

SYNOPSIS
Proposed Amendments to the Rules for Water Quality Control,
Chapter 391-3-6

The proposed amendments to the Rules for Water Quality Control, Chapter 391-3-6, would amend ten rules and add a new rule to incorporate updates to the notice and public participation requirements for various types of wastewater and stormwater permits.

Purpose: EPA has updated the federal regulation regarding the method used for public notice of permit actions under the National Pollutant Discharge Elimination System (NPDES) program, 40 CFR 124.10, which became effective on June 12, 2019 (84 FR 3324). That update allows permitting authorities to provide public notice of permitting actions for NPDES major individual and general permits on a publicly available website in lieu of the current newspaper publication requirement. The proposed rule amendments would enable website postings and electronic notification for most types of wastewater and stormwater permits. EPD proposes to amend provisions of ten rules in Chapter 391-3-6 to incorporate provisions for online posting of public notices, as well as electronic notifications to email list subscribers, of draft NPDES permits, as well as draft land application system and underground injection control permits.

Main Features: The proposed amendments to nine of the rules include replacing the existing notice and public participation provisions with a reference to the notice and public participation provisions of a newly proposed rule, 391-3-6-.26. In the tenth rule, 391-3-6-.09, the proposed amendments to the notice and public participation provisions pertaining to pretreatment programs will replace notification by mail with electronic notification. The newspaper publication requirements of that rule will be maintained, as they are not addressed by EPA's rule updates. In addition, public notices of permits with an approved sludge management plan will still include "publication in one or more newspapers of general circulation in the area affected by the discharge," as outlined in the proposed amendments to Rules 391-3-6-.06(7) and 391-3-6-.11(6).

RULES FOR WATER QUALITY CONTROL, CHAPTER 391-3-6

391-3-6-.06, "Waste Treatment and Permit Requirements. Amended" is being amended: to remove the phrase "Amended" from the title of the rule; to correct the format for various rule references in paragraphs (1), (2) and (4); to replace the current notice and public participation provisions in paragraph (7) with a reference to the notice and public participation provisions of proposed rule 391-3-6-.26, and to maintain the requirement that public notice of permits with an approved sludge management plan also includes newspaper publication; and to remove outdated references to sections of prior legislative bills that authorized or amended the Georgia Water Quality Control Act in subparagraphs (5)(a) and (15)(a).

391-3-6-.08, “Pretreatment and Permit Requirements” is being amended: to correct the format for various rule references in paragraphs (2), (4) and (5); and to replace most of the notice and public participation provisions of paragraph (7) with a reference to the notice and public participation provisions of proposed rule 391-3-6-.26. The provisions of paragraph (7) that are not proposed to be removed make it clear that notice will be provided 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.

391-3-6-.09, “Requirements for Approval and Implementation of Publicly Owned Treatment Works Pretreatment Programs and Administration of the EPD Pretreatment Program” is being amended: to correct the format for various rule references in paragraphs (2), (6) and (7), and to correct subparagraph references in paragraph (4); to incorporate website posting and e-mail notification of public notices regarding publicly owned treatment work (POTW) pretreatment programs in subparagraph (5)(a); to replace various references to “mailing” with references to “notice” or “providing notice” in paragraphs (5)(a) and (5)(b); to fix the format for referencing “section 208 Designated Planning Agencies” in subparagraphs (5)(a) and (5)(b); to remove the requirement for mailing notice to persons or groups on an EPD mailing list in subparagraphs (5)(a) and (5)(b), as that type of notice will be replaced with electronic notification; and to incorporate public access to information provisions in subparagraph (5)(c) for consistency with other rules.

391-3-6-.11, “Land Disposal and Permit Requirements” is being amended: to correct the format for various rule references in paragraph (2); to replace the current notice and public participation provisions in paragraph (6) with a reference to the notice and public participation provisions of proposed rule 391-3-6-.26, and to maintain the requirement that public notice of permits with an approved sludge management plan also includes newspaper publication; and to remove outdated references to sections of prior legislative bills that authorized or amended the Georgia Water Quality Control Act in subparagraphs (3), (5)(a) and (11)(a).

391-3-6-.13, “Underground Injection Control” is being amended: to correct the format for various rule references throughout the rule, and to correct citations in paragraph (11)(g); to replace the current notice and public participation provisions in paragraph (7) with a reference to the notice and public participation provisions of proposed rule 391-3-6-.26; and to remove an outdated reference to a section of a prior legislative bill that authorized or amended the Georgia Water Quality Control Act in subparagraph (6)(a).

391-3-6-.15, “Non-Storm Water General Permit Requirements” is being amended: to correct the format for various paragraph and rule references throughout the rule; and to replace the current notice and public participation provisions in paragraph (7) with a reference to the notice and public participation provisions of proposed rule 391-3-6-.26.

391-3-6-.16, “Storm Water Permit Requirements” is being amended: to correct the format for various paragraph and rule references throughout the rule; and to replace the current notice and public participation provisions in paragraph (7) with a reference to the notice and public participation provisions of proposed rule 391-3-6-.26.

391-3-6-.17, “Sewage Sludge (Biosolids) Requirements” is being amended: to correct the format for various paragraph and rule references throughout the rule; and to replace the current references in paragraph (19) to the notice requirements of rules 391-3-6-.06 and 391-3-6-.11 with a reference to the notice and public participation requirements of proposed rule 391-3-6-.26, while maintaining the requirement that public notice of permits with an approved sludge management plan also includes newspaper publication.

391-3-6-.19, “General Permit - Land Application System Requirements” is being amended: to correct the format for various paragraph and rule references throughout the rule, and to correct a rule reference in subparagraph (3)(b); and to replace the current notice and public participation provisions in paragraph (6) with a reference to the notice and public participation provisions of proposed rule 391-3-6-.26.

391-3-6-.23, “Land Disposal of Septage” is being amended: to correct the format for various paragraph and rule references throughout the rule; and to replace the current notice and public participation provisions in paragraph (18) with a reference to the notice and public participation provisions of proposed rule 391-3-6-.26, while maintaining the requirement that public notice of permits with an with approved septage management plan also includes newspaper publication.

391-3-6-.26, “Notice and Public Participation” is proposed as a new rule that provides notice and public participation provisions in a single location for most rules in Chapter 391-3-6.

STATEMENT OF RATIONALE

Proposed Amendments to the Rules for Water Quality Control, Chapter 391-3-6

The Environmental Protection Agency (EPA) promulgated updates to the federal regulations regarding the method used for public notice of permit actions under the National Pollutant Discharge Elimination System (NPDES) program, 40 CFR 124.10, that became effective on June 12, 2019 (84 FR 3324). That update allows permitting authorities to provide public notice of permitting actions for NPDES major individual and general permits on a publicly available website in lieu of the current newspaper publication requirement. As EPA acknowledges, the update “increases transparency and promotes opportunities for public involvement.” The Rules for Water Quality Control, Chapter 391-3-6, are proposed for amendment to incorporate updates to the notice and public participation requirements that would enable website postings and electronic notification.

The updates to 40 CFR 124.10 allow for increased flexibility in public notice procedures, enabling permitting authorities to provide public notice of permitting actions for NPDES major individual and general permits on a publicly available website in lieu of the current newspaper publication requirement. While the updates to 40 CFR 124.10 only directly apply to five of the rules proposed for amendment, for consistency and to modernize EPD’s public notification procedures to reach a wider audience, consistent amendments are also proposed for the rules governing public notification for pretreatment permits, land application systems, land disposal of septage, and underground injection control permits. Public notices of permits with approved

septage or sludge management plans will still include “publication in one or more newspapers of general circulation in the area affected by the discharge.”

With these proposed rule amendments, EPD will be able to reach a broader audience in a more cost-effective manner utilizing web-based and email notifications that are available to a large majority of our state’s citizens via a computer and/or smartphone. The proposed rule amendments will also save the agency significant costs. EPD currently publishes notices regarding the renewal and issuance of general NPDES permits in five major newspapers in the state, at a cost of approximately \$1,800 per instance, and the combined costs of administrative staff time and mailing fees for mailing out wastewater permit notices is approximately \$550 per month. The proposed amendments will also save permittees the time and expense of newspaper publications that in some instances may be significant to them.