

### **391-1-3-.01 Public Participation In Enforcement of Environmental Statutes.**

(1) The Environmental Protection Division shall issue notices of proposed or final administrative orders and proposed or final administrative consent orders as required in applicable statutes and rules of this State.

(2) At the completion of the negotiation process required by O.C.G.A. § 12-2-2(c)(6) and before executing and issuing any administrative consent order which falls in any of the categories in (a) below, the Environmental Protection Division shall provide notice and opportunity to the public to comment on and provide information regarding the proposed issuance of such orders. This chapter shall not apply to or delay emergency actions as determined by the director of the Environmental Protection Division, nor actions which will immediately address ongoing harmful releases into the environment, nor actions relating to Georgia's Underground Storage Tank Trust Fund disbursements on behalf of that fund's participants.

(a) The following categories of administrative consent orders are subject to (2) above:

1. orders for which the director of the Environmental Protection Division believes a release of a regulated substance into the environment may have endangered or may be endangering human health. A regulated substance is one having a human health-based standard adopted by the Board of Natural Resources. The Director may consider such factors as the toxicity of the released substance, the amount and duration of the release and the potential for human exposure to the release.
2. orders with compliance schedules exceeding one year or orders extending an existing compliance schedule.
3. a second order issued to the same facility for reasons of noncompliance under the same statute in a twelve month period.
4. orders for which the person entering into the proposed order requests in writing that notice be issued to the public.

(b) A thirty-day comment period shall be provided. The notices shall include, at a minimum, the name and location of the facility; the nature of the violation or cause of the order, and information on how to obtain a copy of the proposed order.

(c) The Environmental Protection Division shall consider all information received during the comment period prior to acting upon the proposed administrative consent order. Such information may consist of, but not be limited to, letters, documents, photos, and videos.

(3) The Environmental Protection Division shall prepare notices (typically weekly, but at least monthly) which list fully executed administrative orders and fully executed administrative consent orders issued by the director. The notices shall include pertinent information such as the order number, the name and location of the facility, the nature of the violation or cause of the order, the date of issuance and the monetary settlement.

(4) The notices specified in (1), (2) and (3) above shall consist of posting on the Environmental Protection Division's Internet Web Site and, for orders pertaining to facilities located in counties with populations of less than 10,000 persons, written notice provided to local newspapers and radio stations. Notices shall be mailed to persons requesting such for an annual fee of fifty (\$50) dollars.

Authority Ga. L. 1972, pp. 1015, 1051, as amended; Ga. L. 1965, pp. 283, 294, as amended.

**Administrative History.** Original Rule entitled "Administrative Review Committee" was filed on July 29, 1982; effective August 18, 1982. **Amended:** Rule repealed. Filed March 12, 1985; effective April 1, 1985.

**Amended:** New Rule entitled "Public Participation in Enforcement of Environmental Statutes" adopted F. May 22, 1998; eff. Jun. 11, 1998.