RULES AND REGULATIONS FOR WATER QUALITY CONTROL

CHAPTER 391-3-6

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GEORGIA DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION
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RULES
OF
GEORGIA DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION

CHAPTER 391-3-6
WATER QUALITY CONTROL

TABLE OF CONTENTS

391-3-6-.01 Organization and Administration

(1) **Purpose.** The purpose of Rule 391-3-6-.01 is to establish the organizational and administrative procedures to be followed in the administration and enforcement of the Georgia Water Quality Control Act, as amended, and to carry out the purposes and requirements of said Act and of the Federal Water Pollution Control Act Amendments of 1972, as amended.

(2) **Definitions**. All terms used in this Paragraph shall be interpreted in accordance with the definitions as set forth in the Georgia Water Quality Control Act, as amended, unless otherwise defined in this Paragraph or in any other Paragraph of these rules:

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

(b) "Board" means the Board of Natural Resources of the State of Georgia;

(c) "Department" means the Department of Natural Resources of the State of Georgia;

(d) "Director" means the Director of the Division of Environmental Protection of the Department of Natural Resources, State of Georgia;

(e) "Division" means the Division of Environmental Protection of the Department of Natural Resources, State of Georgia;

(f) "E.P.A." means the United States Environmental Protection Agency;

(g) "Federal Act" means the Federal Water Pollution Control Act Amendments of 1972, as amended;

(h) "National Pollutant Discharge Elimination System" (NPDES) means the national system for the issuance of permits under Section 402 of the Federal Water Pollution Control Act Amendments of 1972;

(I) "Regional Administrator" means the Regional Administrator for the EPA region which includes the State of Georgia.

(3) **Organization**. The Division of Environmental Protection of the Department of Natural Resources is responsible for enforcing those environmental protection laws of the State of Georgia as specified in the Executive Reorganization Act of 1972, as amended. Requests for information and submission of materials should be made to the Division office.

(4) **Administrative Hearings**.

(a) Hearings may be held in accordance with the Act in connection with the following matters:

1. To determine whether or not an alleged pollution is contrary to the public interest;

2. In connection with the securing, within the time specified by order or permit of the Director, of such operating results as are reasonable and practicable of attainment toward the control, abatement or prevention of pollution of the waters of the State and preservation of the necessary quality for the reasonable use thereof;

3. In connection with notice to the holder of a permit of intent to revoke, suspend, or modify the permit;

4. In connection with the refusal of any person to cooperate with the efforts of the Division to reduce pollution, and upon the issuance of an order by the Director, to bring about the reduction or elimination of pollution within a reasonable time;

5. Any person who is aggrieved or adversely affected by any order or action of the Director and who petitions the Director for a hearing within thirty (30) days of the issuance of such order or notice of such action. Such person shall be granted a hearing before a hearing officer appointed by the Board of Natural Resources. The initial hearing any administrative review thereof shall be conducted in accordance with Section 17(a) of the Executive Reorganization Act of 1972, as amended.

6. Any person against whom an emergency order is directed, provided such person petitions the Director for a hearing within the thirty (30) days of the issuance of such order. Such person shall be afforded a hearing as soon as possible.

7. In connection with public hearings required pursuant to Section 402(b)(3) of the Federal Act and Federal Regulations, 40 C.F.R. 124.36.

8. In connection with public hearings or public participation required pursuant to Section 101(e) of the Federal Act.

(b) Insofar as applicable to the administrative procedures required pursuant to the Georgia Water Quality Control Act, as amended, Sections 14, 15, 16, 17, and 18 of the Georgia Administrative Procedure Act, as amended, and Section 17(a) of the Executive Reorganization Act of 1972, as amended, shall apply.

(5) **Public Participation**

(a) Notice of all hearings provided for above shall be issued in accordance with Section 14 of the Georgia Administrative Procedures Act, as amended, and Federal Regulations, 40 C.F.R. 124.37.

(b) Interested persons shall have the right to participate in the enforcement of the Georgia Water Quality Control Act and rules promulgated thereunder pursuant to the applicable provisions of the Georgia Water Quality Control Act, ' O.C.G.A. 12-5-20, et seq.; ' O.C.G.A. 50-13-1, et seq.; the Georgia Civil Practices Act, ' O.C.G.A. 9-11-1, et seq.; or any other applicable provision of Georgia law.

(6) Notice to File Plan of Correction or Improvement.

(a) In order to carry out a comprehensive plan to prevent and control pollution, the Division, as required by Section 5 of the Act and Section 303 of the Federal Act, may conduct studies and perform evaluations to determine waste load allocations in order to specify the degree of treatment and/or technology necessary to achieve the established effluent limitations; the maintenance of existing wastewater treatment technology, supplementary treatment or other specific measures necessary to attain and maintain applicable water quality standards, and protect the downstream users; or such other measures necessary to prevent further pollution or reduce

existing pollution. Upon the establishment of the necessary corrective action, the discharger will be required to file a plan and schedule of improvement with the Division.

The Director may issue a notice to any person to submit within a specified time a plan of improvement and schedule for compliance with the specified requirements.

(b) The Director is authorized to approve plans, specifications, and related material, and to issue permits on behalf of the Division to persons who apply for such permits in accordance with Section 10 of the Act and such rules as are adopted and promulgated pursuant to same.

(7) **Director of the Environmental Protection Division; Conflicts of Interest.** The Director of the Environmental Protection Division shall fully meet and qualify as to the conflict of interest requirements provided for in the Federal Water Pollution Control Act , as amended, 33 U.S.C. ' 1314(I). (D), and the rules and regulations thereunder, particularly Federal Regulations, 40 C.F.R. 123.25 (c).

(8) **Effective Date**. This Rule shall become effective twenty days after filing with the Secretary of State's office.

Authority Ga. Laws 1964. p. 416, as amended: Ga. Laws 1972, p. 1015, as amended. Administrative History. Original Rule as filed on June 10, 1974,; effective June 30, 1974. **Amended:** E.R. 391-3-6 was filed May. 1,1996, eff. April 25, 1996, the date of adoption to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency. Amended: F. July 10, 1996. Eff. July 30, 1996. **Amended:** Authority: O.C.G.A. ' 12-5-23 (a). Authority: O.C.G.A. ' ' 12-2-2 (a), 12-2-24. **Amended:** F. May 21, 1998; Effective June 18, 1998.

391-3-6-.02 Preparation and Submission of Engineering Reports, Plans Specifications, and Environmental Information Documents.

(1) **Purpose**. The purpose of Paragraph 391-3-6-.02 is to establish procedures to:

(a) Be followed by persons submitting to the Division engineering reports, plans and specifications, and related materials for the construction of any system for the disposal or treatment of pollutants;

(b) Provide for environmental assessment and public participation for all proposed publicly owned wastewater treatment facility construction, including construction, upgrading, or expansion of new or existing facilities.

(2) **Definitions**. All terms used in this Paragraph 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:

(a) "Professional Engineer." As used in this chapter, the term means the same as the definition contained in O.C.G.A. Section 43-15-2(10).

(b) "Owner." Any person owning or operating any system for the disposal or treatment of pollutants.

(c) "Sewerage System" means any system for the treatment or disposal of pollutants, including treatment works, pipe lines or conduits, pumping stations and force mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting pollutants to the point of ultimate disposal.

(d) "Wastewater Treatment Facilities" means any device or system (including recycling and reclamation) used in the treatment of sewage or other waterborne waste or pollutants.

(e) "Environmental Information Document" means an assessment of environmental impact of any proposed construction, upgrading or expansion of a wastewater treatment facility. This evaluation may include, but is not limited to, the impact of the proposed construction, upgrading or expansion on air quality, flood plains, wetlands, noise pollution, water quality, cultural resources, and endangered or threatened species.

(f) "Public Participation" means providing information to the public potentially affected by the proposed project and providing for public input prior to construction.

(3) **General Provisions.**

(a) Any person who desires to erect, modify, or alter a sewerage system shall obtain approval of any plans, specifications and related materials for such system from the Division prior to commencement of construction. The review of certain types of sewer system extensions may be delegated to local governments that have demonstrated the capability for such reviews. This delegation shall be by written agreement.

(b) Engineering material submitted to the Division shall be prepared by or under the direct supervision or review and bear the seal of a Professional Engineer competent in the design of sewerage systems and wastewater treatment facilities. 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) During the early stages of planning for the construction of a sewerage system, and prior to the formal submission of an application and accompanying materials for any permit required pursuant to the Act, or materials submitted for Division approval pursuant to these rules, a conference between the project owner or his representative and representatives of the Division shall be held at the request of either the Director or the project owner, in order to reach a clear understanding of the proposal to be formally submitted to the Division at a later time. Such conference shall be granted within sixty (60) days after a written request to the Division by the project owner or his representative. If a conference is not granted within such period, then such permit application or other materials shall be filed and acted upon by the Division after the expiration of such period.

(d) Sufficient copies of completed reports, plans and specifications, and related materials shall be submitted to the Division to cover necessary distribution when approved. Such material, accompanied by a letter of transmittal, shall be submitted by the project owner or his representative well in advance of any critical date involved, in order that time will be available for review, discussion, and revision when necessary. The submittal of such material shall be complete, accurate, distinct, legible, and relevant in respect to the project to which it applies. Permit applications shall be processed as provided in Paragraph 391-3-6-.06.

(e) Plans for a sewerage system submitted to the Division will be considered for approval by the Division only when designed so as to minimize the passage of rainwater from roofs, streets or other areas and all groundwater, other than unavoidable infiltration, through such sewerage system.

(f) All proposed lift stations must be approved by the Division.

(g) All projects for the construction, upgrading or expansion of publicly owned wastewater treatment facilities within the State shall be required to prepare an Environmental Information Document (EID). The Division will perform a review of the EID in accordance with procedures developed by the Director.

1. The party or parties responsible for the project will consult with Federal and State agencies as appropriate for information required in preparing the EID.

2. For municipal facilities, the party or parties responsible for the project will conduct at least one public meeting during the planning process. The public will be allowed to submit written comments at any point during the facilities planning process.

(4) **Engineering Reports**. Engineering reports submitted to the Division shall contain a comprehensive description of the proposed project and shall include the following:

(a) Pertinent information regarding the existing sewerage system, if applicable;

(b) Characteristics of existing pollutants and existing or proposed treatment of such pollutants;

(c) Demonstration of the need for the proposed sewerage system;

(d) Evaluation of alternatives to define the most cost effective method for meeting established effluent limitations, water quality goals, and treatment requirements;

(e) Results to be expected from treatment process;

(f) Sufficient maps, charts, tables, calculations, basis of design data and graphs to make the report readily understandable;

(g) An operation and maintenance program description;

(h) Such other pertinent engineering information as the Division may require.

(5) **Plans and Specifications.** Plans and specifications submitted to the Division for a sewerage system shall include the following:

(a) A map showing the area to be served by the sewerage system;

(b) Profiles of proposed sewers;

(c) Construction details of manholes and other special sewer structures;

(d) General and detailed plans for the treatment facility;

(e) Specifications for the construction of the sewerage system;

(f) Such other plans and specifications as the Division may require.

(6) **General Map Plans.** General map plans submitted to the Division for a sewerage system shall include the following:

(a) A map plan that shows the entire area to be served, drawn to a scale of from 100 to 300 feet per inch. The map plan may be divided into sections, provided the sheets are bound together and indexed to show the area covered by each sheet.

(b) All existing and proposed streets in the area to be served; surface elevations at all street intersections; the location of all existing sewers, separate or combined; the location of the treatment facility; the location of the existing and proposed sewer outlets or overflows; the elevation of the highest known stream water level at the outlets and the treatment facility; and clear identification of any areas from which sewage is to be pumped.

(c) Clear designation on the plan by suitable symbols of all sewer appurtenances, including, but not limited to, manholes, siphons and pumps.

(d) Such other information as the Division may require.

(7) **Sewer Plans and Profiles.** Sewer plans and profiles submitted to the Division for a sewerage system shall include the following:

(a) Sewers and force mains, drawn at a scale that shows the profile for all manholes, siphons, railroad crossings, street or stream crossings, elevations of stream beds, normal stream water levels, and sizes and grades of sewers which show surface elevations and sewer invert elevations.

(b) Detailed drawings of all sewer appurtenances, including, but not limited to, manholes, inspection chambers, siphons, lift stations, and any special structures to accompany the sewer plans. Detailed drawings shall be to a scale suitable to clearly show the design details.

(8) **Treatment Facilities Plans.** Plans for treatment facilities submitted to the Division shall include the following:

(a) A general plan that clearly identifies the exact location of the facilities, areas reserved for future expansion, access roads to the various units, and the point at which the access roads connect with existing road or street systems. It shall also show sufficient detail of the units, pipelines or any other features so as to make the proposed treatment process clearly and easily understood. The elevation of all units and water surfaces shall be shown.

(b) Detailed plans which show longitudinal and transverse sections sufficient to explain the construction of each treatment unit.

(c) Flow measuring devices at appropriate points in the plan. Sampling and recording devices may be required by the Division when deemed necessary.

(d) Such other information as the Division may require.

(9) Approval of Plans and Specifications. Approval of the plans and specifications by the Division does not include or imply approval of the structural, electrical, or mechanical integrity of the sewerage system, treatment facilities, units or equipment.

(10) Deviation from Approval Plans and Specifications. No deviations from approved plans and specifications shall be made during construction unless documentation showing proposed changes has been submitted to and approved by the Division.

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

Authority Ga. Laws 1964. p. 416, as amended; O.C.G.A. Sec. 12-5-20, et seq. Administrative History. Original Rule entitled "Preparation and Submission of Engineering Reports and Plans and Specifications" was filed on June 10, 1974; effective on June 30, 1974. Amended: Filed May 29, 1985; effective June 19, 1985. Amended: Retitled "Preparation and Submission of Engineering Reports, Plans and Specifications, and Environmental Information Documents" F. Apr. 3, 1990, eff.. Apr. 23, 1990. Amended F. Apr. 8, 1993, eff. Apr 28, 1993. **Amended:** E.R. 391-3-6 was filed May. 1,1996, eff. April 25, 1996, the date of adoption to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency. Amended: F. July 10, 1996. Eff. July 30, 1996.

391-3-6-.03 Water Use Classifications and Water Quality Standards.* Amended.

(1) Purpose. The establishment of water quality standards.

(2) Water Quality Enhancement:

(a) The purposes and intent of the State in establishing Water Quality Standards are to provide enhancement of water quality and prevention of pollution; to protect the public health or welfare in accordance with the public interest for drinking water supplies, conservation of fish, wildlife and other beneficial aquatic life, and agricultural, industrial, recreational, and other reasonable and necessary uses and to maintain and improve the biological integrity of the waters of the State.

(b) Those waters in the State whose existing quality is better than the minimum levels established in standards on the date standards become effective will be maintained at high quality; with the State having the power to authorize new developments, when it has been affirmatively demonstrated to the State that a change is justifiable to provide necessary social or economic development; and provided further that the level of treatment required is the highest and best practicable under existing technology to protect existing beneficial water uses. Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected. All requirements in the Federal Regulations, 40 C.F.R. 131.12, will be achieved before lowering of water quality is allowed for high quality water.

(c) Outstanding National Resource Waters (ONRW). This designation will be considered for an outstanding national resource waters, such as waters of National or State parks and wildlife refuges and waters of exceptional recreational or ecological significance. For waters designated as ONRW, existing water quality shall be maintained and protected.

(I) No new point source discharges or increases in the discharge of pollutants above permitted level from existing point source discharges to ONRW shall be allowed.

(ii) Existing point source discharges to ONRW shall be allowed, provided they are treated or controlled in accordance with applicable laws and regulations.

(iii) New point source discharges or expansions of existing point source discharges to waters upstream of, or tributary to, NRW shall be regulated in accordance with applicable laws and regulations, including compliance with water quality criteria for the use classification applicable to the particular water. However, no new point source discharge or expansion of an existing point source discharge to waters upstream of, or tributary to, ONRW shall be allowed if such discharge would not maintain and protect water quality within the ONRW.

(d) In applying these policies and requirements, the State of Georgia will recognize and protect the interest of the Federal Government in interstate and intrastate (including coastal and estuarine) waters. Toward this end the State will consult and cooperate with the Environmental Protection Agency on all matters affecting the Federal interest.

*Applicable to Intrastate and Interstate Waters of Georgia.

(3) Definitions. All terms used in this paragraph shall be interpreted in accordance with definitions as set forth in the Act and as otherwise herein defined:

(a) "Acute criteria" corresponds to EPA's definition for Criteria Maximum Concentration which is defined in 40 CFR 131.36 as the highest concentration of a pollutant to which aquatic life can be exposed for a short period of time (1-hour average) without deleterious effects.

(b) "Biological integrity" is functionally defined as the condition of the aquatic community inhabiting least impaired waterbodies of a specified habitat measured by community structure and function.

(c) AChronic criteria@ corresponds to EPA=s definition for Criteria Continuous Concentration which is defined in 40 CFR 131.36 as the highest concentration of a pollutant to which aquatic life can be exposed for an extended period of time (4 days) without deleterious effects.

(d) "Coastal waters" are those littoral recreational waters on the ocean side of the Georgia coast.

(e) "Existing instream water uses" include water uses actually attained in the waterbody on or after November 28, 1975.

(f) "Intake temperature" is the natural or background temperature of a particular waterbody unaffected by any man-made discharge or thermal input.

(g) “Critical conditions” are the collection of conditions for a particular waterbody used to develop Total Maximum Daily Loads (TMDLs), determine NPDES permit limits, or assess the protection of water quality standards. The Division considers appropriate critical conditions to represent the event that would occur once in ten years on the average or less often, unless otherwise stated.

(h) “Natural conditions” are the collection of conditions for a particular waterbody used to develop numeric criteria for water quality standards which are based on natural conditions. This is commonly the case for temperature and natural dissolved oxygen standards.

For this purpose the Division defines “natural conditions” as those that would remain after removal of all point sources and water intakes, would remain after removal of man made or induced nonpoint sources of pollution, but may include irretrievable effects of man’s activities, unless otherwise stated.

Natural conditions shall be developed by an examination of historic data, comparisons to reference watersheds, application of mathematical models, or any other procedure deemed appropriate by the Director.

(i) "Reasonable and necessary uses" means drinking water supplies, conservation, protection, and propagation of fish, shellfish, wildlife and other beneficial aquatic life, agricultural, industrial, recreational, and other legitimate uses.

(j) "Secondary contact recreation" is incidental contact with the water, wading, and occasional swimming.

(k) "Shellfish" refers to clams, oysters, scallops, mussels, and other bivalve mollusks.

(l) "Water" or "waters of the State" means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, wetlands, 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.

(m) Areas where salt, fresh and brackish waters mix" are those areas on the coast of Georgia having a salinity of 0.5 parts per thousand and greater. This includes all of the creeks, rivers, and sounds of the coastal area of Georgia and portions of the Savannah, Ogeechee, Altamaha, Satilla and St. Marys Rivers where those rivers flow into coastal sounds. Mixing areas are generally maintained by seawater transported through the sounds by tide and wind which is mixed with fresh water supplied by land runoff, subsurface water and river flow. Mixing areas have moving boundaries based upon but not limited to river stage, rainfall, moon phase and water use. (For the purposes of this rule salinity shall be analyzed by in situ measurement using a properly calibrated multi-parametric probe connected by hard line to a deck display or by measuring electrical conductivity according to one of the methods specified in *Title 40, Code of Federal Regulations, Part 136* and applying the guidance for conversion to salinity in the same volume. Collection of salinity samples must consider riverflow, precipitation, tidal influences and other variables of the estuarine environment and must conform to the *National Coastal Assessment-Quality Assurance Project Plan 2001-2004* (EPA/620/R-01/002). Measurements at each sampling location must be made in a distribution in the water column according to the *Quality Assurance Project Plan*, with the minimum observations at each station including surface, mid-depth and near-bottom readings. In situ salinity analysis must comply with the *Quality Assurance Project Plan* and the manufacturer's guidance for the specific instrument used).

(4) Water Use Classifications. Water use classifications for which the criteria of this Paragraph are applicable are as follows:

(a) Drinking Water Supplies
(b) Recreation
(c) Fishing, Propagation of Fish, Shellfish, Game and Other Aquatic Life
(d) Wild River
(e) Scenic River
(f) Coastal Fishing

(5) General Criteria for All Waters. The following criteria are deemed to be necessary and applicable to all waters of the State:

(a) All waters shall be free from materials associated with municipal or domestic sewage, industrial waste or any other waste which will settle to form sludge deposits that become putrescent, unsightly or otherwise objectionable.

(b) All waters shall be free from oil, scum and floating debris associated with municipal or domestic sewage, industrial waste or other discharges in amounts sufficient to be unsightly or to interfere with legitimate water uses.

(c) All waters shall be free from material related to municipal, industrial or other discharges which produce turbidity, color, odor or other objectionable conditions which interfere with legitimate water uses.

(d) Turbidity. The following standard is in addition to the narrative turbidity standard in Paragraph 391-3-6-.03(5)(c) above:

All waters shall be free from turbidity which results in a substantial visual contrast in a water body due to a man-made activity. The upstream appearance of a body of water shall be as observed at a point immediately upstream of a turbidity-causing man-made activity. That upstream appearance shall be compared to a point which is located sufficiently downstream from the activity so as to provide an appropriate mixing zone. For land disturbing activities, proper design, installation, and maintenance of best management practices and compliance with issued permits shall constitute compliance with Paragraph 391-3-6-.03(5)(d).

(e) All waters shall be free from toxic, corrosive, acidic and caustic substances discharged from municipalities, industries or other sources, such as nonpoint sources, in amounts, concentrations or combinations which are harmful to humans, animals or aquatic life.

(i) Instream concentrations of the following chemical constituents which are considered to be other toxic pollutants of concern in the State of Georgia shall not exceed the criteria indicated below under 7-day, 10-year minimum flow (7Q10) or higher stream flow conditions except within established mixing zones:

1. 2,4-Dichlorophenoxyacetic acid (2,4-D)	70 μg/l
2. Methoxychlor	0.03 μg/l*
3. 2,4,5-Trichlorophenoxy propionic acid (TP Silvex)	50 μg/l

(ii) Instream concentrations of the following chemical constituents listed by the U.S. Environmental Protection Agency as toxic priority pollutants pursuant to Section 307(a)(1) of the Federal Clean Water Act (as amended) shall not exceed the acute criteria indicated below under 1-day, 10-year minimum flow (1Q10) or higher stream flow conditions and shall not exceed the chronic criteria indicated below under 7-day, 10-year minimum flow (7Q10) or higher stream flow conditions except within established mixing zones or in accordance with site specific effluent limitations developed in accordance with procedures presented in 391-3-6-.06. Unless otherwise specified, the criteria below are listed in their total recoverable form. Because most of the numeric criteria for the metals below are listed as the dissolved form, total recoverable concentrations of metals that are measured instream will need to be translated to the dissolved form in order to compare the instream data with the numeric criteria. This translation will be performed using guidance found in “Guidance Document of Dynamic Modeling and Translators August 1993" found in Appendix J of EPA’s Water Quality Standards Handbook: Second Edition, EPA-823-B-94-005a or by using other appropriate guidance from EPA.

		Acute	Chronic
1.	Arsenic		
	(a) Freshwater	340 μg/l [1]	150 μg/l [1]
	(b) Coastal and Marine Estuarine Waters	69 μg/l [1]	36 μg/l [1]
2.	Cadmium		
	(a) Freshwater	2.0 μg/l [1, 3]	1.3 μg/l [1, 3]
	(b) Coastal and Marine Estuarine Waters	42 μg/l [1]	9.3 μg/l [1]
3.	Chromium III		
	(a) Freshwater	320 μg/l [1,3]	42 μg/l [1,3]
	(b) Coastal and Marine Estuarine Waters	--	--
4.	Chromium VI		
	(a) Freshwater	16 μg/l [1]	11 μg/l [1]
	(b) Coastal and Marine Estuarine Waters	1,100 μg/l [1]	50 μg/l [1]
5.	Copper		
	(a) Freshwater	7.0 μg/l [1,2*,3]	5.0 μg/l [1,2*,3]
	(b) Coastal and Marine Estuarine Waters	4.8 μg/l [1,2]	3.1 μg/l [1,2]
6.	Lead		
	(a) Freshwater	30 μg/l [1,3]	1.2 μg/l [1,2*,3]
	(b) Coastal and Marine Estuarine Waters	210 μg/l [1]	8.1 μg/l [1]
7.	Mercury		
	(a) Freshwater	1.4 μg/l	0.012 μg/l [2]
	(b) Coastal and Marine Estuarine Waters	1.8 μg/l	0.025 μg/l [2]
8.	Nickel		
	(a) Freshwater	260 μg/l [1,3]	29 μg/l [1,3]
	(b) Coastal and Marine Estuarine Waters	74 μg/l [1]	8.2 μg/l [1]
9.	Selenium		
	(a) Freshwater	--	5.0 μg/l
	(b) Coastal and Marine Estuarine Waters	290μg/l [1]	71 μg/l [1]
10.	Silver	-- [4]	-- [4]
11.	Zinc		
	(a) Freshwater	65 μg/l [1,3]	65 μg/l [1,3]
	(b) Coastal and Marine Estuarine Waters	90 μg/l [1]	81 μg/l [1]
12.	Lindane [Hexachlorocyclohexane (g-BHC-Gamma)]		
	(a) Freshwater	0.95 μg/l	
	(b) Coastal and Marine Estuarine Waters	0.16 μg/l	

[1] The in-stream criterion is expressed in terms of the dissolved fraction in the water column . Conversion factors used to calculate

dissolved criteria are found in the EPA document – National Recommended Water Quality Criteria – Correction, EPA 822-Z-99-001, April 1999.

[2] The in-stream criterion is lower than the EPD laboratory detection limits (A "*" indicates that the criterion may be higher than or lower than EPD laboratory detection limits depending upon the hardness of the water).

[3] The aquatic life criteria for these metals are expressed as a function of total hardness (mg/l) in a water body. Values in the table above assume a hardness of 50 mg/l CaCO3. For other hardness values, the following equations from the EPA document – National Recommended Water Quality Criteria – Correction, EPA 822-Z-99-001, April 1999 should be used. The minimum hardness allowed for use in these equations shall not be less than 25 mg/l, as calcium carbonate and the maximum shall not be greater than 400 mg/l as calcium carbonate.

Cadmium
acute criteria = $(e^{(1.128[\ln(\text{hardness})] - 3.6867)})(1.136672-[(\ln \text{hardness})(0.041838)]$ μg/l
chronic criteria = $(e^{(0.7852[\ln(\text{hardness})] - 2.715)})(1.101672-[(\ln \text{hardness})(0.041838)]$ μg/l

Chromium III
acute criteria = $(e^{(0.8190[\ln(\text{hardness})] + 3.7256)})(0.316)$ μg/l
chronic criteria = $(e^{(0.8190[\ln(\text{hardness})] + 0.6848)})(0.860)$ μg/l

Copper
acute criteria = $(e^{(0.9422[\ln(\text{hardness})] - 1.700)})(0.96)$ μg/l
chronic criteria = $(e^{(0.8545[\ln(\text{hardness})] - 1.702)})(0.96)$ μg/l

Lead
acute criteria = $(e^{(1.273[\ln(\text{hardness}) - 1.460)})(1.46203 - [(\ln \text{hardness})(0.145712)])$ μg/l
chronic criteria = $(e^{(1.273[\ln(\text{hardness}) - 4.705)})(1.46203 - [(\ln \text{hardness})(0.145712)])$ μg/l

Nickel
acute criteria = $(e^{(0.8460[\ln(\text{hardness})] + 2.255)})(.998)$ μg/l
chronic criteria = $(e^{(0.8460[\ln(\text{hardness})] + 0.0584)})(.997)$ μg/l

Zinc
acute criteria = $(e^{(0.8473[\ln(\text{hardness})] + 0.884)})(0.978)$ μg/l
chronic criteria = $(e^{(0.8473[\ln(\text{hardness})] + 0.884)})(0.986)$ μg/l

[4] This pollutant is addressed in 391-3-6-.06.

(iii) Instream concentrations of the following chemical constituents listed by the U.S. Environmental Protection Agency as toxic priority pollutants pursuant to Section 307(a)(1) of the Federal Clean Water Act (as amended) shall not exceed criteria indicated below under 7-day, 10-year minimum flow (7Q10) or higher stream flow conditions except within established mixing zones or in accordance with site specific effluent limitations developed in accordance with procedures presented in 391-3-6-.06.

1.	Chlordane	
	(a) Freshwater	0.0043 μg/l*
	(b) Coastal and Marine Estuarine Waters	0.004 μg/l*
2.	Cyanide	
	(a) Freshwater	5.2 μg/l*
	(b) Coastal and Marine Estuarine Waters	1.0 μg/l*
3.	Dieldrin	
	(a) Freshwater	0.056 μg/l*
	(b) Coastal and Marine Estuarine Waters	0.0019 μg/l*
4.	4,4'-DDT	0.001 μg/l*
5.	a-Endosulfan	
	(a) Freshwater	0.056 μg/l*
	(b) Coastal and Marine Estuarine Waters	0.0087 μg/l*
6.	b-Endosulfan	
	(a) Freshwater	0.056 μg/l*
	(b) Coastal and Marine Estuarine Waters	0.0087 μg/l*
7.	Endrin	
	(a) Freshwater	0.036 μg/l*
	(b) Coastal and Marine Estuarine Waters	0.0023 μg/l*
8.	Heptachlor	
	(a) Freshwater	0.0038 μg/l*
	(b) Coastal and Marine Estuarine Waters	0.0036μg/l*
9.	Heptachlor Epoxide	
	(a) Freshwater	0.0038 μg/l*
	(b) Coastal and Marine Estuarine Waters	0.0036 μg/l*
10	Pentachlorophenol	
	(a) Freshwater	2.1 μg/l*

	(b) Coastal and Marine Estuarine Waters	7.9 μg/l*
11.	PCBs	
	(a) Freshwater	0.014 μg/l*
	(b) Coastal and Marine Estuarine Waters	0.03 μg/l*
12.	Phenol	300 μg/l
13.	Toxaphene	0.0002 μg/l*

*The in-stream criterion is lower than the EPD laboratory detection limits.

(iv) Instream concentrations of the following chemical constituents listed by the U. S. Environmental Protection Agency as toxic priority pollutants pursuant to Section 307(a)(1) of the Federal Clean Water Act (as amended) shall not exceed criteria indicated below under annual average or higher stream flow conditions:

1.	Acenaphthene	2700 μg/l
2.	Acenaphthylene	**
3.	Acrolein	780 μg/l
4.	Acrylonitrile	0.66 μg/l
5.	Aldrin	0.00014 μg/l
6.	Anthracene	110000 μg/l
7.	Antimony	4300 μg/l
8.	Arsenic	50 μg/l
9.	Benzidine	0.00054 μg/l
10.	Benzo(a)Anthracene	0.049μg/l
11.	Benzo(a)Pyrene	0.049μg/l
12.	3,4-Benzofluoranthene	0.049μg/l
13.	Benzene	71 μg/l
14.	Benzo(ghi)Perylene	**
15.	Benzo(k)Fluoranthene	0.049μg/l
16.	Beryllium	**
17.	a-BHC-Alpha	0.013 μg/l
18.	b-BHC-Beta	0.046 μg/l
19.	Bis(2-Chloroethyl)Ether	1.4 μg/l
20.	Bis(2-Chloroisopropyl)Ether	170000 μg/l
21.	Bis(2-Ethylhexyl)Phthalate	5.9 μg/l
22.	Bromoform (Tribromomethane)	360 μg/l
23.	Butylbenzyl Phthalate	5200
24.	Carbon Tetrachloride	4.4 μg/l
25.	Chlorobenzene	21000 μg/l
26.	Chlorodibromomethane	34 μg/l
27.	2-Chloroethylvinyl Ether	**
28.	Chlordane	0.0022 μg/l
29.	Chloroform (Trichloromethane)	470 μg/l
30.	2-Chloronaphthalene	4300 μg/l
31.	2-Chlorophenol	400 μg/l
32.	Chrysene	0.049 μg/l
33.	Dibenzo(a,h)Anthracene	0.049 μg/l
34.	Dichlorobromomethane	46 μg/l
35.	1,2-Dichloroethane	99 μg/l
36.	1,1-Dichloroethylene	3.2 μg/l
37	1,2 – Dichloropropane	39 μg/l
38.	1,3-Dichloropropylene	1700 μg/l
39.	2,4-Dichlorophenol	790 μg/l
40.	1,2-Dichlorobenzene	17000 μg/l
41.	1,3-Dichlorobenzene	2600 μg/l
42.	1,4-Dichlorobenzene	2600 μg/l
43.	3,3'-Dichlorobenzidine	0.077 μg/l
44.	4,4'-DDT	0.00059 μg/l
45.	4,4'-DDD	0.00084 μg/l
46.	4,4'-DDE	0.00059 μg/l
47.	Dieldrin	0.00014 μg/l
48.	Diethyl Phthalate	120000 μg/l
49.	Dimethyl Phthalate	2900000 μg/l
50.	2,4-Dimethylphenol	2300 μg/l
51.	2,4-Dinitrophenol	14000 μg/l
52.	Di-n-Butyl Phthalate	12000 μg/l
53.	2,4-Dinitrotoluene	9.1 μg/l
54.	1,2-Diphenylhydrazine	0.54 μg/l

55.	Endrin	0.81 μg/l
56.	Endrin Aldehyde	0.81 μg/l
57.	alpha – Endosulfan	240 μg/l
58.	beta – Endosulfan	240 μg/l
59.	Endosulfan Sulfate	240 μg/l
60.	Ethylbenzene	29000 μg/l
61.	Fluoranthene	370 μg/l
62.	Fluorene	14000 μg/l
63.	Heptachlor	0.00021 μg/l
64.	Heptachlor Epoxide	0.00011 μg/l
65.	Hexachlorobenzene	0.00077 μg/l
66.	Hexachlorobutadiene	50 μg/l
67.	Hexachlorocyclopentadiene	17000 μg/l
68.	Hexachloroethane	8.9 μg/l
69.	Indeno(1,2,3-cd)Pyrene	0.049 μg/l
70.	Isophorone	2600 μg/l
71.	Lindane [Hexachlorocyclohexane (g-BHC-Gamma)]	0.063 μg/l
72.	Methyl Bromide (Bromomethane)	4000 μg/l
73.	Methyl Chloride (Chloromethane)	**
74.	Methylene Chloride	1600 μg/l
75.	2-Methyl-4,6-Dinitrophenol	765 μg/l
76.	3-Methyl-4-Chlorophenol	**
77.	Nitrobenzene	1900 μg/l
78.	N-Nitrosodimethylamine	8.1 μg/l
79.	N-Nitrosodi-n-Propylamine	1.4 μg/l
80.	N-Nitrosodiphenylamine	16 μg/l
81.	PCBs	0.00017 μg/l
82.	Pentachlorophenol	8.2 μg/l
83.	Phenanthrene	**
84.	Phenol	4,600,000 μg/l
85.	Pyrene	11,000 μg/l
86.	1,1,2,2-Tetrachloroethane	11 μg/l
87.	Tetrachloroethylene	8.85 μg/l
88.	Thallium	6.3 μg/l
89.	Toluene	200000 μg/l
90.	Toxaphene	0.00075 μg/l
91.	1,2-Trans-Dichloroethylene	140000
92.	1,1,2-Trichloroethane	42 μg/l
93.	Trichloroethylene	81 μg/l
94.	2,4,6-Trichlorophenol	6.5 μg/l
95.	1,2,4-Trichlorobenzene	940 μg/l
96.	Vinyl Chloride	525 μg/l

** These pollutants are addressed in 391-3-6-.06.

(v) Site specific criteria for the following chemical constituents will be developed on an as-needed basis through toxic pollutant monitoring efforts at new or existing discharges that are suspected to be a source of the pollutant at levels sufficient to interfere with designated uses:

1. Asbestos

(vi) Instream concentrations of 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) must not exceed 0.0000012 μg/l under long-term average stream flow conditions.

(vii) Mercury: For the protection of human health, total mercury concentrations bioaccumulating in a waterbody, in a representative population of fish, shellfish and/or other seafood representing different trophic levels, shall not exceed a total mercury concentration in edible tissues of 0.3 mg/kg wet weight. This standard is in accord with the USEPA *Water Quality Criterion for the Protection of Human Health: Methylmercury*, (January 2001, EPA-823-R-01-001), and because nearly 100% of the mercury in fish tissue is methylmercury, adoption of the standard as total mercury is an additional conservative measure. The representative fish tissue total mercury concentration for a waterbody is determined by calculating a Trophic-Weighted Residue Value, as described by the Georgia EPD Protocol (October 19, 2001).

(f) Applicable State and Federal requirements and regulations for the discharge of radioactive substances shall be met at all times.

(g) The dissolved oxygen criteria as specified in individual water use classifications shall be applicable at a depth of one meter below

the water surface; in those instances where depth is less than two meters, the dissolved oxygen criterion shall be applied at a mid-depth. On a case specific basis, alternative depths may be specified.

(6) **Specific Criteria for Classified Water Usage**. In addition to the general criteria, the following criteria are deemed necessary and shall be required for the specific water usage as shown:

(a) Drinking Water Supplies: Those waters approved as a source for public drinking water systems permitted or to be permitted by the Environmental Protection Division. Waters classified for drinking water supplies will also support the fishing use and any other use requiring water of a lower quality.

(i) Bacteria: For the months of May through October, when water contact recreation activities are expected to occur, fecal coliform not to exceed a geometric mean of 200 per 100 ml based on at least four samples collected from a given sampling site over a 30-day period at intervals not less than 24 hours. Should water quality and sanitary studies show fecal coliform levels from non-human sources exceed 200/100 ml (geometric mean) occasionally, then the allowable geometric mean fecal coliform shall not exceed 300 per 100 ml in lakes and reservoirs and 500 per 100 ml in free flowing freshwater streams. For the months of November through April, fecal coliform not to exceed a geometric mean of 1,000 per 100 ml based on at least four samples collected from a given sampling site over a 30-day period at intervals not less than 24 hours and not to exceed a maximum of 4,000 per 100 ml for any sample. The State does not encourage swimming in surface waters since a number of factors which are beyond the control of any State regulatory agency contribute to elevated levels of fecal coliform.

(ii) Dissolved oxygen: A daily average of 6.0 mg/l and no less than 5.0 mg/l at all times for waters designated as trout streams by the Wildlife Resources Division. A daily average of 5.0 mg/l and no less than 4.0 mg/l at all times for water supporting warm water species of fish.

(iii) pH: Within the range of 6.0 - 8.5.

(iv) No material or substance in such concentration that, after treatment by the public water treatment system, exceeds the maximum contaminant level established for that substance by the Environmental Protection Division pursuant to the Georgia Rules for Safe Drinking Water.

(v) Temperature: Not to exceed 90°F. At no time is the temperature of the receiving waters to be increased more than 5°F above intake temperature except that in estuarine waters the increase will not be more than 1.5°F. In streams designated as primary trout or smallmouth bass waters by the Wildlife Resources Division, there shall be no elevation of natural stream temperatures. In streams designated as secondary trout waters, there shall be no elevation exceeding 2°F of natural stream temperatures.

(b) Recreation: General recreational activities such as water skiing, boating, and swimming, or for any other use requiring water of a lower quality, such as recreational fishing. These criteria are not to be interpreted as encouraging water contact sports in proximity to sewage or industrial waste discharges regardless of treatment requirements:

(i) Bacteria: Fecal coliform not to exceed the following geometric means based on at least four samples collected from a given sampling site over a 30-day period at intervals not less than 24 hours:

(1) Coastal waters 100 per 100 ml

(2) All other recreational waters 200 per 100 ml

(3) Should water quality and sanitary studies show natural fecal coliform levels exceed 200/100 ml (geometric mean) occasionally in high quality recreational waters, then the allowable geometric mean fecal coliform level shall not exceed 300 per 100 ml in lakes and reservoirs and 500 per 100 ml in free flowing fresh water streams.

(ii) Dissolved Oxygen: A daily average of 6.0 mg/l and no less than 5.0 mg/l at all times for waters designated as trout streams by the Wildlife Resources Division. A daily average of 5.0 mg/l and no less than 4.0 mg/l at all times for waters supporting warm water species of fish.

(iii) pH: Within the range of 6.0 - 8.5.

(iv) Temperature: Not to exceed 90°F. At no time is the temperature of the receiving waters to be increased more than 5°F above intake temperature except that in estuarine waters the increase will not be more than 1.5°F. In streams designated as primary trout or smallmouth bass waters by the Wildlife Resources Division, there shall be no elevation of natural stream temperatures. In streams designated as secondary trout waters, there shall be no elevation exceeding 2°F natural stream temperatures.

(c) Fishing: Propagation of Fish, Shellfish, Game and Other Aquatic Life; secondary contact recreation in and on the water; or for any other use requiring water of a lower quality:

(i) Dissolved Oxygen: A daily average of 6.0 mg/l and no less than 5.0 mg/l at all times for water designated as trout streams by the Wildlife Resources Division. A daily average of 5.0 mg/l and no less than 4.0 mg/l at all times for waters supporting warm water species of fish.

(ii) pH: Within the range of 6.0 - 8.5.

(iii) Bacteria: For the months of May through October, when water contact recreation activities are expected to occur, fecal coliform not to exceed a geometric mean of 200 per 100 ml based on at least four samples collected from a given sampling site over a 30-day period at intervals not less than 24 hours. Should water quality and sanitary studies show fecal coliform levels from non-human sources exceed 200/100 ml (geometric mean) occasionally, then the allowable geometric mean fecal coliform shall not exceed 300 per 100 ml in lakes and reservoirs and 500 per 100 ml in free flowing freshwater streams. For the months of November through April, fecal coliform not to exceed a geometric mean of 1,000 per 100 ml based on at least four samples collected from a given sampling site over a 30-day period at intervals not less than 24 hours and not to exceed a maximum of 4,000 per 100 ml for any sample. The State does not encourage swimming in surface waters since a number of factors which are beyond the control of any State regulatory agency contribute to elevated levels of fecal coliform. For waters designated as approved shellfish harvesting waters by the appropriate State agencies, the requirements will be consistent with those established by the State and Federal agencies responsible for the National Shellfish Sanitation Program. The requirements are found in the National Shellfish Sanitation Program Manual of Operation, Revised 1988, Interstate Shellfish Sanitation Conference, U. S. Department of Health and Human Services (PHS/FDA), and the Center for Food Safety and Applied Nutrition. Streams designated as generally supporting shellfish are listed in Paragraph 391-3-6-.03(14).

(iv) Temperature: Not to exceed 90°F. At no time is the temperature of the receiving waters to be increased more than 5°F above intake temperature except that in estuarine waters the increase will not be more than 1.5°F. In streams designated as primary trout or smallmouth bass waters by the Wildlife Resources Division, there shall be no elevation of natural stream temperatures. In streams designated as secondary trout waters, there shall be no elevation exceeding 2°F natural stream temperatures.

(d) Wild River: For all waters designated in 391-3-6-.03(13) as "Wild River," there shall be no alteration of natural water quality from any source.

(e) Scenic River: For all waters designated in 391-3-6-.03(13) as "Scenic River," there shall be no alteration of natural water quality from any source.

(f) Coastal Fishing: This classification will be applicable to specific sites when so designated by the Environmental Protection Division. For waters designated as "Coastal Fishing", site specific criteria for dissolved oxygen will be assigned and detailed by footnote in Section 391-3-6-.03(13), "Specific Water Use Classifications." All other criteria and uses for the fishing use classification will apply for coastal fishing.

(7) **Natural Water Quality**. It is recognized that certain natural waters of the State may have a quality that will not be within the general or specific requirements contained herein. These circumstances do not constitute violations of water quality standards. This is especially the case for the criteria for dissolved oxygen, temperature, pH and fecal coliform. NPDES permits and best management practices will be the primary mechanisms for ensuring that discharges will not create a harmful situation.

(8) **Treatment Requirements**. Notwithstanding the above criteria, the requirements of the State relating to secondary or equivalent treatment of all waste shall prevail. The adoption of these criteria shall in no way preempt the treatment requirements.

(9) **Streamflows**. Specific criteria or standards set for the various parameters apply to all flows on regulated streams. On unregulated streams, they shall apply to all streamflows equal to or exceeding the 7-day, 10-year minimum flow (7Q10) and/or the 1-day, 10-year minimum flow (1Q10). All references to 7-day, 10-year minimum flow (7Q10) and 1-day, 10-year minimum flow (1Q10) also apply to all flows on regulated streams. All references to annual average stream flow also apply to long-term average stream flow conditions. Numeric criteria exceedences that occur under streamflows lower than 7Q10 or 1Q10, whichever applies, do not constitute violations of water quality standards as long as all current permit conditions are met.

(10) **Mixing Zone**. Effluents released to streams or impounded waters shall be fully and homogeneously dispersed and mixed insofar as practical with the main flow or water body by appropriate methods at the discharge point. Use of a reasonable and limited mixing zone may be permitted on receipt of satisfactory evidence that such a zone is necessary and that it will not create an objectionable or damaging pollution condition. Protection from acute toxicity shall be provided within any EPD designated mixing zone to ensure a zone of safe passage for aquatic organisms. The procedure is as described in paragraph 391-3-6-.06(4)(d)(5)(vi), except that the numerical pass/fail criteria applies to the end-of-pipe without the benefit of dilution provided by the receiving stream.

(11) **Toxic Pollutant Monitoring**. The Division will monitor waters of the State for the presence or impact of Section 307 (a)(l) Federal Clean Water Act toxic pollutants**,** and other priority pollutants. The monitoring shall consist of the collection and assessment of chemical and/or biological data as appropriate from the water column, from stream bed sediments, and/or from fish tissue. Specific stream segments and chemical constituents for monitoring shall be determined by the Director on the basis of the potential for water quality impacts from toxic pollutants from point or nonpoint waste sources. Singularly or in combination, these constituents may cause an adverse effect on fish propagation at levels lower than the criteria. Instream concentrations will be as described in 391-3-6-.03 (5)(e). Additional toxic substances and priority pollutants will be monitored on a case specific basis using Section 304(a) Federal Clean Water Act guidelines or other scientifically appropriate documents.

(12) **Fecal Coliform Criteria**. The criteria for fecal coliform bacteria provide the regulatory framework to support the USEPA requirement that States protect all waters for the use of primary contact recreation or swimming. This is a worthy national goal, although potentially unrealistic with the current indicator organism, fecal coliform bacteria, in use today. To assure that waters are safe for swimming indicates a need to test waters for pathogenic bacteria. However, analyses for pathogenic bacteria are expensive and results are generally difficult to reproduce quantitatively. Also, to ensure the water is safe for swimming would require a whole suite of tests be done for organisms such as Salmonella, Shigella, Vibrio, etc. as the presence/absence of one organism would not document the presence/absence of another. This type of testing program is not possible due to resource constraints. The environmental community in the United States has based the assessment of the bacteriological quality of

water on testing for pathogenic indicator organisms, principally the coliform group. The assessment of streams, rivers, lakes, and estuaries in Georgia and other States is based on fecal coliform organisms.

Coliform bacteria live in the intestinal tract of warm blooded animals including man. These organisms are excreted in extremely high numbers, averaging about 1.5 billion coliform per ounce of human feces. Pathogenic bacteria also originate in the fecal material of diseased persons. Therefore, waters with high levels of fecal coliform bacteria represent potential problem areas for swimming. However, there is no positive scientific evidence correlating elevated fecal coliform counts with transmission of enteric diseases. In addition, these bacteria can originate from any warm blooded animal or from the soil.

Monitoring programs have documented fecal coliform levels in excess of the criteria in many streams and rivers in urban areas, agricultural areas, and even in areas not extensively impacted by man such as national forest areas. This is not a unique situation to Georgia as similar levels of fecal coliform bacteria have been documented in streams across the nation. The problem appears to lie in the lack of an organism which specifically indicates the presence of human waste materials which can be correlated to human illness. Other organisms such as the Enterococci group and E. coli have been suggested by the USEPA as indicator organisms. However, testing using these organisms by States and the USEPA has indicated similar problems with these indicator organisms.

The Environmental Protection Division will conduct a monitoring project from 1993 through 1995 to evaluate the use of E. coli and Enterococci as indicators of bacteriological quality in Georgia. The Environmental Protection Division will also conduct studies to determine if a better human specific indicator can be found to replace current indicator organisms.

(13) **Acceptance of Data.** Sampling methods for water quality samples collected and reported by any person to the Division for its use in listing or delisting impaired waters pursuant to the State's responsibilities under Sections 303(d) and 305(b) of the Federal Act shall conform to the guidance in the *Water Protection Branch Quality Assurance Manual* (June, 1999), Georgia Department of Natural Resources, Environmental Protection Division, Water Protection Branch, Atlanta, GA 30354. Analytical standards for these samples must comply with the requirements of *Title 40, Code of Federal Regulations*, Part 136. Sample analyses shall be performed by an analyst certified in compliance with the *Georgia State Board of Examiners for Certification of Water and Wastewater Treatment Plant Operators and Laboratory Analysts Act*, as amended, or by a laboratory facility accredited in compliance with the *Georgia Rules for Commercial Environmental Laboratory Accreditation* (O.C.G.A. 12-2-9). A site-specific sampling and quality assurance plan is required if the data is to be considered and Division concurrence must be obtained prior to monitoring. Laboratories operated by Federal and State government agencies and laboratories at academic institutions with active or current contracts with the Division are exempt from these provisions.

(14) Specific Water Use Classifications. Beneficial water uses assigned by the State to all surface waters. These classifications are scientifically determined to be the best utilization of the surface water from an environmental and economic standpoint. Streams and stream reaches not specifically listed are classified as Fishing. The specific classifications are as follows:

SAVANNAH RIVER BASIN		Classification
Chattooga River	Georgia-North Carolina State Line to Tugaloo Reservoir	Wild and Scenic
West Fork Chattooga	Confluence of Overflow Creek and Clear Creek to confluence with Chattooga River (7.3 mi.)	Wild and Scenic
Tallulah River	Headwaters of Lake Burton to confluence with Chattooga River	Recreation
Tugaloo River	Confluence of Tallulah and Chattooga Rivers to Yonah Lake Dam	Recreation
Savannah River	Highway 184 to Clark Hill Dam (Mile 238)	Recreation
Savannah River	Clark Hill Dam (Mile 238) to Augusta, 13th Street Bridge	Drinking Water
Savannah River	US Hwy. 301 Bridge (Mile 129) to Seaboard Coastline RR Bridge (Mile 27.4)	Drinking Water
Savannah River	Seaboard Coastline RR Bridge (Mile 27.4) To Fort Pulaski (Mile 0)	Coastal Fishing[1]
Savannah River	Fort Pulaski (Mile 0) to Open Sea and all littoral waters of Tybee Island	Recreation

OGEECHEE RIVER BASIN		CLASSIFICATION
Ogeechee River	U.S. Hwy. 17 Bridge to Open Sea and littoral waters of Skidaway, Ossabaw, Sapelo, and St. Catherines Islands	Recreation
Little Ogeechee River	South end of White Bluff Road near Carmelite Monastery to Open Sea and littoral waters of Skidaway and Ossabaw Islands	Recreation

OCONEE RIVER BASIN		CLASSIFICATION
Middle Oconee River	Georgia Hwy. 82 to Athens Water Intake	Drinking Water
North Oconee River	Jackson County Road 432 to Athens Water Intake	Drinking Water
Oconee River	Georgia Hwy. 16 to Sinclair Dam	Recreation
Oconee River	Sinclair Dam to Georgia Hwy. 22	Drinking Water
Oconee River	Georgia Hwy. 57 to U.S. Hwy. 80	Drinking Water

UPPER OCMULGEE RIVER		CLASSIFICATION
Big Haynes Creek	Georgia Hwy. 20 to Bald Rock Road	Drinking Water
Alcovy River	Georgia Hwy. 81 to City of Covington Water Intake	Drinking Water
Yellow River	Georgia Hwy. 124 to Porterdale Water Intake	Drinking Water
Jackson Lake	From South River at Georgia Hwy. 36; from Yellow River at Georgia Hwy. 36; from Alcovy River at Newton Factory Road Bridge to Lloyd Shoals Dam	Recreation
Big Haynes Creek	Georgia Highway 78 to Confluence with the Yellow River	Drinking Water

LOWER OCMULGEE RIVER BASIN		CLASSIFICATION
Towaliga River	Headwaters to Georgia Hwy. 36	Drinking Water
Towaliga River	Georgia Hwy. 36 to High Falls Dam	Recreation
Ocmulgee River	Georgia Hwy. 18 to Macon Water Intake	Drinking Water
Tobesofkee Creek	Lake Tobesofkee	Recreation

ALTAMAHA RIVER BASIN		CLASSIFICATION
All littoral waters on the ocean side of St. Simons, Sea, and Sapelo Islands		Recreation

SATILLA RIVER BASIN		CLASSIFICATION
All littoral waters on the ocean side of Cumberland and Jekyll Islands		Recreation

ST. MARYS RIVER BASIN		CLASSIFICATION
All littoral waters on the ocean side of Cumberland Island		Recreation

FLINT RIVER BASIN		CLASSIFICATION
Flint River	Woolsey Road (Fayette Clayton Counties) to Georgia Hwy. 16	Drinking Water
Flint River	Georgia Hwy. 27 to Georgia Power Dam at Lake Worth, Albany	Recreation
Flint River	Bainbridge, U.S. Hwy. 84 Bridge to Jim Woodruff Dam, Lake Seminole	Recreation

CHATTAHOOCHEE RIVER BASIN		CLASSIFICATION
Chattahoochee River	Headwaters to Buford Dam	Recreation
Chattahoochee River	Buford Dam to Atlanta (Peachtree Creek)	Drinking Water and Recreation

Chattahoochee River	Atlanta (Peachtree Creek) to Cedar Creek	Fishing[2]
Chattahoochee River	New River to West Point Dam	Recreation
Chattahoochee River	West Point Dam to West Point Mfg Company Water Intake	Drinking Water
Chattahoochee River	Osanippa Creek to Columbus (North Highland Dam)	Recreation and Drinking Water
Chattahoochee River	Cowikee Creek to Great Southern Division of Great Northern Paper Company	Recreation
Chattahoochee River	Georgia Hwy. 91 (Neal's Landing) to Jim Woodruff Dam	Recreation
Big Creek	Georgia Hwy. 400 to City of Roswell Water intake	Drinking Water
Dog River	Headwaters to Dog River Reservoir	Drinking Water
Bear Creek	Headwaters to Douglasville-Douglas County Water and Sewer Authority Water Intake	Drinking Water

TALLAPOOSA RIVER BASIN		CLASSIFICATION
Tallapoosa River	Headwaters to Georgia Hwy. 100	Drinking Water
Little Tallapoosa	Headwaters to SCS Dam No. 36 (Carrollton River Raw Water Intake)	Drinking Water

COOSA RIVER BASIN		CLASSIFICATION
Conasauga River	Georgia Hwy. 2 to Dalton Water Intake	Drinking Water
Ellijay River	Headwaters to Ellijay Water Intake	Drinking Water
Cartecay River	Headwaters to Ellijay Water Intake	Drinking Water
Coosawattee River	Confluence to Mountaintown Creek to Carters Dam	Recreation
Coosawattee River	U. S. Hwy. 411 to confluence of Conasauga River	Drinking Water
Oostanaula River	Confluence to Conasauga and Coosawattee Rivers to Calhoun Water Intake	Drinking Water
Oostanaula River	Confluence with Armuchee Creek to Rome Water Intake	Drinking Water
Oostanaula River	Confluence of Little Dry Creek (below Rome Water Intake) to Coosa River	Fishing
Etowah River	Cherokee County Road 782 to Canton Water intake	Drinking Water
Etowah River	Georgia Hwy. 20 to Allatoona Dam	Recreation and Drinking Water
Etowah River	Allatoona Dam to Cartersville Water Intake	Drinking Water
Coosa River	Confluence of Etowah and Coosawattee to Mayo's Lock and Dam	Fishing
Coosa River	At the Alabama State Line	Recreation
Mill Creek	Headwaters to Dalton Water Supply	Drinking Water
Conasauga River	Waters Within the Cohutta Wilderness Area	Wild and Scenic
Jacks Creek	Waters Within the Cohutta Wilderness Area	Wild and Scenic

TENNESSEE RIVER BASIN		CLASSIFICATION
Hiawassee River	Headwaters to Georgia-North Carolina State Line (including Lake Chatuge)	Recreation

Nottely River	Headwaters to Georgia-North Carolina State Line	Recreation
Toccoa River	Headwaters to Georgia-Tennessee State Line (including Lake Blue Ridge)	Recreation

(1) Site specific criteria for this classification are minimum instantaneous and will apply throughout the water column. The dissolved oxygen criteria is no less than 3.0 mg/l in June, July, August, September, and October; no less than 3.5 mg/l in May and November; and no less than 4.0 mg/l in December, January, February, March, and April.

(2) Specific criteria apply at all times when the river flow measured at a point immediately upstream from Peachtree Creek equals or exceeds 750 cfs (Atlanta gage flow minus Atlanta water supply withdrawal):

(15) Trout Streams. Streams designated as Primary Trout Waters are waters supporting a self-sustaining population of Rainbow, Brown or Brook Trout. Streams designated as Secondary Trout Streams are those with no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. Trout streams are classified in accordance with the designations and criteria as follows:

(a) **Criteria.**

(I) There shall be no elevation of natural stream temperatures for Primary Trout Waters; 2EF or less elevation for Secondary Trout Waters.

(ii) No person shall construct an impoundment on Primary Trout Waters, except on streams with drainage basins less than 50 acres upstream of the impoundment. Impoundments on streams with drainage basins less than 50 acres must be approved by the Division.

(iii) No person shall construct an impoundment on Secondary Trout Waters without the approval of the Division.

(b) **Designations by County.**

BARTOW COUNTY

Primary:

None.

Secondary:

1. Boston Creek watershed upstream from Georgia Hwy. 20.
2. Connesena Creek watershed.
3. Dykes Creek watershed.
4. Pine Log Creek watershed.
5. Pyle Creek watershed.
6. Salacoa Creek watershed.
7. Spring Creek watershed.
8. Stamp Creek watershed upstream from Bartow County Road 269.
9. Toms Creek watershed upstream from Bartow County Road 82.
10. Two Run Creek watershed.
11. Ward Creek watershed.

CARROLL COUNTY

Primary:

None.

Secondary:

1. Brooks Creek watershed.
2. Mud Creek watershed.
3. Tallapoosa River.

CATOOSA COUNTY

Primary:

None.

Secondary:

1. Hurricane Creek watershed upstream from Peters Branch.
2. Little Chickamauga Creek watershed upstream from Catoosa County Road 387.
3. Tiger Creek watershed upstream from Georgia Hwy. 2.
4. Dry Creek watershed upstream from Catoosa County Road 257 (East Chickamauga Creek Watershed).

CHATTOOGA COUNTY

Primary:

None.

Secondary:

1. Allgood Branch watershed upstream from Southern Railroad.
2. Chappel Creek watershed.
3. Chelsea Creek watershed.
4. East Fork Little River watershed.
5. Hinton Creek watershed.
6. Kings Creek watershed.
7. Little Armuchee Creek watershed upstream from Chattooga County Road 326.
8. Middle Fork Little River watershed.
9. Mt. Hope Creek watershed.
10. Perennial Spring watershed.
11. Raccoon Creek watershed upstream from Georgia Hwy. 48.
12. Ruff Creek watershed.
13. Storey Mill Creek watershed.
14. Taliaferro Creek watershed.

CHEROKEE COUNTY

Primary:

None.

Secondary:

1. Boston Creek watershed.
2. Pine Log Creek watershed.
3. Salacoa Creek watershed.
4. Stamp Creek watershed.
5. Bluff Creek watershed upstream from Cherokee County Road 114.
6. Murphy Creek watershed.
7. Soap Creek watershed upstream from Cherokee County Road 116.
8. Wiley Creek watershed.

COBB COUNTY

Primary:

None.

Secondary:

1. Chattahoochee River upstream from I-285 West Bridge.

DADE COUNTY

Primary:

None.

Secondary:

1. Allison Creek watershed.
2. East Fork Little River watershed.
3. Lookout Creek watershed upstream from Dade County Road 197.
4. Rock Creek watershed.
5. West Fork Little River watershed.

DAWSON COUNTY

Primary:

1. Amicalola Creek watershed upstream from Dawson County Road 192 (Devil's Elbow Road).
2. Sweetwater Creek watershed.
3. Anderson Creek watershed.
4. Long Swamp Creek watershed.
5. Nimblewill Creek watershed.

Secondary:

1. Amicalola Creek watershed from Georgia Hwy. 53 upstream to Dawson County Road 192 (Devil's Elbow Road).
2. Shoal Creek watershed upstream from the mouth of Burt Creek.

ELBERT COUNTY

Primary:

None.
Secondary:

1. Savannah River for the ten-mile reach downstream from Hartwell Dam.

FANNIN COUNTY

Primary:

1. Conasauga River - Jacks River watershed.
2. Ellijay River watershed.
3. Etowah River watershed.
4. Fightingtown Creek watershed.
5. Owenby Creek watershed.
6. Persimmon Creek watershed.
7. South Fork Rapier Mill Creek watershed.
8. Toccoa River watershed upstream to Blue Ridge Reservoir dam.
9. Toccoa River watershed upstream from the backwater of Blue Ridge Reservoir.
10. Tumbling Creek watershed.
11. Wilscot Creek watershed.

Secondary:

All streams or stream sections not classified as primary in the above list.

FLOYD COUNTY

Primary:

None.

Secondary:

1. Dykes Creek watershed.
2. Johns Creek watershed upstream from Floyd County Road 212.
3. Kings Creek watershed.
4. Lavender Creek watershed upstream from Floyd County Road 234.
5. Little Cedar Creek watershed.
6. Mt. Hope Creek watershed.
7. Spring Creek watershed (flows into Etowah River).
8. Spring Creek watershed (flows into State of Alabama).
9. Toms Creek watershed.
10. Silver Creek watershed upstream from Georgia Highway 1E.

FORSYTH COUNTY

Primary:

None.

Secondary:

1. Chattahoochee River.

FULTON COUNTY

Primary:

None.

Secondary:

1. Chattahoochee River upstream from I-285 West Bridge.

GILMER COUNTY
Primary:

1. Cartecay River watershed upstream from the mouth of Clear Creek.
2. Clear Creek watershed upstream from Gilmer County Road 92.
3. Conasauga River - Jacks River watershed.
4. Ellijay River watershed upstream from the mouth of Kells Creek.
5. Harris Creek watershed.
6. Johnson Creek watershed.
7. Mountaintown Creek watershed upstream from U.S. Highway 76.
8. Tails Creek watershed upstream from Georgia Hwy. 282.
9. Toccoa River - Fightingtown Creek watershed.

Secondary:

1. All streams or sections thereof except the Coosawattee River downstream from Ga. Hwy. 5 Bridge, and Talking Rock Creek (not including tributaries) and those classified as primary.
2. Ball Creek watershed.
3. Sevenmile Creek watershed.
4. Town Creek watershed.
5. Wildcat Creek watershed.

GORDON COUNTY

Primary:

None:

Secondary:

1. Johns Creek watershed.
2. Long Branch watershed.
3. Pine Log Creek watershed upstream from Georgia Hwy. 53.
4. Pin Hook Creek watershed upstream from Ryo Road.
5. Rocky Creek watershed upstream from West Union Road.
6. Salacoa Creek watershed upstream from U.S. Hwy. 411.
7. Snake Creek watershed.

GWINNETT COUNTY

Primary:

None.

Secondary:

1. Chattahoochee River.

HABERSHAM COUNTY

Primary:

1. Chattahoochee River watershed upstream from Georgia Hwy. 255 Bridge.
2. Middle Fork Broad River watershed upstream from USFS Route 92-B.
3. Panther Creek watershed.
4. Soque River watershed upstream from King's Bridge (bridge on Georgia Hwy. 197 just below the mouth of Shoal Creek).

Secondary:

1. Chattahoochee River watershed upstream from Georgia Hwy. 115 to the Georgia Hwy. 255 Bridge.
2. Davidson Creek watershed.
3. Middle Fork Broad River tributaries entering below USFS Route 92-B.
4. Nancytown Creek watershed upstream from Nancytown Lake.
5. North Fork Broad River watershed.
6. Soque River watershed upstream from the mouth of Deep Creek to King's Bridge.
7. Toccoa Creek watershed.

HARALSON COUNTY

Primary:

None.

Secondary:

1. Beach Creek watershed upstream from Haralson County Road 34.
2. Flatwood Creek watershed.
3. Lassetter Creek watershed.
4. Mann Creek watershed upstream from Haralson County Road 162.
5. Tallapoosa River watershed upstream from Haralson County Road 222.
6. Mountain Creek watershed.
7. Tallapoosa Creek watershed.

HART COUNTY

Primary:

None.

Secondary:

1. Savannah River.

LUMPKIN COUNTY

Primary:

1. Amicalola Creek watershed.
2. Camp Creek watershed.
3. Cane Creek watershed upstream from Cane Creek Falls.
4. Cavender Creek watershed.
5. Chestatee River watershed upstream from Lumpkin County Road 52-S976.
6. Clay Creek watershed.
7. Etowah River watershed upstream from the Georgia Hwy. 52 Bridge.
8. Hurricane Creek watershed upstream from Lumpkin County Road 118.
9. Mooney Branch watershed.
10. Tobacco Pouch Branch watershed.

Secondary:

1. Cane Creek watershed upstream from Georgia Hwy. 52 Bridge to Cane Creek Falls.
2. Chestatee River watershed upstream from the mouth of Tesnatee Creek to Lumpkin County Road 52-S976.
3. Etowah River watershed upstream from Castleberry Bridge to Georgia Hwy. 52 except those classified as primary above.
4. Shoal Creek watershed.
5. Yahoola Creek watershed upstream from Georgia Hwy. 52.

MURRAY COUNTY

Primary:

1. Conasauga - Jacks River watershed upstream from Georgia-Tennessee state line.
2. Holly Creek watershed upstream from Murray County Rd. SR826 (U.S. Forest Service line).
3. Rock Creek watershed upstream from Murray County Rd. 4 (Dennis).

Secondary:

1. All tributaries to Carters Reservoir.
2. Holly Creek watershed (including Emory Creek watershed) upstream from Emory Creek to Murray County Road SR826 (U.S. Forest Service line).
3. Mill Creek watershed upstream from Murray County Road 27.
4. North Prong Sumac Creek watershed.
5. Sugar Creek watershed upstream from Murray County Road 4.
6. Sumac Creek watershed upstream from Coffey Lake.
7. Mill Creek watershed.
8. Rock Creek watershed upstream of Murray County Road 301.

PAULDING COUNTY

Primary:

None.

Secondary:

1. Possum Creek watershed upstream from Paulding County Road 64.
2. Powder Creek watershed.
3. Pumpkinvine Creek watershed upstream from Paulding County Road 231.
4. Pyle Creek watershed.
5. Raccoon Creek watershed upstream from Road SR2299.
6. Tallapoosa River watershed.
7. Ward Creek watershed.
8. Simpson Creek watershed.
9. Thompson Creek watershed.

PICKENS COUNTY

Primary:

1. Cartecay River watershed.
2. Talking Rock Creek watershed upstream from Route S1011.

Secondary:

1. Amicalola Creek watershed.
2. East Branch watershed (including Darnell Creek watershed).
3. Fisher Creek watershed (upstream from the confluence of Talona Creek and Fisher Creek).
4. Fourmile Creek watershed.
5. Hobson Creek watershed.
6. Little Scarecorn Creek watershed.
7. Long Branch watershed.
8. Long Swamp Creek watershed upstream from Pickens County Road 294.
9. Mud Creek watershed.
10. Pin Hook Creek watershed.
11. Polecat Creek watershed.
12. Rock Creek watershed.
13. Salacoa Creek watershed.
14. Scarecorn Creek watershed upstream from Georgia Hwy. 53.
15. Ball Creek watershed.
16. Bluff Creek watershed.
17. Sevenmile Creek watershed.
18. Soap Creek watershed.
19. Town Creek watershed.
20. Wildcat Creek watershed.

POLK COUNTY

Primary:

None.

Secondary:

1. Cedar Creek watershed upstream from Polk County Road 121.
2. Lassetter Creek watershed.

3. Little Cedar Creek watershed.
4. Pumpkinpile Creek watershed upstream from Road SR1032.
5. Spring Creek watershed.
6. Swinney Branch watershed.
7. Thomasson Creek watershed.
8. Fish Creek watershed upstream of Plantation Pipeline.
9. Silver Creek watershed.
10. Simpson Creek watershed upstream of Lake Dorene.
11. Thompson Creek watershed upstream of Polk County Road 441.

RABUN COUNTY

Primary:

1. Chattooga River - all tributaries classified as primary.
2. Little Tennessee River - entire stream and tributaries classified as primary except all streams or sections thereof classified as secondary.
3. Tallulah River - entire stream and tributaries classified as primary except the Tallulah River downstream from Lake Rabun Dam to headwaters of Tugaloo Lake.

Secondary:

1. Little Tennessee River downstream from U.S. Hwy. 441 Bridge.
2. Mud Creek downstream from Sky Valley Ski Resort Lake to the Little Tennessee River.

STEPHENS COUNTY

Primary:

1. Middle Fork Broad River watershed upstream from USFS Route 92-B.
2. Panther Creek watershed upstream from the mouth of Davidson Creek.

Secondary:

1. Davidson Creek watershed.
2. Leatherwood Creek watershed upstream from Georgia Hwy. 184 Bridge.
3. Little Toccoa Creek watershed.
4. Middle Fork Broad River watershed upstream from SCS flood control structure #44 to USFS Route 92-B.
5. North Fork Broad River watershed upstream from SCS flood control structure #1.
6. Panther Creek watershed downstream from the mouth of Davidson Creek.
7. Toccoa Creek upstream from Toccoa Falls.

TOWNS COUNTY

Primary:

1. Brasstown Creek watershed.
2. Chattahoochee River watershed.
3. Gumlog Creek watershed.
4. Hiawassee River watershed - entire stream and all tributaries classified as primary except all streams or sections thereof classified as secondary.
5. Tallulah River watershed.
6. Winchester Creek watershed.

Secondary:

1. Hightower Creek downstream from the mouth of Little Hightower Creek.

UNION COUNTY

Primary:

1. Arkaqua Creek watershed.
2. Brasstown Creek watershed.
3. Chattahoochee River watershed.
4. Conley Creek watershed upstream from Road S2325.
5. Coosa Creek watershed upstream from mouth of Anderson Creek.
6. Dooley Creek watershed.
7. East Fork Wolf Creek watershed upstream from Lake Trahlyta.
8. Gumlog Creek watershed.
9. Ivylog Creek watershed upstream from USDA Forest Service property line.
10. Nottely River watershed upstream from the mouth of Town Creek.
11. Toccoa River watershed.
12. Town Creek watershed.
13. West Fork Wolf Creek watershed.
14. Youngcane Creek watershed upstream from the mouth of Jones Creek.

Secondary:

1. All streams or sections thereof except the Butternut Creek watershed and the Nottely River downstream of Nottely Dam and those classified as primary.

WALKER COUNTY

Primary:

1. Furnace Creek watershed.
2. Harrisburg Creek watershed (including Dougherty Creek and Allen Creek) upstream from Dougherty Creek.

Secondary:

1. Chappel Creek watershed.
2. Concord Creek watershed.
3. Dry Creek watershed (tributary to East Armuchee Creek).
4. Duck Creek watershed.
5. East Armuchee Creek watershed upstream from Georgia Hwy. 136.
6. East Fork Little River watershed (flows into Dade County).
7. East Fork Little River watershed (flows into Chattooga County; includes Gilreath Creek).
8. Gulf Creek watershed.
9. Johns Creek watershed.
10. Left Fork Coulter Branch watershed.
11. Little Chickamauga Creek watershed.
12. Middle Fork Little River watershed (includes Cannon Branch and Hale Branch).
13. Rock Creek watershed (including Sawmill Branch) upstream from Sawmill Branch.
14. Ruff Creek watershed.
15. Snake Creek watershed.
16. West Armuchee Creek watershed.
17. West Chickamauga Creek watershed upstream from Walker County Road 107.

18. West Fork Little River watershed.
19. Chattanooga Creek watershed upstream of Walker County Road 235.

WHITE COUNTY

Primary:

1. Cathey Creek watershed upstream from the Arrowhead Campground Lake.
2. Chattahoochee River watershed upstream from Georgia Hwy. 255 Bridge.
3. Town Creek watershed upstream from the mouth of Jenny Creek.

Secondary:

1. Chattahoochee River watershed upstream from Georgia Hwy. 115 to the Georgia Hwy. 255 Bridge.
2. Little Tesnatee Creek watershed upstream from the mouth of Turner Creek.
3. Turner Creek watershed except as listed under primary above (Turner Creek nearest to Cleveland city limits).

WHITFIELD COUNTY

Primary:

None.

Secondary:

1. Coahulla Creek watershed upstream from Whitfield County Road 183.
2. East Armuchee Creek watershed.
3. Snake Creek watershed.
4. Spring Creek watershed.
5. Swamp Creek watershed upstream from Whitfield County Road 9.
6. Tiger Creek watershed.
7. Dry Creek watershed.

(16) Waters Generally Supporting Shellfish. Waters designated by the Coastal Resources Division as productive shellfish waters (currently producing or with the potential to produce shellfish) are opened and closed according to State Law and the requirements of the National Shellfish Sanitation Program Manual of Operations. For a current listing of open productive shellfish waters, contact the Coastal Resources Division. Specific water reaches generally supporting shellfish are as follows:

CHATHAM COUNTY

1. Savannah River South Channel at Fort Pulaski to confluence with Lazaretto Creek.
2. Tybee River at confluence with Bates Creek and eastward, including Bates Creek.
3. Wilmington River at confluence with Herb River and eastward.
4. Herb River at confluence with Wilmington River to County Road 890.
5. All waters surrounding Skidaway Island including Moon River North to Skidaway Island Road.
6. Vernon River at Vernonburg and eastward.
7. Little Ogeechee River from Rose Dhu Island and eastward excluding Harvey Creek on Harvey's Island.
8. Ogeechee River below Shad Island and eastward (north of center line).
9. All waters surrounding Ossabaw Island and Wassaw Island to the center line of the intracoastal waterway.

BRYAN COUNTY

1. Ogeechee River below Shad Island and eastward (south of center line).
2. Redbird Creek at Cottonham and eastward.
3. All waters west of main channel center line of intracoastal waterway to confluence of Medway River.
4. Medway River at south confluence of Sunbury Channel and East Channel and eastward (north of center line).

LIBERTY COUNTY

1. Medway River at south confluence of Sunbury Channel and East Channel and eastward (south of center line).
2. Dickinson Creek at Latitude 31E 44.2' to confluence with Medway River.
3. Johns Creek at end of County Road 3 and eastward to confluence with Medway River.
4. All other waters east and north of Colonels Island.
5. North Newport River System at confluence with Carrs Neck Creek and eastward, including Cross Tide Creek.
6. South Newport River System north of center line and eastward from confluence with South Hampton Creek.

MCINTOSH COUNTY

1. South Newport River System south of centerline and eastward from confluence with South Hampton Creek.
2. Julienton River at Latitude 31E 36.8' and eastward to confluence with Sapelo River, including Broad River near Shellman Bluff.
3. Sapelo River from end of County Road 127 eastward excluding White Chimney River and Savannah Cut.
4. All waters surrounding Creighton Island.
5. Atwood Creek at Latitude 31E 28.3' and eastward.
6. Hudson Creek at Latitude 31E 27.2' and eastward.
7. Carnigan River at Latitude 31E 26.2' and eastward.
8. All waters surrounding Sapelo Island to the center line of Sapelo Sound, including New Teakettle Creek, Old Teakettle Creek and Dark Creek.
9. Dead River at Longitude 81E 21.5' to confluence with Folly River.
10. Folly River at Longitude 81E 21.2' to confluence with intracoastal waterways including Fox Creek tributary.
11. North River from confluence with Old Darien River to confluence with intracoastal waterway, including Old Darien River.
12. Darien River from confluence with Three Mile Cut to intracoastal waterway.
13. Rockdedundy River from confluence with Darien River to intracoastal waterway.
14. All waters surrounding Doboy Island, Commodore Island, Wolf Island, and Rockdedundy Island.
15. South River at confluence of intracoastal waterway to Doboy Sound.
16. Altamaha River from confluence with Three Mile Cut and Mackay River and eastward, including Buttermilk Sound, but excluding South Altamaha River.
17. Dog Hammock to confluence with Sapelo River.
18. Eagle Creek to confluence with Mud River.

GLYNN COUNTY

1. Mackay River water system from confluence with South Altamaha River to confluence with Brunswick River, excluding Wally's Leg.
2. All waters surrounding St. Simons Island and Little St. Simons Island.
3. All waters surrounding Andrews Island excluding Academy Creek.
4. Turtle River from confluence with Buffalo River to confluence with South Brunswick River, excluding Cowpen Creek, Yellow Bluff Creek, and Gibson Creek.
5. South Brunswick River and drainage system to confluence of Brunswick River.
6. Fancy Bluff Creek from confluence with South Brunswick River to the Little Satilla River.
7. Brunswick River from confluence of Turtle River and South Brunswick River to St. Simons Sound.
8. Little Satilla River from confluence with Fancy Bluff Creek to St. Andrews Sound (north of center line).
9. All waters surrounding Jekyll Island, Jointer Island, and Colonels Island.

CAMDEN COUNTY

1. Little Satilla River from confluence with Fancy Bluff Creek to St. Andrews Sound (south of center line), excluding Maiden Creek.
2. Umbrella Creek from confluence with Dover Creek below Dover Bluff.

3. Dover Creek from confluence with Umbrella Creek to confluence with Satilla River.
4. Satilla River near Floyd Basin and unnamed cut over to Dover Creek to St. Andrews Sound.
5. Floyd Basin at confluence with Todd Creek to confluence with Satilla River.
6. Floyd Basin at confluence with Todd Creek to confluence with Cumberland River.
7. Black Point Creek south of Latitude 30E 52.0' south to Crooked River.
8. Crooked River from Crooked River State Park to Cumberland River.
9. Cumberland River from confluence of St. Andrews Sound to confluence with St. Marys River (north of center line).
10. North River from County Road 75 to confluence with St. Marys River.
11. All waters surrounding Cumberland Island.
12. St. Marys River (north of center line) from end of State Road 40 to Cumberland Sound.

(17) Specific Criteria for Lakes and Major Lake Tributaries. In addition to the general criteria, the following lake specific criteria are deemed necessary and shall be required for the specific water usage as shown:

(a) West Point Lake: Those waters impounded by West Point Dam and downstream of U.S. 27 at Franklin.

(I) Chlorophyll a: For the months of April through October, the average of monthly photic zone composite samples shall not exceed 27 μg/l at the LaGrange Water Intake.

(ii) pH: Within the range of 6.0 - 9.5.

(iii) Total Nitrogen: Not to exceed 4.0 mg/l as Nitrogen in the photic zone.

(iv) Phosphorus: Total lake loading shall not exceed 2.4 pounds per acre foot of lake volume per year.

(v) Fecal Coliform Bacteria:

1. U.S. 27 at Franklin to New River: Fecal coliform bacteria shall not exceed the Fishing criterion as presented in 391-3-6 .03(6)(c).
2. New River to West Point Dam: Fecal coliform bacteria shall not exceed the Recreation criterion as presented in 391-3-6-.03(6)(b).

(vi) Dissolved Oxygen: A daily average of 5.0 mg/l and no less than 4.0 mg/l at all times at the depth specified in 391-3-6-.03(5)(f).

(vii) Temperature: Water temperature shall not exceed the Recreation criterion as presented in 391-3-6-.03(6)(b)(iv).

(viii) Major Lake Tributaries: For the following tributaries, the annual total phosphorus loading to West Point Lake shall not exceed the following:

1. Yellow Jacket Creek at Hammet Road: 11,000 pounds.
2. New River at Hwy 100: 14,000 pounds.
3. Chattahoochee River at U.S. 27: 1,400,000 pounds.

(b) Lake Walter F. George: Those waters impounded by Walter F. George Dam and upstream to Georgia Highway 39 near Omaha.

(I) Chlorophyll a: For the months of April through October, the average of monthly photic zone composite samples shall not exceed 18 ug/l at mid-river at U.S. Highway 82 or 15 ug/l at mid-river in the dam forebay.

(ii) pH: Within the range of 6.0-9.5 standard units.

(iii) Total Nitrogen: Not to exceed 3.0 mg/l as nitrogen in the photic zone.

(iv) Phosphorous: Total lake loading shall not exceed 2.4 pounds per acre-foot of lake volume per year.

(v) Fecal Coliform:

1. Georgia Highway 39 to Cowikee Creek: Fecal coliform bacteria shall not exceed the Fishing criterion as presented in 391-3-6-.03(6)(c)(iii).
2. Cowikee Creek to Walter F. George Dam: Fecal coliform bacteria shall not exceed the Recreation criterion as presented in 391-3-6-.03(6)(b)(I).

(vi) Dissolved Oxygen: A daily average of no less than 5.0 mg/l and no less than 4.0 mg/l at all times at the depth specified in 391-3-6-.03(5)(f).

(vii) Temperature: Water temperature shall not exceed the Recreation criterion as presented in 391-3-6-.03(6)(b)(iv).

(viii) Major Lake Tributary: The annual total phosphorous loading to Lake Walter F. George, monitored at the Chattahoochee River at Georgia Highway 39, shall not exceed 2,000,000 pounds.

(c) Lake Jackson: Those waters impounded by Lloyd Shoals Dam and upstream to Georgia Highway 36 on the South and Yellow Rivers, upstream to Newton Factory Bridge Road on the Alcovy River and upstream to Georgia Highway 36 on Tussahaw Creek.

(I) Chlorophyll a: For the months of April through October, the average of monthly mid-channel photic zone composite samples shall not exceed 20 µg/l at a location approximately 2 miles downstream of the confluence of the South and Yellow Rivers at the junction of Butts, Newton and Jasper Counties.

(ii) pH: Within the range of 6.0-9.5 standard units.

(iii) Total Nitrogen: Not to exceed 4.0 mg/l as nitrogen in the photic zone.

(iv) Phosphorous: Total lake loading shall not exceed 5.5 pounds per acre-foot of lake volume per year.

(v) Fecal Coliform: Fecal coliform bacteria shall not exceed the Recreation criterion as presented in 391-3-6-.03(6)(b)(I).

(vi) Dissolved Oxygen: A daily average of 5.0 mg/l and no less than 4.0 mg/l at all times at the depth specified in 391-3-6-.03(5)(f).

(vii) Temperature: Water temperature shall not exceed the Recreation criterion as presented in 391-3-6-.03(6)(b)(iv).

(viii) Major Lake Tributaries: For the following major tributaries, the annual total phosphorous loading to Lake Jackson shall not exceed the following:

1.	South River at Island Shoals:	179,000 pounds
2.	Yellow River at Georgia Highway 212:	116,000 pounds
3.	Alcovy River at Newton Factory Bridge Road:	55,000 pounds
4.	Tussahaw Creek at Fincherville Road.:	7,000 pounds

(d) Lake Allatoona: Those waters impounded by Allatoona Dam and upstream to State Highway 5 on the Etowah River, State Highway 5 on Little River, the Lake Acworth Dam, and the confluence of Little Allatoona Creek and Allatoona Creek. Other impounded tributaries to an elevation of 840 feet mean sea level corresponding to the normal pool elevation of Lake Allatoona.

Chlorophyll a: For the months of April through October, the average monthly mid-channel photic zone composite samples shall not exceed the chlorophyl a concentrations at the locations listed below:

(1)	Upstream from the Dam	10 µg/l
(2)	Allatoona Creek upstream from I-75	10 µg/l
(3)	Mid-Lake downstream from Kellogg Creek	10 µg/l
(4)	Little River upstream from Highway 205	15 µg/l
(5)	Etowah River upstream from Sweetwater Creek	12 µg/l

(ii) pH: Within the range of 6.0-9.5 standard units

(iii) Total Nitrogen: Not to exceed 4 mg/l as nitrogen in the photic zone.

(iv) Phosphorous: Total lake loading shall not exceed 1.3 pounds per acre-foot of lake volume per year.

(v) Fecal Coliform:

1. Etowah River, State Highway 5 to State Highway 20: Fecal coliform bacteria shall not exceed the Fishing Criterion as presented in 391-3-6.-03(6)(c)(iii).

2. Etowah River, State Highway 20 to Allatoona Dam: Fecal coliform bacteria shall not exceed the Recreation criterion as presented in 391-3-6.-03(6)(b)(i).

(vi) Dissolved Oxygen: A daily average of 5.0 mg/l and no less than 4.0 mg/l at all times at the depth specified in 391-3-6-.03(5)(g).

(vii) Temperature:

1. Etowah River, State Highway 5 to State Highway 20: Water temperature shall not exceed the Fishing criterion as presented in 391-3-6-.03(6)(c)(iv).

2. Etowah River State Highway 20 to Allatoona Dam: Water temperature shall not exceed the Recreation criterion as presented in 391-3-6-.03(6)(b)(iv).

(viii) Major Lake Tributaries: For the following major tributaries, the annual total phosphorous loading to Lake Allatoona shall not exceed the following:

1.	Etowah River at State Highway 5 spur and 140, at the USGS gage	340,000 lbs/yr
2.	Little River at State Highway 5 (Highway 754)	42,000 lbs/yr

3. Noonday Creek at North Rope Mill Road 38,000 lbs/yr

4. Shoal Creek at State Highway 108 (Fincher Road) 9,200 lbs/yr

(e) Lake Sidney Lanier: Those waters impounded by Buford Dam and upstream to Belton Bridge Road on the Chattahoochee River, 0.6 miles downstream from State Road 400 on the Chestatee River, as well as other impounded tributaries to an elevation of 1070 feet mean sea level corresponding to the normal pool elevation of Lake Sidney Lanier.

(i) Chlorophyll a: For the months of April through October, the average of monthly mid-channel photic zone composite samples shall not exceed the chlorophyll a concentrations at the locations listed below:

1. Upstream from the Buford Dam forebay 5 μg/l

2. Upstream from the Flowery Branch confluence 5 μg/l

3. At Browns Bridge Road (State Road 369) 5 μg/l

4. At Bolling Bridge (State Road 53) on Chestatee River 10 μg/l

5. At Lanier Bridge (State Road 53) on Chattahoochee River 10 μg/l

(ii) pH: Within the range of 6.0-9.5 standard units.

(iii) Total Nitrogen: Not to exceed 4 mg/l as nitrogen in the photic zone.

(iv) Phosphorous: Total lake loading shall not exceed 0.25 pounds per acre-foot of lake volume per year.

(v) Fecal Coliform: Fecal coliform bacteria shall not exceed the Recreation criterion as presented in 391-3-6-.03(6)(b)(l).

(vi) Dissolved Oxygen: A daily average of 5.0 mg/l and no less than 4.0 mg/l at all times at the depth specified in 391-3-6-.03(5)(g).

(vii) Temperature: Water temperature shall not exceed the Recreation criterion as presented in 391-3-6-.03(6)(b)(iv).

(viii) Major Lake Tributaries: For the following major tributaries, the annual total phosphorous loading to Lake Sidney Lanier shall not exceed the following:

1. Chattahoochee River at Belton Bridge Road 178,000 pounds
2. Chestatee River at Georgia Highway 400 118,000 pounds
3. Flat Creek at McEver Road 14,400 pounds

(f) Carters Lake: Those waters impounded by Carters Dam and upstream on the Coosawattee River as well as other impounded tributaries to an elevation of 1072 feet mean sea level corresponding to the normal pool elevation of Carters Lake.

(i) Chlorophyll a: For the months of April through October, the average of monthly mid-channel photic zone composite samples shall not exceed the chlorophyll a concentrations at the locations listed below:

1. Carters Lake upstream from Woodring Branch 5 ug/l

2. Carters Lake at Coosawattee River embayment mouth 10 ug/l

(ii) pH: within the range of 6.0 – 9.5 standard units.

(iii) Total Nitrogen: Not to exceed 4.0 mg/l as nitrogen in the photic zone.

(iv) Phosphorous: Total lake loading shall not exceed 172,500 pounds or 0.46 pounds per acre-foot of lake volume per year.

(v) Fecal Coliform: Fecal coliform bacteria shall not exceed the Recreation criterion as presented in 391-3-6-.03(6)(b)(i).

(vi) Dissolved Oxygen: A daily average of 5.0 mg/l and no less than 4.0 mg/l at all times at the depth specified in 391-3-6-.03(5)(g).

(vii) Temperature: Water temperature shall not exceed the Recreation criterion as presented in 391-3-6-.03(6)(b)(iv).

(viii) Major Lake Tributaries: For the following major tributaries, the annual total phosphorous loading at the compliance monitoring location shall not exceed the following:

1. Coosawattee River at Old Highway 5 151,500 pounds

2. Mountaintown Creek at U.S. Highway 76 8,000 pounds

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

Authority Ga. Laws 1964, p. 416, as amended; Reorganization Act of 1972, Ga. Laws 1972, Section 32, 1517, and 1534. **Administrative History**. Original Rule entitled "Water Use Classifications and Water Quality Standards" was filed on June 10, 1974; effective June 30, 1974. **Amended**: Filed May 29, 1985; effective June 19, 1985. **Amended**: Filed December 9, 1988; effective December 29, 1988. **Amended**: Filed May 31, 1989; effective June 20, 1989. **Amended**: ER 391-3--6-0.16-.03 was f. Jul. 6, 1989; eff. June 30, 1989, the date of adoption to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency. **Amended**: ER. 391-3-5-0.17-.03 was f. Aug. 25, 1989, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER., as specified by the Agency. **Amended**: ER. 391-3-6-0.19-.03 was f. Dec. 8, 1989, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER., as specified by the Agency. **Amended**: F. Dec. 8, 1989. **Amended**: F., Apr. 3, 1990; eff. Apr. 23, 1990. **Amended:** F. Apr. 8, 1993; eff. Apr. 28, 1993. Amended: F. Aug. 9, 1993; eff. Aug 29, 1993.; Amended: F. Aug. 30, 1995; Eff. Sept. 19, 1995. **Amended:** E.R. 391-3-6 was filed May. 1,1996, eff. April 25, 1996, the date of adoption to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency. Amended: F. July 10, 1996. Eff. July 30, 1996. **Amended: F.** Oct. 17, 1996; Eff. Nov. 6, 1996. **Amended: F.** May 2, 1997; Eff. May 22, 1997. **Amended: F** Nov. 3, 1998; **Eff:** Nov. 23, 1998; Amended: F Feb. 7, 2000; Eff. Feb 27, 2000; Amended: F Apr. 12, 2000, Eff. May 2, 2000. **Amended: F**. Oct. 26. 2001: Eff: Nov. 15, 2001: **Amended: F. May 10, 2002; Eff. May 30, 2002. Amended" F. July 2, 2002, Eff. July 22, 2002. AMENDED: F: Dec. 9, 2002; EFF. Dec. 29, 2002.**

391-3-6-.04 Marine Sanitation Devices. Amended.

(1) Purpose. The purpose of Paragraph 391-3-6-.04 is to prescribe procedures pertaining to construction, installation and operation of marine sanitation devices, facilities or methods of sewage disposal.

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

(a) "Boat" means any vessel or watercraft whether moved by oars, paddles, sails, or other power mechanism, inboard or outboard, or any other vessel or structure floating upon the waters of this State whether or not capable of self locomotion, including, but not limited to, cabin cruisers, houseboats, barges and similar floating objects.

(b) "Marine Toilet" means any toilet on or within any boat

(c) "Other Disposal Unit" means any device on or within any boat, other than marine toilet, which is intended for use in the disposal of human body wastes or sewage.

(d) "Blender" means any mechanical device capable of reducing sewage solids into a finely divided state such that a liquid disinfecting agent may be effectively dispersed throughout the blended sewage.

(e) "Marine Sanitation Devices" mean any equipment for installation on a boat which is designed to receive, retain, treat, or discharge sewage or any process to treat such sewage.

(f) "Sewage," for the purposes of this Paragraph only, means water carried wastes, which are generated by human beings or their activities.

(3) General Provisions.

(a) Any marine toilet or other disposal unit located on or within any boat operated on waters of this State shall have securely affixed to the interior discharge toilet or unit a suitable marine sanitation device designed, constructed, and operated in accordance with requirements prescribed herein. All sewage passing into or through the marine toilet or other disposal unit shall discharge solely to the marine sanitation device.

(b) This Paragraph shall not apply to ocean going vessels of 20 tons displacement or more.

(4) Waste Treatment Devices and Equipment.

(a) All discharges from marine sanitation devices into or upon the waters of this State shall be in compliance with the Federal standards of performance and regulations for marine sanitation devices promulgated pursuant to Section 312 of the Federal Act.

(b) For vessels on the lakes listed in the Official Code of Georgia Annotated Section 12-5-29(c) as amended, it shall be unlawful for any person to operate or float a vessel having a marine toilet unless such marine toilet only discharges into a holding tank located on the vessel. It is further required that:

(l) Such holding tank be constructed so as to prevent removal of the sewage held therein except by pumping:

(2) The holding tank be properly vented to the outside air in such fashion as not to foul the interior of the boat structure;

(3) Only those chemicals approved by the Division can be added to the holding tank; and

(4) The contents of the holding tank must be disposed of only through onshore facilities approved by the Division.

(c) For vessels on the lakes referenced in paragraph (4)(b) of this section constructed on or before January 1, 1978, an extension shall be granted until December 31, 1991 for compliance with paragraph (4)(b) of this section. The Burden of Proof regarding the construction date of the vessel is the responsibility of the vessel owner. During the extension period those vessels found in violations of the provisions of the law will be issued a warning which will serve to notify each boater of the requirements to comply with paragraph (4)(b) of this section.

(5) Right of Entry. Personnel of the Division or other duly authorized agents of the Department shall have access to any boat at reasonable times for the purpose of determining whether or not there is compliance with the provisions of the Act and the rules of the Division.

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

Authority Ga. L. 1964, p.416, as amended. **Administrative History.** Original Rule entitled "Marine Sanitation Devices" was filed on June 10, 1974, effective June 30, 1974. **Amended**: F. Apr. 3, 1990; eff. Apr. 23, 1990. **Amended**: F. Jul. 6, 1990; eff. Jul. 26, 1990. **Amended:** E.R. 391-3-6 was filed May. 1,1996, eff. April 25, 1996, the date of adoption to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency. Amended: F. July 10, 1996. Eff. July 30, 1996.

391-3-6-.05 Emergency Actions.

(l) Purpose. The purpose of Paragraph 391-3-6-.05 is to provide procedures to handle any emergency which endangers the waters of the State.

(2) Definitions. All terms used in this Paragraph 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.

(a) ASpill@ means any discharge of raw sewage by a Publicly Owned Treatment Works (POTW) to the waters of the State**.**

(b) "Major Spill" means:

1. The discharge of pollutants into the waters of the State by a POTW that exceeds the weekly average permitted effluent limit for biochemical oxygen demand (5-day) or total suspended solids by 50 percent or greater for any one day.

2. Any discharge of raw sewage that (l) is in excess of 10,000 gallons or (2) results in water quality violations in the waters of the State.

(c) "Consistently exceeding an effluent limitation" means a POTW exceeding the 30 day average limit for biochemical oxygen demand or total suspended solids for at least five days out of each seven day period during a total period of 180 consecutive days.

(3) Notice Concerning Endangering Waters of the State.

Whenever, because of an accident or otherwise, any toxic or taste-and color producing substance, or any other substance which would endanger downstream users of the waters of the State or would damage property, is discharged into such waters, or is so placed that it might flow, be washed, or fall into them, it shall be the duty of the person in charge of such substances at the time to forthwith notify the Division in person or by telephone of the location and nature of the danger, and it shall be such person's further duty to immediately take all reasonable and necessary steps to prevent injury to property and downstream users of said water. The following specific requirements shall apply to POTWs:

(a) The owner of a POTW shall immediately notify the Division, in person or by telephone, when a spill or a major spill occurs in the system. Within five (5) days of the incident, the owner of the POTW shall submit a written report to the Division which includes, at a minimum, the information required in (3)(e) below.

(b) The owner of a POTW responsible for a major spill shall publish a notice of the major spill in the legal organ of the County where the incident occurred. The notice shall be published within seven days after the date of the major spill. The notice as a minimum shall include the following:

1. Date of the major spill
2. Location and cause of major spill
3. Estimated volume discharged and name of receiving waters
4. Corrective action taken to mitigate or reduce the adverse effects of the major spill.

(c) The owner of a POTW shall immediately establish a monitoring program of the waters affected by a major spill or by consistently exceeding an effluent limit, with such monitoring being at the expense of the POTW for at least one year. The monitoring program shall include an upstream sampling point as well as sufficient downstream locations to accurately characterize the impact of the major spill or the consistent exceedence of effluent limitations as described in (2)(c) above. As a minimum the following parameters shall be monitored in the receiving stream:

1. Dissolved Oxygen
2. Fecal Coliform Bacteria
3. pH
4. Temperature

The monitoring and reporting frequency as well as the need to monitor additional parameters, will be determined by the Division. The results of the monitoring will be provided by the POTW owner to the Division and all downstream public agencies using the affected waters as a source of a public water supply.

(d) The Division and the owner of a POTW will provide notice of a major spill within 24-hours of becoming aware of the major spill to every county, municipality or other public agency whose public water supply is within a distance of 20 miles downstream and to any others which could potentially be affected by the major spill.

(e) The owner of a POTW responsible for a spill or a major spill shall report the incident to the local media (television, radio and print media) within 24 hours of becoming aware of the incident. The report shall include at a minimum the following:

1. Date of the spill or major spill
2. Location and cause of spill or major spill
3. Estimated volume discharged and name of receiving waters
4. Corrective action taken to mitigate or reduce the adverse effects of the spill or major spill.

(f) The owner of a POTW responsible for a spill or a major spill shall immediately report the incident to the local health department(s) for the area affected by the incident. The report shall include at a minimum the same information required in (3)(e) above.

(g) The owner of a POTW responsible for a spill or a major spill shall immediately post a notice as close as possible to where the spill or major spill occurred and where the spill or major spill entered State waters. The notice shall include at a minimum the same information required in (3)(e) above. The intent of this requirement is for the POTW to notify citizens, who may come into contact with the affected water, that the spill or the major spill has occurred. The owner shall also post additional notices of the spill or major spill along the portions of the waterway affected by the incident (i.e. at bridge crossings, trails, boat ramps, recreational areas, and other points of public access to the affected waterway). These notices shall remain in place for a minimum of seven days after the spill or major spill has ceased.

(4) Noncompliance Notification. If, for any reason, the permittee does not comply with, or will be unable to comply with any effluent limitations specified in the permittee's NPDES permit, the permittee shall provide the Division with an oral report within 24 hours from the time the permittee becomes aware of the circumstances followed by a written report within five (5) days of becoming aware of such condition. The written submission shall contain the following information:

(a) A description of the noncompliance and its cause; and

(b) The period of noncompliance, including exact dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.

(5) Emergency Orders. The Director shall have the authority to issue an emergency order pursuant to Section 20 of the Act, and Section 17(a) of the Executive Reorganization Act of 1972, as amended.

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

Authority: O.C.G.A. Section 12-5-20 et. seq. Administrative History. Original Rule entitled "Emergency Actions" was filed on June 10, 1984; effective June 30, 1974. **Amended**: F. Apr. 3, 1990; eff. Apr. 23, 1990. **Amended:** E.R. 391-3-6 was filed May. 1,1996, eff. April 25, 1996, the date of adoption to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency. Amended: F. July 10, 1996. Eff. July 30, 1996. **Amended:** F: May 31, 2001; Eff. June 20, 2001.

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

1. Purpose. The purpose of this Paragraph 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 391-3-6-.15 and 391-3-6-.16.

(2) Definitions. All terms used in this Paragraph 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:

(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:

$$\frac{\text{7-day, 10-year minimum stream flow (7Q10) + discharger design flow}}{\text{discharger design flow}}$$

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:

$$\frac{\text{1-day, 10-year minimum stream flow (1Q10) + discharger design flow}}{\text{discharger design flow}}$$

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

$$\frac{\text{Annual or long-term average stream flow + discharger design flow}}{\text{discharger design flow}}$$

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. Efluent 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, 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. Hexachlorocyclopentadiene
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 the 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 instream 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, 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 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 40CFR131.20 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. The following discharges and stream segments are hereby granted temporary exception from water quality standards for water quality based whole effluent toxicity criteria:

Springs Industries Griffin Finishing Plant, NPDES Permit No. GA0003409, discharge to Cabin Creek in the Ocmulgee River Basin in Spalding County from the point of discharge downstream to Walkers Mill Road.

(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 non-construction 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 OCGA 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 dischargers 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.

(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 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;

(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 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. 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.R. 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 sheets;

(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 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 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, 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 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).

(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 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 of 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 requirements 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 to Federal Regulations, 40 C.F.R. 122.29(d)(4).

(13) Non-governmentally Owned Sewerage Systems.

In cases involving non-governmentally 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 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 EPD's intent to modify, revoke and reissue, 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 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.

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

Authority GA L. 1964, p. 416, as amended, (O.C.G.A. 12-5-20 **et seq)** GA L. 1972 p 1015, , as amended, (Ga Code Ann.,40-3501 et. Seq.) **History:** Original Rule entitled: ÁWaste Treatment and Permit Requirements@ was filed on June 10, 1974; effective June 30, 1974; **Amended:** Rule repealed and a new Rule of the same title adopted. Filed June 24, 1980; effective July 14, 1980. **Amended**: Filed December 9, 1988, effective December 29, 1988. **Amended**: E.R. 391-3-6-0.18-.06 was f. Aug. 25, 1989; eff. August 23, 1989, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER. as specified by the Agency. **Amended**: F. Dec. 8, 1989; eff. December 28, 1989. **Amended**: F. Apr. 3, 1990; eff. April 23, 1990. **Amended**: F. Jul. 6, 1990; eff. Jul. 26, 1990. **Amended**. Apr 8, 1993, eff. Apr. 28, 1993. Amended F. May 9, 1994, eff. May 29, 1994.; Amended: F; Aug. 30, 1995; Eff. Sept. 19, 1995. **Amended:** E.R. 391-3-6 was filed May. 1,1996, eff. April 25, 1996, the date of adoption to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency. Amended: F. July 10, 1996. Eff. July 30, 1996. **Amended F:** Nov. 3, 1998; **Eff:** Nov. 23, 1998; **Amended F:** June 26, 2000; **EFF.** July 16, 2000; **Amended**. **F: October 26, 2001; Eff. Nov. 15, 2001.**

391-3-6-.07 Surface Water Withdrawals. Amended.

(1) **Purpose**. This chapter establishes procedures to be followed in obtaining a permit to withdraw, divert or impound surface waters of the State. It sets forth the types of information to be supplied on a permit application. It also outlines the procedures for granting, denying, revoking and modifying such permits.

(2) Definitions. Whenever a term appears in this Chapter which has been defined in the Georgia Water Quality Control Act (O.C.G.A. ‘12-5-31, et seq.) such definition shall apply. Whenever a term appears in this Chapter that is defined below, such definition shall apply, so long as such definition is not inconsistent with any definition in the Georgia Water Control Act.

(a) "Withdrawal" shall mean the taking away of surface water from its natural course.

(b) "Diversion" shall mean a turning aside or altering of the natural course of surface water.

(c) "Impoundment" shall mean the storing or retaining of surface water by whatever method or means.

(d) "Watershed" means the area of land draining into any given point of a basin.

(e) "Surface water(s) of the State" or "surface water(s)" shall mean any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs producing in excess of 100,000 gallons per day, and all other bodies of surface 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.

(f) "Director" shall mean the Director of the Environmental Protection Division of the Department of Natural Resources, State of Georgia, or his designee.

(g) "Farm uses" shall mean irrigation of any land used for general farming, forage, aquaculture, pasture, turf production, orchards, or tree and ornamental nurseries; provisions of water supply for farm animals, poultry farming, or any other activity conducted in the course of farming operations. Farm uses shall also include the processing of perishable agricultural products and the irrigation of recreational turf, except in the Chattahoochee River watershed upstream from the Peachtree Creek confluence, where irrigation of recreational turf shall not be considered a farm use.

(h) "Domestic and personal uses" shall mean uses for drinking, cooking, washing, sanitary purposes, and all health related activities.

(I) "Instream Flow" shall mean that minimum continuous flow reserved to the Surface Waters of the State at or immediately downstream of the point of withdrawal, diversion, or impoundment.

(j) "7Q10 Flow" shall mean that lowest average stream flow expected to occur for seven consecutive days with an average frequency of once in ten years.

(k) "Non-Depletable Flow" shall mean that instream flow consisting of the 7Q10 flow plus an additional flow needed to ensure the availability of water to downstream users. Non-depletable flow is normally calculated by adding the 7Q10 flow to the pro rata share of the downstream withdrawal, using the drainage area ratio method.

(l) "Basin" shall mean that area within one of the fourteen river drainages listed below comprising the sum of the watersheds within that basin.

1. Altamaha	8. Ogeechee
2. Chattahoochee	9. St. Marys
3. Coosa	10. Satilla
4. Flint	11. Savannah
5. Ochlockonee	12. Suwannee
6. Ocmulgee	13. Tallapoosa
7. Oconee	14. Tennessee

(m) "Interbasin Transfer" shall mean a withdrawal or diversion in which water used is returned to a different basin than that from which it is withdrawn or diverted.

(n) "Unaccounted for Water" (UAW) means the difference between the total amount of water pumped into the water system from the source(s) and the amount of metered water use by the customers of the water system expressed as a percentage of the total water pumped into the system. UAW generally includes system leakage and unmetered uses such as fire fighting, flushing, broken water mains, etc. Authority: O.C.G.A. Section 12-5-31 et. seq. as amended.

(3) Permit Required.

(a) Any person who, on a monthly average, withdraws more than 100,000 gallons of surface water per day; diverts surface water so as to reduce the flow by more than 100,000 gallons per day at the point where the watercourse, prior to diversion, leaves the property on which the diversion occurs; or constructs an impoundment which reduces the flow of surface water by more than 100,000 gallons per day downstream of the impoundment, must obtain a permit from the Director prior to any such withdrawal, diversion or impoundment subject to the following exceptions:

1. Exceptions - No permit shall be required for the following:

(I) Any diversion accomplished as part of construction for transportation purposes which does not reduce the flow of surface waters in the diverted watercourse by more than 150,000 gallons per day on a monthly average;

(ii) Any reduction of flow of surface waters during the period of construction of an impoundment, including the initial filling of the impoundment;

(iii) Any farm pond or farm impoundment constructed and managed for the sole purpose of fish, wildlife, recreation or other farm uses.

(4) Permit Application: Non-Farm Uses.

(a) All applications shall be on forms furnished by the Division.

(b) The applications shall include:

1. Name and address of applicant.

2. Date of filing.

3. Source of water supply.

4. Quantity applied for, both maximum day and monthly average. Maximum day withdrawal, diversion or impoundment shall be computed as the highest annual use by a water source or system in a 24-hour period, expressed in gallons per day. Monthly average withdrawal, diversion or impoundment shall be computed as the highest total amount of water used by a water source or water system in any one month divided by the number of days in that month, expressed in gallons per day.

5. Use to be made, and documentation of need for water within five (5) years after date of filing.

6. Place of use.

7. Location of withdrawal, diversion or impoundment plotted on a U.S. Geological Survey, 7 2 minute quadrangle map or latest county highway map; and the latitude and longitude of the withdrawal expressed in degrees, minutes, and seconds.

8. In the preparation of a permit application for a new permit or modification of an existing permit which includes an increase in the permitted water use (except for a farm use permit application), the applicant must submit to the Director for approval a water conservation plan prepared in accordance with the following guidelines. The plan must address the following items (or contain a statement why the item is not an appropriate part of the plan):

(I) System management;

(I) Within the most recent 24 month period, a minimum of twelve consecutive months of UAW data;

(II) A description of any current or planned programs to reduce UAW such as those listed below (include proposed schedules for planned activities):

I. Leak detection and elimination;
II. Availability of accurate maps of the water system;
III. Meter maintenance, testing, replacement, calibration, etc;
IV. Prevention of tank overflows;
V. Flushing programs without degradation of water quality;
VI. Prevention of unauthorized water use - fire hydrants, fire lines, etc.;
VII. A list of unmetered service connections including publicly owned facilities, churches, etc.;
VIII. Other;

(III) A list of inter-connections with other water systems and a description of any contractual agreements, type (emergency back-up, wholesale sale or purchase) and purchase amounts;

(IV) Any additional current or planned activities pertaining to system management that will contribute to water conservation.

(ii) Treatment plant management;

(I) The condition, calibration frequency, type, etc. of raw and finished water metering;

(II) An analysis of in-plant water use for filter backwashing, overflows, laboratory use, etc. as a percentage of total plant production. Also, the plan must outline any ongoing or planned plant improvements (including schedules for planned improvements) and/or revised operational procedures to reduce in-plant use;

(III) A description of any recycling or reuse of filter backwash water.

(iii) Rate making policies;

(I) A list of non-billed service connections. Also, if available, a breakdown by number of meters or % of total production for each class of customer, e.g., residential, commercial, industrial, wholesale;

(II) A copy of the water rate structure currently in use including any surcharges, demand charges, etc., which may apply to certain customers and a description of the effects of this rate structure on water conservation;

(III) A description of any system policies concerning second meters for landscape irrigation and any use of sewer meters for billing;

(IV) A statement in response to the following questions:

I. Is the water system financially self-supporting?

II. Are water system expenditures subsidized by non-water/sewer system revenues?

(iv) Plumbing ordinances and/or codes;

(I) A description of compliance with State Water Conservation Law which requires the use of ultra-low flow plumbing fixtures. The applicant may include copies of adopted ordinances if applicable;

(II) Ordinances/codes or other special requirements pertaining to outside water use such as landscape irrigation systems, commercial car washes, etc.

(v) Recycle - reuse;

A description or accounting of any recycling or reuse of treated wastewater.

(vi) A description of current and planned education programs for the promotion of water conservation.

(vii) Progress report;

Five years after issuance of a new or modified Surface Water Withdrawal Permit, the permittee must submit to the Director a progress report that outlines actions and/or improvements made to conserve water and reduce water loss, e.g., leak detection/repair, meter installation, calibration, or replacement, summer and/or peak use surcharges, enforcement of ultra-low flow plumbing fixture requirements, etc. Permittees with a total permitted withdrawal less than one million gallons per day on a monthly average may use a simplified reporting format supplied by the Division.

(viii) Water use data;

(I) Permittees must submit to the Director an annual water use data report that includes information on unaccounted for water for the past 12 months. This report will be submitted in conjunction with the annual water use report that is required pursuant to subsection 391-3-6-.07(15).

(ix) Long-range planning;

All permittees must incorporate water conservation into long term water demand and supply planning. Permittees must develop water demand projections covering a 20 year time period using a method or methods approved by the Director. The demand projections must reflect the effects (demand reductions) inherent in the implementation of new or enhanced water conservation programs.

(x) A description of any additional water conservation activities.

9. A drought contingency plan approved by the Director and prepared in accordance with the following guidelines. The plan should include alternative system and resource management strategies to be implemented under drought conditions that may severely reduce the availability of the resource. The applicant or permittee must provide the following items in the plan (or a statement as to why the item is not an appropriate part of the plan):

(I) Drought condition indicators;

(I) The applicant or permittee must develop a system for determining drought severity based on some approved indicator, e.g.:

I. Streamflow levels;
II. Ground water levels;
III. Reservoir storage or levels;
IV. Other.

(ii) Potable water use priorities program;

(I) The following order of potable water use priorities is generally recommended but may be modified as needed based on local conditions:

I. Emergency facilities for essential life support measures;

II. Domestic and personal uses, including drinking, cooking, washing, sanitary and health related;

III. Farm uses;

IV. Industrial uses (including those industries on public water systems);

V. Other uses such as lawn sprinkling, non-commercial car washing, garden watering, etc.;

VI. Outdoor recreational uses.

(II) Conditions or events that put priority use system into effect;

(III) Adopted priority use system for service during periods of water shortages;

(IV) Restrictions on lower priority uses (including enforcement procedures);

(V) Rationing and/or other emergency procedures.

(iii) Low flow protection;

(I) For applications for new or modified permits to withdraw, impound or divert surface water:

No permit will be issued by the Director which authorizes the depletion of the instream flow established for the withdrawal, diversion or impoundment of surface water, except for periods of Emergency Water Shortage as described in Subsection 391-3-6-.07(12);

(II) For applications for new or modified permits, the applicant will be required to pass instream flow at or immediately downstream of the point of withdrawal, diversion or impoundment so long as it is available from upstream. When upstream flows drop below the required instream flow at the point of withdrawal, diversion or impoundment, the applicant will be required to pass that upstream flow. The Instream Flow required for new or modified permits in this subsection shall be:

I. The 7Q10 flow, if no unreasonable adverse effects to the stream or other water users will occur from the withdrawal, diversion or impoundment; or

II. The Non-Depletable Flow, as established by the Director, if probable impacts of the withdrawal, diversion or impoundment would occur to other water users; or

III. Other appropriate instream flow limit, as established by the Director;

(III) Low-flow monitoring plan that outlines applicant's procedure to monitor and protect instream flow below the point of withdrawal. Where applicable, the applicant must develop a plan for monitoring stream flow so that the instream flow limit can be protected. The monitoring plan must determine stream flow based on one of the following:

I. U.S.G.S. staff gage or continuous recording station;
II. Other staff gage as approved by the Director;
III. Weir;
IV. Other.

(iv) Water storage available to ensure availability of raw water to applicant through a critical drought period. Examples of suitable critical drought periods include but are not limited to: 50-year recurrence interval; 1954-1956 drought; 1984-1988 drought. The definition of available storage should include:

(I) Yield vs. drought return period;
(II) Storage type, e.g., main stream or off-stream supplemental;
(III) Any available alternate sources of finished and raw water such as ground water, interconnections, contractual agreements.

10. Consumptive loss of water withdrawn, diverted or impounded.

11. Permitted capacities of applicant's water treatment and wastewater treatment plants, existing or planned, that will treat water and wastewater to be generated by new or increased use.

12. Any other information deemed necessary; provided, however, any information already provided to the Director in connection with prior dealings with the Division may be incorporated into the application by specific and detailed reference and a statement that the information is still valid and correct.

(5) Permit Applications: Farm Uses.

(a) Prior Uses. A permit for the withdrawal or diversion of surface waters for farm uses shall be issued by the Director to any person when the applicant submits an application which provides reasonable proof that the applicant's farm use of surface waters occurred prior to July 1, 1988, and when any such application is submitted prior to July 1, 1991. If submitted prior to July 1, 1991, an application for a permit to be issued based upon farm uses of surface waters occurring prior to July 1, 1988, shall be granted for the withdrawal or diversion of surface waters at a rate of withdrawal or diversion equal to the greater of the operating capacity in place for withdrawal or diversion on July 1, 1988, or, when measured in gallons per day on a monthly average for a calendar year, the greatest withdrawal or diversion capacity during the five-year period immediately preceding July 1, 1988.

(b) New Uses. If submitted after July 1, 1991, or regardless of when submitted, if it is based upon a withdrawal or diversion of surface waters for farm use occurring or proposed to occur on or after July 1, 1988, an application shall be subject to evaluation and classification pursuant to subsection 391-3-6-.07(4),-.07(6) and -.07(7) of these Rules; but a permit based upon such evaluation and classification shall be issued to ensure the applicant's right to a reasonable use of such surface waters.

(c) Permittees shall submit application for withdrawal or diversion of water for farm use to the Division on forms to be supplied by the Division. One application will be required for each water source. Applications will include the following information:

1. Applicant's full name;

2. Mailing address;

3. County in which water source is located;

4. Purpose of withdrawal;

5. Source pond, lake, reservoir, stream, river or sinkhole, with name;

6. Number of pumps withdrawing/diverting surface water from above source;

7. Design pumping capacity (total) of pumps withdrawing water from this source for this farm (gallons per minute);

8. Month and year this capacity was installed;

9. Number of acres irrigated from this water source, and average number of inches of water applied per year;

10. Whether or not chemicals, fertilizers, fungicides, herbicides, insecticides or nematicides are injected into the irrigation water; and

11. County map supplied by the Division (or equivalent) showing the location of the water source.

(6) Combination Uses. A combination of farm and non-farm surface water use shall be considered a non-farm surface use, unless the director determines that the predominant use to which the water is put is farm use.

(7) System of Classification for Competing Permit Applications.

(a) In situations involving competing uses, existing or proposed, for a supply of available surface water, the Division shall consider:

1. The number of persons using the particular water source and the object, extent and necessity of their respective withdrawals or uses;

2. Nature and size of water source;

3. Low flows during droughts of record;

4. Any water quality of the water source which would adversely affect its availability or fitness for use;

5. The probable severity and duration of low flows, poor water quality or other impairments of the water source which would adversely affect its availability or fitness for use;

6. The injury to public health, safety or welfare which would result if such impairment were not prevented or abated;

7. The kinds of businesses or activities to which the various uses are related and the economic consequences;

8. The importance and necessity of the uses, including farm uses, claimed by permit applicants and the extent of any injury or detriment caused or expected to be caused to other water uses;

9. Diversion from or reduction of flows in other watercourses;

10. The prior investments of any person in lands, and plans for the farm usage of water in connection with such lands, which plans have been submitted to the Director within a reasonable time after July 1, 1988; provided that the granting of such a permit shall not have unreasonably adverse effects upon other water uses in the area, including potential as well as present use;

11. The varying circumstances of each use.

(8) Priorities for Competing Applications.

(a) When there are competing applications for water from the same source, and the source is insufficient to supply all applicants, the following order of priorities shall prevail:

1. Emergency facilities for essential life support measures.

2. Domestic and personal uses, including drinking, cooking, washing, sanitary purposes and all health related activities.

3. Farm uses as defined herein.

4. Industrial uses (including those industries on public water systems).

5. Other uses such as lawn sprinkling, noncommercial car washing, garden watering, etc.

6. Outdoor recreational uses.

(b) Competing applicants or users within the above categories shall be assigned a priority rating based upon a consideration of the facts set forth in subsection 391-3-6-.07(6) of these Rules. In the event two or more competing applicants or users qualify equally under the priority rating, the Director will grant permits to such competing applicants, or modify the existing permits of the users, for use of specified quantities of surface water on a prorated or other reasonable basis in those situations where such action is feasible, provided, however, that the Director will give preference to an existing use over an initial application.

(c) The Division shall take into consideration the extent to which such withdrawals, diversions or impoundments are reasonably necessary in the judgment of the Director to meet the applicant's reasonable needs; including the needs of any third party to whom the permit applicant was furnishing water for the processing of perishable agricultural products which require minimum quantities of water to comply with State or federal laws or regulations, and shall grant a permit which shall meet those reasonable needs; provided, however, that the granting of such permit shall not have unreasonable adverse affect upon other water uses in the area including but not limited to public use, farm use, and potential as well as present use, and provide, further, however, notwithstanding the above, that the Director shall grant a permit to any permit applicant who on the effective date of this Act has outstanding indebtedness in the form of revenue certificates or general obligation bonds which are being amortized through the sale of surface water, the permitted quantity of such shall be at least in an amount consistent with the quantity for which the revenue certificates or general obligation bonds were issued.

(9) Duration of Permits.

(a) Any permit granted for the withdrawal, diversion or impoundment of surface waters shall be for a period of time not less than ten (10) years (unless the applicant requests a shorter period of time) nor more than twenty (20) years, except that farm use permits shall have no term and may be transferred or assigned to subsequent owners of the lands which are the subject of such permit. Provided, however, that the Division shall be notified in writing by the permittee of such transfer or assignment. The Director may authorize a permit of duration of up to fifty (50) years in the case of a municipality or other governmental body where such period is required to provide for the retirement of bonds for the construction of water works or waste disposal facilities;

(b) If requested by the applicant, the Director may issue a temporary permit for less than ten (10) years, or a letter of concurrence for transient uses lasting less than 180 days. Applicant's concurrence with a draft permit whose duration is less than ten (10) years shall serve as a request for a temporary permit.

(10) Renewal of Permits. All permittees desiring to renew a permit shall submit an application for renewal to the Director within six (6) months prior to its expiration. All renewals will be treated in the same manner as the initial permit.

(11) Revocation, Suspension or Modification of Permits.

(a) Any permit granted for the withdrawal, diversion or impoundment of surface waters may be revoked, in whole or in part, permanently or temporarily, for the following reasons:

1. Any material false statement in an application for a permit or in any report required to be made;

2. Any willful violation of a condition of a permit;

3. Nonuse of the water supply (or a significant portion thereof) allowed by a permit for a period of two (2) consecutive years or more, unless the permittee can reasonably demonstrate that his nonuse was due to extreme hardship caused by factors beyond his control; except that this paragraph will not apply to farm use permits issued after initial use has commended;

4. With the written consent of the permittee.

(b) Any such permit may be revoked, in whole or in part, for a period not to exceed one (1) year for violation of any provision of Section 12-5-31, et seq. of the Georgia Water Quality Control Act;

(c) Any such permit may be suspended or modified if the Director should determine that the quantity of water allowed under the permit is greater than that needed by the permittee for the particular use upon which the application for permit was based, or would prevent other applicants from reasonable use of surface waters, including farm use;

(d) The director may suspend or modify a farm use permit if he should determine through inspection, investigation, or otherwise that the quantity of water allowed under the permit would prevent other applicants from reasonable use of surface waters for farm use;

(e) Consistent with the considerations set forth in Chapter 391-3-6-.07(7), any such permit may be revoked, suspended or modified for any other good cause consistent with the health and safety of the citizens of this State and within the provisions of this Act;

(f) In the event of modification, suspension or revocation of permit, the Director shall serve written notice of such action on the permit holder and give the reason for such action.

(12) Emergency Water Shortage.

(a) Any permit may be suspended, restricted or otherwise modified by emergency order of the Director when an emergency period of water shortages exists. Prior to any such action, it must clearly appear to the Director from specific facts shown by affidavits of residents of the affected area of this State that an emergency period of water shortage exists within such area, so as to place in jeopardy the health or safety of the citizens of such area or to threaten serious harm to the water resources of the area. Any permittee has five (5) days from the date of mailing of the notice of the proposed change in the permit to appear in opposition to the proposed action. Except as to farm uses, any change, suspension or restriction in the permit is effective immediately upon receipt of such order by the permittee, his agent for service of process, or any agent of employee of the permittee who receives the notification at the permittee's principal place of business in the State. Any permittee, other than a farm use permittee, to whom such order is directed shall comply therewith immediately;

(b) Upon application, the permittee, including a farm use permittee, shall be afforded a hearing before a hearing officer appointed by the Department of Natural Resources within twenty (20) days of receipt of said application by the hearing officer. Farm use permittees may continue to make use of water to their permitted capacity during the appeal process, but failure to timely request a hearing in accordance with Subsection (c) of Code Section 12-2-2 shall waive such right;

(c) In the event of dire emergency, only water for domestic and personal uses, for drinking, cooking, washing, sanitary purposes and all health related activities will be permitted. Farm uses will be given second priority; however, all other usages will be established by the Director based on the priorities established in subsection 391-3-6-.07(7). The importance and necessity of water for industrial purposes are in no way modified or diminished by this subsection;

(d) Upon expiration of the emergency period of water shortage, the permittee will be notified in writing of such expiration and the said permittee may then operate under the permit as issued prior to the emergency.

(13) Request for Modification of Unexpired Permit. A permittee may seek modification of any of the terms of an issued permit. The Director may modify such permit providing the permittee establishes at least one of the following:

(a) A change in conditions has resulted in a need by the permittee of more water than is allowed under the existing permit;

(b) The proposed modification would result in a more efficient use of water than is possible under the existing permit; or

(c) A proposed change in conditions would result in a need by the permittee of more water than is allowed under the existing permit. Any such modification shall be consistent with the health and safety of the citizens of this State and with provisions of this Act.

(14) Interbasin Transfer Permits.

(a) In the consideration of applications for permits which if granted would authorize the withdrawal and transfer of surface waters across natural basins, the Director shall be bound by the following requirements:

1. The Director shall give due consideration to competing existing uses and applications for permits which would not involve interbasin transfer of surface water and, subject to subsection 391-3-6-.07(6), shall endeavor to allocate a reasonable supply of surface waters to such users and applicants.

(b) Public Notification

1. A press release regarding the proposed issuance of a permit for interbasin transfer of surface water shall be given to newspapers of general circulation in the area which would be affected by such issuance.

2. The press release shall be issued at least seven (7) days before issuance of the permit.

3. If the Director determines sufficient public interest exists, he shall hold a hearing somewhere within the area affected prior to the issuance of the permit. The Director shall provide reasonable public notice of such meeting.

(c) Interbasin Permits

1. A public advisory regarding the proposed issuance of a new permit shall be provided to one or more newspapers of general circulation in the area of the applicant.

(15) Records. Except for farm use permits issued pursuant to subsection 391-3-6-.07(5), whenever required to carry out the objectives of Section 12-5-31 et seq. of the Georgia Water Quality Control Act, the Director may by order, permit or otherwise, in writing, require any person holding a permit or any other person who the Director reasonably believes is unlawfully withdrawing, diverting or impounding surface waters to:

(a) Establish and maintain records;

(b) Make reports;

(c) Install, use and maintain monitoring equipment or methods;

(d) Submit other information as required; provided any information already furnished to the Director in connection with prior dealing with the Division may be incorporated into the records or reports by specific and detailed reference and a statement that the information is still valid and correct;

(e) Except for farm uses, permittees shall submit annually t o the Division a report of water use for the previous calendar year, to include monthly average and maximum day use for each month. Such reports shall be on forms provided by the Division and shall be submitted to the Division by January 31 of the current year for water use in the previous calendar year.

(16) Enforcement. The administration and enforcement of these Rules shall be in accordance with the Georgia Water Quality Control Act and the Georgia Administrative Procedure Act.

(17) Effective Date. This Rule shall become effective twenty days after filing with the Secretary of State's office.

Authority Ga. Laws 1964. p. 416, et seq.,as amended ; Ga L 1977, p.368-380 (GA Code Ann. Sec. 17-510.1)O.C.G.A. Sec.12-5-3 1 et seq.): Administrative History. Original Rule entitled ÁSurface Water Withdrawals@ was filed on February 2, 1978; effective February 22, 1978. Amended: F Apr. 3, 1990; eff. Apr. 23, 1990. Amended: F. Dec. 9, 1994; Eff. Dec. 29, 1994. Amended. Emr. Rule Filed on ; Amended F: July 10, 1996; eff. July 30, 1996.

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

(1) Purpose. The purpose of this Paragraph 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 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.

(a) "Act" or "O.C.G.A." means the Official Code of Georgia Annotated, Title 12, Article 2.

(b) "EPD" means the Environmental Protection Division of the Georgia Department of Natural Resources.

(c) "Federal Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended.

(d) "Indirect discharge" or "discharge" means the introduction of pollutants into a POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Federal Act.

(e) "Industrial user" means any person discharging or proposing to discharge any pollutant into a publicly owned treatment works and then into waters of the State and is considered a source of indirect discharge.

(f) "Interference or interfere" means a discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts a Publicly Owned Treatment Work's (POTW's) sewer system, treatment processes or operations or its sludge processes, including use or 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 water, land or air protection laws.

(g) "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 industrial users into a publicly owned treatment works and then into the waters of the State, including but not limited to schedules of compliance.

(h) "National pretreatment standard", "pretreatment standard" or "standard" means any regulation containing pollutant discharge limits promulgated by the 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.

(I) "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 the 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:

(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 pollutants 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 of 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 Sub-paragraphs 391-3-6-.08(2)(l)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.

(j) "Pass through" means a discharge which exits the POTW into waters of the State in quantities or concentrations 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).

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

(l) "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).

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

(n) "Pretreatment permit application" means an application filed by any person with the Director for a pretreatment permit.

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

(p) "Significant industrial user" means any industrial user that:

1. Is subject to any categorical pretreatment standard promulgated by the EPA in accordance with Section 307(b) and (c) of the Federal Act; and any other industrial user that

2. Has in its waste a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Federal Act;

3. Has a reasonable potential to significantly interfere with, either singly or in combination with other contributing industries, the treatment works or the quality of its effluent; or has a reasonable potential to violate any pretreatment standard or requirement;

4. 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); or

5. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant.

(q) "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 during a six month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

2. Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six month period equal or exceed the product of the daily maximum limit or the average limit 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 effluent limit (daily maximum or longer-term average) that the Director 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 POTW'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 thirty (30) 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 the Director determines will adversely affect POTW operation 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, with the exception of a significant industrial user, which shall obtain a permit from the EPD to make such a discharge, unless such discharge is to a publicly owned treatment works operating under a pretreatment program approved by the Director. 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 POTW and the Director and provision of a copy of the existing control mechanism to the new owner or operator;

2. Effluent limits based on applicable general pretreatment standards as specified in 40 CFR 403.5(a) and (b), National Categorical Standards as specified in 40 CFR Chapter I, Subchapter N, Parts 405-471, and local limits as specified in 40 CFR 403.5(c)(2);

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)-(7), 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.

(b) Upon a finding that an industrial user meeting the criteria in Sub-Paragraphs 391-3-6-.08(2)(p)3, 4, or 5 has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the EPD (in cases where the industrial user is directly regulated by the EPD pretreatment program) or the POTW pretreatment program (in cases where the industrial user is directly regulated by the POTW pretreatment program) 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 Sub-Paragraph 391-3-6-.09(7)(d) determine that such industrial user is not a significant industrial user.

(4) Degree of Pretreatment Required.

(a) All pollutants discharged from an industrial user to a publicly owned treatment works and then into the waters of the State 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 EPA pursuant to Section 307 of the Federal Act and as described in Sub-Paragraph 391-3-6-.08(3)(a)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 EPD shall apply such limitations, prohibitions and pretreatment standards necessary to achieve the purposes 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, pretreatment standards and requirements which reflect the greatest degree of effluent reduction which the EPD 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 EPD 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, general and specific prohibitions, dilution prohibition as specified in 40 CFR 403.6(d), pretreatment standards and requirements, or schedule 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 pollutants 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 EPD 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 EPD. Applications shall be accompanied by all pertinent information as the EPD may require in order to establish pretreatment standards and requirements in accordance with Sub-Paragraph 391-3-6.08(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. For industrial users subject to categorical pretreatment standards, 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 EPD in support of a pretreatment 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 EPD 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 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. 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 paragraphs (5)(d)1. and (5)(d)2. of this section if:

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

(ii) The authorization specifies either an individual or a 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 EPD.

4. If an authorization under paragraph (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 paragraph (5)(d)3. of this section must be submitted to the EPD prior to or together with any reports to be signed by the authorized representative.

5. For a municipality, State, Federal, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee if said employee is responsible for overall operation of the POTW.

(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 into the waters of the State.

(b) The EPD shall receive any relevant data collected by the owner or operator of the publicly owned treatment works which will receive the discharge from the industrial user 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 Director determines that such information is entitled confidential protection, he 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.

(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 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 Director 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 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. Procedures for circulation of the public notice shall include the following:

(I) Publication in one (1) or more newspapers of general circulation 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. A copy shall be available for review and inspection at the EPD office in Atlanta;

(iii) Mailing of the public notice to any persons or group upon written request to the EPD. The EPD shall maintain a mailing list for distribution of public notices for pretreatment permits. 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 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 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 pretreatment permit application. All written comments submitted during the thirty (30) day comment period will be retained by the EPD and considered in the final determinations with respect to the pretreatment 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 pretreatment permit application. Any such request for a public hearing shall be filed within the thirty (30) day comment period prescribed in Sub-Paragraph 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 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 Sub-Paragraph 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 Director.

3. The Director may hold one public hearing on related groups of pretreatment permit applications.

4. Public notice of any hearing held pursuant to this Sub-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 Sub-Paragraph 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 the 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 Director 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 Sub-Paragraph shall exceed nine months.

2. Within fourteen (14) days after an interim date of compliance or the final date of compliance specified for an industrial user, the industrial user shall provide the Director with written notice of his 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 EPD to pursue enforcement action pursuant to the Act.

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 Director to be in violation of the permit and may be subject to enforcement action pursuant to the Act.

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 into the POTW, industrial users subject to categorical standards shall submit to the Director a report containing information described in 40 CFR 403.12(b)(4)-(6).

(d) Monitoring, recording and reporting requirements:

1. Any discharge to a publicly owned treatment works and then into the waters of the State 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 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, 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 the applicable general pretreatment requirements in 40 CFR Part 403, categorical pretreatment standards and applicable local limits and 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 industrial user.

2. The industrial user 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. 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 EPD results of all required monitoring activities on appropriate forms supplied by the EPD. The EPD shall notify the industrial user of the frequency of reporting but in no case shall the reporting frequency be less than twice per year during the months of June and December. All reporting shall be in accordance with the requirements described in 40 CFR 403.12(e)(1)-(3).

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 categorical standards 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 EPD's evaluation of sampling conducted on the water sources. 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:

(a) The Director 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 Director may revise or modify such schedule of compliance provided it is in accordance with promulgated Federal regulations. The Director may grant requests in accordance with the Sub-Paragraph if he 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, exists for such revision.

(b) The Director 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 notice of such proposed modifications, suspension or revocation from the Director there is no objection by the industrial user in writing. Prior to any such modifications, suspension or revocation of an issued pretreatment permit by the Director (other than modification or revision of compliance schedule pursuant to Sub-Paragraph 391-3-6-.08(9)(a) above or modification of the monitoring, recording or reporting requirements), the Director will provide public notice in accordance with the procedures set forth in Sub-Paragraph 391-3-6-.08(7)(b). If the industrial user files an objection in writing within the specified thirty (30) day period such industrial user shall be granted a hearing before a hearing officer appointed by the Board of Natural Resources. The initial hearing and any administrative review thereof shall be conducted in accordance with O.C.G.A. Section 12-5-31(o).

(10) Duration of Pretreatment Permits.

(a) Any pretreatment permit issued under O.C.G.A. Section 12-5-30(a) shall have a fixed term not to exceed five (5) years. Upon expiration of such permit a new pretreatment permit may be issued by the Director in accordance with O.C.G.A. Section 12-5-30(d) and promulgated Federal regulations, provided that an application for such new pretreatment permit is filed with the Director 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 requirements contained in a permit issued pursuant to the Act shall be subject to enforcement proceedings pursuant to the Act.

(12) Effective Date. This Rule shall become effective twenty days after filing with the Secretary of State's office.

Authority Ga. Law 1964, p. 416, et seq., as amended (Ga. Code Ann. ' 17-501 et seq.); Ga. Law 1972, p. 1015, as amended (Ga. Code Ann. ' 40-3501 et seq.). Administrative History. Original Rule entitles A Pretreatment and Permit Requirements@ was filed on August 24, 1979; effective September 13, 1979. Amended F. Apr. 8, 1993, eff. Apr 28, 1993; Amended F> Aug. 30, 1995; eff. Sept. 19, 1995; **Amended:** E.R. 391-3-6 was filed May. 1,1996, eff. April 25, 1996, the date of adoption to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency. Amended: F. July 10, 1996. Eff. July 30, 1996.

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 Paragraph 391-3-6-.09 is to provide uniform procedures and practices to be followed for the EPD and POTW pretreatment program requirements, 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 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:

(a) "POTW pretreatment program" or "program" or "approved POTW pretreatment program" means a pretreatment program administered by a POTW that meets the criteria established in 40 CFR 403.8 and 403.9 and which has been approved by the Director.

(b) "Publicly Owned Treatment Works" or "POTW" means the city, town, county, district, association, or other public body created by or pursuant to State law or Federal law that owns and operates a treatment works, and any sewers or other appurtenances that convey wastewater to the treatment works. The definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature.

(c) "Submission" means a request to the EPD 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 pollutants from industrial users which may pass through untreated or interfere with the operation of the POTW or are otherwise subject to Section 307(b) or 307(c) of the Federal Act will be required to establish a POTW pretreatment program.

(b) The Director may require in writing that a POTW with a design flow of 5 mgd or less develop a POTW pretreatment program if he finds that the nature or volume of the industrial influent, 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 Sub-Paragraphs 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 Sub-Paragraphs 391-3-6-.09(3)(a) and (b) shall develop and submit such a program for approval as soon as possible to the Director but in no case later than one (1) year after written notification from the Director 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 Director.

(e) The Director may hold a public hearing in the geographical area served by any POTW which fails to comply with the Director's finding and written directive that a POTW pretreatment program is required and a draft submission must be developed and submitted to the EPD 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 to appear at the public hearing to explain the reasons why they failed to comply with the Director's finding and directive. For any public hearing held pursuant to this Sub-Paragraph 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 Sub-Paragraph 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). The EPD shall make a preliminary determination of whether the submission meets the requirements of 403.9(b) and 403.8(f) or such other 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 Director, 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 Sub-Paragraph 391-3-6-.09(5).

(b) When the EPD determines that the POTW pretreatment program does not meet the requirements of Sub-Paragraph 391-3-6-.09(a), the EPD shall notify the POTW in writing as appropriate. This notification shall include suggested revisions and modifications necessary to bring the program into compliance with the applicable requirements. Unless the necessary revisions and modifications are made within the time period specified in the notification of denial, the EPD will proceed to develop and implement a pretreatment program for the area served by the POTW in accordance with Paragraphs 391-3-6-.08 and 391-3-6-.09.

(5) Notice and Public Participation.

(a) Tentative Determination for POTW Pretreatment Program Approval.

1. After the EPD has made a determination that a POTW pretreatment program submission meets the requirements of 40 CFR 403, a public notice will be issued by the EPD and the city or municipality requesting approval to advise 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 to adjoining State whose waters may be affected;

(ii) Mailing to designated 208 planning agencies; Federal and State fish, shellfish and wildlife resource agencies; 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 the largest daily newspapers of the city or municipality in which the POTW pretreatment program has been established;

(iv) Mailing 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;

(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 (45) 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 Director; and

(vii) The contents of the public notice will be in accordance with appropriate Federal requirements and applicable State laws.

2. The Director 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 Sub-Paragraph 391-3-6-.09(5)(a)(vi) and shall indicate the interest of the person filing such request and the reason why a hearing is warranted. The Director shall hold the hearing if he determines that there is sufficient public interest in holding such a hearing or if the POTW requests a hearing.

(I) Any public hearing held pursuant to this Sub-Paragraph shall be held in the geographical area of the applicable submission or other appropriate location at the discretion of the Director. The Director 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 Sub-Paragraph shall be provided at least forty-five (45) days in advance of the hearing date and shall be circulated in accordance with Sub-Paragraph 391-3-6-.09(5)(a)1.

(b) Final Determination for POTW Pretreatment Program Approval or Denial.

1. At the conclusion of the public notice comment period or the public comment period allowed following a public hearing, the Director shall make a determination to approve the POTW pretreatment program or deny any approval to the program based on the requirements of Sub-Paragraph 391-3-6-.09(4) and taking into consideration the comments submitted during the comment period and the record of the public hearing. When the Director has made a determination to deny approval to the program the POTW shall be notified in writing in accordance with Sub-Paragraph 391-3-6-.09(4)(b) and each person who has requested individual notice. The Director shall also notify these persons who submitted comments and participated in the public hearing, if held, of the approval or disapproval of the submission.

2. When the EPD has made a determination to approve the submission, a public notice will 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 to those persons who submitted comments and participated in the hearing for approval or disapproval of the submission;

(iii) The Director 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 to adjoining State whose waters may be affected; and

(v) Mailing to designated 208 planning agencies; Federal and State fish, shellfish and wildlife resource agencies; upon request to other appropriate government agencies; and to any other person or group including those on the appropriate EPD mailing list.

(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 Director, procedures will be started to revise, modify and reissue the NPDES discharge permit to include the authority to operate a POTW pretreatment program as a part of the NPDES permit.

(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 changing 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 Director. Any approved POTW pretreatment program identified by the EPD that needs to modify its program to incorporate requirements that have resulted from revisions to Paragraphs 391-3-6-.08 through 391-3-6-.10 or any other applicable paragraph 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 Sub-Paragraph 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 Director determines to be necessary under the circumstances;

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

(iii) The modification shall be incorporated into the POTW NPDES permit after approval. The 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 Director. Notice of approval shall be published in the same newspaper as the notice of original request for approval of the modification under Sub-Paragraph 391-3-6-.09(5)(a)1(iii).

2. The POTW shall notify the EPD of any other (i.e.,nonsubstantial) 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 Sub-Paragraph 391-3-6-.09(7)(b)1(I). Such nonsubstantial program modifications shall be deemed to be approved by the Director, unless the EPD determines that a modification submitted is in fact a substantial modification ninety (90) days after the submission of the POTWs statement. Following such approval by the Director, such modifications shall be incorporated into the POTW's NPDES 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 Sub-Paragraph 391-3-6-.09(7(b)1.

(c) Substantial modifications.

1. The following are substantial modifications for purposes of this Sub-Paragraph:

(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 inspections or sampling by the POTW;

(vii) Changes to the POTW's confidentiality procedures;

(viii) Significant reductions in the POTW's pretreatment program resources (including personnel commitments, equipment, and funding levels); or

(ix) Changes in the POTW's sludge disposal and management practices.

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

3. A modification that is not included in Sub-Paragraph 391-3-6-.09(7)(c)1 is none the less a substantial modification for purposes of this Sub-Paragraph 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; 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 Sub-Paragraphs 391-3-6-.08(2)(p)1 and 2. The list shall identify the criteria in Sub-Paragraphs 391-3-6-.08(2)(p)1 and 2 applicable to each industrial user and, for industrial users meeting the criteria in Sub-Paragraphs 391-3-6-.08(2)(p)3, 4, or 5, shall also indicate whether the POTW has made a determination pursuant to Sub-Paragraph 391-3-6-.08(3)(b) that such industrial user should not be considered a significant industrial user. This list, and any subsequent modifications thereto, shall be submitted to the EPD as a nonsubstantial program modification pursuant to Sub-Paragraph 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 the 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 EPD and the POTW 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 Sub-Paragraph 391-3-6-.09(8)(a)1;

3. Notify industrial users identified under Sub-Paragraph 391-3-6-.09(8)(a)1 of applicable pretreatment standards and any 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. Notify each significant industrial user of its status as such and of 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;

6. Evaluate, at least once every two years, whether each such significant industrial user needs a plan to control slug discharges based on the requirements in 40 CFR 403.8(f)(2)(v) and require such plans when appropriate;

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

8. Comply with the public participation requirements of 40 CFR Part 25 in the enforcement of national pretreatment standards. These procedures shall include provision for at least annual public notification, in the largest daily newspaper published in the municipality in which the POTW is located, of industrial users which, at any time during the previous twelve months, were in significant noncompliance with applicable pretreatment requirements as defined under Sub-Paragraph 391-3-6-.08(2)(q); and

9. Deny or condition new or increased contributions 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.

(b) Both the EPD pretreatment program and each POTW pretreatment program shall require the following industrial user reports and notifications 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)-(5);

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 standard deadlines as described in 40 CFR 403.12(d); and

9. Periodic reports on continued compliance as described in 40 CFR 403.12(e)(1)-(3).

(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) Record 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 Sub-Paragraphs 391-3-6-.03(5)(d)(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.

(9) Legal Authority Requirements for POTW Pretreatment Programs.

(a) Each POTW pretreatment program shall operate pursuant to a legal authority enforceable in Federal, State or local courts, which authorizes or enables the POTW 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 agreements which the POTW is authorized to enact, enter into or implement and which are authorized by the Act. At a minimum, this legal authority shall enable the POTW to:

1. Require compliance with applicable pretreatment standards and requirements by industrial users;

2. 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 the case of industrial users identified as significant under Sub-Paragraph 391-3-6-.08(2)(p), this control shall be achieved through permits or equivalent individual control mechanisms issued to each such user, be enforceable and contain the minimum conditions described in 40 CFR 403.8(f)(1)(iii). 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)-(7), 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;

3. 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 as are necessary to assess and assure compliance by industrial users with pretreatment standards and requirements, including but not limited to the reports required in 40 CFR 403.12;

4. 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;

5. 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 POTWs 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 Sub-Paragraph 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 individual control mechanisms issued 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;

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

(b) Each POTW pretreatment program 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) Each POTW pretreatment program 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 action to address noncompliance with 40 CFR 403.6(b) through the enforcement response plan under Sub-Paragraph 391-3-6-.09(9)(b).

(d) Each POTW pretreatment program 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). Each POTW developing a POTW pretreatment program pursuant to 40 CFR 403.8 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). Each POTW pretreatment program shall continue to develop these limits as necessary and effectively enforce such limits.

(10) POTW Pretreatment Program Annual Report.

(a) Each POTW pretreatment program shall provide the EPD 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 Sub-Paragraph 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).

(11) Director Oversight Authority of POTW Pretreatment Program.

(a) The Director 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 EPD determines that insufficient enforcement action has been taken by the POTW pretreatment program against industrial users. The Director also has the legal authority to review self-monitoring reports submitted by the industrial user as described in 403.10(f)(1)(ii) and to carry out inspection surveillance, and monitoring procedures as described in 403.10(f)(1)(iii). The Director also has the legal authority to obtain remedies for noncompliance as described in 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.

Authority Ga. Law 1964, p. 416, et seq., as amended (Ga. Code Ann. ' 17-501 et seq.); Ga. Law 1972, p. 1015, as amended (Ga. Code Ann. ' 40-3501 et seq.). Administrative History. Original Rule entitled: A Publicly Owned Treatment Works Pretreatment Programs@ was filed on August 24, 1979; effective September 13, 1979. Amended F. Apr. 8, 1993, eff. Apr 28. 1993. **Amended:** E.R. 391-3-6 was filed May. 1,1996, eff. April 25, 1996, the date of adoption to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency. Amended: F. July 10, 1996. Eff. July 30, 1996.

391-3-6-.10 Determinations of Categorization of Industrial Users and Requests for Fundamentally Different Factors Variances.

(1) Purpose. The purpose of Sub-Paragraph 391-3-6-.10 is to provide for uniform procedures and practices to be followed for the determination of categorization of industrial users and requests for variances for fundamentally different factors. Such determinations will be applicable to the approved local POTW pretreatment programs and the pretreatment programs supervised and operated by the EPD.

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

(3) Determinations on Categorization of Industrial Users.

(a) Within thirty (30) days after the effective date of a pretreatment standard for a sub-category under which an industrial user believes itself to be included, the industrial user or POTW may request that the Director provide written certification to the effect that the industrial user does or does not fall within that particular category. If an existing industrial user adds or changes a process or operation which may be included in a sub-category, the existing industrial user must request this certification prior to commencing discharge from the added or changed process or operation. A new source must request this certification prior to commencing discharge. Where a request for certification is submitted by a POTW, that POTW shall notify any affected industrial user of such submission. The industrial user may provide written comments on the POTW submission to the EPD within thirty (30) days of notification. Each request shall contain a statement:

1. Describing which sub-categories might be applicable;

2. Citing evidence and reasons why a particular sub-category is applicable and why others are not applicable. Each statement shall contain a certification stating that the facts contained therein are true on the basis of the applicant's personal knowledge or to the best of his information and belief. The certification shall be attested to by a notary public and be specifically as written in 40 CFR 403.6(a)(2)(ii).

(b) The Director will act only on written requests for determinations that contain all of the information required. Persons who have made incomplete submissions will be notified by the Director that their requests are deficient and unless the time period is extended they will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within an extended period allowed by the Director the request for a determination shall be denied.

(c) When the Director determines that all of the information required by this Sub-Paragraph, any additional evidence that may have been requested and any other available information relevant to the request has been submitted, he will make a written determination of the applicable sub-category and state the reasons for his determination. The Director shall forward the written determination described in this Sub-Paragraph to the Regional Administrator of EPA in accordance with 40 CFR 124.62(e)(1) who may make a final determination. If the Regional Administrator does not modify the Director's decision within sixty (60) days after receipt thereof, the Director's decision is final.

(d) The Director shall send a copy of his determination to the affected industrial user and POTW. When the final determination is made by the Regional Administrator of EPA, he shall send a copy of his determination to the Director and the Director will forward it to the affected industrial user and POTW.

(e) If an industrial user fails to seek the certification referred to in Sub-Paragraph 391-3-6-.10(3) within the prescribed thirty (30) day period or to contest a negative determination through administrative channels provided, they will be bound by a subsequent determination made by the Director as to the sub-category under which an industrial user should be included.

(4) Fundamentally Different Factors Variances.

(a) Requests for a variance from categorical pretreatment standards for fundamentally different factors and supporting evidence must be submitted in writing to the Director within ninety (90) days after promulgation by the EPA of the categorical pretreatment standards.

1. Written submissions for variance requests submitted to the Director must include:

(I) The name and address of the person making the request;

(ii) Identification of the interest of the requestor which is affected by the categorical pretreatment standard for which the variance is requested;

(iii) Identification of the POTW currently receiving the waste from the industrial user for which alternative discharge limits are requested;

(iv) Identification of the categorical pretreatment standards, which are applicable to the industrial user;

(v) A list of each pollutant or pollutant parameter for which an alternative discharge limit is sought;

(vi) The alternative discharge limits proposed by the requestor for each pollutant or pollutant parameter identified in Sub-Paragraph 391-3-6-.10(4)(a)1(v);

(vii) A description of the industrial user's existing water pollution control facilities;

(viii) A schematic flow representation of the industrial user's water system including water supply processed wastewater systems, and points of discharge; and

(ix) A statement of facts clearly establishing why the variance requests should be approved, including detailed support data, documentation, and evidence necessary to fully evaluate the merits of the request, including technical and economic data collected by the EPA and used in developing each pollutant discharge limit in the pretreatment standard.

(b) The Director will only act on written requests for variances that contain all of the information required. Persons who have made incomplete submissions will be notified by the Director that their requests are deficient and unless the time period is extended, will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within the thirty (30) days or within an extended period allowed by the Director, the request for variance shall be denied.

(c) When the Director receives a submittal from a person making a request, he will, after determining that it contains all of the information required by Sub-Paragraph 391-3-6-.10(4)(a), consider the submission, any additional evidence that may have been requested, and any other available information relevant to the request. The Director will then make a written finding indicating whether or not there are factors, which are fundamentally different for that industrial user, from those factors considered in the development of the appropriate categorical pretreatment standards. This preliminary finding will include the reasons as to whether or not the variance should be granted.

(d) When the Director finds that fundamentally different factors do not exist, he may deny the request and notify the requestor and the industrial user, where they are not the same, of the denial.

(e) When the Director finds that fundamentally different factors do exist, he shall forward the request and a written recommendation that the request be approved to the Regional Administrator of EPA. If upon review of the recommended approval submitted by the Director, the Regional Administrator of EPA finds that fundamentally different factors do exist and that a partial or full variance is justified, he will approve the variance.

(f) A request for a variance based upon fundamentally different factors shall be approved only if the applicable criteria are met as described in 40 CFR 403.13(c). A review of each request shall be made based upon factors considered fundamentally different as described in 40 CFR 403.13(d) and factors which will not be considered fundamentally different as described in 40 CFR 403.13(e).

(5) 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.

Authority Ga. Law 1964, p. 416, et seq., as amended (Ga. Code Ann. ' 17-501 et seq.); Ga. Law 1972, p. 1015, as amended (Ga. Code Ann. ' 40-3501 et seq.). Administrative History. Original Rule entitled "Determinations of Categorization of Industrial Users and Requests for Fundamentally Different Factors Variances" was filed on August 24, 1979; effective September 13, 1979. **Amended** F. Apr. 8, 1993; eff. Apr. 28, 1993.

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

(1) Purpose. The purpose of this Paragraph 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 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:

(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 270-5-25.01 and as approved by appropriate County Boards of Public Health, are not considered land disposal systems for purposes of Chapter 391-3-6-.11.

(c) "Land treatment system" means any land disposal system in which vegetation on the site is used to remove 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 person 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 accompanied 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 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 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.

(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 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 391-3-6.11 (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 the 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 permit, the permittee shall provide the Director with written notice of his 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 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 the 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 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.

(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). History: Original Rule entitled "Land Disposal and Permit Requirements " was filed on June 24, 1980; eff. July 14, 1980; Amended: F Aug. 30 1995; Effective Sept. 19, 1995; Repealed: ER 391-3-6-0.32-.11 of the same title adopted : F May 1,1996, eff. April 25, 1996, the date of adoption to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER is adopted,, as specified by the Agency. Amended: Permanent rule of same title adopted F. July 10, 1996. Eff. July 30, 1996.

391-3-6-.12 Wastewater Treatment Plant Classification.

The following wastewater treatment plant classifications are established as minimum levels. Any plants which do not fit one of these classifications will be classified on a case-by-case basis by the Division. The Division may classify any plant at a higher level based on the complexity or location of the plant or critical uses of the receiving waters.

PLANT TYPE	PERMITTED FLOW (MGD)	CLASSIFICATION
Biological [suspended growth (i.e., activated sludge), fixed film (i.e., trickling filter), or land application]. See Note 1	> 3.0	Class I
Biological [suspended growth (i.e., activated sludge), fixed film (i.e., trickling filter) or land application]. See Note 1	> 1.0 to ≤ 3.0	Class II

Biological [suspended growth (i.e., activated sludge), fixed film (i.e., trickling filter) or land application]. See Note 1	≤ 1.0	Class III
Biological, waste stabilization ponds, and constructed wetlands. See Note 1	Any	Class IV
Industrial	Any	Class Industrial or Biological Class I, II, or III.

Note 1. This does not apply to industrial or industrial pretreatment facilities. It applies to municipal and private wastewater treatment plants treating domestic or primarily domestic wastewaters. However, if the industrial treatment system is a biological system, it is recommended that the operator obtain a biological certification. Those industries who have a physical/chemical treatment system should have their operators obtain a Class Industrial certification.

Authority Ga. L. 1964, p. 416, et seq., as amended (Ga. Code Ann. ' 17-501 et seq.); Ga. Laws 1972, p. 1015 et seq., as amended (Ga. Code Ann. ' 40-3501 et seq.); Ga. Laws 1964. p. 416 as amended (Ga Code , 17-501 et. Seq.) GA L 1972 p. 1050, as amended (GA Code Ann.. ,403501 et. Seq.) **Administrative History**: Original Rule entitled APublic Wastewater Treatment Plant Classifications@ was filed on June 24, 1980, effective July 14, 1980. **Amended:** E.R. 391-3-6 was filed May. 1,1996, eff. April 25, 1996, the date of adoption to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency. Amended: F. July 10, 1996. Eff. July 30, 1996. **Amended: F:** May 2, 1997; Eff. May 22, 1997.

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. Amended.** 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 Paragraph of this Chapter. All federal regulations adopted by reference are those in effect as of January 1, 2000.

(a) AAbandoned 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) AAquifer@ means a geological formation, group of formations, or part of a formation that is capable of yielding water to a well or spring.

(c) AArea 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) ACasing@ 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) ACatastrophic collapse@ means the sudden and utter failure of overlying strata caused by the removal of underlying materials.

(f) ACementing@ means the operation whereby a cement slurry is pumped into a drilled hole and/or forced behind the casing.

(g) ACesspool@ means a Adrywell@ that receives untreated sanitary waste containing human excreta, and which sometimes has an open bottom and/or perforated sides.

(h) AClass V septic system@ means a Aseptic system@ that handles sanitary and/or other wastes and has the capacity to serve 20 or more persons a day.

(I) AConfining bed@ means a body of impermeable or distinctly less permeable material stratigraphically adjacent to one or more aquifers.

(j) AConfining 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) AContaminant@ means any physical, chemical, biological or radiological substance or matter in water.

(l) AConventional mine@ means an open pit or underground excavation for the production of minerals.

(m) ADisposal well@ means a well used for the disposal of waste into a subsurface stratum.

(n) ADrainage 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 Rule 391-3-6-.13(4) of this Chapter.

(q) "Facility, operation 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 prevailingly, 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. Amended.

(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 waste waters 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.

(c) 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 non-residential 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-portions 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. Amended.

(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. Amended.

(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-.1B, 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 well head protection area defined by Rule 391-3-5-.40.

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

(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. Amended.

(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.

(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.

(c) 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. Amended.

(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, Rule 391-3-6-.13(9) of this Chapter 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 a 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 a 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 of 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. Amended.

(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.

(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.

(d) 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 affect upon the underground source of drinking water.

4. Determine any construction and operating requirements to protect the underground drinking water source.

(e) 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 391-3-6-.13(6) of this Chapter. The application processing and permit issuance shall be in accordance with Rules 391-3-6-.13(6) and 391-3-6-.13(7).

3. Deny the issuance of a permit.

(f) 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, 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, the Director may take emergency action upon receipt of information that a contaminant, which is present in, or is likely to enter a pubic water system, may present an imminent and substantial endangerment to the health of persons.

(g) 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. Amended.

(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 well head 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. Amended.
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. Amended.

(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. Amended. 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 30day 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 the 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. 12-5-23 (Ga. L. 1957) p. 629, Sec. 4; Ga. L. 1964, p. 416, Secs. 5, 24; Ga. L. 1966, p. 316, Sec 1; Ga. L. 1972, p. 1015, Secs. 1517, 1534; Ga. L. 1972 p. 1266, Sec. 1; Ga. L. 1974, p. 599, Secs. 6, 7; Ga. L. 1977, p. 368, Sec. 2. Administrative History: Original Rule entitled AUnderground Injection Control@ was filed on Dec. 9, 1983, eff. Dec. 29, 1983. **Amended: Filed: March 28, 2001; Eff. April 19, 2001. Amended: F. July 2, 2002, Eff. July 22,m 2002.**

391-3-6-.14 State Revolving Fund

(1) Purpose. The purpose of Rule 391-3-6-.14 is to provide for the administration and operation of the State Revolving Loan Fund.

(2) Definitions. All terms used in this Paragraph 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.

(a) "State Revolving Loan Fund" means the loan program developed pursuant to the Federal Clean Water Act of 1987.

(b) "Intended Use Plan" means the annual plan developed to describe that year's operation and procedures for the Revolving Loan Fund.

(3) General Provisions.

(a) The manner of administration of the State Revolving Loan Fund shall be determined pursuant to a contract between the Director and any other State agency, authority, board, or commission and such administration shall comply with all applicable requirements of the Federal Clean Water Act of 1987. In the event that the Director determines that the financial administration is to be handled by the Division, the manner of administration shall be included in the annual Intended Use Plan and shall likewise comply with all applicable requirements of the Federal Clean Water Act of 1987.

(b) The forms of assistance to be provided by the State Revolving Loan Fund shall be in accordance with the annual Intended Use Plan.

(4) Environmental Review. All projects receiving assistance from the State Revolving Loan Fund shall first undergo a review of environmental impacts and considerations. This review shall be in accordance with procedures developed by the Director and approved by the U.S. Environmental Protection Agency.

(a) The loan applicant will be required to prepare an Environmental Information Document (EID), which describes the environmental impacts of the feasible alternatives, including a no-action alternative. The applicant will consult with federal and State agencies as appropriate for information required in preparing the EID. The applicant will conduct at least one public meeting during the planning process. The public will be allowed open discussion in the facilities planning process.

(b) The State will perform an environmental review prior to issuing a Notice of No Significant Impact. The Director will prepare a detailed procedure for loan applicants to prepare the EID and for the State review process. Documents concerning the impact of the project on the environment shall be issued by the Director or his designated representative as necessary.

(c) All final determinations made by the Director pursuant to the environmental review process shall constitute actions of the Director pursuant to O.C.G.A. Section 12-2-2(c)(2).

(5) Application of State Programs. Actions consistent with Title VI of the Federal Clean Water Act of 1987 (P.L. 100-4) shall be taken with regard to the State Revolving Loan Fund.

Authority O.C.G.A. Secs. 12-2-2, 12-2-6, 12-2-24, 12-3-8, 12-3-9, 12-3-32, 12-3-50, 12-3-50.1, 12-3-52, 12-5-21, 12-5-36, 12-3-37, 12-3-38.1, 27-3-132. Administrative History: Original Rule entitled: AState Revolving Loan Program@ was adopted as Emergency Rule 391-3-6-0.13-.14, filed on April 1, 1988; effective March 23, 1988, the date of the adoption to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. Amended: Emergency Rule repealed and a permanent Rule entitled Astate Revolving Loan Fund@ adopted. Files July 8, 1988;

Amended F Apr 8,. 1993; eff. Apr. 28, 1993. **Amended:** E.R. 391-3-6 was filed May. 1,1996, eff. April 25, 1996, the date of adoption to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency. **Amended:** F. July 10, 1996. Eff. July 30, 1996. **Amended: F:** May 2, 1997; Eff. May 22, 1997.

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

(1) Purpose. The purpose of this Paragraph 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 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:

(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 paragraph (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 paragraph I. 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 limitation 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 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 subparagraph 391-3-6-.15(7).

2. Authorization to discharge.

(I) Dischargers 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 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-.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. 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 Water Quality Management plan containing requirements applicable to such point sources is approved;

(VI) The requirements of paragraph (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 of 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.

(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 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 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 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 general 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 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, 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) 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 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 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-.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) Effective Date. This Paragraph shall become effective twenty days after filing with the Secretary of State's Office.

Authority: O.C.G.A. Section 12-5-20 et seq. History. Administrative History: Original Rule entitled AGeneral Permit Requirements@ adopted F. Apr. 3, 1990; eff. Apr. 23, 1990; **Amended:** F. May 9. 1994; eff. May 29, 1994. **Amended:** F/ Aug 30, 1995; Eff. Sept 19, 1995. **Amended**: E.R. 391-3-6 was filed May. 1,1996, eff. April 25, 1996, the date of adoption to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency. Amended: Rule entitled @Non-Storm Water General Permit Requirements@F. July 10, 1996. Eff. July 30, 1996.

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

(1) Purpose. The purpose of this Paragraph 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 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:

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

(e) ASmall 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, 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 Ano 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 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 subparagraph 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 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; and

(d) Calculations and specification 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 391-3-6-.06 or apply for coverage under a general permit in accordance with paragraph 391-3-6-.16. Application for an individual NPDES permit shall be made in accordance with subparagraph 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 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.

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.**

(a) Tentative Determination and Draft Permits.

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; and

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 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, 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 subparagraph 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 Profession 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) Effective Date. This Paragraph shall become effective twenty days after filing with the Secretary of State's Office.

Authority: O.C.G.A. Section 12-5-20 et. seq. History: Original Rule entitled AStorm Water Requirements@ adopted. Filed May 9, 1994, eff. May 29, 1994. **Amended:** E.R. 391-3-6 was filed May. 1,1996, eff. April 25, 1996, the date of adoption to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency. Amended: F. July 10, 1996. Eff. July 30, 1996. Amended: F. March 30, 2001, Eff. Apr. 19, 2001.

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

(1) **Purpose.** The purpose of Paragraph 391-3-6-.17 is to establish requirements for the beneficial use of sewage sludge through land application. This paragraph 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 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:

(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 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 reciprocal 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 kilogram 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 a 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 in a 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, and dewatering of sewage sludge. This does not include storage 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 a 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 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 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 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 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.

2. The operator of any treatment process, which consists of heat drying or incinerating sewage sludge shall obtain an Air Quality Permit from the 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 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 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 comply 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 Concentrations

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.

(b) 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.

(c) The Class A pathogen requirements contained in 391-3-6-.17(7)(a) or the Class B pathogen requirements contained in 391-3-6-.l6(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.

(d) 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)(l) 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.

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

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).

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

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 of 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 food 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)(l) 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 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 be 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 applied 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 pollutant 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 agricultural 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(7)(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 be 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	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.

(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 for 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 requirement in (insert one of 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 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 either 391-3-6-.17(8)(l) or (8)(j), if one of those requirements is met), and any 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)(l) 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:

(l) "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 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 January 31 of the following year.

(b) Any facility permitted under this Paragraph 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.

(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 generates sewage sludge for land application, either as bulk sewage sludge or for sale or give 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 labeled:

(1) Site boundaries (including buffer areas)

(2) Onsite access roads

(3) Portions of the site in 100-year flood plain

(4) Location of any soil borings

(5) Location of houses

(6) Location of wells

(7) 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 391-3-6-.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 391-3-6-.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:

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 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 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 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 will comply with the requirements of one or 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 shall become effective twenty days after filing with the Secretary of State's Office.

Authority: O.C.G.A. Section 12-5-20 et. Seq. **History:** Original Rule entitled ASewage Sludge (Biosolids) Requirements@ adopted. Filed May 9, 1994; eff. May 29, 1994; **Amended:** F. Aug. 30, 1995, Eff. Sept. 19, 1995. **Amended:** E.R. 391-3-6 was filed May. 1,1996, eff. April 25, 1996, the date of adoption to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency. Amended: F. July 10, 1996. Eff. July 30, 1996.

391-3-6-.18 (Reserved)

Authority: O.C.G.A. Section 12-5-20 et. seq. **History:** Original Rule entitled A General Permit for Construction Activities@ filed May 25, 1995; eff. June 14, 1995; ER. Filed July 6, 1995; Eff. July 26, 1995. **Amended:** E.R. 391-3-6 was filed May. 1,1996, eff. April 25, 1996, the date of adoption to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency. Amended: Rule Deleted and held in Reserve F. July 10, 1996. Eff. July 30, 1996.

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

(1) Purpose. The purpose of paragraph 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 an LAS and then into the waters of the State.

(2) Definitions. All terms used in this subparagraph 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:

(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 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.

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

(c) A "General LAS Permit" means a LAS permit issued under this Paragraph 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:

l. 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 l. 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;

(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.**

l. General LAS permits may be issued, modified, revoked and reissued, or terminated in accordance with applicable requirements of subparagraph 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 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.

(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 requests 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 requirements 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 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.

(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 circulated 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;

(ii) 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 and considered in the final determination with respect to the draft 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 of noncompliance at least annually.

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

(a) Any general LAS 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. 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 shall become effective twenty days after filing with the Secretary of State's office.

Authority: O.C.G.A. Section 12-5-20 et. seq. History: Original Rule entitled AGeneral Permit - Land Application System Requirements: Filed: Aug. 30, 1996; eff. Sept. 19, 1995; **Amended:** E.R. 391-3-6 was filed May. 1,1996, eff. April 25, 1996, the date of adoption to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this ER, as specified by the Agency. Amended: F. July 10, 1996. Eff. July 30, 1996.

391-3-6-.20 Swine Feeding Operation Permit Requirements

(1) **Purpose.**

The purpose of this paragraph 391-3-6-.20 is to provide for the uniform procedures and practices to be followed relating to the application for and the issuance or revocation of permits for swine feeding operations. Nothing in this paragraph shall be construed to preclude the modification of any requirement of this paragraph when the Division determines that the requirement is not protective of the environment.

(2) **Definitions.**

All terms used in this paragraph 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:

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

(b) “Swine feeding operation” or “operation” means a lot or facility where swine have been, are, or will be stabled or confined or fed or maintained for a total of at least 45 days in any 12-month period, and the confinement areas do not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season.

(c) "Animal Unit" (AU) is a unit of measurement for any swine feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 25 kilograms (approximately 55 pounds) multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

(d) "Barn" means a structure where confinement feeding (feeding in limited quarters, often under a roof and over slotted floors) occurs. Structures where confinement feeding does not occur are not considered "barns" for the purposes of this rule.

(e) "Certified operator" means any person who has been trained and certified by the Georgia Department of Agriculture and has direct general charge of the day-to-day field operation of an swine feeding operation waste storage and disposal system, and who is responsible for the quality of the treated waste.

(f) "Closure plan” means the plan approved by the Division for clean up and closure of the swine feeding operation and associated waste storage and disposal facilities.

(g) "Comprehensive Nutrient Management Plan" (CNMP) is a plan which identifies actions or priorities that will be followed to meet clearly defined nutrient management goals at an agricultural operation. Defining nutrient management goals and identifying measures and schedules for attaining the goals are critical to reducing threats to

water quality and public health. The CNMP should address, at a minimum, manure handling and storage, land application of manure and wastewater, site management, record keeping, and management of other utilization options. The CNMP must be developed or modified by a "certified specialist" defined by the Division. The Division will specify the requirements for certification. The CNMP is submitted to the Division for review and approval. It should include emergency response planning and a closure plan for abandonment of any facility used for the treatment or storage of animal waste.

(h) "Existing" applies to that which existed prior to the effective date of this rule. "Existing operation" means a swine feeding operation that was in operation prior to the effective date of this rule.

(i) “Natural Resources Conservation Services” (NRCS) is an agency within the United States Department of Agriculture.

(j) "New or expanding operation" or "new swine feeding operation" means a swine feeding operation the construction or expansion of which is commenced on or after the effective date of this rule.

(k) "NRCS guidance" means the latest editions of the Natural Resources Conservation Service (NRCS) Agricultural Waste Management Field Handbook, Part 651, Field Office Technical Guide Section IV Georgia, and other applicable publications of the NRCS. NRCS guidance is used by a certified specialist to develop or modify a CNMP.

(l) "Owner" means any person owning any system for waste treatment and disposal at a swine feeding operation. "Owner or operator" means any person who owns, leases, controls, or supervises a swine feeding operation. For the purpose of paragraph 391-3-6-.20 (8) of these rules, if a person intends to operate a swine feeding operation with another entity that owns the swine, directs the manner in which the swine will be housed, or controls the inputs or the other material aspects of the operation, this person shall be the operator and the owner shall be the entity that owns the swine, directs the manner in which the swine will be housed, or controls the inputs or the other material aspects of the operation.

(m) "Permit" means a permit applied for and issued in accordance with the terms and conditions for paragraphs 391-3-6-.06, Waste Treatment and Permit Requirements (individual NPDES permits), or 391-3-6-.11, Land Disposal and Permit Requirements (non-NPDES individual land application system or "LAS" permit), or 391-3-6-.15, Non-Storm Water General Permit Requirements (general NPDES permit), or 391-3-6-.19, General Permit - Land Application System Requirements (non-NPDES general LAS permit), of this Chapter.

(n) “Removed from service” means:

1. The waste storage and disposal facilities no longer receive swine wastes and the facilities are not being serviced or maintained; or
2. The owner or operator informs the Division that the swine feeding operation has been closed and removed from service; or

3. The Division has ordered the facilities closed; or

4. An order has been issued by a court to cease operation and close the facilities.

(o) "Wetted area" or "disposal area" is the land area where swine waste is sprayed, spread, incorporated, or injected so that the waste can either condition the soil or fertilize crops or vegetation grown in the soil.

(p) "25-year, 24-hour storm event" is the maximum 24-hour precipitation event expressed in inches with a probable recurrence interval of once in 25 years, as defined by the National Weather Service of the United States Department of Commerce in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments.

(q) “50-year, 24-hour storm event is the maximum 24-hour precipitation event expressed in inches with a probable recurrence interval of once in 50 years, as defined by the National Weather Service of the United States Department of Commerce in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments.

(r) “100-year flood plain is the land inundated from a flood whose peak magnitude would be experienced on an average of once every 100 years. The 100-year flood has a 1% probability of occurring in one given year.

(s) "300 AU" means three hundred animal units. Paragraph 391-3-6-.20 (2) (c) notwithstanding, the numbers of animals in any of the following categories are equivalent to 300 AU:

1. 300 slaughter and feeder cattle,
2. 200 mature dairy cattle (whether milked or dry cows),
3. 150 horses,
4. 750 swine each weighing over 25 kilograms (approximately 55 pounds),
5. 3,000 sheep or lambs,
6. 16,000 turkeys,
7. 30,000 laying hens or broilers (if the facility has continuous overflow watering),
8. 9,000 laying hens or broilers (if the facility has a liquid manure handling system),

9. 1,500 ducks

(t) "1000 AU" means one thousand animal units. Paragraph 391-3-6-.20 (2) (c) notwithstanding, the numbers of animals in any of the following categories are equivalent to 1000 AU:

1. 1,000 slaughter and feeder cattle,
2. 700 mature dairy cattle (whether milked or dry cows),
3. 2,500 swine each weighing over 25 kilograms (approximately 55 pounds),
4. 500 horses,
5. 10,000 sheep or lambs,
6. 55,000 turkeys,
7. 100,000 laying hens or broilers (if the facility has continuous overflow watering),
8. 30,000 laying hens or broilers (if the facility has a liquid manure handling system),
9. 5,000 ducks

(u) "3000 AU" means three thousand animal units. Paragraph 391-3-6-.20 (2) (c) notwithstanding, the numbers of animals in any of the following categories are equivalent to 3000 AU:

1. 3,000 slaughter and feeder cattle,
2. 2,100 mature dairy cattle (whether milked or dry cows),
3. 7,500 swine each weighing over 25 kilograms (approximately 55 pounds),
4. 1,500 horses,
5. 30,000 sheep or lambs,
6. 165,000 turkeys,
7. 300,000 laying hens or broilers (if the facility has continuous overflow watering),
8. 90,000 laying hens or broilers (if the facility has a liquid manure handling system),
9. 15,000 ducks

(3) Permit Requirement.

(a) Any person who owns or operates a swine feeding operation with greater than 300 AU shall obtain a permit from the Division in accordance with this paragraph.

(b) Any person who is the owner of a swine feeding operation with 300 AU or less is not required to obtain a permit unless the swine feeding operation is defined as a concentrated animal feeding operation per 40 CFR 122, Appendix B or the Division has made a case-by-case designation as a concentrated animal feeding operation, in which case NPDES permitting is required by 40 CFR 122.23. The owner of a swine feeding operation with 300 AU or less remains subject to applicable sections of the Act, including civil liability, civil penalty, and criminal penalty, O.C.G.A. 12-5-51, et seq.

(c) Two or more swine feeding operations under common ownership are considered to be a single operation subject to this paragraph if they adjoin each other (are contiguous) or if they use a common area system for the disposal of wastes.

(d) The sale, lease, or other transfer of ownership or operating control of any swine feeding operation with greater than 3000 AU to any other corporate or partnership entity or to any individual person or persons unrelated by blood, marriage, or adoption to the existing operator shall require that a new permit be applied for, in accordance with the applicable paragraph or paragraphs of this rule.

(e) Exclusions from all permit requirements of this paragraph are made for the following facilities unless they are defined as a concentrated animal feeding operation per 40 CFR 122, Appendix B, or the Division has made a case-by-case designation as a concentrated animal feeding operation, or the Division has determined that they have potential to discharge, in which cases NPDES permitting is required by 40 CFR 122.23:

1. A livestock market, sale barn, stockyard, or auction house where animals are assembled from at least two sources to be publicly auctioned or privately sold on a commission basis and that is under state or federal supervision. However, these facilities are defined as swine feeding operations if they meet the definition of a swine feeding operation in subparagraph (2)(b).

(4) Permit for Existing or New Operations with more than 300 but equal to or less than 1000 AU.

(a) Any person who is the owner of an existing swine feeding operation with more than 300 but equal to or less than 1000 AU must apply for an LAS permit from the Division within 90 days from the effective date of this paragraph. The Division may issue an individual or general permit. New or expanding swine feeding operations must obtain an LAS permit from the Division prior to beginning the swine feeding operation with more than 300 but equal to or less than 1000 AU. Permit applications for new or expanding swine feeding operations should be submitted 180 days prior to beginning the swine feeding operation with more than 300 but equal to or less than 1000 AU. Any person who owns or operates an existing or new swine feeding operation must have waste storage and disposal systems pursuant to this rule and meet the conditions in subparagraphs (b) through (i) below. Any person who is the owner

of a swine feeding operation with more than 300 AU but equal to or less than 1000 AU is not required to obtain an NPDES permit unless the swine feeding operation is defined as a concentrated animal feeding operation per 40 CFR 122, Appendix B or the Division has made a case-by-case designation as a concentrated animal feeding operation, in which case NPDES permitting is required by 40 CFR 122.23.

(b) There shall be no discharge of pollutants from the operation into surface waters of the State unless a catastrophic rainfall event (25-year, 24-hour storm) occurs.

(c) Prior to beginning operation of the swine feeding operation, new operations must have waste storage and disposal systems in operation that have been designed and constructed in accordance with NRCS guidance.

(d) Within 90 days from the effective date of this paragraph, the owner of an existing swine feeding operation shall submit to the Division a CNMP for the swine feeding operation. The CNMP shall be of sufficient substance and quality as to be approvable by the Division. The owner should receive the Division's approval of the CNMP by July 1, 2002, and shall begin implementing the approved CNMP not later than October 31, 2002. The owner of a new operation should submit to the Division a CNMP prior to beginning operation of the swine feeding operation**.**

(e) Existing operations should have a certified operator by October 31, 2002. New operations should have a certified operator prior to beginning the swine feeding operation. The certified operator should be trained and certified in accordance with 391-3-6-.20(13).

(f) New operations must be designed and constructed to contain all process generated wastewaters plus the runoff from a 25-year, 24-hour storm event without an overflow from the waste storage lagoon.

(g) New waste storage lagoons located within significant ground water recharge areas which fall within the categories defined in the Georgia Department of Natural Resources Rules for Environmental Planning Criteria, Chapter 391-3-15-.02, Paragraph 3(e) must be provided with either a compacted clay or synthetic liner such that the vertical hydraulic conductivity does not exceed 5×10^{-7} cm/sec or other criteria as determined by the Division. If it is determined that an existing waste storage lagoon is creating a ground water contamination problem, the Division may require the lagoon to be repaired.

(h) New barns and new waste storage lagoons for new swine feeding operations started after the effective date of this rule with more than 300 but equal to or less than 1000 AU, or for existing swine feeding operations that are expanding production so that they will have more than 300 but equal to or less than 1000 AU after the effective date of this rule, shall not be located within a 100-year flood plain.

(i) Any failure to comply with any condition of (a) through (h) above shall be deemed a violation of the Act and may be punishable in accordance with the penalties provided for in the Act.

(5) Permit for Existing Operations with more than 1000 but equal to or less than 3000 AU.

(a) Any person who is the owner of an existing swine feeding operation with more than 1000 but equal to or less than 3000 AU must apply for an NPDES permit from the Division by October 31, 2000. The Division may issue an individual or general permit. Any person who expands an existing operation to include more than 1000 but equal to or less than 3000 AU becomes subject to the requirements of subparagraph (6), "Permit for New or Expanding Operations with more than 1000 but equal to or less than 3000 AU."

(b) There shall be no discharge of process wastewater pollutants per 40 CFR Part 412 from the feedlot(s) or manure storage areas to waters of the United States except when catastrophic rainfall events cause an overflow of process wastewater from a facility properly designed, constructed, maintained, and operated to contain all process generated wastewater resulting from the operation of the swine feeding operation plus all runoff from a 25 year, 24-hour rainfall event for the location of the swine feeding operation.

(c) Within 90 days from the effective date of this paragraph, the owner shall submit to the Division a CNMP for the swine feeding operation. The CNMP shall be of sufficient substance and quality as to be approvable by the Division. The owner should receive the Division's approval of the CNMP by July 1, 2002, and shall begin implementing the approved CNMP not later than October 31, 2002.

(d) The operation should have a certified operator by October 31, 2002. The certified operator should be trained and certified in accordance with 391-3-6-.20(13).

(e) Public notice of the proposed draft permit will be prepared and circulated in accordance with 391-3-6-.06(7) or 391-3-6-.15(7).

(f) If it is determined that an existing waste storage lagoon is creating a ground water contamination problem, the Division shall require the owner to repair the lagoon, to close the lagoon, or to take other actions to protect the ground water.

(g) The waste disposal system shall be designed and operated such that it does not cause Nitrate Nitrogen (NO_3-N) in the ground water at the operation's property line to exceed 10 mg/l. The Division will require the owner to implement corrective actions if the permitted waste disposal system has caused the Nitrate Nitrogen (NO_3-N) to exceed 10 mg/l as described.

(h) Representative samples shall be collected from each major soil series present within the waste disposal field areas in a manner to be specified in the permit. One down gradient ground water monitoring well shall be installed for each waste storage lagoon or series of lagoons. The number, location, design and construction specifications of the monitoring wells shall be submitted to the Division prior to issuance of a permit. Existing wells that are approved by the Division can be used for testing. Monitoring wells shall be properly installed within 24 months of permit issuance.

(i) The permit will contain specific requirements for monitoring the waste storage lagoon effluent to be land applied and for the ground water monitoring wells. This will usually consist, at a minimum, of semiannual monitoring of the effluent for Total Kjeldahl Nitrogen (TKN) and Nitrate Nitrogen (NO_3-N) as well as semiannual monitoring of the wells for TKN and NO_3- N.

(j) When the owner ceases operation of the swine feeding operation, he must notify the Division of that fact within three months, and he must properly close all waste storage lagoons within eighteen months. In the case of voluntary closure, a period of twenty-four months from notification is allowed. Proper closure of a lagoon entails removing all waste from the lagoon and land applying it at agronomic rates, and in a manner so as not to discharge to any surface water.

(k) Any failure to comply with any condition of (a) through (j) above or any condition of any individual permit issued for the operation shall be deemed a violation of the Act and may be punishable in accordance with the penalties provided in the Act.

(6) Permit for New or Expanding Operations with more than 1000 but equal to or less than 3000 AU.

(a) Any person who proposes to commence operation of a new swine feeding operation with more than 1000 but equal to or less than 3000 AU after the effective date of this paragraph, or any person who proposes to expand an existing AFO to more than 1000 but equal to or less than 3000 AU after the effective date of this paragraph, must obtain an NPDES permit in accordance with this subparagraph. The Division will issue an individual permit. Permit applications should be submitted 180 days in advance.

(b) There shall be no discharge of process wastewater pollutants per 40 CFR Part 412 from the feedlot(s) or manure storage areas to waters of the United States except when catastrophic rainfall events cause an overflow of process wastewater from a facility properly designed, constructed, maintained, and operated to contain all process generated wastewater resulting from the operation of the swine feeding operation plus all runoff from a 25 year, 24-hour rainfall event for the location of the swine feeding operation. There shall be no discharge of pollutants into ground water which would cause ground water quality not to comply with the primary maximum contaminant levels established in Georgia's Rules for Safe Drinking Water, Chapter 391-3-5.

(c) Prior to beginning operation of the swine feeding operation, the operation must have waste storage and disposal systems in operation that have been designed and constructed in accordance with NRCS guidance.

(d) Prior to beginning operation of the swine feeding operation, the owner shall submit to the Division a CNMP for the swine feeding operation. The CNMP shall be of sufficient substance and quality as to be approvable by the Division.

(e) The operation should have a certified operator for the waste storage and disposal system prior to beginning the swine feeding operation. The certified operator should be trained and certified in accordance with 391-3-6-.20(13).

(f) Public notice of the proposed draft permit will be prepared and circulated in accordance with 391-3-6-.06(7).

(g) The waste storage and disposal system must be designed to contain all process generated wastewaters plus the runoff from a 25-year, 24-hour storm event without an overflow from the waste storage lagoon.

(h) Any waste storage lagoon must be constructed to ensure that seepage is limited to a maximum of 1/8 inch per day (3.67×10^{-6} cm/sec). For waste storage lagoons located within significant ground water recharge areas which fall within the categories defined in the Georgia Department of Natural Resources Rules for Environmental Planning Criteria, Chapter 391-3-15-.02, Paragraph 3(e), the lagoons must be provided with either a compacted clay or a synthetic liner such that the vertical hydraulic conductivity does not exceed 5×10^{-7} cm/sec or other criteria as determined by the Division. Individual waste storage lagoons shall not exceed 100 acre-feet in volume.

(i) It is required that a minimum of 2 feet of freeboard be maintained in the waste storage lagoons at all times.

(j) Barns and waste storage lagoons shall not be located within a 100-year flood plain.

(k) The following buffers shall be maintained:

1. 100 feet between wetted areas and water wells;

2. 100 feet between waste storage lagoons or barns or wetted areas and drainage ditches, surface water bodies, or wetlands;

3. 500 feet between waste storage lagoons or barns and any existing wells that supply water to a public water system, or any other existing well off the owner's property that supplies water for human consumption.

(l) Representative samples shall be collected from each major soil series present within the waste disposal field areas in a manner to be specified in the permit. One down gradient ground water monitoring well shall be installed for each waste storage lagoon or series of lagoons. The number, location, design and construction specifications of the monitoring wells shall be submitted to the Division prior to issuance of a permit. Existing wells that are approved by the Division can be used for testing. Monitoring wells shall be properly installed prior to the beginning of operation of the swine feeding operation.

(m) The permit will contain specific requirements for monitoring the waste storage lagoon effluent to be land applied, and for the ground water monitoring wells. This will usually consist, at a minimum, of semiannual monitoring of the effluent for Total Kjeldahl Nitrogen (TKN) and Nitrate Nitrogen (NO_3-N) as well as semiannual monitoring of the wells for TKN and NO_3- N.

(n) When the owner ceases operation of the swine feeding operation, he must notify the Division of that fact within three months, and he must properly close all waste storage lagoons within eighteen months. In the case of voluntary closure, a period of twenty-four months from notification is allowed. Proper closure of a lagoon entails removing all waste from the lagoon and land applying it at agronomic rates, and in a manner so as not to discharge to any surface water.

(o) Any failure to comply with any condition of (a) through (n) above or any condition of any individual permit issued for the operation may be deemed a violation of the Act and may be punishable in accordance with the penalties provided in the Act.

(7) Permit for Existing Operations with more than 3000 AU.

(a) Any person who owns or operates an existing swine feeding operation with more than 3000 AU must obtain an individual permit from the Division by October 31, 2000, in accordance with this paragraph. Permit applications should be submitted 180 days in advance. If the individual permit has not been obtained by October 31, 2000, the operation shall be closed, or the operation shall be reduced to 1000 AU or less and shall be in compliance with 391-3-6-.20(4).

(b) There shall be no discharge of pollutants from the operation into the surface waters of the State, as defined in the Act, O.C.G.A. 12-5-22(13). There shall be no discharge of pollutants into ground water which would cause ground water quality not to comply with the maximum contaminant levels established in Georgia's Rules for Safe Drinking Water 391-3-5.

(c) By October 31, 2002, the operation must have waste storage and disposal systems in operation that have been designed and constructed in accordance with NRCS guidance, or as otherwise determined by the Division.

(d) By October 31, 2001, the owner or operator shall submit to the Division a CNMP for the swine feeding operation. The CNMP shall be of sufficient substance and quality as to be approvable by the Division. The owner or operator shall receive the Division's approval of the CNMP by July 1, 2002, and shall begin implementing the approved CNMP not later than October 31, 2002.

(e) The operation must have a certified operator by October 31, 2001. The operator must be trained and certified, in accordance with 391-3-6-.20(13).

(f) Public notice of the completed application and proposed draft permit will be prepared and circulated in accordance with 391-3-6-.06(7).

(g) The system must be designed to handle the runoff from a 25-year, 24-hour storm event without an overflow from the storage lagoon.

(h) If it is determined that an existing lagoon is creating a ground water contamination problem, the Division may require owner or operator to repair the lagoon to meet NRCS standards, to close the lagoon, or to take other actions to protect the ground water.

(i) It is required that a minimum of 2 feet of freeboard be maintained in the lagoons at all times.

(j) The wastewater disposal system shall not be located within a flood plain unless it protected from inundation or damage from a 25-year, 24-hour storm event.

(k) The wastewater disposal system shall be designed and operated such that nitrates in the ground water at the operation's property line do not exceed 10 mg/1. The Division will require the owner or operator to implement corrective actions if the nitrates exceed 10 mg/1.

(l) At least one up-gradient and at least two down-gradient ground water monitoring wells shall be installed for the spray irrigation fields and one down gradient ground water monitoring well shall be installed for each lagoon or series of lagoons. The number, location, design and construction specifications of the monitoring wells shall be reviewed and approved by the Division, prior to issuance of a permit. Existing wells that are approved by the Division can be used for testing. Monitoring wells shall be properly installed within 24 months of permit issuance.

(m) The permit will contain specific requirements for monitoring the storage lagoon effluent to be land applied, and for the ground water monitoring wells. This will usually consist of semiannual monitoring of the effluent for 5-day Biochemical Oxygen Demand (BOD_5), Total Suspended Solids (TSS), Total Kjeldahl Nitrogen (TKN), Ammonia Nitrogen (NH_3), Nitrate Nitrogen (NO_3), and pH, as well as semiannual monitoring of the wells for specific conductivity, NO_3, pH and depth to ground water. Monitoring may be required to determine soil phosphorus adsorption, sodium adsorption ratio, cation exchange capacity, and cumulative loading of copper and zinc

(n) The permit may require periodic monitoring of any wet weather ditches or perennial streams which are in close proximity to spray irrigation fields.

(o) When the owner or operator ceases raising swine, he must notify the Division of that fact within three months, and he must properly close all wastewater lagoons within eighteen months. Proper closure of a lagoon entails removing all wastewater from the lagoon and land applying it on the owner or operator's fields at agronomic rates, and in a manner so as not discharge to any surface water stream.

(p) Any failure to comply with any condition of (a) through (o) above or any condition of any individual permit issued for the operation shall be deemed a violation of the Act and may be punishable in accordance with the penalties provided in the Act.

(q) In the event of any expansion of an existing operation with more than 3000 AU which expansion requires the construction or use of new lagoons and/or disposal areas, or the expansion of existing lagoons and/or disposal areas, the operator shall comply with the requirements of paragraph (8), (e), (f), (g), (i), (j), (k), (o), and (p), with respect to such new or expanded lagoons or disposal areas. In the event of an expansion sufficient to necessitate the construction of new lagoons or disposal areas, or the expansion of existing lagoons or disposal areas, the entire operation shall comply with paragraph (8) (n) and (q) and (9), (10), (11), and (12).

(8) Permit for New or Expanding Operations with more than 3000 AU.

(a) New swine feeding operations with more than 3000 AU, or existing operations that are expanding production so that they will have more than 3000 AU which propose to commence operation after the effective date of this rule must obtain an individual permit in accordance with this paragraph prior to commencing construction for the operation. Permit applications should be submitted 180 days in advance. Any existing swine feeding operation which proposes to expand to more than 3000 AU must obtain an individual permit and comply with the requirements of this paragraph prior to any such expansion or operation of such an expanded facility.

(b) There shall be no discharge of pollutants from the operation into the surface waters of the State, as defined in the Act, O.C.G.A. 12-5-22(13). There shall be no discharge of pollutants into ground water which would cause ground water quality not to comply with the maximum contaminant levels established in Georgia's Rules for Safe Drinking Water 391-3-5.

(c) The permit applicant shall have waste storage and disposal systems designed by a professional engineer registered in Georgia, at least as stringently as NRCS guidance, and shall implement a CNMP approved by the Division prior to startup. The permittee shall not start feeding any swine at the permitted operation before obtaining written approval from the Division for startup, subsequent to a final construction inspection by the Division.

(d) The operation must have a certified operator prior to startup. The operator must be trained and certified in accordance with 391-3-6-.20(13).

(e) The owner or operator shall, after completing a site evaluation and before any site preparation or construction commences, notify all adjoining property owners and all property owners who own property located within one mile of any boundary of the swine feeding operation of that person's intent to construct the swine feeding operation. This notice shall be by certified mail sent to the address on record at the property tax office in the county in which the land is located. The written notice shall include all of the following:

1. The name and address of the person intending to construct a swine feeding operation.

2. The type of swine feeding operation and the design capacity (in number of swine) of the proposed swine waste management system.

3. The name and address of the technical specialist preparing the waste management plan.

4. The address of the local Soil and Water Conservation District office.

5. A statement informing the adjoining property owners and the property owners who own property located within one mile of the proposed swine feeding operation that they may submit written comments or questions to the Division.

In addition, the owner or operator must conduct a minimum of one public meeting to present to the public the proposed project, its purpose, design, and environmental impacts. The meeting date and time must be advertised at least 30 days in advance in local newspapers with circulation covering all areas impacted by the project. Provisions to receive written comments should also be made. Evidence of notification of adjoining property owners, minutes of the public meeting, proof of advertisement, and opinions derived from the meeting must be submitted to the Division. Prior to making a decision on whether to issue a permit, the Division will require the permit applicant to run a notice in the largest newspaper of general circulation in the affected county and will provide a 30-day public comment period. Furthermore, the Division may conduct a public hearing on the application prior to making any final decision.

(f) The system must be designed to handle the runoff from a 50-year, 24-hour storm event without an overflow from the storage lagoon or storm water runoff from the disposal fields.

(g) Any storage lagoon shall be provided with a synthetic liner such that the vertical hydraulic conductivity does not exceed 5×10^{-7} cm/sec. Individual waste storage lagoons shall not exceed 100 acre-feet in volume.

(h) It is required that a minimum of 2 feet of freeboard be maintained in the lagoons at all times.

(i) Barns, lagoons, and wastewater disposal systems shall not be located within a 100-year flood plain.

(j) The following buffers shall be maintained:

1. 750 feet between disposal area and any residence or places of public assembly under separate ownership,

2. 200 feet between disposal area and property lines,

3. 200 feet between disposal area and water wells,

4. 150 feet between disposal area and drainage ditches, surface water bodies, or wetlands,

5. 1,750 feet between lagoons or barns and any occupied residence,

6. 1,750 feet between lagoons or barns and any public use area, church, picnic area, playground, school, hospital, outdoor recreational facility, national park, state park, historic property or child care center,

7. 1,750 feet between lagoons or barns and any property boundary,

8. 1,750 feet between lagoons or barns and any wells that supply water to a public water system, or any other well that supplies water for human consumption, and

9. 2,640 feet between lagoons or barns and waters of the State (not including ephemeral and intermittent streams).

(k) At least one up-gradient and at least two down-gradient ground water monitoring wells shall be installed for each drainage basin intersected by the disposal field and for each lagoon. The number, location, design, and construction specifications of the monitoring wells shall be reviewed and approved by the Division prior to permit issuance. The wells must be properly installed prior to the beginning of feeding of swine.

(l) The permit will contain specific requirements for monitoring the effluent and ground water monitoring wells. This will usually consist of quarterly monitoring of the effluent for BOD_5, TSS, TKN, NH_3, NO_3 and pH, as well as quarterly monitoring of the wells for specific conductivity, NO_3, pH and depth to ground water. Monitoring will also be required to determine soil phosphorus adsorption, sodium adsorption ratio, cation exchange capacity, and cumulative loading of copper and zinc.

(m) The permit may require periodic monitoring of any wet weather ditches or perennial streams which are in close proximity to disposal fields.

(n) The owner or operator shall provide the evidence of financial responsibility in accordance with paragraph 391-3-6-.20 (11) prior to permit issuance. A closure plan in accordance with paragraph 391-3-6-.20(12) shall be provided with the permit application. The sum of the following costs must also be included in the evidence of financial responsibility:

1. Ten percent of the initial capital costs for construction of the entire hog-growing facility swine feeding operation (barns, pens, feed storage, waste management, etc.)

2. $100,000 to cover the costs of any fines that may be imposed by the Division for violations of the laws, rules, regulations, and permits associated with the facility.

(o) These operations are prohibited from using open lagoons. Lagoons and waste storage facilities must be provided with airtight covers. Air pollution control devices using best available technology must be installed on all lagoon cover vents and openings to remove ammonia, hydrogen sulfide, methane, formaldehyde, and any other organic and inorganic air pollutants which may be required by the Division. Such air pollution control devices must meet all requirements of the Division and Georgia's Rules for Air Quality Control (391-3-1), and no swine feeding operation NPDES permit for new or expanding operations with more than 3000 AU shall be issued by the Division unless an appropriate air quality control permit can be issued simultaneously.

(p) These operations are prohibited from using spray irrigation of lagoon effluent. Lagoon effluent must be incorporated into the disposal fields using subsurface injection at a depth not less than 6 inches.

(q) These operations shall be assessed penalties for failure to comply with the terms of this paragraph, the Act or the individual permit according to the following schedule:

1. Lagoon breach or loss of containment, $50,000 for the first day and $100,000 per day for each day within a 12 month period thereafter during which a release occurs.

2. Land disposal field runoff, $25,000 per day.

3. Discharge to ground water on site causing ground water to exceed any maximum contaminant limits in Georgia's Rules for Safe Drinking Water, $5,000 per day.

4. Discharge to ground water causing increases of pollutant concentrations at the property line above ambient levels, $5,000 per day and immediate cessation of land disposal.

5. Second occurrence of any of the failures to comply specified above in paragraph 391-3-6-.20 8. (s) (1), (2), (3), or (4), immediate revocation of the individual permit and assessment of the appropriate penalty.

(r) These operations shall submit a compliance history and other information with the permit application in accordance with paragraph (10) of this rule.

(9) Degree of Pollutant Treatment Required and Alternative Technology

(a) The owner or operator of any swine feeding operation covered by rule 391-3-6-.20 shall ensure that all wastes from a swine feeding operation shall receive such treatment or corrective action so as to ensure compliance with the terms and conditions of the permit.

(b) If retrofitting the waste handling storage and disposal system of any swine feeding operation covered by 391-3-6-.20 with alternative technology becomes economically achievable, the Director may require any swine feeding operation to eliminate lagoons or spray fields. Alternative technologies may include, but are not limited to:

1. Drying/dewatering in greenhouse - type facilities

2. Composting by in-vessel method

3. Mechanical separation

4. Biogas production

5. Soil incorporation

6. Soil injection

(10) Refusal to Grant Certain Permits in accordance with O.C.G.A. 12-5-23 (d), (e), (f), and (g).

(a) An applicant for a permit for a new or expanding swine feeding operation with more than 3000 AU shall submit the following information to the Director as it pertains to the applicant and, in the case of a corporation or partnership, to the corporation, partnership, officer, director, manager, partner and each shareholder of five percent or more of the stock or financial interest in the corporation or partnership:

1. The name, social security number, taxpayer identification number and business address.

2. Background information and a three year environmental compliance history of any facility associated with any of the above individuals in any state. The information and compliance history shall be sufficient to address the following:

(i) intentionally misrepresented or concealed any material fact in permit application submitted;

(ii) obtained or attempted to obtain another permit by misrepresentation or concealment;

(iii) pleaded guilty or been convicted by final judgment, and all appeals have been exhausted, in this state or any other state or federal court of any felony involving moral turpitude;

(iv) pleaded guilty or been convicted by final judgment and all appeals have been exhausted to a third or subsequent material violation of any federal environmental law or any environmental law of this state or of any other state that presented a substantial endangerment to human health or the environment;

(v) adjudicated in contempt of any court order enforcing any federal environmental laws or any environmental laws of this state or of any other state;

(vi) the holder of any permit required for the discharge of pollutants as defined by this article, under the laws of this state, any other state, or the Federal Water Pollution Control Act Amendments of 1972, as amended, which permit has been revoked for reasons of noncompliance;

(vii) denied for reasons of noncompliance the issue of any permit required for the discharge of pollutants, as defined by this article, under the laws of this state, any other state, or the Federal Water Pollution Control Act Amendments of 1972, as amended, which permit has been revoked for reasons of noncompliance;

(viii) fish kills caused by any facility;

(ix) facility compliance status for the past three years including all violations of environmental permits, rules or statutes.

(x) other information determined by the Director.

(b) The Director shall deny a permit application for a new or expanding swine feeding operation if the applicant or any person identified in (a) above:

1. intentionally misrepresented or concealed any material fact in the application submitted to the Director or an environmental permit application in any other state;

2. has obtained or attempted to obtain another permit from the Director or from any other state by misrepresentation or concealment;

3. has pleaded guilty or been convicted by final judgment and all appeals have been exhausted, in this state or any other state or federal court of any felony involving moral turpitude within the three years preceding the date of the application for such permit;

4. has pleaded guilty or been convicted by final judgment and all appeals have been exhausted to a third or subsequent material violation of any federal environmental law or any environmental law of this state or of any other state that presented a substantial endangerment to human health or the environment within three years preceding the date of the application for such a permit;

5. has been adjudicated in contempt of any court order enforcing any federal environmental laws or any environmental laws of this state or of any other state within three years preceding the date of the application for such permit;

6. was the holder of any permit required for the discharge of pollutants, as defined by this article, under the laws of this state, any other state, or the Federal Water Pollution Control Act Amendments of 1972, as amended, which permit has been revoked for reasons of noncompliance within three years preceding the date of the application for a permit under this article;

7. was denied for reasons of noncompliance the issuance of any permit required for the discharge of pollutants, as defined by this article, under the laws of this state, any other state, or the Federal Water Pollution Control Act Amendments of 1972, as amended, within three years preceding the date of the application for a permit.

(c) The Director shall deny a permit application for a new or expanding swine feeding operation if a facility operated by or associated with any person identified in (a) above has failed to operate in full compliance with applicable environmental permits, rules or statutes for less than eighty percent of the time during the three-year period preceding the date of the application for a permit or if the facility caused more than one fish kill during that period.

(d) The Director shall not deny a permit as stated in (b) above, if the Director finds that affirmative actions taken by the applicant mitigate the impact of any such material misrepresentations, concealment, convictions, adjudication or violations. Such affirmative actions to be considered by the Director as mitigating factors shall include, but not be limited to, information or documentation related to the following:

1. Implementation by the applicant of formal policies, training programs, or other management controls to minimize the occurrence of future unlawful activities;

2. Installation by the applicant of environmental auditing or compliance programs;

3. The discharge from employment of any individual who was convicted of a crime associated with environmental violations.

(11) FINANCIAL REQUIREMENTS

Owners of new swine feeding operations with more than 3000 AU at any one time shall establish and maintain evidence of financial responsibility to provide for the closure of their waste treatment facilities and the proper disposal of their contents after closure of the facility.

(a) The owner must have a detailed written estimate, in current dollars, of the cost of hiring a third party to clean up and close the swine feeding operation. The owner must obtain a letter from the Division stating its concurrence that the owner's estimate of clean up and closure costs is reasonable. The owner must notify the Director that the estimate has been placed in the operating record.

1. During the active life of the facility, the owner must annually adjust the closure cost estimate for inflation.

2. The owner must increase the closure cost estimate and the amount of financial assurance provided under paragraph (b) of this section if changes to the closure plan increase the maximum cost of closure at any time during the remaining active life.

3. The owner may reduce the closure cost estimate and the amount of financial assurance provided under paragraph (b) of this section if the cost estimate exceeds the maximum cost of closure. The owner must notify the Director that the justification for the reduction of the closure cost estimate and the amount of financial assurance has been placed in the operating record.

(b) Financial assurance for closure: The owner of each swine feeding operation with an annual average of greater than 3000 AU must establish financial assurance for closure of the facility. The owner must provide continuous coverage for closure until released from financial assurance requirements by the Director. The owner must choose from the options as specified in paragraphs (c) through (f) of this section. The mechanism for financial assurance must be submitted to the Division for approval and must also allow the Director access to the funds in the event of failure of the owner to close the facility in accordance with 12 (c).

(c) Closure trust fund.

1. An owner may satisfy the requirements of this section by establishing a closure trust fund and submitting an originally signed duplicate of the trust agreement to the Director. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.

2. After the trust fund is established, whenever the current closure cost estimate changes, the owner must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner, within 60 days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance as specified in this section to cover the difference.

3. If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner may submit a written request to the Director for release of the amount in excess of the current closure cost estimate.

4. If an owner substitutes other financial assurance as specified in this section for all or part of the trust fund, he may submit a written request to the Director for release of the amount in excess of the current closure cost estimate covered by the trust fund.

5. After beginning partial or final closure, an owner or another person authorized to conduct partial or final closure may request reimbursements for partial or final closure expenditures by submitting itemized bills to the Director. The owner may request reimbursements for partial closure only if sufficient funds are remaining in the trust fund to cover the maximum costs of closing the facility over its remaining operating life. No later than 60 days after receiving bills for partial or final closure activities, the Director will instruct the trustee to make reimbursements in those amounts as the Director specifies in writing, if the Director determines that the partial or final closure expenditures are in accordance with the approved closure plan, or otherwise justified. If the Director does not instruct the trustee to make such reimbursements, he will provide to the owner or operator a detailed written statement of reasons.

6. The Director will agree to termination of the trust when:

(i) An owner substitutes alternate financial assurance as specified in this section; or

(ii) The Director releases the owner from the requirements of this section.

(d) Closure letter of credit.

1. An owner may satisfy the requirements of this section by obtaining an irrevocable standby letter of credit and submitting the letter to the Director. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a Federal or state agency.

2. The letter of credit must be accompanied by a letter from the owner referring to the letter of credit by number, issuing institution, and date, and providing the following information: The type of facility, name, and address of the facility, and the amount of funds assured for closure of the facility by the letter of credit.

3. The letter of credit must be irrevocable and issued for a period of at least 1 year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least 1 year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the Director by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Director have received the notice, as evidenced by the return receipts.

4. The letter of credit must be issued in an amount at least equal to the current closure cost estimate.

5. Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner, within 60 days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the Director, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the Director.

6. Following a final administrative determination that the owner has failed to perform final closure in accordance with the approved closure plan when required to do so, the Director may draw on the letter of credit.

7. The Director will return the letter of credit to the issuing institution for termination when:

(i) An owner substitutes alternate financial assurance as specified in this section; or

(ii) The Director releases the owner from the requirements of this section.

(e) Closure insurance.

1. An owner may satisfy the requirements of this section by obtaining closure insurance which conforms to the requirements of this paragraph and submitting a certificate of such insurance to the Director. By the effective date of these rules the owner or operator must submit to the Director a letter from an insurer stating that the insurer is considering issuance of closure insurance conforming to the requirements of this paragraph to the owner or operator. Within 90 days after the effective date of these rules, the owner or operator must submit the certificate of insurance to the Director or establish other financial assurance as specified in this section. At a minimum, the insurer must be licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

2. The closure insurance policy must be issued for a face amount at least equal to the current closure cost estimate. The term “face amount□ means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

3. The closure insurance policy must guarantee that funds will be available to close the facility whenever final closure occurs. The policy must also guarantee that once final closure begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the Director, to such party or parties as the Director specifies.

4. After beginning final closure, an owner or any other person authorized to conduct closure may request reimbursements for closure expenditures by submitting itemized bills to the Director. Within 60 days after receiving bills for closure activities, the Director will instruct the insurer to make reimbursements in such amounts as the Director specifies in writing if the Director determines that the final closure expenditures are in accordance with the approved closure plan or otherwise justified. If the Director has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the face amount of the policy, he may withhold reimbursement of such amounts as he deems prudent until he determines that the owner is no longer required to maintain financial assurance for final closure of the particular facility. If the Director does not instruct the insurer to make such reimbursements, he will provide to the owner a detailed written statement of reasons.

5. The owner must maintain the policy in full force and effect until the Director consents to termination of the policy by the owner. Failure to pay the premium, without substitution of alternate financial assurance as specified in this section, will constitute a significant violation of these rules, warranting such remedy as the Director deems necessary. Such violation will be deemed to begin upon receipt by the Director of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

6. Each policy must contain a provision allowing assignment of the policy to a successor owner. Such assignment may be conditional upon consent of the insurer, provided such consent is not unreasonably refused.

7. The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Director. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the Director and the owner, as evidenced by the return receipts.

   Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

   (i) The Director deems the facility abandoned; or

   (ii) Closure is ordered by the Director or a U.S. district court or other court of competent jurisdiction; or

   (iii) The owner is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

   (iv) The premium due is paid.

8. Whenever the current closure cost estimate increases to an amount greater than the face amount of the policy, the owner, within 60 days after the increase, must either cause the face amount to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Director, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the Director.

9. The Director will give written consent to the owner or operator that he may terminate the insurance policy when:

   (i) An owner or operator substitutes alternate financial assurance; or

   (ii) The Director releases the owner or operator from the requirements of this section.

(f) Surety Bond Guaranteeing Closure.

1. An owner or operator may demonstrate financial assurance for closure by obtaining a payment or performance surety bond which conforms to the requirements of this paragraph. The owner or operator must notify the Director that a copy of the bond has been placed in the operating record. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

2. The penal sum of the bond must be in an amount at least equal to the current closure cost estimate.

3. Under the terms of the bond, the surety will become liable on the bond obligation when:

   (i) The owner or operator fails to perform as guaranteed by the bond; or

   (ii) The Director notifies the owner or operator that they have failed to meet the requirements of these rules.

4. Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner and operator and to the Director 120 days in advance of cancellation. If the surety cancels the bond, the owner or operator must obtain alternate financial assurance as specified in this section.

5. The Director will give written consent to the owner or operator that he may terminate the surety bond when:

   (i) An owner or operator substitutes alternate financial assurance; or

   (ii) The Director releases the owner or operator from the requirements of this section.

(g) Release of the owner from the requirements of this section: Within 60 days after receiving certifications from the owner and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Director will notify the owner in writing that he is no longer required by this section to maintain financial assurance for final closure of the facility, unless the Director has reason to believe that final closure has not been in accordance with the approved closure plan. The Director shall provide the owner a detailed written statement of any such reason to believe that closure has not been in accordance with the approved closure plan.

(h) Failure of the owner to close the facility in accordance with section 12, (c) of this rule shall constitute forfeiture of the funds retained in the financial assurance mechanism and the Director shall be allowed access to the funds to close the facility.

(12) Closure

(a) Closure for new swine feeding operations with more than 3000 AU shall include, but may not be limited to the following:

1. The sampling, analysis, and reporting of results of all remaining livestock waste, including any sludge and the top 6 inches of any lagoon soil liner;

2. The removal of all remaining livestock waste, including sludge, and the removal of a minimum 6-inch thickness of soil throughout all lagoon interiors;

3. The application of all such wastes to crop land or pasture at agronomic rates;

4. The removal of all associated appurtenances, including but not limited to transfer lines, ramps, pumping ports, and any other waste conveyance structures;

5. The management of any impounded precipitation in any remaining excavations if the excavations are not immediately filled and returned to the preconstruction condition; and

6. Any monitoring wells will be filled, plugged and sealed in accordance with procedure approved by the Division.

(b) For new swine feeding operations with more than 3000 AU, the owner shall submit a detailed closure plan for clean up and closure of the swine management facility with the permit application. This 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 subsequent renewals of the permit.

(13) Operator Training and Certification Requirements.

(a) Swine feeding operations are required to have certified operators. Operators should be certified according to the following schedule:

1. 301 to 1000 AU: October 31, 2002.

2. Existing operations 1001 to 3000 AU: October 31, 2002.

3. New or expanding operations 1001to3000AU: Prior to beginning the feeding of swine.

4. Existing operations with more than 3000 AU: October 31, 2001.

5. New or expanding operations with more than 3000 AU: Prior to startup.

(b) Swine feeding operators shall be trained and certified by the Georgia Department of Agriculture. Proof of such training, certification and continuing education shall be maintained by the Department of Agriculture and records provided to the Georgia Environmental Protection Division.

(c) Certification training, agenda and topics will be determined by the Georgia Department of Agriculture; but will include, at a minimum, best management practices, comprehensive nutrient management planning, understanding regulations and water quality laws, standards and practices, siting, pollution prevention, monitoring and record keeping. Training programs will be structured to address the needs of the operators of differing sizes and various waste management technologies. Continuing education will be required to maintain this certification.

Authority: GA Law O.C.G.A. Section 12-5-20 et seq. Amended: F: June 16, 1999; **Eff.** July 6, 1999; **Amended F:** June 26. 2000; **EFF.** July 16; 2000.. **Amended: F: Sept. 12, 2001; EFF. Oct. 2, 2001.**

391-3-6-.21 Animal (Non-Swine) Feeding Operation Permit Requirements

(1) Purpose.

The purpose of this paragraph 391-3-6-.21 is to provide for the uniform procedures and practices to be followed relating to the application for and the issuance or revocation of permits for animal (non-swine) feeding operations. Nothing in this paragraph shall be construed to preclude the modification of any requirement of this paragraph when the Division determines that the requirement is not protective of the environment.

(2) Definitions.

All terms used in this paragraph 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:

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

(b) "Animal feeding operation," "operation," or "AFO" means a lot or facility (other than an aquatic animal production facility or swine feeding operation) where animals have been, are, or will be stabled or confined and fed or maintained for a total of at least 45 days in any 12-month period, and the confinement areas do not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season.

(c) "Animal Unit" (AU) is a unit of measurement for any AFO calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

(d) "Barn" means a structure where confinement feeding (feeding in limited quarters, often under a roof and over slotted floors) occurs. Structures where confinement feeding does not occur are not considered "barns" for the purposes of this rule.

(e) "Certified operator" means any person who has been trained and certified by the Georgia Department of Agriculture and has direct general charge of the day-to-day field operation of an AFO waste storage and disposal system , and who is responsible for the quality of the treated waste.

(f) "Closure plan" means the plan approved by the Division for clean up and closure of the AFO and associated waste storage and disposal facilities.

(g) "Comprehensive Nutrient Management Plan" (CNMP) is a plan which identifies actions or priorities that will be followed to meet clearly defined nutrient management goals at an agricultural operation. Defining nutrient management goals and identifying measures and schedules for attaining the goals are critical to reducing threats to water quality and public health. The CNMP should address, at a minimum, manure handling and storage, land application of manure and wastewater, site management, record keeping, and management of other utilization options**.** The CNMP must be developed or modified by a "certified specialist" defined by the Division. The Division will specify the requirements for certification. The CNMP is submitted to the Division for review and approval. It should include emergency response planning and a closure plan for abandonment of any facility used for the treatment or storage of animal waste.

(h) "Existing" applies to that which existed prior to the effective date of this rule. "Existing operation" means an AFO that was in operation prior to the effective date of this rule.

(i) "Natural Resources Conservation Service" (NRCS) is an agency within the United States Department of Agriculture.

(j) "New or expanding operation" or "new AFO" means an AFO the construction or expansion of which is commenced on or after the effective date of this rule.

(k) "NRCS guidance" means the latest editions of the Natural Resources Conservation Service (NRCS) Agricultural Waste Management Field Handbook, Part 651, FOTG Section IV Georgia, and other applicable publications of the NRCS. NRCS guidance is used by a certified specialist to develop or modify a CNMP.

(l) (Reserved)

(m) "Owner" means any person owning any system for waste treatment and disposal at an AFO.

(n) "Permit" means a permit applied for and issued in accordance with the terms and conditions for paragraphs 391-3-6-.06, Waste Treatment and Permit Requirements (individual NPDES permits), or 391-3-6-.11, Land Disposal and Permit Requirements (non-NPDES individual land application system or "LAS" permit), or 391-3-6-.15, Non-Storm Water General Permit Requirements (general NPDES permit), or 391-3-6-.19, General Permit - Land Application System Requirements (non-NPDES general LAS permit), of this Chapter.

(o) "Wetted area" or "disposal area" is the land area where AFO waste is sprayed, spread, incorporated, or injected so that the waste can either condition the soil or fertilize crops or vegetation grown in the soil.

(p) "25-year, 24-hour storm event" is the maximum 24-hour precipitation event expressed in inches with a probable recurrence interval of once in 25 years, as defined by the National Weather Service of the United States Department of Commerce in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments.

(q) "100-year flood plain" is the land inundated from a flood whose peak magnitude would be experienced on an average of once every 100 years. The 100-year flood has a 1% probability of occurring in one given year.

(r) "300 AU" means three hundred animal units. Paragraph 391-3-6-.21 (2) (c) notwithstanding, the numbers of animals in any of the following categories are equivalent to 300 AU:

- 300 slaughter and feeder cattle,
- 200 mature dairy cattle (whether milked or dry cows),
- 150 horses,
- 3,000 sheep or lambs,
- 16,000 turkeys,
- 30,000 laying hens or broilers (if the facility has continuous overflow watering),
- 9,000 laying hens or broilers (if the facility has a liquid manure handling system),
- 1,500 ducks

(s) "1000 AU" means one thousand animal units. Paragraph 391-3-6-.21 (2) (c) notwithstanding, the numbers of animals in any of the following categories are equivalent to 1000 AU:

- 1,000 slaughter and feeder cattle,
- 700 mature dairy cattle (whether milked or dry cows),
- 500 horses,
- 10,000 sheep or lambs,
- 55,000 turkeys,
- 100,000 laying hens or broilers (if the facility has continuous overflow watering),
- 30,000 laying hens or broilers (if the facility has a liquid manure handling system),
- 5,000 ducks

(t) "3000 AU" means three thousand animal units. Paragraph 391-3-6-.21 (2) (c) notwithstanding, the numbers of animals in any of the following categories are equivalent to 3000 AU:

- 3,000 slaughter and feeder cattle,
- 2,100 mature dairy cattle (whether milked or dry cows),
- 1,500 horses,
- 30,000 sheep or lambs,
- 165,000 turkeys,
- 300,000 laying hens or broilers (if the facility has continuous overflow watering),
- 90,000 laying hens or broilers (if the facility has a liquid manure handling system),
- 15,000 ducks

(3) Permit Requirement.

(a) Any person who is the owner of an AFO with more than 300 AU shall obtain a permit from the Division in accordance with this paragraph corresponding to the age and size of the AFO.

(b) Any person who is the owner of an AFO with 300 AU or less is not required to obtain a permit unless the AFO is defined as a concentrated animal feeding operation per 40 CFR 122, Appendix B or the Division has made a case-by-case designation as a concentrated animal feeding operation, in which case NPDES permitting is required by 40 CFR 122.23. The owner of an AFO with 300 AU or less remains subject to applicable sections of the Act, including civil liability, civil penalty, and criminal penalty, ? O.C.G.A. 12-5-51, et seq.

(c) Two or more AFOs under common ownership are considered to be a single operation subject to this paragraph if they adjoin each other (are contiguous) or if they use a common area or system for the disposal of wastes.

(d) Exclusions from all permit requirements of this paragraph are made for the following facilities unless they are defined as a concentrated animal feeding operation per 40 CFR 122, Appendix B, or the Division has made a case-by-case designation as a concentrated animal feeding operation, or the Division has determined that they have potential to discharge, in which cases NPDES permitting is required by 40 CFR 122.23:

1. A livestock market, sale barn, stockyard, or auction house where animals are assembled from at least two sources to be publicly auctioned or privately sold on a commission basis and that is under state or federal supervision. However, these facilities are defined as AFOs if they meet the definition of an AFO in subparagraph (2)(b).

2. A poultry operation that properly stores and disposes of dry litter waste and does not have continuous overflow watering or a liquid manure handling system.

(4) Permit for Existing or New Operations with more than 300 but equal to or less than 1000 AU.

(a) Any person who is the owner of an existing AFO with more than 300 but equal to or less than 1000 AU must apply for an LAS permit from the Division by October 31, 2001. The Division may issue an individual or general permit. New or expanding AFOs must obtain an LAS permit from the Division prior to beginning the AFO with more than 300 but equal to or less than 1000 AU. Permit applications for new or expanding AFOs should be submitted 180 days prior to beginning the AFO with more than 300 but equal to or less than 1000 AU. Any person who owns or operates an existing or new AFO must have waste storage and disposal systems pursuant to this rule and meet the conditions in subparagraphs (b) through (i) below. Any person who is the owner of an AFO with more than 300 AU but equal to or less than 1000 AU is not required to obtain an NPDES permit unless the AFO is defined as a concentrated animal feeding operation per 40 CFR 122, Appendix B or the Division has made a case-by-case designation as a concentrated animal feeding operation, in which case NPDES permitting is required by 40 CFR 122.23.

(b) There shall be no discharge of pollutants from the operation into surface waters of the State unless a catastrophic rainfall event (25-year, 24-hour storm) occurs.

(c) Prior to beginning operation of the AFO, new operations must have waste storage and disposal systems in operation that have been designed and constructed in accordance with NRCS guidance.

(d) By October 31, 2002, the owner of an existing AFO shall submit to the Division a CNMP for the AFO. The CNMP shall be of sufficient substance and quality as to be approvable by the Division. The owner should receive the Division's approval of the CNMP by July 1, 2003, and shall begin implementing the approved CNMP not later than October 31, 2003. The owner of a new operation should submit to the Division a CNMP prior to beginning operation of the AFO.

(e) Existing operations should have a certified operator by October 31, 2002. New operations should have a certified operator prior to beginning the AFO. The certified operator should be trained and certified in accordance with 391-3-6-.21(9).

(f) New operations must be designed and constructed to contain all process generated wastewaters plus the runoff from a 25-year, 24-hour storm event without an overflow from the waste storage lagoon.

(g) New waste storage lagoons located within significant ground water recharge areas which fall within the categories defined in the Georgia Department of Natural Resources Rules for Environmental Planning Criteria, Chapter 391-3-15-.02, Paragraph 3(e) must be provided with either a compacted clay or synthetic liner such that the vertical hydraulic conductivity does not exceed 5×10^{-7} cm/sec or other criteria as determined by the Division. If it is determined that an existing waste storage lagoon is creating a ground water contamination problem, the Division may require the lagoon to be repaired.

(h) New barns and new waste storage lagoons for new AFOs started after the effective date of this rule with more than 300 but equal to or less than 1000 AU, or for existing AFOs that are expanding production so that they will have more than 300 but equal to or less than 1000 AU after the effective date of this rule, shall not be located within a 100-year flood plain.

(i) Any failure to comply with any condition of (a) through (h) above shall be deemed a violation of the Act and may be punishable in accordance with the penalties provided for in the Act.

(5) Permit for Existing Operations with more than 1000 but equal to or less than 3000 AU.

(a) Any person who is the owner of an existing AFO with more than 1000 but equal to or less than 3000 AU must apply for an NPDES permit from the Division by October 31, 2001. The Division may issue an individual or general permit. Any person who expands an existing operation to include more than 1000 but equal to or less than 3000 AU becomes subject to the requirements of subparagraph (6), "Permit for New or Expanding Operations with more than 1000 but equal to or less than 3000 AU."

(b) There shall be no discharge of process wastewater pollutants per 40 CFR Part 412 from the feedlot(s) or manure storage areas to waters of the United States except when catastrophic rainfall events cause an overflow of process wastewater from a facility properly designed, constructed, maintained, and operated to contain all process generated wastewater resulting from the operation of the AFO plus all runoff from a 25 year, 24-hour rainfall event for the location of the AFO.

(c) By October 31, 2002, the owner shall submit to the Division a CNMP for the AFO. The CNMP shall be of sufficient substance and quality as to be approvable by the Division. The owner should receive the Division's approval of the CNMP by July 1, 2003, and shall begin implementing the approved CNMP not later than October 31, 2003.

(d) The operation should have a certified operator by October 31, 2002. The certified operator should be trained and certified in accordance with 391-3-6-.21(9).

(e) Public notice of the proposed draft permit will be prepared and circulated in accordance with 391-3-6-.06(7) or 391-3-6-.15(7).

(f) If it is determined that an existing waste storage lagoon is creating a ground water contamination problem, the Division shall require the owner to repair the lagoon, to close the lagoon, or to take other actions to protect the ground water.

(g) The waste disposal system shall be designed and operated such that it does not cause Nitrate Nitrogen (NO_3-N) in the ground water at the operation's property line to exceed 10 mg/l. The Division will require the owner to implement corrective actions if the permitted waste disposal system has caused the Nitrate Nitrogen (NO_3-N) to exceed 10 mg/l as described.

(h) Representative samples shall be collected from each major soil series present within the waste disposal field areas in a manner to be specified in the permit. One down gradient ground water monitoring well shall be installed for each waste storage lagoon or series of lagoons. The number, location, design and construction specifications of the monitoring wells shall be submitted to the Division prior to issuance of a permit. Existing wells that are approved by the Division can be used for testing. Monitoring wells shall be properly installed within 24 months of permit issuance.

(i) The permit will contain specific requirements for monitoring the waste storage lagoon effluent to be land applied and for the ground water monitoring wells. This will usually consist, at a minimum, of semiannual monitoring of the effluent for Total Kjeldahl Nitrogen (TKN) and Nitrate Nitrogen (NO_3-N) as well as semiannual monitoring of the wells for TKN and NO_3- N.

(j) When the owner ceases operation of the AFO, he must notify the Division of that fact within three months, and he must properly close all waste storage lagoons within eighteen months. In the case of voluntary closure, a period of twenty-four months from notification is allowed. Proper closure of a lagoon entails removing all waste from the lagoon and land applying it at agronomic rates, and in a manner so as not to discharge to any surface water.

(k) Any failure to comply with any condition of (a) through (j) above or any condition of any individual permit issued for the operation shall be deemed a violation of the Act and may be punishable in accordance with the penalties provided in the Act.

(6) Permit for New or Expanding Operations with more than 1000 but equal to or less than 3000 AU.

(a) Any person who proposes to commence operation of a new AFO with more than 1000 but equal to or less than 3000 AU after the effective date of this paragraph, or any person who proposes to expand an existing AFO to more than 1000 but equal to or less than 3000 AU after the effective date of this paragraph, must obtain an NPDES permit in accordance with this subparagraph. The Division may issue an individual or general permit. Permit applications should be submitted 180 days in advance.

(b) There shall be no discharge of process wastewater pollutants per 40 CFR Part 412 from the feedlot(s) or manure storage areas to waters of the United States except when catastrophic rainfall events cause an overflow of process wastewater from a facility properly designed, constructed, maintained, and operated to contain all process generated wastewater resulting from the operation of the AFO plus all runoff from a 25 year, 24-hour rainfall event for the location of the AFO. There shall be no discharge of pollutants into ground water which would cause ground water quality not to comply with the primary maximum contaminant levels established in Georgia's Rules for Safe Drinking Water, Chapter 391-3-5.

(c) Prior to beginning operation of the AFO, the operation must have waste storage and disposal systems in operation that have been designed and constructed in accordance with NRCS guidance.

(d) Prior to beginning operation of the AFO, the owner shall submit to the Division a CNMP for the AFO. The CNMP shall be of sufficient substance and quality as to be approvable by the Division.

(e) The operation should have a certified operator for the waste storage and disposal system prior to beginning the AFO. The certified operator should be trained and certified in accordance with 391-3-6-.21(9).

(f) Public notice of the proposed draft permit will be prepared and circulated in accordance with 391-3-6-.06(7) or 391-3-.15(7).

(g) The waste storage and disposal system must be designed to contain all process generated wastewaters plus the runoff from a 25-year, 24-hour storm event without an overflow from the waste storage lagoon.

(h) Any waste storage lagoon must be constructed to ensure that seepage is limited to a maximum of 1/8 inch per day (3.67×10^{-6} cm/sec). For waste storage lagoons located within significant ground water recharge areas which fall within the categories defined in the Georgia Department of Natural Resources Rules for Environmental Planning Criteria, Chapter 391-3-15-.02, Paragraph 3(e), the lagoons must be provided with either a compacted clay or a synthetic liner such that the vertical hydraulic conductivity does not exceed 5×10^{-7} cm/sec or other criteria as determined by the Division. Individual waste storage lagoons shall not exceed 100 acre-feet in volume.

(i) It is required that a minimum of 2 feet of freeboard be maintained in the waste storage lagoons at all times.

(j) Barns and waste storage lagoons shall not be located within a 100-year flood plain.

(k) The following buffers shall be maintained:

1. 100 feet between wetted areas and water wells;

2. 100 feet between waste storage lagoons or barns or wetted areas and drainage ditches, surface water bodies, or wetlands;

3. 500 feet between waste storage lagoons or barns and any existing wells that supply water to a public water system, or any other existing well off the owner's property that supplies water for human consumption.

(l) Representative samples shall be collected from each major soil series present within the waste disposal field areas in a manner to be specified in the permit. One down gradient ground water monitoring well shall be installed for each waste storage lagoon or series of lagoons. The number, location, design and construction specifications of the monitoring wells shall be submitted to the Division prior to issuance of a permit. Existing wells that are approved by the Division can be used for testing. Monitoring wells shall be properly installed prior to the beginning of operation of the AFO.

(m) The permit will contain specific requirements for monitoring the waste storage lagoon effluent to be land applied, and for the ground water monitoring wells. This will usually consist, at a minimum, of semiannual monitoring of the effluent for Total Kjeldahl Nitrogen (TKN) and Nitrate Nitrogen (NO_3-N) as well as semiannual monitoring of the wells for TKN and NO_3- N.

(n) When the owner ceases operation of the AFO, he must notify the Division of that fact within three months, and he must properly close all waste storage lagoons within eighteen months. In the case of voluntary closure, a period of twenty-four months from notification is allowed. Proper closure of a lagoon entails removing all waste from the lagoon and land applying it at agronomic rates, and in a manner so as not to discharge to any surface water.

(o) Any failure to comply with any condition of (a) through (n) above or any condition of any individual permit issued for the operation may be deemed a violation of the Act and may be punishable in accordance with the penalties provided in the Act.

(7) Permit for Existing Operations with more than 3000 AU.

(a) Any person who owns an existing AFO with more than 3000 AU must apply for an NPDES permit from the Division by October 31, 2001. The Division may issue an individual or general permit. Any person who expands an existing operation to more than 3000 AU becomes subject to the requirements of subparagraph (8), "Permit for New or Expanding Operations with more than 3000 AU."

(b) There shall be no discharge of process wastewater pollutants per 40 CFR Part 412 from the feedlot(s) or manure storage areas to waters of the United States except when catastrophic rainfall events cause an overflow of process wastewater from a facility properly designed, constructed, maintained, and operated to contain all process generated wastewater resulting from the operation of the AFO plus all runoff from a 25 year, 24-hour rainfall event for the location of the AFO.

(c) By October 31, 2002, the owner shall submit to the Division a CNMP for the AFO. The CNMP shall be of sufficient substance and quality as to be approvable by the Division. The owner should receive the Division's approval of the CNMP by July 1, 2003, and shall begin implementing the approved CNMP not later than October 31, 2003.

(d) The operation should have a certified operator by October 31, 2002. The certified operator should be trained and certified in accordance with 391-3-6-.21(9).

(e) Public notice of applications and proposed draft permits will be prepared and circulated in accordance with 391-3-6-.06(7) or 391-3-6-.15(7). Furthermore, a proposed determination to issue an individual permit requires that the applicant shall post the public notice on a three feet by five feet sign at the entrance of the applicant's premises and publish the public notice in one or more newspapers of general circulation in the area affected by the AFO.

(f) If it is determined that an existing waste storage lagoon is creating a ground water contamination problem, the Division shall require the owner to repair the lagoon, to close the lagoon, or to take other actions to protect the ground water.

(g) The waste disposal system shall be designed and operated such that it does not cause Nitrate Nitrogen (NO_3-N) in the ground water at the operation's property line to exceed 10 mg/l. The Division will require the owner to implement corrective actions if the permitted waste disposal system has caused the Nitrate Nitrogen (NO_3-N) to exceed 10 mg/l as described.

(h) Representative samples shall be collected from each major soil series present within the waste disposal field areas in a manner to be specified in the permit. One down gradient ground water monitoring well shall be installed for each waste storage lagoon or series of lagoons. The number, location, design and construction specifications of the monitoring wells shall be submitted to the Division prior to issuance of a permit. Existing wells that are approved by the Division can be used for testing. Monitoring wells shall be properly installed within 24 months of permit issuance.

(i) The permit will contain specific requirements for monitoring the waste storage lagoon effluent to be land applied, and for the ground water monitoring wells. This will usually consist, at a minimum, of semiannual monitoring of the effluent for Total Kjeldahl Nitrogen (TKN) and Nitrate Nitrogen (NO_3-N) as well as semiannual monitoring of the wells for TKN and NO_3- N.

(j) When the owner ceases operation of the AFO, he must notify the Division of that fact within three months, and he must properly close all waste storage lagoons within eighteen months. In the case of voluntary closure, a period of twenty-four months from notification is allowed. Proper closure of a lagoon entails removing all waste from the lagoon and land applying it at agronomic rates, and in a manner so as not to discharge to any surface water.

(k) Any failure to comply with any condition of (a) through (j) above or any condition of any individual permit issued for the operation shall be deemed a violation of the Act and may be punishable in accordance with the penalties provided in the Act.

(8) Permit for New or Expanding Operations with more than 3000 AU.

(a) Any person who proposes to be the owner or operator of a new AFO with more than 3000 AU, and any person who is the owner or operator of an existing operation that is expanding production so that it will have more than 3000 AU, which proposes to commence operation after the effective date of this rule must obtain an individual NPDES permit in accordance with this paragraph prior to commencing construction for the operation.

1. Permit applications should be submitted 180 days in advance.

2. (Reserved)

3. The owner of an existing operation that is expanding production so that it will have more than 3000 AU after the effective date of this rule must obtain an individual NPDES permit.

(b) There shall be no discharge of process wastewater pollutants per 40 CFR Part 412 from the feedlot(s) or manure storage areas to waters of the United States except when catastrophic rainfall events cause an overflow of process wastewater from a facility properly designed, constructed, maintained, and operated to contain all process generated wastewater resulting from the operation of the AFO plus all runoff from a 25 year, 24-hour rainfall event for the location of the AFO**.** There shall be no discharge of pollutants into ground water which would cause ground water quality not to comply with the primary maximum contaminant levels established in Georgia's Rules for Safe Drinking Water, Chapter 391-3-5.

(c) Prior to beginning operation of the AFO, the operation must have waste storage and disposal systems in operation that have been designed and constructed in accordance with NRCS guidance.

(d) Prior to beginning operation of the AFO, the owner and operator if co-permitted**,** shall submit to the Division a CNMP for the AFO. The CNMP shall be of sufficient substance and quality as to be approvable by the Division.

(e) The operation should have a certified operator for the waste storage and disposal system prior to beginning the AFO. The certified operator should be trained and certified in accordance with 391-3-6-.21(9).

(f) Public notice of the completed application and proposed draft permit will be prepared and circulated in accordance with 391-3-6-.06(7). Furthermore, a proposed determination to issue an individual permit requires that the applicant shall post the public notice on a three feet by five feet sign at the entrance of the applicant's premises and publish the public notice in one or more newspapers of general circulation in the area affected by the AFO.

(g) The waste storage and disposal system must be designed to contain all process generated wastewaters plus the runoff from a 25-year, 24-hour storm event without an overflow from the waste storage lagoon.

(h) Any waste storage lagoon must be constructed to ensure that seepage is limited to a maximum of 1/8 inch per day (3.67×10^{-6} cm/sec). For waste storage lagoons located within significant ground water recharge areas which fall within the categories defined in the Georgia Department of Natural Resources Rules for Environmental Planning Criteria, Chapter 391-3-15-.02, Paragraph 3(e), the lagoons must be provided with either a compacted clay or a synthetic liner such that the vertical hydraulic conductivity does not exceed 5×10^{-7} cm/sec or other criteria as determined by the Division. Individual waste storage lagoons shall not exceed 100 acre-feet in volume.

(i) It is required that a minimum of 2 feet of freeboard be maintained in the waste storage lagoons at all times.

(j) Barns and waste storage lagoons shall not be located within a 100-year flood plain.

(k) The following buffers shall be maintained:

1. 100 feet between wetted areas and water wells;

2. 100 feet between waste storage lagoons or barns or wetted areas and drainage ditches, surface water bodies, or wetlands;

3. 500 feet between waste storage lagoons or barns and any existing wells that supply water to a public water system, or any other existing well off the owner's property that supplies water for human consumption.

(l) Representative samples shall be collected from each major soil series present within the waste disposal field areas in a manner to be specified in the permit. One down gradient ground water monitoring well shall be installed for each waste storage lagoon or series of lagoons. The number, location, design and construction specifications of the monitoring wells shall be submitted to the Division prior to issuance of a permit. Existing wells that are approved by the Division can be used for testing. Monitoring wells shall be properly installed prior to the beginning of operation of the AFO.

(m) The permit will contain specific requirements for monitoring the waste storage lagoon effluent to be land applied, and for the ground water monitoring wells. This will usually consist, at a minimum, of semiannual monitoring of the effluent for Total Kjeldahl Nitrogen (TKN) and Nitrate Nitrogen (NO_3-N) as well as semiannual monitoring of the wells for TKN and NO_3- N.

(n) When the owner or operator ceases operation of the AFO, he must notify the Division of that fact within three months, and he must properly close all waste storage lagoons within eighteen months. In the case of voluntary closure, a period of twenty-four months from notification is allowed. Proper closure of a lagoon entails removing all waste from the lagoon and land applying it at agronomic rates, and in a manner so as not to discharge to any surface water.

(o) Any failure to comply with any condition of (a) through (n) above or any condition of any individual permit issued for the operation may be deemed a violation of the Act and may be punishable in accordance with the penalties provided in the Act.

(9) Certified Operator - Training and Certification Requirements.

(a) AFOs should have certified operators according to the following schedule:

1. Existing operations with 301 to 1000 AU, 1001 to 3000 AU, and more than 3000 AU: October 31, 2002.

2. New or expanding AFOs with 301 to 1000 AU, 1001 to 3000 AU, and more than 3000 AU: Prior to beginning the AFO.

(b) AFO certified operators should be trained and certified by the Georgia Department of Agriculture. Proof of such training, certification and continuing education may be maintained by the Department of Agriculture and records provided to the Georgia Environmental Protection Division.

(c) Certification training, agenda and topics will be determined by the Georgia Department of Agriculture; but will include, at a minimum, best management practices, comprehensive nutrient management planning, understanding regulations and water quality laws, standards and practices, siting, pollution prevention, monitoring and record keeping. Training programs will be structured to address the needs of the certified operators of differing sizes and various waste management technologies. Continuing education will be required to maintain this certification.

Authority: O.C.G.A. Section 12-5-20, et. seq. **Filed:** Feb 8, 2001; **Eff.** Feb. 28, 2001.