall this requirement be in conflict with O.C.G.A. Section 43-15 governing the practices of professional engineering and surveying. Storm water pollution prevention plans, erosion and sediment control plans, best management plans and similar reports shall not be subject to this requirement.

(c) Material submitted shall be complete and accurate.

(d) Any NOI form, NOT form, and permit application submitted to the Division shall be signed in accordance with the requirements contained in 391-3-6-.11 (5)(d) 1.-3.

(e) All other reports or request for information required by the permit issuing authority shall be signed by in accordance with the requirements contained in 391-3-6-.11 (5)(e).

(f) Any changes in the written authorization submitted to the permitting authority under (e) above which occur after the issuance of a permit shall be reported to the permitting authority by submitting a copy of a new written authorization which meets the requirement of 391-3-6-.11 (5)(e) 1.-2. above.

(g) Any person signing any document under (d) or (e) above shall make the following certification: "I certify under the penalty of law that I have personally examined and am familiar with the information submitted in the attached document; and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

(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)(c).~~

~~(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.~~

(7) Schedules of Compliance. Any person who obtains a General LAS Permit and who is not in compliance with the permit shall be required to achieve compliance in accordance with a schedule as set forth in subparagraph 391-3-6-.11 (7).

(8) Monitoring, Recording, and Reporting Requirements.

(a) Monitoring, recording, and reporting requirements shall be in accordance with those outlined in subparagraph 391-3-6-.11 (8) of this Chapter.

(b) General LAS permits that do not require submittal of monitoring reports at least annually shall report to the Director in writing all instances on noncompliance at least annually.

(9) Duration, Continuation, and Transferability of Permits.

(a) Any general LAS permit under O.C.G.A. Section 12-5-30 shall have a fixed term not to exceed five (5) years. Upon expiration of such permit, a new permit may be issued by the Director in accordance with O.C.G.A. Section 12-5-30. The issuance of such new permit shall likewise have a fixed term not to exceed five (5) years.

(b) Any owner or operator authorized by a general LAS permit may request that coverage under the general LAS permit be terminated by submitting a written Notice of Termination. The contents of the Notice of Termination shall be specified in the general LAS permit and shall be signed in accordance with subparagraph 391-3-6-.11 5(d). Subparagraph 391-3-6-.11 (11)(b) is not applicable to general LAS permits.

(c) When the permittee has submitted a timely and sufficient application for a new individual LAS permit or a notice of intent for a general LAS permit and the Director is unable, through no fault of the permittee, to issue the new permit before the expiration date of the existing permit, then the Director shall extend the existing permit until a new permit is issued.

(10) Enforcement. Any person who violates any provision of the Act, any rule promulgated and adopted pursuant thereto, or any term, condition, schedule of compliance or other requirement contained in a permit issued pursuant to the Act shall be subject to enforcement proceedings pursuant to the Act.

(11) Effective Date. This ~~paragraph~~rule shall become effective twenty days after filing with the Secretary of State's office.

Authority: O.C.G.A. Sec. 12-5-20 *et seq.*

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

(1) Purpose.

The purpose of ~~Paragraph~~Rule 391-3-6-.23 is to establish procedures:

- (a) For the regulation and permitting of any land disposal site that receives septic tank waste (septage) that is applied via subsurface injection or incorporation into the soil;
- (b) To be followed by persons submitting to the Division engineering reports, plans and specifications, and related materials for the construction of any system for the storage and/or pretreatment of septage; and
- (c) To provide for public participation during the permitting process for any land disposal site that receives septic tank waste (septage).

This ~~Paragraph~~Rule includes general requirements, pollutant limits, pathogen and vector attraction reduction requirements, pretreatment standards, management practices, monitoring, record keeping, reporting, and permitting requirements.

(2) Definitions.

All terms used in this ~~Paragraph~~Rule shall be interpreted in accordance with the definitions as set forth in this Paragraph, in ~~Paragraph~~Rule 391-3-6-.17, or in any other ~~Paragraph~~Rule of these Rules of this Chapter:

- (a) "Agronomic Rate" is the septage application rate based on a dry weight basis determined to provide the amount of nitrogen needed by the food crop, feed crop, fiber crop, cover crop or vegetation grown on the land; and to minimize the amount of nitrogen in the domestic septage that passes below the root zone of the crop or vegetation grown on the land to the groundwater.
- (b) "Annual septage application rate" is the maximum amount of septage (dry weight basis) that may be applied to a unit area of land during a 365-day period.
- (c) "Applicant" means the owner of the site or the operator of the site.
- (d) "Applier" is the person who applies septage to the land.
- (e) "Certification" means the procedure by which an accreditation or certification agency, a state, or a Federal agency evaluates and acknowledges a person as meeting certain qualifications or standards. The certification shall be valid only for the time period specified by the agency.
- (f) "Closure Plan" means a plan approved by the Division for the clean up and closure of a Tier 2 operation and associated waste storage and pretreatment facilities.
- (g) "County Board of Health" means the County Board of Health established by the Official Code of Georgia Annotated, Title 31-3-1 or its designee.
- (h) "DPH" means the Department of Public Health of the State of Georgia.
- (i) "Domestic Septage" is the liquid or solid material removed from a septic tank, cesspool, portable toilet, type III marine sanitation device, or a similar system that receives only domestic sewage. Domestic septage does not include liquid or solid material removed from a septic tank or similar treatment works that receives either commercial wastewater or industrial wastewater. Domestic septage does not include grease removed from a grease trap.
- (j) "Domestic Sewage" means water and wastewater from humans or household operations that is discharged to a treatment works. This includes wastes derived from a toilet, bath, shower, sink, garbage disposal, dishwasher, and/or washing machine. Domestic sewage may include household sewage as well as sewage from establishments such as schools, restaurants, businesses and motels as long as the sewage does not contain other types of waste than those listed above.
- (k) "EPA" or "US EPA" means the United States Environmental Protection Agency and any of its authorized personnel.
- (l) "Existing Site" means any site that was in operation on January 1, 2002.
- (m) "Land disposal" or "applied to the land" means the spraying or spreading of septage on the land surface; the injection of septage below the land surface; or the incorporation of septage

into the soil at agronomic rates for the purpose of soil conditioning or fertilization of crops or vegetation grown in the soil.

(n) "Land with a low potential for public exposure" is land that the public uses infrequently. This includes, but is not limited to, agricultural land, forest, and a reclamation site located in an unpopulated area.

(o) "Monitoring well" means a well purposely installed, in accordance with Division guidelines, to ensure monitoring results that provide an accurate representation of groundwater quality.

(p) "New Site" means any site that was not in operation on January 1, 2002.

(q) "Operator" or "Certified Operator" means the person who has direct general charge of the day-to-day field operation of the septage storage, pretreatment, and disposal system and who is responsible for the quality of the treated septage; and who holds a valid certification acceptable to the Division.

(r) "Owner" means any person owning land where septage or septic tank waste will be land applied.

(s) "Permit" means a land disposal system permit issued to an applicant by the Division for a land disposal site that receives septage.

(t) "Person" means any owner or operator who applies septage to land.

(u) "Septage" means the same as "domestic septage".

(v) "Septage management plan" means a detailed plan of operation for land disposal of septage. The plan shall, at a minimum, comply with these regulations, the Federal Code of Regulations, Title 40, Part 503, and any additional requirements established by the Division.

(w) "Septage Removal and Disposal Permit" is a permit issued by a county board of health under the Rule for Onsite Sewage Management Systems of the Department of Public Health. The permit authorizes a business to remove and dispose of the contents of the on-site sewage management system.

(x) "Septic Tank Pumping and Hauling Business" is a business that has been issued a septage removal and disposal permit by a county board of health for the removal and/or disposal of domestic septage.

(y) "Soil Fertility Test" shall mean a test to determine the nitrogen, phosphorous and potassium requirements for a crop grown on a unit of land.

(z) "Soil Report and Map" means a site specific soil interpretative table that identifies as a minimum the following: the name of the soil series, the percent slope, the seasonal high groundwater table, the depth of any impervious layer, and the absorption rate for each horizon.

(aa) "Stockpile" means to place septage on land in piles or in any other manner that does not constitute application to the land as defined in land disposal above.

(bb) "Tier 1 operation" means a land disposal site that receives and land applies septic tank waste from a single permitted septic tank pumping and hauling business.

(cc) "Tier 2 operation" means a land disposal site that receives septic tank waste from more than one permitted septic tank pumping and hauling business.

(dd) "Total solids" are the materials in septage that remain as residue when the septage is dried at 103 to 105 degrees Celsius.

(ee) "Treat, treatment, or pretreatment of septage" is the preparation of septage for final use or disposal. This includes, but is not limited to, thickening, stabilization, and dewatering of septage. This does not include storage of septage.

(ff) "Vector attraction" is the characteristic of septage that attracts rodents, flies, mosquitoes, or other organisms capable of transporting infectious agents.

(gg) "Volatile solids" is the amount of the total solids in septage lost when the septage is combusted at 550 degrees Celsius in the presence of excess air.

(hh) "Well" means an excavation or opening into the ground by which groundwater is sought for use. This term shall not include monitoring wells used to sample for groundwater quality.

(3) Coverage.

(a) This ~~Paragraph~~Rule applies to any site that receives septage, to any person who prepares septage for land application, or to any person who applies septage to the land for subsurface injection or incorporation into soil. Any Tier 2 operation shall be required to adhere to the additional requirements specified in ~~Subparagraphs~~ (10), (17), (20), and (21).

(b) This ~~Paragraph~~Rule does not apply to:

1. Grit and screenings generated during pretreatment of septage.
2. Disposal of septage by means other than land application at agronomic rates via subsurface injection or incorporation into soil with the exception of septage applied to reclamation sites.
3. The incineration of septage.
4. Ash generated during the firing of septage in a septage incinerator.
5. Persons proposing to sell or give away septage in a bag or other container for application to the land. Approval to sell or give away such bagged or contained septage must be obtained from the Georgia Department of Agriculture.

(4) Permit Required.

The requirements in this ~~Paragraph~~Rule shall be implemented through a permit issued or reissued to an applicant. If the applicant is not the owner of the site, then the applicant must submit a letter of agreement between the applicant and the owner of the site.

(a) It shall be unlawful for any person to operate a land disposal site without having first obtained a valid permit from the Division pursuant to this ~~Paragraph~~Rule; provided however, that any site that as of June 30, 2007, operated under a valid permit issued on or before such date by the Department of Public Health under Code Section 31-2-8 may continue to operate under such Code Section until July 1, 2014, but a permit shall be obtained from EPD prior to such date in order to continue such operation thereafter as a Tier 1 operation in accordance with this ~~Paragraph~~Rule.

(b) Disposal of domestic septage by land disposal shall only occur on land with a low potential for public exposure.

(c) Prior to the issuance of a land disposal permit, the applicant shall have submitted and the Division shall have approved a septage management plan. The application for a permit and information for the septage management plan shall be on forms provided by the Division. All information required for the septage management plan must be submitted prior to Division review. For Tier 1 operations the septage management plan shall include an identified section specifying details for the clean up and closure of the operation.

(5) Monitoring, Recording and Reporting Requirements.

Any pollutant discharged into a land disposal system authorized by a permit shall be subject to such monitoring, recording and reporting requirements as may be reasonably required by the Director. These requirements may include: the installation of monitoring wells or other equipment; the monitoring of surface waters; the use and maintenance of such monitoring equipment; specific requirements for recording of monitoring activities and results; and periodic reporting of monitoring results to the Division. The monitoring, recording and reporting requirements shall be specified in a permit when issued, provided, however, the Director may modify or require additional monitoring, recording and reporting by written notification to the

permittee. Any Tier 1 operations covered under this ~~Paragraph~~Rule will have twenty-four (24) months after date of initial permit issuance to comply with any groundwater or surface water monitoring, recording and reporting requirements that may be specified in a permit.

- (a) The frequency of sampling and reporting shall be specified in the permit, but in no case shall the frequency be less than once per year.
- (b) The permittee shall retain any records of monitoring activities and results for a minimum of five (5) years, unless otherwise required or extended by the Director upon written notification.
- (c) Any holder of a permit that requires monitoring of the authorized pollutant discharged into a land disposal system shall report periodically to the Division results of all required monitoring activities.
- (6) Buffer Criteria.

The following buffer distance requirements must be met as a minimum. The Division may require additional buffer distances, on a case-by-case basis.

- (a) Land disposal sites shall not be located within 300 feet of a residence or other facility or land frequently used by the general public.
- (b) Domestic septage shall not be applied within 300 feet from the normal water level of any impoundment, tributary, stream, or other body of water considered waters of the State; within 300 feet of a sinkhole; within 300 feet of a marsh, wetland or coastal waters.
- (c) Domestic septage shall not be applied within 500 feet of a public, non-public, or individual well.
- (d) An undisturbed vegetative buffer strip of at least 50 feet wide shall be maintained along all streams and drainage ditches within or adjacent to the land disposal site.
- (7) Management of Land Disposal Sites.
- (a) Only domestic septage shall be applied to the site. No grease, industrial, solid or hazardous waste shall be applied on the site.
- (b) Land disposal of domestic septage shall not be permitted unless an approved pretreatment process has properly treated such septage. Proper pretreatment includes screening and stabilization of all septage. Such pretreatment must occur at the land disposal site.
- (c) The pH of the soil in the land disposal area shall be maintained at a pH amenable for growing the cover crop. The pH shall be measured by annual soil tests.
- (d) Public access to the land disposal site shall be restricted by fencing or other means approved by the Division. The method of public access control shall be specified in the permit.
- (e) Each site entrance shall be posted with a "No Trespassing" sign identifying the area as a land disposal site. The sign shall include the name and address of the person or business engaging in the land disposal of septage and the site permit number.
- (f) An annual soil fertility test shall be required and utilized to determine the agronomic application rate. No person shall land apply domestic septage to a site on which the nitrogen requirements have been met for the calendar year.
- (g) No person shall land apply domestic septage to a site at a rate that exceeds the annual pollutant loading rate limit in Table 1 for arsenic, cadmium, chromium, copper, lead, mercury, nickel, selenium and zinc.
- (h) No person shall land apply domestic septage to a site that exceeds the cumulative pollutant loading rate limit in Table 1 for arsenic, cadmium, chromium, copper, lead, mercury, nickel, selenium and zinc.
- (i) The Division shall maintain current minimum requirements for a septage management plan.

(j) The Division shall maintain a list of all acceptable certification agencies and certifications.

(k) All application of septage shall be under the general supervision of certified operator unless no acceptable certification process exists.

(8) Vector Attraction Reduction Management.

Land application of domestic septage must meet one of the following two vector attraction reduction management practices.

(a) Subsurface injection: Domestic septage shall be injected below the surface of the land and no significant amount of septage shall be present on the land surface within one hour after septage is injected. Injection may be accomplished by any device(s) that place the septage beneath the soil in a narrow trench at a depth of no greater than 18 inches and promptly replaces the cover soil in the same action of trenching and placing septage. Excavation of a trench followed by placement of septage and later covering of the trench is not considered injection.

(b) Incorporation: Domestic septage applied to the surface of the land shall be incorporated into the soil within six hours after septage application.

(9) Pathogen Control Requirements.

The following management practices must be met for compliance with pathogen control requirements.

(a) Food crops with harvested parts that touch the land surface or that develop above the land surface shall not be harvested for fourteen (14) months after domestic septage application.

(b) Feed crops or fiber crops shall not be harvested for thirty (30) days after domestic septage application.

(c) Food crops with harvested parts below the land surface shall not be harvested for thirty-eight (38) months after domestic septage application.

(d) Turf grown on land where domestic septage is applied shall not be harvested for one (1) year after domestic septage application.

(e) Animals shall not be allowed to graze on the land for thirty (30) days after the application of domestic septage.

(f) Public access shall be restricted for thirty (30) days after the application of domestic septage.

(g) Domestic septage shall not be applied to soils saturated with water or during rain events.

(10) Monitoring.

The pollutants listed in Table 1, and any additional parameters contained in the permit, shall be monitored at least once per year for Tier 1 operations and once per quarter for Tier 2 operations. Representative septage samples shall be analyzed in accordance with the analytical methods contained in 40 CFR 503.8 (or as revised by EPA). All samples shall be analyzed by a certified wastewater laboratory analyst or in a commercial environmental laboratory that is approved under the Division's Rules for Commercial Environmental Laboratories.

(11) Application Rate.

The annual application rate for domestic septage applied to a land disposal site shall be based on the Division approved septage management plan.

(12) Septage Holding Facilities.

All septage land disposal systems shall have an alternative method for the temporary holding of domestic septage during periods of adverse weather. Such method(s) shall comply with Division requirements and shall be part of the septage management plan.

(13) Record Keeping.

Individuals involved in the land disposal of domestic septage shall maintain the following information for five (5) years. The information shall be available for inspection at the place of business by the Division, the DPH, the local County Board of Health, or the US EPA. A septage application record form shall be used to record the following information:

- (a) The location, by street address (if available) and either latitude and longitude or GIS coordinates, of each site on which domestic septage is applied.
- (b) The number of acres of each site on which domestic septage is applied.
- (c) The date, time, and quantity of domestic septage applied to each site.
- (d) The crop or vegetation grown on each site.
- (e) The rate in gallons per acre per year at which domestic septage is applied to each site.
- (f) The cumulative loading of the parameters in Table 1 per acre for the site(s).
- (g) A description of how management requirements for pathogen control and vector reduction requirements are met.
- (h) The name and signature of the person who land applied the domestic septage.
- (i) The person supervising the land disposal of domestic septage at the site shall sign the following certification statement: "I certify under penalty of law, that the pathogen control requirements and the vector reduction requirements have been met. This determination has been made under my direction and supervision and I am aware that there are significant penalties for the false certification including the possibility of fine or imprisonment".

(14) Inspection.

(a) Representatives of the Division, the Department of Public Health, the local County Health Department and or the US Environmental Protection Agency, after proper identification, shall be permitted to enter any property permitted as a land disposal site at any reasonable time for the purpose of making inspections to determine compliance with this ~~Paragraph~~Rule or the permit.

(b) Representatives of the Division, the Department of Public Health, the local County Health Department and or the US Environmental Protection Agency, during inspections of the land disposal site, may review records to determine compliance with provisions of these regulations.

(15) Compliance.

Except as described in 391-3-6-.23 (4)(a), a land disposal site that receives septic tank waste shall not operate until such time as the Division has issued a valid permit and the permit becomes effective.

(16) Modification, Revocation, Suspension and Termination of Permits.

(a) The Director shall have the power and authority to modify, suspend, or revoke permits for good cause, including failure to provide accurate information in the permit application or septage management plan, or failure to comply with any provisions of the permit or this ~~Chapter~~Rule. Suspension is effective upon service of a written notice and operation must cease immediately. The notice must state the basis for the suspension and advise the permit holder of the right to a preliminary hearing on request within 72 hours. If a hearing is not requested, upon correction of all violations, the permit holder may request an inspection to reinstate the permit.

(b) Prior to any such modification, suspension or termination of an issued permit by the Director (other than modification of the monitoring, recording or reporting requirements), the Director will provide public notice and an opportunity for public hearing in accordance with the procedures set forth in this ~~chapter~~Rule.

(17) Application for a Permit.

The Division may issue individual permits or coverage under a general permit. Any person seeking coverage under an individual permit shall submit an application for an individual permit to the Director. Any person seeking coverage under a general permit shall submit a notice of intent, or NOI, to the Director.

(a) Applications for a permit required under O.C.G.A. 12-8-41 shall be on forms as may be prescribed and furnished from time to time by the Division. Applications shall be accompanied by all pertinent information as the Division may require, including but not limited to complete engineering reports, closure plan, schedule of progress, plans and specifications, maps, measurements, quantitative and qualitative determinations, records, local ordinances applicable to the land disposal of septage and all related materials.

(b) Engineering reports, plans, and specifications submitted to the Division in support of a Tier 2 operation permit application shall be prepared by a professional engineer, competent in the field of sewage and industrial waste treatment. Other materials in support of engineering reports, plans, specifications, and permit applications may be prepared by other persons competent in their field.

(c) Materials submitted shall be complete and accurate.

(d) Any permit application form or any other form submitted to the Division shall be signed in accordance with the following:

1. For a corporation, by a responsible corporate officer. For this subparagraph a responsible corporate officer means a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or

2. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

3. For a municipality, State, Federal, or other public facility, by either a principal executive officer or ranking elected official.

(e) All other reports or requests for information required by the permit issuing authority shall be signed by a person designated in (d) above or a duly authorized representative of such person, if:

1. The representative so authorized is responsible for the overall operation of the facility, e.g., a manager, superintendent or person of equivalent responsibility; and

2. The authorization is made by the person designated under (d) above and written authorization of such is submitted to the Director.

(f) Any changes in the written authorization submitted to the permitting authority under (e) above which occur after the issuance of a permit shall be reported to the permitting authority by submitting a copy of a new written authorization which meets the requirements of (e) above.

(g) Any person signing any document under (d) or (e) above shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(h) A complete NOI for coverage under a general permit shall, at a minimum, meet the requirements of subparagraph 391-3-6-.19 (5).

(18) Notice and Public Participation. The notice and public participation provisions of Rule 391-3-6-.26 shall apply. The public notice for permits with an approved Septage 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 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.~~

(19) Authorization Under a General Permit

(a) Authorization to operate under a general permit shall be effective upon receipt of notification of inclusion from the Division, except for any site that as of June 30, 2007, operated under a valid permit issued on or before such date by the Department of Public Health under Code Section 31-2-8. For such sites, initial coverage shall be effective upon submission of an NOI.

(b) The Director may revoke such authorization if the conditions of the general permit are not met, if the septage management plan is not approvable, if the closure plan, if required, is not approvable, or as otherwise provided for by State law.

(20) Trust Indenture for Non-governmentally Owned Septage Systems.

For non-governmentally owned Tier 2 operations, a trust indenture or other legal contract or agreement, acceptable to the Division, must be filed with the application for a permit. The trust indenture or other legal contract must establish and maintain evidence of financial responsibility to provide for the clean up and closure of the septage treatment facilities and the proper disposal of any remaining septage after closure of the facility. Available financial responsibility mechanisms include but are not limited to insurance, trust funds, surety bonds, letters of credit, personal bonds, certificates of deposit, financial tests, and corporate guarantees.

(21) Closure Plans for Non-governmentally Owned Septage Systems.

Prior to the issuance of a land disposal permit to a Tier 2 operation, the applicant shall have submitted and the Division shall have approved a detailed closure plan for clean up and closure of the facility. The closure plan shall include a schedule for completion of closure within six months after the facility is removed from service. This plan shall be updated with future reissuances of the permit.

(22) Duration, Transferability, and Reissuance of Permits.

(a) Any permit issued shall have a fixed term not to exceed five years. Upon expiration of such permit a new permit may be issued by the Director, provided that an application for renewal is filed with the Director at least 180 days prior to the expiration date of the existing permit. The issuance of such new permit shall likewise have a fixed term not to exceed five years.

(b) A permit may be transferred to another person by a permittee if:

1. The permittee notifies the Director of the proposed transfer;
2. A written agreement containing a specific date for transfer of permit responsibility and coverage between the current and new permittee (including acknowledgment that the existing permittee is liable for violations up to that date, and that the new permittee is liable for violations from that date on) is submitted to the Director; and

3. The Director within thirty (30) days does not notify the current permittee and the new permittee of the Division's intent to modify, revoke and reissue, or terminate the permit and to require that new application be filed rather than agreeing to the transfer of the permit. A new application will be required when the change of ownership is accompanied by a change or proposed change in process or wastewater characteristics or a change or a potential change in

any circumstances that the Director believes will affect the conditions or restrictions in the permit.

(23) Enforcement.

Any person who violates any provision of the Act, any rule promulgated and adopted pursuant thereto, or any term, condition, schedule of compliance or other requirement contained in a permit issued pursuant to the Act shall be subject to enforcement proceedings pursuant to the Act.

(24) Effective Date.

This ~~Paragraph~~ Rule shall become effective twenty days after filing with the Secretary of State's office.

Table 1

Land Application Pollutant Limits for Domestic Septage

Pollutant	Annual Pollutant Loading Rate Limits (kilograms per hectare per 365-day period)	Cumulative Pollutant Loading Rate Limits (kilograms per hectare)
Arsenic	2.0	41
Cadmium	1.9	39
Chromium	150	3,000
Copper	75	1,500
Lead	15	300
Mercury	0.85	17
Nickel	21	420
Selenium	5.0	100
Zinc	140	2,800

Authority: O.C.G.A. Sec. 12-5-20 *et seq.*

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 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 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 paragraph 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 paragraph 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 paragraph (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 subparagraph (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.

Authority: O.C.G.A. Sec. 12-5-20 et seq.