

SYNOPSIS

Proposed Amendments to Rules for Certification of Environmentally Sensitive Property, Chapter 391-3-18

The proposed amendments to the Rules for Certification of Environmentally Sensitive Property would amend **Rules 391-3-18-.01** through **391-3-18-.04** pertaining to the Department's certification of such property for conservation use tax valuation.

- Purpose:** To propose rule amendments to ensure consistency with updates to the applicable tax code and regulations regarding conservation use tax valuation of property, and to eliminate the requirement that a property owner hire a qualified consultant to prepare their application for certification from the Department.
- Main Features:** Rules 391-3-18-.01 through 391-3-18-.04 are being amended to incorporate one updated and one new category of environmentally sensitive property and updates to the primary use requirements, as specified under O.C.G.A. 48-5-7.4 and in the Department of Revenue's regulations regarding conservation use property, Chapter 560-11-6. The definitions and procedures are being amended to ensure consistency with updates to Chapter 560-11-6, and the rules are also being amended to remove details that are more appropriately included in an application form and to simplify the procedures for certification of environmentally sensitive property. Most notably, the requirement for a property owner to hire a qualified consultant to prepare their application for certification is unnecessary given the types of online information that is readily available to property owners and is being removed.

RULES FOR CERTIFICATION OF ENVIRONMENTALLY SENSITIVE PROPERTY, CHAPTER 391-3-18

391-3-18-.01, "Purpose" is being amended to clarify language and citations, and to remove outdated references to the categories of environmentally sensitive property; the categories of environmentally sensitive property are otherwise listed elsewhere in the rule chapter.

391-3-18-.02, "Definitions" is being amended to remove unnecessary definitions and to incorporate two definitions from the related Department of Revenue rule, Rule 560-11-6-.02.

391-3-18-.03, "Environmentally Sensitive Lands" is being amended to update the rule title, to ensure consistency with the environmentally sensitive property categories and primary use requirements of O.C.G.A. Sec. 48-5-7.4 and Rule Chapter 560-11-6, and to remove details that are more appropriately included in an application form.

391-3-18-.04, "Procedures" is being amended to update the rule title, to ensure consistency with the environmentally sensitive property categories and primary use requirements of O.C.G.A. Sec.

48-5-7.4 and Rule Chapter 560-11-6, and to simplify the procedures for certification of environmentally sensitive property.

STATEMENT OF RATIONALE

Proposed Amendments to Rules for Certification of Environmentally Sensitive Property, Chapter 391-3-18

The proposed amendments to the Rules for Certification of Environmentally Sensitive Property would amend **Rules 391-3-18-01** through **391-3-18-04** pertaining to the Department's certification of such property for conservation use tax valuation.

Chapter 391-3-18 outlines a process whereby property owners may voluntarily elect to have their property certified as environmentally sensitive property to receive conservation use tax valuation. These rules operate in conjunction with the Georgia tax code, O.C.G.A. Sec. 48-5-7.4, and the Department of Revenue's regulations regarding conservation use property, Chapter 560-11-6. Chapter 391-3-18 was adopted and became effective in February 1992. Since that time, both the relevant tax code and Chapter 560-11-6 have been amended, and this rule chapter needs updating for consistency with those amendments and to incorporate simplifications in the requirements for property owners.

O.C.G.A. Sec. 48-5-7.4 and Chapter 560-11-6 have been updated to include an expansion to one of the six categories of environmentally sensitive property (river corridors now also include buffer areas), as well as the addition of a seventh category (constructed storm water wetlands). The tax code and rules have also been updated to require that portions of properties that meet one of the seven categories must also be subject to one of three primary uses. The proposed rule amendments incorporate these updates from the tax code and regulations.

The current rules require that a property owner hire a qualified consultant who is approved by the Department and who could visit the property and prepare the application for an environmentally sensitive property certification on the property owner's behalf. However, since most of the information necessary to make a determination is available online and can be prepared using electronic resources, the requirements regarding qualified consultants are unnecessary and have been removed in the proposed rule amendments. The proposed rule amendments also incorporate various simplifications to the types of information that a property owner must provide to the Department.