

SYNOPSIS**Proposed Amendments to the Rules for Erosion and Sedimentation Control,
Chapter 391-3-7**

The proposed amendments to the Rules for Erosion and Sedimentation Control would amend **Rules 391-3-7-.01, 391-3-7-.05, 391-3-7-.09, and 391-3-7-.11** for consistency with the 2020 amendments to the Erosion and Sedimentation Act of 1975, O.C.G.A. §§ 12-7-1 et seq. (SB 445), for clarification regarding current practices, for consistency with the Georgia Administrative Procedure Act (APA), O.C.G.A. § 50-13-1 et seq., and for general clean-up.

Purpose: The 2020 amendments to the Erosion and Sedimentation Act of 1975 (SB 445) authorize certain water and water and sewer authorities to be designated as, and to operate as, local issuing authorities (LIAs). These proposed rule amendments amend two rules (391-3-7-.01 and 391-3-7-.09) under the Rules for Erosion and Sedimentation Control to ensure consistency with SB 445. These proposed rule amendments also amend two rules (391-3-7-.05 and 391-3-7-.11) under the Rules for Erosion and Sedimentation Control to ensure consistency with the APA and to provide clarification regarding existing processes.

Main Features: As called for in SB 445, these proposed amendments incorporate specific updates to the definitions and local issuing authority (LIA) certification process of the Rules for Erosion and Sedimentation Control. Two proposed rule amendments (391-3-7-.01 and 391-3-7-.09) incorporate specific updates to definitions, add language regarding the process for certifying a water authority or water and sewer authority as an LIA, and provide a process for such authorities to alter the area in which they are operating as LIAs. Two proposed rule amendments (391-3-7-.05 and 391-3-7-.11) also add a process for changes to a project after the public comment period has closed or a buffer variance has been issued and clarifies that a new application is needed when a person or entity other than the original applicant wishes to carry out the project.

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391-3-7-.01, “Definitions” is being amended to update the definition of “Local Issuing Authority” in paragraph (o), to add a definition for a “Water authority” or “water and sewer authority” in paragraph (dd), and to renumber subsequent paragraphs.

391-3-7-.05, “Buffer Variance Procedures and Criteria” is being amended: to correct the format of subparagraph references under subparagraphs (2)(k) and (5)(i); to restructure paragraph (6) and add subparagraphs regarding the process if an applicant proposes to change a project after the public comment period has closed or a buffer variance has been issued in subparagraph (6)(b), and the process if an entity other than the applicant wishes to carry out the work described in the proposed variance or issued variance in subparagraph (6)(c); to add

additional detail and subparagraph numbering to paragraph (8); and to update the Authority for this rule.

391-3-7-.09, “Local Issuing Authorities” is being amended: to provide consistent nomenclature with the Erosion and Sedimentation Act of 1975 when referencing a municipality; to apply the criteria under paragraph (1) to the certification of municipalities or counties as Local Issuing Authorities; to add specific criteria for certification of water authorities or water and sewer authorities as Local Issuing Authorities in paragraph (2) and renumber subsequent paragraphs; to add a process in the event that a water authority or water and sewer authority alters the area in which it is functioning as a Local Issuing Authority in subparagraph (3)(D); to update references in subparagraphs (4)(A)3. and (4)(A)4; and to update the Authority for this rule.

391-3-7-.11, “Coastal Marshlands Buffer Variance Procedures and Criteria” is being amended: to restructure paragraph (6) and add subparagraphs regarding the process if an applicant proposes to change a project after the public comment period has closed or a buffer variance has been issued in subparagraph (6)(b), and the process if an entity other than the applicant wishes to carry out the work described in the proposed variance or issued variance in subparagraph (6)(c); to update website links in paragraph (7); to clarify the process for buffer variance time extensions, add subparagraph numbering, and update a subparagraph reference in paragraph (8); and to update the Authority for this rule.

STATEMENT OF RATIONALE

Proposed Amendments to the Rules for Erosion and Sedimentation Control, Chapter 391-3-7

The Rules for Erosion and Sedimentation Control, Chapter 391-3-7, are proposed for amendment to ensure consistency between these rules and the 2020 amendments to the Erosion and Sedimentation Act of 1975, O.C.G.A. §§ 12-7-1 et seq. (SB 445).

Senate Bill 445 authorizes certain water and water and sewer authorities to be designated as, and to operate as, local issuing authorities (LIAs). As called for in SB 445, two proposed rule amendments (391-3-7-.01 and 391-3-7-.09) incorporate specific updates to definitions and add language regarding the process for certifying a water authority or water and sewer authority as a local issuing authority (LIA). In Rule 391-3-7-.09, the proposed amendments also include a process for such authorities to alter the area in which they are operating as LIAs. These proposed rule amendments were designed to ensure consistency with, and to satisfy all the requirements of, Senate Bill 445.

EPD also proposes to amend Rules 391-3-7-.05 and 391-3-7-.11 to ensure consistency with the Georgia Administrative Procedure Act (APA), O.C.G.A. § 50-13-1 et seq., to provide clarification regarding existing processes related to changes to a project after the public comment period has closed or a buffer variance has been issued, to add a process if an entity other than the applicant wishes to carry out the work described in the proposed variance or issued variance, and to incorporate the amendments, for consistency, in both the Buffer Variance Procedures and Criteria

(Rule 391-3-7-.05) and the Coastal Marshlands Buffer Variance Procedures and Criteria (Rule 391-3-7-.11). These proposed rule amendments were designed to capture procedures currently followed by EPD and ensure those were documented and reflected in the rule to provide for transparency and consistency.