

SYNOPSIS**Proposed Amendments to Rules for Safe Drinking Water, Chapter 391-3-5**

The proposed amendments to the Rules for Safe Drinking Water would amend provisions of twenty-five Rules under Chapter 391-3-5: Rules 391-3-5-.02, -.04, -.05, -.07, -.10, -.15, -.17, -.18, -.19, -.20, -.21, -.22, -.23, -.24, -.25, -.27, -.29, -.30, -.32, -.33, -.38, -.52, -.53, -.54 and -.55.

Purpose: EPD proposes to amend twenty-five Rules in Chapter 391-3-5: to address comments from the U.S. Environmental Protection Agency (EPA) in order to gain final primacy approval of Georgia’s drinking water rules; to address state rule updates that are not impacted by EPA’s primacy review, because they relate to items that are not subject to federal regulation; to incorporate various cleanups in the rules being amended, such as updating the format of rule references; and to remove “Effective Date” provisions that are outdated and no longer needed in this Chapter.

Main Features: EPA has reviewed and provided comments to EPD regarding eighteen Rules in this Chapter: Rules 391-3-5-.02, -.10, -.15, -.18, -.20, -.21, -.22, -.23, -.24, -.25, -.27, -.29, -.30, -.32, -.52, -.53, -.54 and -.55. The proposed amendments to these Rules address EPA’s comments, which are related to seven prior federal rulemakings, and will ensure consistency between the federal rules and Georgia’s rules. EPD is also updating Rule 391-3-5-.19 to incorporate a drinking water contaminant limit that was inadvertently missed. Proposed amendments to six other Rules (391-3-5-.04, -.05, -.07, -.17, -.33, and -.38) address state-only regulations and include: removing outdated and irrelevant “Effective Date” provision in Rule 391-3-5-.38; adding larger privately-owned community water systems as public water systems that can approve limited additions to their systems; removing a reference to “trustee” that was missed during a prior rulemaking effort in 2016; updating public notice requirements; specifying annual report and renewal permit application deadlines; removing an outdated requirement for microfilming of plan sheets; and updating certain criteria to reference updated engineering guidelines or to remove detail that is addressed in updated guidance for drinking water systems. In most of the twenty-five Rules, the proposed amendments also incorporate various cleanup items, such as fixing typographical errors and updating the format of rule references.

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391-3-5-.02, “Definitions.” is being amended to remove the period at the end of the rule title, to add specific rule references to clarify what constitutes a “clean compliance history” for purposes of the Revised TCR in paragraph (16), and to update the format of a reference in paragraph (91).

391-3-5-.04, “Approval Required” is being amended to: incorporate in paragraph (2) the ability for larger privately-owned community water systems to, where approved by EPD, approve limited additions to their system, and to add a deadline for approved systems to annually report the additions they approved during the prior year; to revise and move the reference to business plan requirements from paragraph (6)(c) to paragraph (10); and to update the format of various references in paragraphs (1) and (9).

391-3-5-.05, “Preparation and Submission of Engineering Reports, Plans and Specifications for Public Water Systems” is being amended to remove an outdated requirement relating to microfilming of plan sheets in paragraph (4) and to update the format of various references in paragraphs (1) and (8).

391-3-5-.07, “Wells” is being amended to: remove detail regarding well siting criteria and replace that detail with reference to the Minimum Standards guidance in paragraph (3); incorporate to well construction and disinfection standards based on updated national engineering guidelines in paragraphs (5) and (9); clarify the location for a raw water sampling port on a groundwater supply well in paragraph (11); and update the format of a reference in paragraph (13).

391-3-5-.10, “Distribution System” is being amended to update the lead free requirements to incorporate updated federal requirements in paragraph (10).

391-3-5-.15, “Record Maintenance” is being amended to clarify the record keeping/retention requirements for public water systems and to update the format of references in paragraph (1).

391-3-5-.17, “Permit to Operate a Public Water System” is being amended to: remove a reference to “trustee” in paragraph (2) that was missed during a prior rulemaking in 2016; update the public notice requirements of paragraph (5) for consistency to public notice requirements updated in Chapter 391-3-6; add a deadline for submitting renewal permit applications in paragraph (11); and update the format of references in paragraphs (6), (11), (12) and (16).

391-3-5-.18, “Primary Maximum Contaminant Levels for Drinking Water.” is being amended to remove the period at the end of the rule title, and to update the requirements in subparagraph (1)(b) that must be met for the Director to authorize nitrate levels for non-community water systems up to 20 mg/L.

391-3-5-.19, “Secondary Maximum Contaminant Levels for Drinking Water” is being amended to incorporate the federal secondary Maximum Contaminant Level of pH that was previously missing from the table in paragraph (2).

391-3-5-.20, “Turbidity Sampling and Analytical Requirements” is being amended to update the turbidity sample exceedance requirements for public water systems in paragraph (2), and to update the format of references in paragraphs (1), (2), (3) and (8).

391-3-5-.21, “Inorganic Chemical Sampling and Analytical Requirements” is being amended: to update paragraph (3) to address nitrate monitoring instead of arsenic monitoring,

including updates to various associated requirements; to update a reference in subparagraph (6)(b) and to add subparagraph (6)(i), which includes language previously included as specific to arsenic in paragraph (3) but that more generally applies to inorganics monitoring that is addressed in paragraph (6); to add arsenic to the list of sampling parameters that are compared to MCL levels to determine compliance in paragraph (9); to clarify how confirmation samples required by the Division may be used to determine compliance in paragraph (12)(b); to remove paragraph (15), as suggested by EPA, and to renumber paragraph (13) through (15); and to update the format of various references in most of the paragraphs of this rule.

391-3-5-.22, “Organic Chemical Sampling and Analytical Requirements. Amended.” is being amended to remove the phrase “. Amended.” from the rule title; to add subparagraphs (1)(n)4. and (3)(k)4. to state that compliance for systems who collect less than the required number of organic monitoring samples will be based on the total number of samples collected; and to update the format of references in paragraphs (1), (2) and (3).

391-3-5-.23, “Coliform Sampling.” is being amended to remove the period at the end of the rule title, and to update the format of references and add clarification that seasonal systems should monitor monthly to comply with the Revised Total Coliform Rule in paragraph (7).

391-3-5-.24, “Disinfection Byproducts Sampling, Analytical and Other Requirements.” is being amended to remove the period at the end of the rule title, and to update a CFR reference in paragraph (5).

391-3-5-.25, “Treatment Techniques, Lead and Copper Requirements” is being amended to: clarify that requirements of subparagraph (2)(b) 3.(ii) apply to “water” systems; to clarify CFR references in paragraphs (5), (7)(g) and (8)(e)2.; to insert the word “calendar” before “year” in paragraphs (9)(e)1.&2.; and to update the format of various references in paragraphs (1), (2), (4), (6)-(9) and (12).

391-3-5-.27, “Monitoring Frequency and Analytical Methods for Radioactivity in Community Water Systems.” is being amended to remove the period at the end of the rule title; to update the title of paragraph (1) and reorder the text in subparagraph (1)(c)5.; to incorporate various revisions that bring the monitoring and compliance requirements regarding radioactivity in community water systems up to date with the federal regulations in paragraphs (1), (3)-(5), (11) and (12); to fix a typo in paragraph (9); to clarify CFR references in paragraphs (12) and (13); to add paragraph (20) to incorporate CFR requirements regarding best availability technology; and to update the format of various references in paragraphs (1), (2), (5), (12) and (13).

391-3-5-.29, “Certified Laboratories. Amended.” is being amended to remove the phrase “. Amended.” from the rule title, and to clarify a CFR reference and update the certified laboratory requirements (to incorporate more cross reference to other rules in the Chapter, to include approval of certified laboratories by EPA in certain instances, and to address fluoride analysis) in paragraph (1).

391-3-5-.30, “Reporting Requirements” is being amended to revise paragraph (6) to address additional reporting requirements for exceedances of National Primary Drinking Water regulations, to update a CFR reference format in paragraph (7), and to move reporting requirements for waterborne disease outbreaks from paragraph (6) to paragraph (16).

391-3-5-.32, “Public Notification. Amended.” is being amended to remove the phrase “. Amended.” from the rule title; to update the paragraph title and CFR reference formats in paragraph (1); to update the public notification requirements for drinking water systems in paragraph (1) to incorporate more cross reference to other rules in the Chapter, and to incorporate updates necessary to make the rules compatible with federal requirements; to remove paragraphs (3) and (4), which contain requirements that have been updated and are otherwise addressed in paragraph (1); to renumber paragraphs (5) – (7); to incorporate revisions to renumbered paragraph (3) regarding notice to new customers; and to update the format of references in paragraphs (1) and (2).

391-3-5-.33, “Variances and Exemptions.” is being amended to remove the period at the end of the rule title, and to replace “EPA” and “The Division” in paragraph (3).

391-3-5-.38, “Effective Date” is being amended to delete the contents of this outdated rule and to update the title to “Reserved”.

391-3-5-.52, “Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR).” is being amended to remove the period at the end of the rule title; to update the title of, and clarify CFR reference within, paragraph (3); to add paragraph (18), which is specific to *Cryptosporidium* treatment requirements and was formed by moving subparagraphs (17)(a)-(e) to paragraph (18); to renumber paragraphs (19)-(23); and to update the format of references in paragraphs (16) and (17).

391-3-5-.53, “Stage 2 Disinfection Byproducts Rule (Stage 2 DBPR)” is being amended to update the title of paragraph (1); to update CFR references and fix grammatical or typographical errors in paragraphs (1) and (2); to update the title of, update CFR references in, and remove a phrase from the end of subparagraph (3)(a)4., in paragraph (3); to fix grammatical errors in subparagraph (7)(a)2.(i); and to update the format of references in paragraphs (2) and (7).

391-3-5-.54, “Ground Water Rule” is being amended to remove the period at the end of the rule title; to incorporate updates to paragraph (3) regarding ground water source microbial monitoring and analytical methods, including the addition of subparagraph (3)(f), updates to various state and federal rule citations, and fixing grammatical errors; to incorporate updates to paragraph (4) regarding treatment technique requirements for ground water systems, including clarifying language, removing subparagraph (4)(b)1., adding subparagraphs (4)(b)6. and 7. to incorporate membrane filtration and alternative treatment requirements, and updating citations; to add clarifying language and update CFR references in paragraph (5); and to correct CFR and state rule references in paragraph (6)(b).

391-3-5-.55, “Revised Total Coliform Rule” is being amended to revise subparagraph (2)(b) to incorporate laboratories certified by EPA, in addition to those certified by the Division; to fix

grammatical errors in subparagraphs (3)(a) and (3)(c); to incorporate various updates to paragraph (4), including clarifying language and updates to CFR and state rule references; and to update the title of, and CFR references within, paragraph (6).

STATEMENT OF RATIONALE

Proposed Amendments to the Rules for Safe Drinking Water, Chapter 391-3-5

The proposed amendments to the Rules for Safe Drinking Water, Chapter 391-3-5, address three categories of amendments: those that address comments from the U.S. Environmental Protection Agency (EPA) and are needed to get final primacy approval of Georgia's drinking water rules; those that address state-only items that are not impacted by EPA's primacy review; and those that address general cleanup, including fixing typographical errors and updating the format of rule references throughout most of the Rules being amended.

The first category of rule amendments would amend provisions of eighteen Rules in Chapter 391-3-5 and are responsive to the directive in the Federal Safe Drinking Water Act, 40 CFR Part 142, which requires States to adopt new or revised federal regulations in order to maintain primacy (primary enforcement authority) over public drinking water systems. The comments from EPA that are being addressed in this category of rule amendments relate to seven prior federal rulemakings and are additional revisions that EPA has requested to prior rule adoptions by the DNR Board. EPA has already reviewed and concurs with these proposed rule amendments. EPD is also updating Rule 391-3-5-.19 to incorporate a drinking water contaminant limit that was inadvertently missed. That Rule, along with the eighteen other Rules, will be subject to EPA's primacy review and approval.

The second category of rule amendments would amend provisions of six Rules in Chapter 391-3-5 that relate to state-only regulations. These rule amendments include: removing the "Effective Date" provisions of Rule 391-3-5-.38; adding larger privately-owned community water systems as public water systems that can approve limited additions to their systems; removing a reference to "trustee" that was missed during a prior rulemaking effort in 2016; updating public notice requirements; specifying annual report and renewal permit application deadlines; removing an outdated requirement for microfilming of plan sheets; and updating certain criteria to reference updated engineering guidelines or to remove detail that is addressed in updated guidance for drinking water systems.

In most of the twenty-five Rules being amended, the proposed amendments also address general cleanup, such as fixing typographical errors and updating the format of rule references for consistency.