

**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 to adopt Federal Hazardous Waste Regulations in effect through June 30, 2015. Additionally, text is being added to this section of the rules to clarify that any reference to the U.S. Environmental Protection Agency (EPA) or the federal regulations in the rules pertaining to the Electronic Manifest System cannot be construed as a reference to EPD or the state rules, respectively. EPA is not authorizing States to implement this particular federal system.

Main feature: Subparagraph (2) is being amended to adopt federal hazardous waste regulations in effect through June 30, 2015.

Subparagraph (2)(a) is being amended to add a clarification to the rules that in any regulations pertaining to the electronic manifest system, any reference to the EPA remains in the rules, and is not meant to be a reference to EPD.

Subparagraph (2)(b) is being amended to add a clarification to the rules that certain references to the federal regulations pertaining to the electronic manifest system remain as references to the federal regulations and are not meant to be references to the Georgia Rules. Additionally, the crosswalk between the federal regulations and the state rules is being revised to include the Federal Hazardous Waste Regulations published in the Federal Register on October 30, 2008 and January 13, 2015.

Rule 391-3-11-.02, “Definitions,” is being amended.

Purpose: The purpose of this amendment is to incorporate by reference an amendment to the definition of terms in the Federal Hazardous Waste Regulations published in the Federal Register on October 30, 2008 and January 13, 2015, which allow for the safe management of excluded hazardous secondary materials that are being recycled.

Main feature: Subparagraph (1) is amended as follows:

- To add definitions of the terms, *Hazardous secondary material*, *Hazardous secondary material generator*, *Intermediate facility*, *Land-based unit*, *Contained*, and *Remanufacturing* to the regulations;
- To revise the definition of *Facility* to include those areas where hazardous secondary materials are managed; and
- To revise the definition of *Transfer facility* to include areas where shipments of hazardous secondary materials are held during the normal course of transportation.

Rule 391-3-11-.04 “Notification of Hazardous Waste and Used Oil Activities,” is being amended.

Purpose: The purpose of this amendment is to require that all handlers of hazardous secondary materials notify EPD of their activities. Notification is a requirement of the Federal Hazardous Waste Regulations published in the Federal Register on October 30, 2008 and January 13, 2015, which allow for the safe management of excluded hazardous secondary materials that are being recycled.

Main feature: The title of this Rule is being amended to read “Rule 391-3-11-.04 Notification of Hazardous Waste, Hazardous Secondary Material, and Used Oil Activities”.

Subparagraph (1) is being amended to require all hazardous secondary material generators, hazardous secondary material transporters, intermediate facilities, verified hazardous secondary material reclamation facilities and hazardous secondary material remanufacturers to notify the EPD of their activities.

Subparagraph (5) is being amended to require that all hazardous secondary material generators, hazardous secondary material transporters, intermediate facilities, verified reclamation facilities, and hazardous secondary material remanufacturers notify EPD prior to operating under any exclusion, non-waste determination or variance, and must re-notify by March 1 of every even-numbered year thereafter. The rule is also being amended to state what information needs to be in each notification, and requires that the above facilities notify EPD within 30 days of ceasing to manage hazardous secondary materials.

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

Purpose: The purpose of this amendment is to incorporate by reference an amendment to the financial assurance requirements in the Federal Hazardous Waste Regulations published in the Federal Register on October 30, 2008 and January 13, 2015, which allow for the safe management of excluded hazardous secondary materials that are being recycled.

Main feature: Subparagraph (5) is being added to incorporate financial assurance requirements for intermediate and reclamation facilities that manage hazardous secondary materials excluded from the definition of solid waste.

Rule 391-3-11-.07, “Identification and Listing of Hazardous Waste”, 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 October 30, 2008 and January 13, 2015, which allow for the safe management of excluded hazardous secondary materials that are being recycled.

Main feature: Subparagraph (1) is amended as follows:

- To revise the definition of *Reclaimed* to include metals recovered from hazardous secondary materials in smelting, melting and refining furnaces;
- To revise 261.2(c)(3) and Table 1 to include exclusions from the definition of solid waste;
- To exclude from regulation as a solid waste:

- (1) Hazardous secondary materials which are generated and legitimately reclaimed under control of the generator and within the United States or its territories;
 - (2) Hazardous secondary materials that are generated and then transferred to a verified reclamation facility for the purpose of reclamation; and
 - (3) Hazardous secondary materials that are generated and then transferred to another person for the purposes of remanufacturing;
- To require hazardous secondary material generators, intermediate facilities and reclamation facilities to keep records to demonstrate that they are not speculatively accumulating the materials;
 - To define and prohibit sham recycling;
 - To add emergency preparedness and response requirements for facilities managing hazardous secondary materials excluded from the definition of solid waste under the generator-controlled and verified reclamation facility exclusions, including requirements for maintenance and operation of the facility, required equipment, testing of equipment, access to communications or alarm systems, aisle space, arrangements with local authorities, and contingency planning;
 - To add requirements for the storage in containers of hazardous secondary materials excluded from the definition of solid waste under the remanufacturing exclusion, including requirements for the condition of containers, compatibility with containers, management of containers, secondary containment, ignitable, incompatible, and reactive materials, and air emission standards;
 - To add requirements for the storage in tanks of hazardous secondary materials excluded from the definition of solid waste under the remanufacturing exclusion, including requirements for assessment of tank integrity, containment and detection of releases, general operation, response to leaks and spills, ignitable, incompatible, and reactive materials, and air emission standards; and
 - To include air emission standards for process vents, equipment leaks, and tanks and containers managing hazardous secondary materials excluded from solid waste under the remanufacturing exclusion.

Subparagraph (2) is being amended as follows:

- To allow variances to be applied to hazardous secondary materials that have been reclaimed, but must be reclaimed further before the materials are completely recovered, and to clarify when partially-reclaimed materials are not solid wastes because they are commodity-like;
- To require facilities managing hazardous secondary materials under a variance or non-waste determination to notify EPD in the event of a change of circumstances that affects how the hazardous secondary material meets the relevant criteria upon which the variance or non-waste determination has been based;
- To clarify that variances and non-waste determinations are effective for a fixed term of not more than 10 years, and that no later than six months prior to the end of this term, facilities must reapply if they want to maintain the variance or non-waste determination;
- To require facilities that receive a variance or non-waste determination to notify EPD of its activities every two years;

- To set criteria for verified reclamation and intermediate facilities obtaining a variance or non-waste determination to manage hazardous secondary materials;
- To require facilities that are applying for a non-waste determination to explain why their hazardous secondary material does not meet any existing exclusion; and
- To require that all recycling must be legitimate and to provide criteria for legitimacy.

Rule 391-3-11-.08 “Standards Applicable to Generators of Hazardous Waste,” is being revised.

Purpose: The purpose of this amendment is to remove redundant references to federal rules that are not adopted by reference.

Main feature: Subparagraph (1) is being amended to remove references to rules pertaining to generator facilities in the Performance Track program, which were not adopted by reference in previous rulemakings. Those exceptions are already covered in Rule 391-3-11-.01(2).

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 revision is to provide a crosswalk for references of federal air regulations in 40 CFR 264.340 to the analogous state air protection rule.

Main feature: Subparagraph (2) is being revised to include a crosswalk for references of 40 CFR Part 63 Subpart EEE “National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors” in 40 CFR 264.340 to the analogous State rule, Rule 391-3-1-.02(9)(b)(71) of the Georgia Rules for Air Quality Control, which incorporates 40 CFR Part 63 Subpart EEE.

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

Purpose: The purpose of this amendment is as follows:

- To incorporate by reference an amendment to the hazardous waste facility permitting requirements in the Federal Hazardous Waste Regulations published in the Federal Register on October 30, 2008 and January 13, 2015, which allow for the safe management of excluded hazardous secondary materials that are being recycled, and
- To remove references to rules not adopted by reference.

Main feature: Subparagraph (7)(c) is being amended to remove a reference to rules pertaining to RCRA standardized permits, which were not adopted by reference in previous rulemakings. Those exceptions are already covered in Rule 391-3-11-.01(2).

Subparagraph (7)(d) is being amended to add classifications for permit modifications to remove permit conditions applicable to units managing hazardous secondary materials that are excluded as a solid waste, and to change the expiration date of a permit issued to a facility at which all units managing hazardous secondary material become excluded from regulation.

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 reduce the number of regulations with which Georgia's regulated community has to comply.

This revision is in no way more restrictive than the federal requirements. It does not incur any additional costs to the Environmental Protection Division or the regulated industry beyond what is required by federal regulations. No costs will be imposed on local governments or the general public.

