

PROPOSED AMENDMENTS TO THE RULES OF THE
DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION
RELATING TO HAZARDOUS WASTE MANAGEMENT, CHAPTER 391-3-11

The Rules of the Department of Natural Resources, Chapter 391-3-11, Hazardous Waste Management, are hereby amended and revised, as hereinafter explicitly set forth in the attached amendments and revisions for specific rules, or such subdivisions thereof as may be indicated.

Rule 391-3-11-.01 General Provisions

- (1) Purpose - The purpose of these rules is to establish policies, procedures, requirements, and standards to implement the Georgia Hazardous Waste Management Act, O.C.G.A. 12-8-60, et seq. These rules are promulgated for the purpose of protecting and enhancing the quality of Georgia's environment and protecting the public health, safety and wellbeing of its citizens.
- (2) Any reference in these rules to standards, procedures, and requirements of Title 40 of the Code of Federal Regulations (40 C.F.R.) Parts 124, 260-266, 268, 270, 273 and 279 shall constitute the full adoption by reference of the Part, Subpart, and Paragraph of the Federal Regulations so referenced including any notes and appendices as may be associated as amended through ~~November 28, 2016~~ February 22, 2019, unless otherwise stated. Provided, however, nothing in 40 C.F.R. Parts 124, 260-266, 268, 270, 273 and 279, as pertains to any exclusion for carbon dioxide streams in geologic sequestration activities, or standardized permits (including all references to 40 C.F.R. Part 267, Part 270 Subpart J, ~~and~~ Part 124 Subpart G), the May 2018 Response to Vacatur of Certain Provisions of the Definition of Solid Waste, or enforceable documents as defined in 270.1(c)(7), is adopted or included by reference herein.
 - (a) The text of the federal regulations incorporated by reference includes references to "RCRA", the "Resource Conservation and Recovery Act", "Subtitle C of RCRA", "the Act", and other general references that refer to the federal hazardous waste program as a whole. Unless otherwise noted, these references shall be construed to refer to the Georgia Hazardous Waste Management Act, O.C.G.A. 12-8-60, et seq. and the Georgia hazardous waste management program. References to "RCRA permits" or "RCRA Part B permits" shall refer to permits issued by the Environmental Protection Agency, the State of Georgia, or another authorized state. References to specific sections of RCRA shall refer to both the federal provisions of RCRA to be implemented by the Environmental Protection Agency, as well as analogous provisions of the Georgia Hazardous Waste Management Act, O.C.G.A. 12-8-60 et seq., to be implemented by the Georgia Environmental Protection Division. References to other federal statutes and regulations contained in the text of the federal regulations incorporated by reference that are not specifically adopted by reference, including, but not limited to, references to the Clean Water Act, the Clean Air Act, and the Safe Drinking Water Act, shall be used to assist in interpreting the federal regulations, and the authority and power of the analogous or related portions of the Georgia statutes and regulations shall also be considered to apply.
 - (b) When used in any provisions as may be adopted from 40 C.F.R. Parts 124, 260-266, 268, 270, 273, and 279, references to RCRA "Subtitle D" and 40 C.F.R. Part 258,

including 258.40, shall also be construed to refer to the provisions contained in Sections 391-3-4-.01, 391-3-4-.05, 391-3-4-.07, and 391-3-4-.11 through 391-3-4-.14 of the Georgia Rules for Solid Waste Management, as amended.

- (c) When used in any such provisions as may be adopted from 40 C.F.R. Parts 124, 260-266, 268, 270, 273, and 279: Environmental Protection Agency or EPA, except in reference to EPA ID numbers, EPA hazardous waste numbers, EPA publications or forms, regulations on international shipments, the electronic manifest system or its associated fee system, or manifest registry functions, pre-transport markings of hazardous waste, or EPA in “EPA or an authorized state” shall mean the Georgia Environmental Protection Division; and Administrator or Regional Administrator, except in reference to regulations on international shipments, shall mean Director of the Environmental Protection Division.
- (d) Any reference to 40 C.F.R. Parts 124, 260-266, 268, 270, 273, and 279 in any provisions adopted by reference shall be construed to refer to the provisions contained in the following sections of these rules:

Federal Regulation Reference	Georgia Rules Reference
40 C.F.R. 260.2(d)	391-3-11-.03(4)
40 C.F.R. 260.3	391-3-11-.01(2)(e)
40 C.F.R. 260.4	391-3-11-.10(3)
40 C.F.R. 260.10-11	391-3-11-.02
40 C.F.R. 260.42	391-3-11-.04
40 C.F.R. Part 264 Subpart H	391-3-11-.05(1)
40 C.F.R. Part 265 Subpart H	391-3-11-.05(2)
40 C.F.R. Part 261 Subpart H	391-3-11-.05(5)
40 C.F.R. Part 260 Subpart C	391-3-11-.07(2)
40 C.F.R. Part 261 Subparts A-E, I-J, M, AA-CC	391-3-11-.07(1)
40 C.F.R. Part 262	391-3-11-.08(1)
40 C.F.R. Part 263	391-3-11-.09
40 C.F.R. Part 264 Subparts A-G, I-O, S, W, X, and AA-EE	391-3-11-.10(2)
40 C.F.R. Part 265 Subparts A-G, I-R, W, and AA-EE	391-3-11-.10(1)
40 C.F.R. Part 266	391-3-11-. 10(3) <u>19</u>
40 C.F.R. Part 124	391-3-11-.11
40 C.F.R. Part 270	391-3-11-.11
40 C.F.R. Part 268	391-3-11-.16

40 C.F.R. Part 279	391-3-11-.17(1)
40 C.F.R. Part 273	391-3-11-.18

References to EPA forms or reports, except in reference to regulations on international shipments, manifests, or the electronic manifest system, shall mean EPD forms and reports as may be provided by the Director.

- (e) 40 C.F.R. 260.3 is hereby incorporated by reference.
- (3) As of July 10, 1992, any facility which failed to qualify for federal interim status for any waste code promulgated pursuant to the Hazardous and Solid Waste Amendments (HSWA) or who lost interim status for failing to certify under HSWA for any newly promulgated waste code, is also denied interim status under State law.

Rule 391-3-11-.03 Confidentiality of Information

- (1) Any records, reports, or information obtained from any person by the Director under these rules shall be available to the public for inspection and copying at the expense of the person requesting copies, except that upon a showing satisfactory to the Director by any person that any records, reports, or information or any particular part thereof, to which the Director has access under these rules would, if made public, divulge information entitled to protection or confidentiality under law, the Director shall consider such information or any particular portion thereof confidential in accordance with the purposes of the law under which confidentiality or protection is claimed, except that such records, reports, documents, or information may be disclosed to officers, employees or authorized representatives of the United States government concerned with carrying out the terms of the Federal Act, or when required by any court in any proceedings under the Federal Act or under the Georgia Hazardous Waste Management Act.
- (2) Any claim of confidentiality filed pursuant to this section must be asserted at the time of initial submission of the record, report, or information in question, or it shall be deemed waived.
- (3) Any claim of confidentiality filed pursuant to this section must be accompanied by a statement of the legal basis supporting the claim of confidentiality.
- (4) 40 C.F.R. 260.2(d) is hereby incorporated by reference.

Rule 391-3-11-.05 Financial Responsibility

- (1) 40 C.F.R. Part 264 Subpart H is hereby incorporated by reference, except for ~~264.140(d), 264.149, and 264.150.~~
- (2) 40 C.F.R. Part 265 Subpart H is hereby incorporated by reference, except for ~~265.140(d), 265.149, and 265.150.~~
- (3) The Director shall require proof of adequate financial responsibility to insure any corrective action required as a condition of a permit issued pursuant to these rules.

- (4) Methods other than those provided for in subsection (1) above may be used to insure financial responsibility if the owner or operator can show that an equivalent degree of protection can be provided concerning human health and the environment.
- (5) 40 C.F.R. Part 261 Subpart H is hereby incorporated by reference, except for 261.149 and 261.150.

Rule 391-3-11-.10 Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities

- (1) 40 C.F.R. Part 265, Subpart A - Subpart G, Subpart I - Subpart R, Subpart W, Subpart AA, Subpart BB, Subpart CC, Subpart DD, ~~and Subpart EE~~, and Subpart FF are hereby incorporated by reference, except for the following: ~~265.90(f), 265.110(c), 265.110(d), 265.112(b)(8), 265.112(e)(1)(iv), 265.118(c)(4), 265.118(e)(5), 265.118(d)(1)(iii)~~, and 265.121.
- (2) 40 C.F.R. Part 264, Subpart A - Subpart G, Subpart I - Subpart O, Subpart S, Subpart W, Subpart X, Subpart AA, Subpart BB, Subpart CC, Subpart DD, ~~and Subpart EE~~, and Subpart FF are hereby incorporated by reference, except for the following: ~~264.90(e), 264.90(f), 264.110(e), 264.112(b)(8), 264.112(e)(2)(iv), 264.118(b)(4), 264.118(d)(2)(iv)~~.
- (3) 40 C.F.R. 260.4 is hereby incorporated by reference. ~~40 C.F.R. Part 266 is hereby incorporated by reference.~~

Rule 391-3-11-.11 Hazardous Waste Facility Permits

- (1) Permits Required: No person shall and it shall be unlawful and a violation of the Georgia Hazardous Waste Management Act to construct, install, operate or substantially alter a hazardous waste facility without first obtaining and possessing a hazardous waste facility permit from the Director.
 - (a) Scope of the RCRA Permit Requirement: 40 C.F.R. 270.1(c), except for 270.1(c)(7) and 270.1(c)(2)(ix), is hereby incorporated by reference.
 - (b) 40 C.F.R. 124.1(a) is hereby incorporated by reference.
- (2) Interim Status: Any person who owns or operates a facility required to have a permit under subsection (1) above, which facility was in existence on November 19, 1980, or is in existence on the effective date of statutory or regulatory changes pursuant to the Georgia Hazardous Waste Management Act that render the facility subject to the requirement to have a permit pursuant to subsection (1) above, shall be accorded interim status, which means that such person shall be treated as having been issued a permit until such time as final administrative disposition of the person's application has been made, if and to the extent the person:
 - (a) Has notified the Director of the existence of such facility as required pursuant to Rule 391-3-11-.04;
 - (b) Has filed an application for a permit as required pursuant to these rules;

- (c) Furnishes to the Director information reasonably required or requested for processing such application;
 - (d) Does not treat, store, or dispose of hazardous waste not specified in the permit application, nor employ processes not specified in the permit application, nor exceed the design capacity specified in the permit application; and
 - (e) Complies with all standards applicable to interim status facilities set forth in these rules.
- (3) Application for Permit: An application for a Hazardous Waste Facility Permit shall be submitted in such manner and on such forms as the Director may prescribe.
- (a) Application shall be complete and accurate and accompanied by required plans, data, specifications, engineering reports, design and other information as the Director deems necessary to make a determination of compliance with the Act, applicable standards and requirements and these rules. An application for a permit shall include a demonstration of financial responsibility including but not limited to guarantees, liability insurance, the posting of bonds, or any combination of guarantees, liability insurance, or bonds, in accordance with O.C.G.A. 12-8-68 et seq. and 391-3-11-.05 of these rules. Applications for permits will be reviewed together with such other information as may be necessary to ascertain the effect upon the environment and the health of humans.
 - (b) Specific Procedures Applicable to RCRA Permits: 40 C.F.R. 124.31- 124.33 are hereby incorporated by reference, except the following sentences are deleted in section (a) of 124.31, 124.32 and 124.33 "For the purposes of this section only 'hazardous waste management units over which EPA has permit issuance authority' refers to hazardous waste management units for which the State where the units are located has not been authorized to issue RCRA permits pursuant to 40 C.F.R. Part 271. The requirements of this section do not apply to permit modifications under 270.42 or to applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility."
 - (c) Permit Application and Updating Permit Applications for Existing and New Hazardous Waste Management Facilities: 40 C.F.R. 124.3, 270.10 and 270.235 are hereby incorporated by reference.
 - (d) Signatories to Permit Applications and Reports: 40 C.F.R. 270.11 is hereby incorporated by reference.
 - (e) Confidentiality of Information: 40 C.F.R. 270.12(b) is hereby incorporated by reference.
 - (f) Interim Status: 40 C.F.R. 270.70- 270.73 are hereby incorporated by reference.
 - (g) Contents of Part A: 40 C.F.R. 270.13 is hereby incorporated by reference.
 - (h) Contents of Part B: 40 C.F.R. 270.14- 270.278 are hereby incorporated by reference.

- (4) Upon the first receipt of an application for a Hazardous Waste Facility Permit, the Director, within fifteen (15) days, shall provide to the government of the county in which the facility is located or proposed to be located, to each city government located wholly or partially within that county, and to the government of each county and city having territorial boundaries within two miles of the hazardous waste facility or proposed hazardous waste facility a written notice indicating that an application has been received and describing the hazardous waste activities the applicant proposes to conduct. Within a 30 day period after first receipt of such application, the Director shall also publish in at least one local newspaper of general circulation in the county a public notice that an application for a hazardous waste facility permit has been received. A public hearing shall be held if such is requested in writing within thirty (30) days after publication of notification and is requested by twenty-five (25) or more persons who claim to be affected by the pending permit application, by a governmental subdivision, or by an association having no fewer than twenty-five (25) members. If requested, the public hearing shall be conducted at the county seat of the county in which the hazardous waste facility is proposed to be located. At least forty-five (45) days prior to the date of the public hearing, the Director shall provide written notice to the various local governmental subdivisions and other interested parties in the locality in which the proposed facility may be located that a public hearing has been requested, which written notice shall also include the date, time, location and purpose of the public hearing. The date, time, location and purpose of such public hearing shall be advertised in the legal organ of the county in which the facility is proposed at least forty-five (45) days in advance of the date set for the hearing. Such public hearings shall be held for the purpose of receiving comments and suggestions concerning the location and requirements for the operation of a hazardous waste facility. The Director shall consider fully all written and oral submissions regarding the proposed facility and the pending application.
- (a) Public Notice of Permit Actions and Public Comment Period: 40 C.F.R. 124.10 is hereby incorporated by reference.
 - (b) Public Comments and Request for Public Hearings: 40 C.F.R. 124.11 is hereby incorporated by reference.
 - (c) Public Hearings: 40 C.F.R. 124.12(a) is hereby incorporated by reference.
 - (d) Obligation to Raise Issues During Public Comment: 40 C.F.R. 124.13 is hereby incorporated by reference.
 - (e) Reopening of the Public Comment Period: 40 C.F.R. 124.14 is hereby incorporated by reference.
 - (f) Issuance and Effective Date of Permit: 40 C.F.R. 124.15 is hereby incorporated by reference.
 - (g) Response to Comments: 40 C.F.R. 124.17(a) and 124.17(c) are hereby incorporated by reference.
 - (h) The owner or operator of any hazardous waste treatment, storage or disposal facility shall pay any costs or expenses associated with public notices or notifications required by these rules including, but not limited to, public notices or notifications relating to permitting and closure activities.

- (5) Issuance of Permit: A permit shall be issued to an applicant on evidence satisfactory to the Director of compliance with the provisions of the Act, any applicable standards or requirements and these rules.
- (a) Any permit shall contain such terms and conditions, including conditions requiring corrective action beyond the facility boundary, as are deemed necessary by the Director to protect the environment and the health of humans, and the Director may require such testing and construction supervision as he deems necessary to protect the environment and the health of humans. Any permit issued subsequent to November 8, 1984, shall contain conditions requiring corrective action for any releases into the environment of hazardous waste or hazardous constituents at the facility seeking a permit, regardless of the time at which waste was placed at such facility.
 - (b) Conditions Applicable to all Permits: 40 C.F.R. 270.30 is hereby incorporated by reference.
 - (c) Establishing Permit Conditions: 40 C.F.R. 270.32 is hereby incorporated by reference.
 - (d) Schedules of Compliance: 40 C.F.R. 270.33 is hereby incorporated by reference.
 - (e) Requirements for Recording and Reporting of Monitoring Results: 40 C.F.R. 270.31 is hereby incorporated by reference.
 - (f) Effect of a Permit: 40 C.F.R. 270.4 is hereby incorporated by reference.
 - (g) Draft Permits: 40 C.F.R. 124.6(a), 124.6(d) and 124.6(e) are hereby incorporated by reference.
 - (h) Statement of Basis and Fact Sheet: 40 C.F.R. 124.7 and 124.8 are hereby incorporated by reference.
- (6) Denial of Permit: In the event of denial of a permit application, the Director shall send written notice of such action to the applicant and shall set forth in such notice the reason for the action. The denial of any permit by the Director shall become final unless a petition for hearing in accordance with O.C.G.A. 12-8-73 is filed.
- (a) 40 C.F.R. 124.6(b) is hereby incorporated by reference.
 - (b) 40 C.F.R. 270.29 is hereby incorporated by reference.
- (7) Amendment, Modification, Revocation or Suspension of Permit:
- (a) The Director may amend, modify, suspend or revoke any permit issued for cause, including but not limited to the following:
 - 1. Violation of any condition or provision of such permit or failure to comply with any final order of the Director;
 - 2. Failure to comply with the Act or these rules;

3. Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; or
 4. When the permitted facility poses a threat to the environment or the health of humans.
- (b) In the event of amendment, modification, suspension or revocation of any permit, the Director shall serve written notice of such action on the permit holder and shall set forth in such notice the reason for such action.
 - (c) Modification, Revocation, Reissuance, or Termination of Permits: 40 C.F.R. 270.41, 270.43 and 124.5, are hereby incorporated by reference.
 - (d) Permit Modification at the Request of Permittee: 40 C.F.R. 270.42 and 124.5 are hereby incorporated by reference.
- (8) Transfer of Permits: Permits are not transferable from one person to another or from one site or facility to another unless such transfer is approved by the Director.
 - (a) 40 C.F.R. 270.40 is hereby incorporated by reference.
 - (9) Duration of Permit: A permit shall be effective for a fixed term not to exceed 10 years.
 - (a) Each permit for a land disposal facility shall be reviewed by the Director five years after the date of permit issuance or reissuance and shall be modified as necessary to assure that the facility continues to comply with the currently applicable requirements of these rules.
 - (10) Special Forms of Permits: 40 C.F.R. 270.60- 270.63, 270.65, 270.66, 270.68 and 270.79-270.230, are hereby incorporated by reference.
 - (11) Noncompliance and Program Reporting by the Director: 40 C.F.R. 270.5 is hereby incorporated by reference.
 - (12) Definitions Applicable to RCRA Permits: Definitions of words or terms applicable to RCRA permits as defined in 40 C.F.R. 270.2 are hereby incorporated by reference.
 - (13) References: 40 C.F.R. 270.6 is hereby incorporated by reference.

Rule 391-3-11-.19 Repealed Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities

40 C.F.R. Part 266 is hereby incorporated by reference.