

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

The proposed amendments to the Rules for Safe Drinking Water would amend the provisions of **Rule 391-3-5-.04**, Approval Required, pertaining to trust indentures to incorporate the requirements of the Georgia Safe Drinking Water Act regarding performance bonds or letters of credit.

Purpose: The Georgia Safe Drinking Water Act, O.C.G.A. § 12-5-179(g), provides the Director authority to require a performance bond or letter of credit from non-governmentally owned community public water systems to provide assurance that such systems maintain compliance with established contaminant levels and water supply standards and requirements. EPD is proposing these amendments to align the Rules for Safe Drinking Water with this statutory authority and recognize this authority as a more effective mechanism to incentivize good system performance.

Main Features: EPD proposes to amend Rule 391-3-5-.04 to remove the requirements pertaining to trust indentures and add requirements for performance bonds or letters of credit

RULES FOR SAFE DRINKING WATER, CHAPTER 391-3-5

391-3-5-.04, “Approval Required.” is being amended to remove the provisions relating to trust indentures in paragraphs (4) and (7)(e), and to incorporate the requirements for performance bonds or letters of credits, as specified in the Georgia Safe Drinking Water Act, O.C.G.A. § 12-5-179(g), into a new paragraph (9).

STATEMENT OF RATIONALE
Proposed Amendments to Chapter 391-3-5, Safe Drinking Water

The amendments to the Rules for Safe Drinking Water, Chapter 391-3-5, are proposed to ensure consistency with the provisions of the Georgia Safe Drinking Water Act and remove a requirement that all non-governmentally owned community public water systems acquire and maintain a trust indenture in order to be permitted. The current trust indenture requirement results in the legal transfer of facility equipment and property from the operator to the trustee. EPD has never directed a trustee to operate a water system under this Rule provision, and no longer believes it to be an effective alternative to the performance bond or letter of credit requirement as described in the Act.

Performance bonds or letters of credit are more effective mechanisms to incentivize good performance and are more appropriate tools to use in enforcement decisions. These amendments will recognize the ability of the Director to require a letter of credit or performance bond for under-performing systems that fail to correct violations, in a case-by-case enforcement context, to provide assurance that such systems maintain compliance with established contaminant levels and water supply standards and requirements. EPD expects regular compliance efforts to be sufficient and that the decision to require a performance bond or letter of credit would be rare.