

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

Rule 391-3-11-.01 “General Provisions,” is being amended.

Purpose:

The purpose of this amendment is as follows:

- To adopt Federal Hazardous Waste Regulations as amended through February 22, 2019.
- To exclude the adoption of the May 2018 Response to Vacatur of Certain Provisions of the Definition of Solid Waste to maintain the current recycling requirements in the Georgia Rules.
- To respond to EPA’s comments on Georgia’s RCRA authorization applications, including:
 - Clarifying that references to enforceable documents within the federal rules are not adopted by reference.
 - Clarifying that certain references to pre-transport markings of hazardous waste, EPA publications or forms, EPA electronic manifest system and its associated fees and EPA or an authorized state are retained for reference purposes.
 - Clarifying which regulations have been adopted.

Main feature:

Subparagraph (2) is being amended as follows:

- To adopt by reference federal hazardous waste regulations as amended through February 22, 2019.
- To exclude regulations amended in the May 2018 Response to Vacatur of Certain Provisions of the Definition of Solid Waste
- To continue exclusion of regulations related to enforceable documents as defined in 270.1(c)(7).

Subparagraph (2)(b) is being amended as follows:

- To add the word “also” to clarify that the Georgia rules, as opposed to other states’ rules, are not exclusively applicable.

Subparagraph (2)(c) is being amended as follows:

- To add that the phrases “[EPA publications] or forms”, “[the electronic e-manifest system] or its associated fee system”, “pre-transport markings of hazardous waste, or EPA in ‘EPA or an authorized state’” to clarify these references in the regulations.

Subparagraph (2)(d) is being amended to update the chart cross-referencing state and federal regulations to reflect the incorporation of new federal rules.

Rule 391-3-11-.03, “Confidentiality of Information,” is being amended.

Purpose: The purpose of this amendment is to incorporate by reference the applicability of a confidentiality determination related to the import, export and transit of hazardous waste and export of excluded cathode ray tubes published in the Federal Register on December 26, 2017.

Main feature: Subparagraph (4) is created to incorporate 40 C.F.R. 260.2(d) by reference.

Rule 391-3-11-.05 “Financial Responsibility,” is being amended.

Purpose: The purpose of this amendment is to incorporate regulations that allow for flexibility in implementing post-closure financial assurance requirements for permitted facilities.

Main feature: Subparagraph (1) is being amended to include 40 C.F.R. 264.140(d).

Subparagraph (2) is being amended to include 40 C.F.R. 265.140(d).

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

Purpose: The purpose of this amendment is to incorporate by reference an amendment to the Federal Hazardous Waste Regulations published in the Federal Register on January 3, 2018 regarding the Electronic Manifest Fee Rule, to incorporate alternative requirements for post-closure facilities, and to relocate the incorporation of 40 C.F.R. Part 266 to Rule 391-3-11-.19 since those regulations also apply to other facilities than hazardous waste treatment, storage and disposal facilities.

Main feature: Subparagraph (1) is being amended to incorporate 40 C.F.R. 265 Subpart FF and 265.90(f), 265.110(d), 265.112(b)(8), 265.112(c)(1)(iv), 265.118(c)(5), and 265.118(d)(1)(iii).

Subparagraph (2) is being amended to incorporate 40 C.F.R. 264 Subpart FF and 264.90(f), 264.110(c), 264.112(b)(8), 264.112(c)(2)(iv), 264.118(b)(4), and 264.118(d)(2)(iv).

Subparagraph (3) is being amended to remove the reference to 40 C.F.R. 266 and relocate it to Rule 391-3-11-.19, and to incorporate 40 C.F.R. 260.4 which involves manifest copy submission requirements for interstate waste shipments.

Rule 391-3-11-.11 “Hazardous Waste Facility Permits,” is being amended.

Purpose: The purpose of this amendment is to exclude a regulatory citation that references New York State collection facilities and is not applicable to Georgia, and to incorporate reduced application requirements for post-closure care permits.

Main feature: Subparagraphs (1)(a) is being amended to include 40 C.F.R. 270.1(c)(2)(ix) as an exception.

Subparagraph (3)(h) is being amended to include 40 C.F.R. 270.28.

Rule 391-3-11-.19 Repealed is being amended.

Purpose: The purpose of this amendment is to incorporate by reference an amendment to the Federal Hazardous Waste Regulations published in the Federal Register on February 22, 2019.

Main feature: Rule 391-3-11-.19 is being renamed “Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities.”

The incorporation of 40 C.F.R. Part 266 is being moved from 391-3-11-.10 “Standards for Owner and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities” to 391-3-11-.19 due to its broad applicability across the regulated community. 40 C.F.R. Part 266 Subpart P, which includes the Final Pharmaceutical Rule and applies to pharmacies, health care facilities, and reverse distributors, is being incorporated by reference in this section of the Rules.

Statement of Rationale
Rules for Hazardous Waste Management

The basis for the proposed amendments to Chapter 391-3-11 is to meet the requirements necessary to retain Resource Conservation and Recovery Act (RCRA) authorization, allowing Georgia to maintain primacy to regulate hazardous waste facilities in lieu of the US Environmental Protection Agency (EPA). Georgia's hazardous waste program must be at least as stringent as the Federal requirements to maintain RCRA authorization. The purpose of adopting EPA regulations by reference is to streamline regulations with which Georgia's regulated community must comply.

This revision (1) provides flexibility in hazardous waste post-closure requirements; (2) alleviates the regulatory burden on hundreds of pharmacies, health care facilities and reverse distributors by reducing the number of items that must be treated as a hazardous waste, in keeping with federal requirements; (3) allows for the safe and expedited removal and collection of defective air bags from vehicles; (4) harmonizes the hazardous waste rules with our solid waste rules by specifying that certain coal combustion residues (CCR) and CCR related wastes are not hazardous; (5) maintains current recycling regulations that are protective of human health and the environment by ensuring that recyclable materials will not be subject to sham recycling; and (6) incorporates federally-implemented requirements by reference to maintain RCRA authorization. Most of the proposed amendments incorporate flexibility, less regulatory burden, and deregulation, which provide substantial cost savings to both the regulatory community and the Environmental Protection Division. There may be some cost to the regulated community to comply with a few of the new amendments; however, the benefits of the new amendments outweigh those costs.