

**PROPOSED AMENDMENTS TO THE RULES OF THE DEPARTMENT OF  
NATURAL RESOURCES RELATING TO THE ENVIRONMENTAL PROTECTION  
DIVISION, RULES FOR WATER QUALITY CONTROL, CHAPTER 391-3-6**

**The Rules of the Department of Natural Resources, Chapter 391-3-6, Rules and Regulations for Water Quality Control are hereby amended, added to, repealed in part, and revised as follows:**

**[Note: Underlined text is proposed to be added. ~~Lined-through~~ text is proposed to be deleted.]**

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

(1) Purpose. The purpose of Rule 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) "Approval Authority" means the Director of the Environmental Protection Division of the Georgia Department of Natural Resources.

(c) "Approved pretreatment program," "POTW pretreatment program," or "program" means a program administered by a POTW that meets the criteria established in this Paragraph and Rule 391-3-6-.09, and which has been approved by the Approval Authority in accordance with Rule 391-3-6-.09.

(d) "Best management practices" or "BMP" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(e) "Control Authority" means :

1. The POTW if the POTW's pretreatment program submission has been approved by the Approval Authority in accordance with Rule 391-3-6-.09; or

2. The Approval Authority if the submission has not been approved.

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

(ge) "Federal Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

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

(ie) "Industrial user" means any person that is a source of ~~person discharging indirect discharge or proposed indirect discharge~~ ing 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.

(jf) "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 of 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.

(kg) "Limitation" means any restriction or prohibition established under the Act on quantities, rates, or concentration, 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.

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

(mi) "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 publication of proposed pretreatment standards under Section 307(c) of the Federal Act which will be applicable to such ~~source~~ more if such standards are thereafter promulgated in accordance with that section provided that:

(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 pollutant 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 or 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 Subparagraphs 391-3-6-.08(2)(~~mi~~)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.

(~~nj~~) "Pass through" means a discharge which ~~exists~~ exist the POTW into waters of the State in quantities or concentration 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).

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

(~~pl~~) "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).

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

~~(rn)~~ "Pretreatment permit application" means an application filed by any person with the ~~Director~~Control Authority for a pretreatment permit.

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

~~(t)~~ "Publicly owned treatment works" or "POTW," as applied in Rules 391-3-6-.08 and 391-3-6-.09, means a treatment works as defined by section 212 of the Federal Act, which is owned by the State or a municipality (as defined by section 502(4) of the Federal Act). This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality, as defined in section 502(4) of the Federal Act, which has jurisdiction over the indirect discharges to, and the discharges from, such a treatment works

~~(up)~~ "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.~~

Significant Industrial User"

(1) Except as provided in Subparagraphs (u)(2) and (3) below, the term Significant Industrial User means:

(i) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and

(ii) Any other industrial user that: 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); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

(2) The Control Authority may determine that an industrial user subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the industrial user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

(i) the industrial user, prior to the Control Authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

(ii) the industrial user annually submits the certification statement required in 40 CFR 403.12(q) together with any additional information necessary to support the certification statement; and

(iii) the industrial user never discharges any untreated concentrated wastewater.

(3) Upon a finding by the Control Authority that an industrial user meeting the criteria in Subparagraph (u)(1)(ii) above has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Control Authority 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 Subparagraph 391-3-6-.09(7)(d), determine that such industrial user is not a Significant Industrial User.

(vq) "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 ~~days~~ days which 66 percent or more of all of the measurements taken for the same pollutant parameter during a six month period exceed (by any magnitude) ~~the daily maximum limit or the average limit for the same pollutant parameter~~ a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

2. Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements for the same each pollutant parameter taken during a six month period equal or exceed the product of the ~~daily maximum limit or the average limit~~ numeric pretreatment standard or requirement, including instantaneous limits, as defined by

40 CFR 403.3(l) 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 standard or requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) effluent limit (daily maximum or longer-term average) that the Control Authority~~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 Control Authority~~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 ~~forty-five~~<sup>thirty</sup> (~~45~~<sup>30</sup>) 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 may include a violation of BMPs, which the Control Authority~~Director~~ determines will adversely affect POTW operations 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 the 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 by the Control Authority.~~ 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~~Control Authority and Approval Authority and provision of a copy of the existing control mechanism to the new owner or operator;
2. Effluent limits based on ~~national applicable general~~ pretreatment standards for prohibited discharges as specified in 40 CFR 403.5(a) and (b), national ~~Categorical~~ pretreatment standards for categorical discharges as specified in 40 CFR 403.6 and 40 CFR Chapter 1,

Subchapter N, Parts 405-471, and local limits and/or BMPs 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)-(97), 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.

5. Requirements to control slug discharges as defined in 40 CFR 403.8(f)(2)(vi), if determined by the Control Authority to be necessary.

~~(b) Upon a finding that an industrial user meeting the criteria in Subparagraphs 391-3-6-.08(2)(rp)(1)(ii)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 Subparagraph 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 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 U.S. EPA pursuant to Section 307 of the Federal Act and as described in Subparagraph 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 purpose 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 Control Authority or Approval Authority 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, national applicable general and specific prohibitions pretreatment standards for prohibited discharges as specified in 40 CFR 403.5, dilution prohibition as specified in 40 CFR 403.6(d), pretreatment standards and requirements, or schedules 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 pollutant 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 Control Authority or Approval Authority. Applications shall be accompanied by all pertinent information as the EPD Control Authority may require in order to establish pretreatment standards and requirements in accordance with Subparagraph 391-3-6-.08(4), including but not limited to complete engineering reports, schedule of progress, plans, specification, maps, measurements, quantitative and qualitative determinations, records and all related materials. For industrial users subject to national pretreatment standards for categorical discharges ~~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 Control Authority ~~EPD~~ in support of a pretreatment permit 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 requirements 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 applications forms or any other forms submitted to the EPD Control Authority 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~~ the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where 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 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 Control Authority.

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-Control Authority prior to or together with any reports to be signed by the authorized representative.

5. For a municipality, State, Federal, or the public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee, The duly authorized employee must be an individual or position having responsibility for the overall operation of the facility or the pretreatment program. This authorization must be made in writing by the principal executive officer or ranking elected official, and submitted to the Approval Authority prior to or together with the report being submitted.~~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 the waters of the State.

(b) The EPD-Control Authority shall receive any relevant data it finds relevant which is 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-Control Authority determines that such information is entitled confidential protection, ~~he~~it 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-Control Authority 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 Control Authority~~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 to 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 newspaper of general circulation in the area of the applicant;

(ii) copy of the public notice shall be mailed to the pretreatment permit applicant and, where the Approval Authority is acting as the Control Authority, 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 Approval Authority~~EPD~~ shall maintain a mailing list for distribution of public notices for pretreatment permits it issues. Any person or group may request that their names be added to the mailing list. The request should be 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~~Control Authority 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~~Control Authority 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~~Control Authority or Approval Authority.

(c) Public Hearing:

1. The ~~Direct~~Control Authority 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 Subparagraph 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~~

Control Authority shall hold a hearing if ~~it~~ 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 to the publicly owned treatment works or other appropriate location at the discretion of the ~~Director~~ Control Authority.

3. The ~~Director~~ Control Authority may hold one public hearing on related groups of pretreatment 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-.08(7)(b)

(8) Terms and Conditions of Pretreatment Permits.

(a) Terms and conditions under which the discharge ~~is~~ will be permitted will be specified on the permit issued for the industrial user to discharge into ~~the~~ a 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~~ Control Authority 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 Subparagraph shall exceed nine months.

2. Within fourteen (14) days of an interim date of compliance or the final date of compliance specified for an industrial user, the industrial user shall provide the ~~Director~~ Control Authority 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 Control Authority ~~EPD~~ or Approval Authority to pursue enforcement action pursuant to its legal authority ~~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~~ Control Authority or Approval Authority to be in violation of the permit and may be subject to enforcement action by the Control Authority or Approval Authority 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 es standards shall submit to the ~~Director~~ Control Authority 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~~ industrial user 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~~ Control Authority including the installation, use and maintenance of monitoring equipment or methods; specific requirements for recording of monitoring activities and result; 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~~ national pretreatment standards and applicable local limits and requirements shall be specified in a permit when issued, provided however the ~~Director~~ Control Authority may modify or require additional monitoring, recording and reporting by written notification to the industrial user.

2. The industrial user shall be required in the pretreatment permit to retain any records of monitoring activities and results for a minimum of three (3) years, unless otherwise ~~required~~ or extended by the ~~Director~~ Control Authority 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~~ Control Authority results of all required monitoring activities on appropriate forms supplied by the ~~EPD~~ Control Authority or Approval Authority. The Control Authority ~~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 periodic reporting shall be in accordance with the requirements described in 40 CFR 403.12(e) ~~(4h)~~ (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-national pretreatment standards for categorical discharges~~ 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 by the Control Authority or Approval Authority. 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~~ Control Authority may revise or modify the schedule of compliance set forth in an issued pretreatment permit if the industrial ~~if the~~ 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~~ Control Authority may revise or modify such schedule of compliance provided it is in accordance with promulgated Federal regulations. ~~The Director~~ Control Authority may grant a request in accordance with ~~this~~ Subparagraph if ~~it~~ 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, exist for such revision.

(b) ~~The Director~~ Control Authority 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 proposed modifications suspension or revocation from the ~~Director~~ Control Authority 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~~ Control Authority (other than modification or revision of compliance schedule pursuant to Subparagraph 391-3-6-.08(9)(a) above or modification of the monitoring, recording and reporting requirements), ~~the Director~~ Control Authority will provide public notice in accordance with the procedures set forth in Subparagraph 391-3-6-.08(7)(b). Where the Approval Authority is acting as the Control Authority, if the industrial user files an objection in writing within the specified thirty (30) days 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)~~ by a Control Authority 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~~ Control Authority, provided that an application for such new pretreatment permit is filed with the ~~Control Authority~~ 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 affixed 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 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, et seq., as amended (Ga. Code Ann. Sec. 40-3501 et. seq.), O.C.G.A. Sec. 12-5-20 et seq. History. Original Rule entitled "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. Repealed: ER. 391-3-6-0.32-.08, of the same title, adopted. F. May 1, 1996; eff. Apr. 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. Permanent Rule of same title adopted. F. Jul. 10, 1996; eff. Jul. 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 Rule 391-3-6-.09 is to provide uniform procedures and practices to be followed for ~~the EPD and POTW pretreatment submission 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" 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 waste water 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.~~

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

(b) The ~~Director~~Approval Authority 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 effluent, 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 Subparagraphs 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, 1989~~3~~ as being required to develop a POTW pretreatment program under Subparagraph 391-3-6-09(3)(a) and (b) shall develop and submit such a program for approval as soon as possible to the ~~Direct~~Approval Authority but in no case later than one (1) year after written notification from the ~~Director~~Approval Authority 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~~Approval Authority.

(e) The ~~Director~~Approval Authority may hold a public hearing in the geographical area served by any POTW which fails to comply with the ~~Director~~Approval Authority'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 at the public hearing to explain the reasons why they failed to comply with the ~~Director~~ Approval Authority's finding and directive. For any public hearing held pursuant to this Subparagraph 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 Subparagraph 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 develop in 40 CFR 403.9(b) and 403.8(f). Any other pertinent information requested by the Direct 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). Within 60 days after receiving the submission, the ~~The~~ EPD shall make a preliminary determination of whether the submission meets the requirements of 403.9(b) and whether the submission meets the 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~~ Approval Authority, 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 Subparagraph 391-3-6-.09(5).

(b) When the EPD determines that the POTW pretreatment program does not meet the requirements of Subparagraph 391-3-6-.09(a), the EPD shall notify the POTW in writing as appropriate and each person who has requested individual notice. This notification shall identify any defects in the submission and advise the POTW and each person who has requested individual notice of the means by which the POTW can comply with the applicable requirements of Subparagraph 391-3-6-.09(a). ~~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, not to exceed the one year period specified in Subparagraph 391-3-6-.09(3)(c). 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. Within 20 work days ~~A~~ after the EPD has made a determination that a POTW pretreatment program submission meets the requirements of 40 CFR 403.9(b), a public notice will be issued by the EPD and the city or municipality requesting approval to advise the public 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 resources 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 a newspaper(s) of general circulation in the largest daily newspaper within 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 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~~Approval Authority; and
- (vii) the contents of the public notice will be in accordance with appropriate Federal requirements and applicable State laws.

2. The ~~Director~~Approval Authority 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 Subparagraph 391-3-6-.09(5)(a)1.-(vi) and shall indicate the interest of the person filing such request and the reason why a hearing is warranted. The ~~Director~~Approval Authority shall hold the hearing if ~~he~~it determines that there is sufficient public interest in holding such hearing or if the POTW requests a hearing.

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

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

1. Deadline for review of submission. The Approval Authority shall have 90 days from the date of public notice of any submission complying with the requirements of § 403.9(b) to review the submission. The Approval Authority shall review the submission to determine compliance with the requirements of 40 CFR 403.8 (b) and (f). The Approval Authority may have up to an additional 90 days to complete the evaluation of the submission if the public comment period provided for in Subparagraph 391-3-6-.09(5)(a)1.(vi) is extended beyond 45 days or if a public hearing is held as provided for in Subparagraph 391-3-6-.09(5)(a)2. In no event, however, shall the time for evaluation of the submission exceed a total of 180 days from the date of public notice of a submission meeting the requirements of § 403.9(b)

24. At the conclusion of the public notice comment period or the public comment period allowed following a public hearing or the extension if warranted per Subparagraph 391-3-6-.09(5)(b)1. above, the ~~Director~~Approval Authority shall make a determination to approve the POTW pretreatment program or deny any approval to the program based on the requirements of Subparagraph 391-3-6-.09(4) and taking into consideration the comments submitted during the comment period and the record of the public hearing, if held. When the ~~Director~~Approval Authority has made a determination to deny approval to the program the POTW shall be notified in writing in accordance with Subparagraph 391-3-6-.09(4)(b) and each person who has requested individual notice. The ~~Director~~Approval Authority shall also notify these persons who submitted comments and participated in the public hearing, if held, of the approval or disapproval of the submission.

3. U.S. EPA's objection to Approval Authority's decision. No POTW pretreatment program shall be approved by the Approval Authority if following the 45 day (or extended) evaluation period provided for in Subparagraph 391-3-6-.09(5)(a)1.(vi) and any hearing held pursuant to Subparagraph 391-3-6-.09(5)(a)2 of this section the Regional Administrator sets forth in writing objections to the approval of such submission and the reasons for such objections. A copy of the Regional Administrator's objections shall be provided to the applicant, and each person who has requested individual notice. The Regional Administrator shall provide an opportunity for written comments and may convene a public hearing on his or her objections. Unless retracted, the Regional Administrator's objections shall constitute a final ruling to deny approval of a POTW pretreatment program 90 days after the date the objections are issued.

42. When the EPD has made a determination to approve the submission, a public notice shall 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~~Approval Authority 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 ~~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~~Approval Authority, procedures will be started to revise, modify and reissue the ~~NPDES POTW's~~ discharge permit to include compliance with Rules 391-3-6-.08 and 391-3-6-.09, and the authority to operate a the approved POTW pretreatment program as enforceable conditions part of the NPDES POTW's permit. The modification of a POTW's discharge permit for the purposes of incorporating a POTW pretreatment program approved by the Approval Authority in accordance with 40 CFR 403.11 and this Paragraph shall be deemed a minor permit modification subject to the procedures in 40 CFR 122.63.

(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 exchanging 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~~Approval Authority. Any approved POTW pretreatment program identified by the EPD that needs to modify its program to incorporate requirements that have resulted from revision to Paragraph 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 Subparagraph 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~~Approval Authority determines to be necessary under the circumstances;

(ii) the ~~Director~~Approval Authority shall approve or disapprove the modifications based on the requirements of 40 CFR 403.8(f), following the procedures in Subparagraph 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 permit after approval.~~ The POTW's discharge 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~~Approval Authority. Notice of approval shall be published in the same newspaper as the notice of original request for approval of the modification under Subparagraph 391-3-6-.09(5)(a)1.(iii).

2. The POTW shall notify the EPD of any other (i.e., non-substantial) 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 Subparagraph 391-3-6-.09(7)(b)1.(i). Such non-substantial program modification shall be deemed to be approved by the ~~Director~~Approval Authority, unless the EPD determines that a modification submitted is in fact a substantial modification ~~ninety (90)~~thirty (30) days after the submission of the POTW's statement. Following such approval by the ~~Director~~Approval Authority, such modifications shall be incorporated into the POTW's ~~NPDES discharge P~~NPDES discharge P permit in accordance with 40 CFR 122.63(g). If the EPD determines that a modifications reported by a POTW in its statement is in fact a substantial modification, the EPD shall notify the POTW and initiate the procedures in Subparagraph 391-3-6-.09(7)(b)1.

(c) Substantial modifications.

1. The following are substantial modifications for purposes of this Subparagraph:

(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 inspection or sampling by the POTW;

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

(viii) significant reduction in the POTW's pretreatment program resources (including personnel commitments, equipments, and funding levels); or

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

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

3. A modification that is not included in Subparagraph 391-3-6-.09(7)(c)1. is none the less a substantial modification for purposes of this Subparagraph if the modification ~~for purposes of this Subparagraph 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's 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 Subparagraphs 391-3-6-.08(2)(~~pu~~)1.(i) and 2. applicable to each industrial user and, for industrial users meeting the criteria in Subparagraphs 391-3-6-.08(2)(~~pu~~)1.(ii)3., 4., or 5., shall also indicate whether the POTW has made a determination pursuant to Subparagraph 391-3-6-.08(~~32~~)(~~bu~~) that such industrial user should be considered a significant industrial user. This list, and any subsequent modification thereto, shall be submitted to the EPD as a nonsubstantial program modification pursuant to Subparagraph 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 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~~Control Authority 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 Subparagraph 391-3-6-.09(8)(a)1.;

3. Notify industrial users identified under Subparagraph 391-3-6-.09(8)(a)1. of applicable pretreatment standards ~~and~~ 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. Within 30 days of approval pursuant to 40 CFR 403.8(f)(6), of a list of significant industrial users, nNotify each significant industrial user of its status as such and all requirements applicable to its 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 except as otherwise specified below:

(i) Where the Control Authority has authorized the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard in accordance with 40 CFR 403.12(e)(3), the Control Authority must sample for the waived pollutant(s) at least once during the term of the categorical industrial user's control mechanism. In the event that the Control Authority subsequently determines that a waived pollutant is present or is expected to be present in the industrial user's wastewater based on changes that occur in the industrial user's operations, the Control Authority must immediately begin at least annual effluent monitoring of the industrial user's discharge and inspection.

(ii) Where the Control Authority has determined that an industrial user meets the criteria for classification as a Non-Significant Categorical Industrial User, the Control Authority must evaluate, at least once per year, whether an industrial user continues to meet the criteria in 40 CFR 403.3(v)(2).

(iii) In the case of industrial users subject to reduced reporting requirements under 40 CFR 403.12(e)(3), the Control Authority must randomly sample and analyze the effluent from industrial users and conduct inspections at least once every two years. If the industrial user no longer meets the conditions for reduced reporting in 40 CFR 403.12(e)(3), the Control Authority must immediately begin sampling and inspecting the industrial user at least once a year.

6. Evaluate, ~~at least once every two years,~~ whether each such significant industrial user needs a plan or other action to control slug discharges. For industrial users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006; additional significant industrial users must be evaluated within 1 year of being designated a significant industrial user. If the Control Authority decides that a slug control plan is needed, the plan shall be based on the requirements in a 40 CFR 403.8(f)(2)(vi)-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 described in Subparagraph 391-3-6-.09(8)(a)5. Sample taking and analysis and the collection of other information shall be performed using appropriate procedures to produce evidences admissible in enforcement proceedings or in judicial actions;

8. Comply with the public participation requirement of 40 CFR Parts 25 in the enforcement of national pretreatment standards. These procedures shall include provision for at least annual public notification, in ~~the largest daily a newspaper~~newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW published in the municipality in which the POTW is located, of industrial users which, at any time during the previous ~~12~~twelve months, were in significant noncompliance with applicable pretreatment requirement as defined under Subparagraph 391-3-6-.08(2)(~~v~~); and

9. Deny or condition new increased contributions of pollutants, to the POTW by industrial users where such contributions do not meet applicable pretreatment standards and requirements or where such contribution 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 notification 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)-(~~6~~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 standards 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)-(~~5~~3); ~~and~~;
10. Annual certification by Non-Significant Categorical Industrial Users (as defined in Subparagraph 391-3-6-.08(2)(r)(2)) as required in 40 CFR 403.12(q).

(c) ~~Signatory requirement 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) Records 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 Subparagraphs 391-3-6-.03(5)(e)(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.

(f) The Control Authority that chooses to receive electronic documents must satisfy the requirements of 40 CFR Part 3 (Electronic Reporting).

(9) ~~Legal Authority Requirements for POTW Pretreatment Programs~~ Control Authorities.

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

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

2. Deny or condition new or increased contributions of pollutants, or changes in the nature 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.

3. 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 case of industrial users identified as significant under Subparagraph 391-3-6-.08(2)(u), this control shall be achieved through individual permits or equivalent individuals control mechanism issued to each such user except as follows.

(i) At the discretion of the Control Authority, this control may include use of general control mechanisms if the following conditions are met. All of the facilities to be covered must:

(a) Involve the same or substantially similar types of operations;

(b) Discharge the same types of wastes;

(c) Require the same effluent limitations;

(d) Require the same or similar monitoring; and

(e) In the opinion of the Control Authority, are more appropriately controlled under a general control mechanism than under individual control mechanisms.

(ii) To be covered by the general control mechanism, a significant industrial user must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general control mechanism, any requests in accordance with 40 CFR 403.12(e)(2) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the Control Authority deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general control mechanism until after the Control Authority has provided written notice to the significant industrial user that such a waiver request has been granted in accordance with 40 CFR 403.12(e)(2). The Control Authority must retain a copy of the general control mechanism, documentation to support the Control Authority's determination that a specific significant industrial user meets the criteria in 40 CFR 403.8(f)(1)(iii)(A)(1) through (f)(1)(iii)(A)(5), and a copy of the significant industrial user's written request for coverage for 3 years after the expiration of the general control mechanism. A Control Authority may not control a significant industrial user through a general control mechanism where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day, or for industrial users whose limits are based on the combined wastestream formula in 40 CFR 403.6(e). Both individual and general control mechanisms must, be enforceable and contain the minimum conditions described in 40 CFR 403.8(f)(1)(iii)(B)(1)-(6). 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)-(97), 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;

43. 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 with pretreatment standards and requirements, including, but not limited to the reports required in 40 CFR 403.12;

54. 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~~ 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;

65. 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 POTW's 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 Subparagraph 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 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. The EPD shall have authority to seek judicial relief and may also use administrative penalty authority when the POTW has sought a monetary penalty which the EPD believes to be insufficient;

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

(b) ~~Each POTW pretreatment program~~ The Control Authority 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~~ The Control Authority 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 actions to address noncompliance with 40 CFR 403.6(b) through the enforcement response plan under subparagraph 391-3-6-.09(9)(b).

(d) ~~Each POTW pretreatment program~~ The Control Authority 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~~ The Control Authority 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 programs~~ The Control Authority 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 subparagraph 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~~ Approval Authority Oversight Authority of POTW Pretreatment Programs.

(a) The ~~Director~~ Approval Authority 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 sufficient enforcement action has been taken by the POTW pretreatment program against industrial users. The ~~Director~~ Approval Authority also has the legal authority to review self-monitoring reports submitted by the industrial users described in 40 CFR 403.10(f)(1)(ii) and to carry out inspection surveillance, and monitoring procedures as described in 40 CFR 403.10(f)(1)(iii). The ~~Director~~ Approval Authority also has the legal authority to obtain remedies for noncompliance as described in 40 CFR 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. Any reports submitted to the Control Authority or Approval Authority are also subject to the conditions of 40 CFR 403.12(n) and applicable Georgia laws.

Authority Ga. Laws 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.), O.C.G.A. Sec. 12-5-20 et seq. History. Original Rule entitled "Publicly Owned Treatment Works Pretreatment Programs" was filed on August 24, 1979; effective September 13, 1979. Amended: Rule retitled "Requirements for Approval and Implementation of Publicly Owned Treatment Works Pretreatment Programs and Administration of the EPD Pretreatment Program." F. Apr. 8, 1993; eff. Apr. 28, 1993. Amended: F. Aug. 30, 1995; eff. Sept. 19, 1995. Repealed: ER. 391-3-6-0.32-.09, of the same title, adopted. F. May 1, 1996; eff. Apr. 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. Jul. 10, 1996; eff. Jul. 30, 1996.