Georgia Rules and Regulations
Administrative Bulletin for January 2024

OFFICE OF SECRETARY OF STATE
ADMINISTRATIVE PROCEDURE DIVISION
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Final rules filed with the Georgia Secretary of State during the month of *January 2024:*

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	505-3-.71, 505-3-.72, 505-3-.76, 505-3-.92, 505-3-.104	amended	Dec. 14, 2023	Jan. 1
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515. RULES OF GEORGIA PUBLIC SERVICE COMMISSION	515-9-4-.01, 515-9-4-.02, 515-9-4-.05, 515-9-4-.11 --- 515-9-4-.11.1, 515-9-4-.13, 515-9-4-.14	amended	Dec. 22, 2023	Jan. 11

Department 150. RULES OF GEORGIA BOARD OF DENTISTRY

Chapter 150-3. LICENSE REQUIREMENTS

150-3-.09 Continuing Education for Dentists

(1) Dentists licensed to practice in the state of Georgia shall maintain and furnish to the Board, upon request, official documentation of having completed a minimum of forty (40) hours of continuing education during each biennium. Official documentation shall be defined as documentation from an approved provider that verifies a licensee's attendance at a particular continuing education course. Official documentation of course attendance must be maintained by a dentist for at least three (3) years following the end of the biennium during which the course was taken.

(a) Compliance with all continuing education requirements is a condition for license renewal. Failure to complete all hours of mandatory continuing education shall serve as grounds to deny the renewal of a license and may also result in disciplinary action being taken against a licensee.

(b) Upon its own motion, the Board may at any time randomly select a percentage of actively licenses dentists for the purpose of auditing their compliance with the continuing education requirements of the Board. Those licensees selected for an audit shall submit official documentation of their compliance within thirty (30) days of receipt of the audit letter. Failure to respond to an audit request in a timely manner shall be grounds for disciplinary action against a licensee.

(c) The continuing education requirements shall not apply to dentists whose licenses are on inactive status.

(d) The continuing education requirements shall apply within the first biennium that a dentist is licensed in Georgia. However, in order to meet the continuing education requirements during the first biennium, a newly licensed dentist may submit as their continuing education hours proof of dental coursework taken within the previous two (2) years of the date of the renewal application from a university or other institution accredited by the Commission on Dental Accreditation of the American Dental Association, or its successor agency. Following the first biennium that a dentist is licensed in Georgia such licensees shall comply with the continuing education requirements set forth in Rule 150-3-.09(2) and (3).

(e) The continuing education requirements for dentists holding volunteer licenses may be satisfied by compliance with this rule, or they may alternatively be satisfied by compliance with Rule 150-3-.10.

(2) Coursework, including home study courses, sponsored or approved by the following recognized organizations will be accepted:

(a) American Dental Association/American Dental Hygienists association, and their affiliate associations and societies;

(b) Academy of General Dentistry;

(c) National Dental Association and its affiliate societies;

(d) Colleges, and universities and institutions with programs in dentistry and dental hygiene that are accredited by the Commission on Dental Accreditation of the American Dental Association when the professional continuing education course is held under the auspices of the school of dentistry or school of dental hygiene;

(e) CPR courses offered in-person by the American Red Cross, the American Heart Association, the American Safety and Health Institute, the National Safety Council, EMS Safety Services, or other such agencies approved by the Board.

(f) National and State Associations and/or societies of all specialties in dentistry recognized under Georgia law;

(g) Veterans Administration Dental Department;

(h) Armed Forces Dental Department;

(i) Georgia Department of Public Health;

(j) American Medical Association, the National Medical Association and its affiliate associations and societies;

(k) Hospitals accredited by the Joint Commission on Accreditation of Hospital Organizations (JCAHO).

(3) Course content:

(a) All courses must reflect the professional needs of the dentist in providing quality dental health care to the public;

(b) At least thirty (30) hours of the minimum requirement shall be clinical courses in the actual delivery of dental services to the patient or to the community;

(c) Four (4) credit hours for successful completion of the in-person CPR course required by Georgia law may be used to satisfy continuing education requirements per renewal period. This requirement may be satisfied by successful completion of an in-person Basic Life Support (BLS) or Advanced Cardiovascular Life Support (ACLS) course;

(d) Effective on and after January 1, 2024, two (2) hours of the minimum requirement shall include education and training regarding infection control in the practice of dentistry, which shall include education and training regarding dental unit water lines;

(e) One (1) hour of the minimum requirement shall include the impact of opioid abuse, proper prescription writing, and/or the use of opioids in dental practice;

(f) Effective on and after January 1, 2022, one (1) hour of the minimum requirement shall include legal ethics and professionalism in the practice of dentistry, which shall include, but not be limited to, education and training regarding professional boundaries; unprofessional conduct relating to the commission of acts of sexual intimacy, abuse, misconduct, or exploitation with regard to the practice of dentistry; legislative updates and changes to the laws relating to the practice of dentistry and rules, policies, and advisory opinions and rulings issued by the Board; professional conduct and ethics; proper billing practices; professional liability; and risk management.

(g) Up to fifteen (15) hours of continuing education per year may be obtained by assisting the Board with administering the clinical licensing examination. These hours shall be approved by the Continuing Education Committee of the Georgia Board of Dentistry and need not be sponsored by any agency listed in 150-3-.09(2);

(h) Eight (8) hours per biennium may be obtained by assisting the board with investigations of licensees. This may include consultant review on behalf of the Georgia Board of Dentistry and peer reviews completed by committees of the Georgia Dental Association but shall be limited to two (2) hours for each case reviewed. These hours shall be approved by the Continuing Education Committee of the Georgia Board of Dentistry and need not be sponsored by any agency listed in 150-3-.09(2);

(i) Up to ten (10) hours of continuing education per year may be obtained by teaching clinical dentistry or dental hygiene at any ADA-approved educational facility. These hours shall be awarded in writing by the course director at the facility and approved by the Continuing Education Committee of the Georgia Board of Dentistry;

(j) Up to ten (10) hours of continuing education per biennium may be obtained by providing, uncompensated dental care at a charitable dental event as defined by O.C.G.A § 43-11-53;

(k) Up to twenty (20) hours of continuing education per biennium may be obtained by members of the Georgia Board of Dentistry for member service, where one continuing education hour is credited for each five hours of Board service provided;

(l) Eight (8) hours per biennium may be obtained by assisting the Board with conducting onsite sedation evaluations. This shall be limited to a maximum of four (4) hours per evaluation. These hours shall be approved by the Continuing Education Committee of the Georgia Board of Dentistry and need not be sponsored by any agency listed in 150-3-.09(2).

(4) Criteria for receiving credit for attending an approved continuing education course:

(a) Credit hours are not retroactive or cumulative. All credit hours must be received during the two (2) year period to which they are applied;

(b) One credit hour for each hour of course attendance will be allowed;

(c) Only twelve hours of credit will be accepted per calendar day;

(d) Effective January 1, 2008, at least twenty (20) of the required forty (40) hours of credit must be acquired in person at an on-site course or seminar; you are not allowed to acquire all CE hours through on-line courses, electronic means, journal studies, etc.

(5) Criteria for receiving credit for teaching an approved continuing education course:

(a) Credit hours for teaching an approved course must be obtained and used during the biennium that the approved course is taught;

(b) A dentist who teaches an approved continuing education course is eligible to receive two (2) credit hours for each hour of course work that he or she presents at a particular course. Credit will be given for teaching a particular course on one occasion. A maximum of ten (10) credit hours per biennium may be obtained by a dentist by whom an approved continuing education course is taught;

(c) Only continuing education courses sponsored by organizations designated in Rule 150-3-.09(2) will be considered for credit pursuant to this subsection of the rule.

(d) In the event that an audit is conducted of the continuing education hours of a dentist who has taught a course approved by a recognized organization, the following information shall be required to document the dentist's role in presenting a continuing education course:

(i) Documentation from an approved provider verifying that the dentist presented an approved continuing education course;

(ii) Documentation from an approved provider reflecting the content of the course;

(iii) Documentation from an approved provider specifying the list of materials used as a part of the course; and

(iv) Documentation from an approved provider verifying the hours earned and the dates and times that the course in question was given.

(e) In the event that an approved continuing education course is taught by more than one dentist, continuing education credit will be given for those portions of coursework for which the dentist is directly involved and primarily responsible for the preparation and presentation thereof. Continuing education credit will not be available to a dentist whose participation in preparing and presenting an approved course is not readily identifiable.

(6) Criteria for receiving credit for providing uncompensated indigent dental care.

(a) Up to ten (10) hours of continuing education per biennium may be obtained by providing, uncompensated dental care at a charitable dental event as defined by O.C.G.A § 43-11-53.

(b) Dentists may receive one hour of continuing education for every four hours of indigent dental care the dentist provides, up to ten (10) hours. Such continuing education credits will be applied toward the dentist's clinical courses.

(c) All credit hours must be received during the two (2) year renewal period;

(d) All appropriate medical/dental records must be kept;

(e) Dentists shall at all times be required to meet the minimal standards of acceptable and prevailing dental practice in Georgia;

(f) The Board shall have the right to request the following:

1. Documentation from the organization indicating that the dentist provided the dental services;

2. Documentation from the organization that it provided medical and/or dental services to the indigent and/or those making up the underserved populations;

3. Notarized verifications from the organization documenting the dentist's agreement not to receive compensation for the services provided;

4. Documentation from the organization detailing the actual number of hours spent providing said services; and

5. Documentation from the dentist and/or organization verifying the services provided.

(7) Effective January 1, 2012, dentists may receive continuing education credit for dental coursework taken during a residency program from a university or other institution accredited by the Commission on Dental Accreditation of the American Dental Association. Such coursework must have been taken during the current license renewal period.

(1) Submission of a copy of the certificate of completion of program showing dates of completion is sufficient proof of coursework.

(2) One (1) credit hour equals one (1) continuing education credit.

Cite as Ga. Comp. R. & Regs. R. 150-3-.09

AUTHORITY: O.C.G.A. §§ 43-11-7**,** 43-11-40**,** 43-11-46**,** 43-11-46.1**.**

HISTORY: Original Rule entitled "Requirements for Continuing Education for Dentists" adopted. F. Feb. 2, 1993; eff. Feb. 22, 1993.

Amended: F. Nov. 7, 1994; eff. Nov. 27, 1994.

Amended: F. Oct. 29, 1996; eff. Nov. 18, 1996.

Repealed: New Rule of same title adopted. F. Dec. 29, 1998; eff. Jan. 18, 1999.

Repealed: New Rule of same title adopted. F. July 28, 2003; eff. August 17, 2003.

Repealed: New Rule of same title adopted. F. Jan. 13, 2004; eff. Feb. 2, 2004.

Amended: Rule retitled "Continuing Education for Dentists". F. Mar. 15, 2004; eff. Apr. 4, 2004.

Amended: F. Jan. 27, 2005; eff. Feb. 16, 2005.

Amended: F. Sept. 10, 2007; eff. Sept. 30, 2007.

Amended: F. June 8, 2009; eff. June 28, 2009.

Amended: F. Jan. 10, 2012; eff. Jan. 30, 2012.

Amended: F. Jan. 21, 2014; eff. Feb. 10, 2014.

Amended: F. Sept. 3, 2014; eff. Sept. 23, 2014.

Amended: F. Jan. 15, 2015; eff. Feb. 4, 2015.

Amended: F. Feb. 5, 2016; eff. Feb. 25, 2016.

Amended: F. July 25, 2018; eff. August 14, 2018.

Amended: F. Jan. 31, 2023; eff. Feb. 20, 2023.

Amended: F. Jan. 31, 2024; eff. Feb. 20, 2024.

Department 150. RULES OF GEORGIA BOARD OF DENTISTRY

Chapter 150-5. DENTAL HYGIENE

150-5-.05 Requirements for Continuing Education for Dental Hygienists

(1) Dental hygienists licensed to practice in the state of Georgia shall maintain and furnish to the Board, upon request, official documentation of having completed a minimum of twenty-two (22) hours of continuing education during each biennium. Official documentation shall be defined as documentation from an approved provider that verifies a licensee's attendance at a particular continuing education course. Official documentation of course attendance must be maintained by a dental hygienist for at least three (3) years following the end of the biennium during which the course was taken.

(a) Compliance with all continuing education requirements is a condition for license renewal. Failure to complete all hours of mandatory continuing education shall serve as grounds to deny the renewal of a license and may also result in disciplinary action being taken against a licensee.

(b) Upon its own motion, the Board may at any time randomly select a percentage of actively licensed dental hygienists for the purpose of auditing their compliance with the continuing education requirements of the Board. Those licensees selected for an audit shall submit official documentation of their compliance within thirty (30) days of receipt of the audit letter. Failure to respond to an audit request in a timely manner shall be grounds for disciplinary action against a licensee.

(c) The continuing education requirements shall apply within the first biennium that a dental hygienist is licensed in Georgia. However, in order to meet the continuing education requirements during the first biennium, a newly licensed dental hygienist may submit as their continuing education hours proof of dental hygiene coursework taken within the previous two (2) years of the date of the renewal application from a university or other institution accredited by the Commission on Dental Accreditation of the American Dental Association. Following the first biennium that a dental hygienist is licensed in Georgia such licensees shall comply with the continuing education requirements set forth in Rule 150-5-.05(2) and (3).

(d) The continuing education requirements shall not apply to dental hygienists who are on inactive status.

(e) The continuing education requirements for dental hygienists holding volunteer licenses may be satisfied by compliance with this rule, or they may alternatively be satisfied by compliance with Rule 150-3-.10.

(2) Coursework, including home study courses, sponsored or approved by any organization recognized under Rule 150-3-.09(2) will be accepted.

(3) Course content:

(a) All courses must reflect the professional needs of the hygienist providing quality dental health care to the public;

(b) At least fifteen (15) hours of the minimum requirement must be scientific courses in the actual delivery of dental services to the patient or to the community;

(c) Four (4) credit hours for successful completion of the in-person CPR course required by Georgia law offered by the American Heart Association, the American Red Cross, the American Safety and Health Institute, the National Safety Council, EMS Safety Services, or other such agencies approved by the Board may be used to satisfy continuing education requirements per renewal period. This requirement may be satisfied by successful completion of an in-person Basic Life Support (BLS) or Advanced Cardiovascular Life Support (ACLS) course.

(d) Up to eight (8) hours of continuing education per year may be obtained by assisting the Board with administering the clinical licensing examination or by assisting the Board with investigations of licensees. These hours shall be approved by the Continuing Education Committee of the Georgia Board of Dentistry and need not be sponsored by any agency or organization listed in 150-3-.09(2).

(e) Up to five (5) hours of continuing education per biennium may be obtained by teaching dental hygiene at any ADA-approved educational facility. These hours shall be awarded, in writing, by the course director at the facility and approved by the Continuing Education Committee of the Georgia Board of Dentistry.

(f) Up to five (5) hours of continuing education per biennium may be obtained by providing, uncompensated dental hygiene care at a charitable dental event as defined by O.C.G.A § 43-11-53.

(g) Up to ten (10) hours of continuing education per biennium may be obtained by members of the Georgia Board of Dentistry for member service, where one continuing education hour is credited for each five hours of Board service provided.

(h) Effective on and after January 1, 2022, one (1) hour of the minimum requirement shall include legal ethics and professionalism in the practice of dental hygiene, which shall include but not be limited to, education and training regarding professional boundaries; unprofessional conduct relating to the commission of acts of sexual intimacy, abuse, misconduct, or exploitation with regard to the practice of dental hygiene; legislative updates and changes to the laws relating to the practice of dental hygiene and rules, policies, and advisory opinions and rulings issued by the Board; professional conduct and ethics; proper billing practices; professional liability; and risk management.

(i) Effective on and after January 1, 2024, two (2) hours of the minimum requirement shall include education and training regarding infection control in the practice of dental hygiene, which shall include education and training regarding dental unit water lines.

(4) Criteria for receiving credit for attending an approved continuing education course:

(a) Credit hours are not retroactive or cumulative. All credit hours must be received during the two (2) year period to which they are applied;

(b) One credit hour for each hour of course attendance will be allowed;

(c) Only twelve hours of credit will be accepted per calendar day; and

(d) Effective January 1, 2008, at least eleven (11) of the required twenty-two (22) hours of credit must be acquired in person at an on-site course or seminar; you are not allowed to acquire all CE hours through on-line courses, electronic means, journal studies, etc.

(5) Criteria for receiving credit for teaching an approved continuing education course:

(a) Credit hours for teaching an approved course must be obtained and used during the biennium that the approved course is taught;

(b) A dental hygienist that teaches an approved continuing education course is eligible to receive two (2) credit hours for each hour of coursework that he or she presents at a particular course. Credit will be given for teaching a particular course on one occasion only. A maximum of five (5) credit hours per biennium may be obtained by a dental hygienist by whom an approved continuing education course is taught;

(c) Only continuing education course designated in Rule 150-5-.05(2) as being sponsored or approved by recognized organizations will be considered for credit pursuant to this subsection of the rule. Courses taught by a dental hygienist prior to or a part of the process of obtaining his or her R.D.H. shall not be eligible for consideration pursuant to this provision of the rule;

(d) In the event that an audit is conducted of the continuing education hours of a dental hygienist who has taught a course approved by a recognized organization, the following shall be required to document the dental hygienists role in presenting a continuing education course:

1. Documentation from an approved provider verifying that the dental hygienist presented an approved continuing education course;

2. Documentation from an approved provider reflecting the content of the course;

3. Documentation from an approved provider specifying the list of materials used as part of the course; and

4. Documentation from an approved provider verifying the hours earned and the dates and times that the course in question was given.

(e) In the event that an approved continuing education course is taught by more than one dental hygienist, continuing education credit will be given for those portions of course work in which the dental hygienist is directly involved and primarily responsible for the preparation and presentation thereof. Continuing education credit will not be available to a dental hygienist whose participation in preparing and presenting an approved course is not readily identifiable.

(6) Criteria for receiving credit for providing uncompensated indigent dental hygiene care.

(a) Up to five (5) hours of continuing education per biennium may be obtained by providing uncompensated dental hygiene care at a charitable dental event as defined by O.C.G.A § 43-11-53.

(b) Dental hygienists may receive one hour of continuing education for every four hours of indigent dental hygiene care the dental hygienist provides, up to five (5) hours. Such continuing education credits will be applied toward the dental hygienist's clinical courses.

(c) All credit hours must be received during the two (2) year renewal period;

(d) Dental hygienists shall at all times be required to meet the minimal standards of acceptable and prevailing practice in Georgia;

(e) The Board shall have the right to request the following:

1. Documentation from the organization indicating that the dental hygienist provided the services;

2. Documentation from the organization that it provided medical and/or dental hygiene services to the indigent and/or those making up the underserved populations;

3. Notarized verifications from the organization documenting the dental hygienist agreement not to receive compensation for the services provided;

4. Documentation from the organization detailing the actual number of hours spent providing said services; and

5. Documentation from the dental hygienist and/or organization verifying the services provided.

Cite as Ga. Comp. R. & Regs. R. 150-5-.05

AUTHORITY: O.C.G.A. §§ 43-11-7**,** 43-11-9**,** 43-11-53**,** 43-11-73**.**

HISTORY: Original Rule entitled "Requirements for Continuing Education for Dental Hygienists" adopted. F. Mar. 4, 1992; eff. Mar. 24, 1992.

Repealed: New Rule of same title adopted. F. Feb. 1, 1999; eff. Feb. 21, 1999.

Repealed: New Rule of same title adopted. F. July 22, 1999; eff. August 11, 1999.

Repealed: New Rule of same title adopted. F. July 28, 2003; eff. August 17, 2003.

Repealed: New Rule of same title adopted. F. Jan. 13, 2004; eff. Feb. 2, 2004.

Amended: F. Mar. 15, 2004; eff. Apr. 4, 2004.

Amended: F. Sept. 10, 2007; eff. Sept. 30, 2007.

Repealed: New Rule of same title adopted. F. July 29, 2009; eff. August 18, 2009.

Amended: F. Jan. 21, 2014; eff. Feb. 10, 2014.

Amended: F. Sept. 3, 2014; eff. Sept. 23, 2014.

Amended: F. Feb. 5, 2016; eff. Feb. 25, 2016.

Amended: F. May 12, 2023; eff. June 1, 2023.

Amended: F. Jan. 31, 2024; eff. Feb. 20, 2024.

Department 150. RULES OF GEORGIA BOARD OF DENTISTRY

Chapter 150-8. UNPROFESSIONAL CONDUCT

150-8-.01 Unprofessional Conduct Defined

The Board has the authority to refuse to grant a license to an applicant or to discipline a dentist or dental hygienist licensed in Georgia if that individual has engaged in unprofessional conduct. For the purpose of the implementation and enforcement of this rule, unprofessional conduct is defined to include, but not be limited to, the following:

(a) Failing to conform to current recommendations of the Centers for Disease Control and Prevention (C.D.C.) for preventing transmission of bloodborne pathogens, and all other communicable diseases to patients. It is the responsibility of all currently licensed dentists and dental hygienists to maintain familiarity with these recommendations, which are considered by the Board to be minimum standards of acceptable and prevailing dental practice.

(b) Violating any lawful order of the Board;

(c) Violating any Consent Agreement entered into with the Georgia Board of Dentistry or any other licensing board;

(d) Violating statutes and rules relating to or regulating the practice of dentistry, including, but not limited to, the following:

1. The Georgia Dental Practice Act (O.C.G.A. T. 43, Ch. 11);

2. The Georgia Controlled Substances Act (O.C.G.A. T. 16, Ch. 13, Art. 2);

3. The Georgia Dangerous Drug Act (O.C.G.A. T. 16, Ch. 23, Art. 3);

4. The Federal Controlled Substances Act (21 U.S.C.A., Ch. 13);

5. Rules and Regulations of the Georgia Board of Dentistry;

6. Rules of the Georgia State Board of Pharmacy, Ch. 480, Rules and Regulations of the State of Georgia, in particular those relating to the prescribing and dispensing of drugs, Ch. 480-28;

7. Code of Federal Regulations Relating to Controlled Substances (21 C.F.R. Par. 1306);

8. O.C.G.A. T. 31-33 Health Records. A dentist must send a patient a copy of his/her records upon request where the request complies with O.C.G.A. Title 31-33, et. seq., even if the patient has an outstanding balance with the dentist, but the patient may be required to pay costs of copying and mailing records and for search, retrieval, certification, and other direct administrative costs related to compliance with the request.

9. The Health Insurance Portability and Accountability Act (Pub. L. 104-191).

(e) Failing to maintain appropriate records whenever controlled drugs are prescribed. Appropriate records, at a minimum, shall contain the following:

1. The patient's name and address;

2. The date, drug name, drug quantity, and diagnosis for all controlled drugs;

3. Records concerning the patient's history.

(f) Prescribing controlled substances for a habitual drug user in the absence of substantial dental justification;

(g) Prescribing drugs for other than legitimate dental purposes;

(h) Any departure from, or failure to conform to, the minimum standards of acceptable and prevailing dental practice. Guidelines to be used by the Board in defining such standards may include, but are not restricted to:

1. Diagnosis. Evaluation of a dental problem using means such as history, oral examination, laboratory, and radiographic studies, when applicable.

2. Treatment. Use of medications and other modalities based on generally accepted and approved indications, with proper precautions to avoid adverse physical reactions, habituation or addiction.

3. Emergency Service. Dentists shall be obliged to make reasonable arrangements for the emergency care of their patients of record. For purposes of this rule, a "patient of record" is defined as a patient who has received dental treatment on at least one occasion within the preceding year.

4. Records. Maintenance of records to furnish documentary evidence of the course of the patient's medical/dental evaluation, treatment and response. A dentist shall be required to maintain a patient's complete dental record, which may include, but is not limited to, the following: treatment notes, evaluations, diagnoses, prognoses, x-rays, photographs, diagnostic models, laboratory reports, laboratory prescriptions (slips), drug prescriptions, insurance claim forms, billing records, and other technical information used in assessing a patient's condition. Notwithstanding any other provision of law, a dentist shall be required to maintain a patient's complete treatment record for no less than a period of ten (10) years from the date of the patient's last office visit.

5. Sterilization Records. All sterilization records must be maintained for a period of not less than three (3) years.

(i) Practicing fraud, forgery, deception or conspiracy in connection with an examination for licensure or an application;

(j) Knowingly submitting any misleading, deceptive, untrue, or fraudulent misrepresentation on a claim form, bill or statement to a third party;

(k) Knowingly submitting a claim form, bill or statement asserting a fee for any given dental appliance, procedure or service rendered to a patient covered by a dental insurance plan, which fee is greater than the fee the dentist usually accepts as payment in full for any given dental appliance, procedure or service;

(l) Abrogating or waiving the co-payment provisions of a third party contract by accepting the payment received from a third party as payment in full, unless the abrogation or waiver of such co-payment or the intent to abrogate or waive such copayment is fully disclosed, in writing, to the third party at the time the claim is submitted for payment. For the purpose of this rule, a "third party" is any party to a dental prepayment contract that may collect premiums, assume financial risks, pay claims, and/or provide administrative service.

(m) Falsifying, altering or destroying treatment records in contemplation of an investigation by the Board or a lawsuit being filed by a patient;

(n) Committing any act of sexual intimacy, abuse, misconduct or exploitation related to the licensee's practice of dentistry or dental hygiene;

(o) Delegating to unlicensed or otherwise unqualified personnel duties that may only be lawfully performed by a dentist or dental hygienist;

(p) Using improper, unfair or unethical measures to draw dental patronage from the practice of another licensee;

(q) Terminating a dentist/patient relationship by a dentist, unless notice of the termination is provided to the patient via certified mail. A "dentist/patient relationship" exists where a dentist has provided dental treatment to a patient on at least one occasion within the preceding year.

1. "Termination of a dentist/patient relationship by the dentist" means that the dentist is unavailable to provide dental treatment to a patient, under the following circumstances:

(i) The office where the patient has received dental care has been closed permanently or for a period in excess of (30) days;

(ii) The dentist discontinues treatment of a particular patient for any reason, including non-payment of fees for dental services, although the dentist continues to provide treatment to other patients at the office location;

2. The dentist who is the owner or custodian of the patient's dental records shall mail notice of the termination of the dentist's relationship to patient, via certified mail, which notice shall provide the following:

(i) The date that the termination becomes effective, and the date on which the dentist/patient relationship may resume, if applicable;

(ii) A means for the patient to obtain a copy of his or her dental records. The notice shall be mailed at least fourteen (14) days prior to the date of termination of the dentist/patient relationship, unless the termination results from an unforeseen emergency (such as sudden injury or illness), in which case the notice shall be mailed as soon as practicable under the circumstances.

(r) Knowingly certifying falsely to the accuracy or completeness of dental records provided to the Board.

(s) Authorizing a dental hygienist who has not met the requirements of Rule 150-5-.07(2) to administer local anesthesia.

Cite as Ga. Comp. R. & Regs. R. 150-8-.01

AUTHORITY: O.C.G.A. §§ 31-33-2**,** 43-1-19**,** 43-1-19.1**,** 43-11-7**,** 43-11-8**,** 43-11-47**,** 43-11-72**.**

HISTORY: Original Rule entitled "Ethics" adopted. F. and eff. June 30, 1965.

Amended: Rule retitled "Unprofessional Conduct Defined". F. Oct. 29, 1996; eff. Nov. 18, 1996.

Amended: F. Dec. 29, 1998; eff. Jan. 18, 1999.

Amended: F. Sept. 13, 1999; eff. Oct. 3, 1999.

Repealed: New Rule of same title adopted. F. July 28, 2003; eff. August 17, 2003.

Repealed: New Rule of same title adopted. F. Mar. 15, 2004; eff. Apr. 4, 2004.

Repealed: New Rule of same title adopted. F. Sept. 18, 2006; eff. Oct. 8, 2006.

Amended: F. May 2, 2018; eff. May 22, 2018.

Amended: F. Jan. 31, 2024; eff. Feb. 20, 2024.

Department 150. RULES OF GEORGIA BOARD OF DENTISTRY

Chapter 150-9. DELEGATED DUTIES

150-9-.01 General Duties of Dental Assistants

(1) A dental assistant shall be defined as one who is employed in a dental office to perform certain duties that assist the dentist. It is expected that the dental assistant will be familiar with the operations performed in the conduct of a dental practice; specifically, the sterilization of instruments, the general hygiene of the mouth, secretarial work, making appointments and bookkeeping. Under no circumstances may he or she perform any of the operations catalogued as dental hygiene treatments in O.C.G.A. § 43-11-74 or Board Rule 150-5-.03(5).

(2) Direct supervision and control as it pertains to a dental assistant shall mean that a dentist licensed in Georgia is in the dental office or treatment facility, personally diagnoses the condition to be treated, personally authorizes the procedures and remains in the dental office or treatment facility while the procedures are being performed by the dental assistant and, before dismissal of the patient, evaluates the performance of the dental assistant.

(3) In addition to routine duties, the general duties identified below may be delegated to dental assistants under the direct supervision of a licensed dentist. These duties may only be delegated in those instances when they are easily reversible and will not result in increased risk to the patient:

(a) Make impressions for diagnostic models and opposing models.

(b) Place and expose radiographs after completing the training required by Ga. Comp. R. & Regs. 111-8-90-.04 titled X-Rays in the Health Arts.

(c) Remove sutures - other than wire sutures.

(d) Remove periodontal dressing.

(e) Place and remove rubber dams.

(f) Apply topical anesthetic.

(g) Remove visible excess cement from supramarginal areas of dental restorations and appliances with non-mechanical hand instruments.

(h) Fabricate extraorally temporary crowns and bridges.

(i) Cement temporary crowns and bridges with intermediate cement.

(j) Remove temporary crowns and bridges seated with intermediate cement.

(k) Place intracoronal temporary restorations using intermediate cement.

(l) Place drying and deoiling agents prior to the cementation of permanent crowns and bridges.

(m) Remove dry socket medication.

(n) Place and take off a removable prosthesis with a pressure sensitive paste after the appliance has been initially seated by the dentist.

(o) Etch unprepared enamel.

(p) Polish the enamel and restorations of the anatomical crown; however, this procedure may only be executed through the use of a slow speed handpiece (not to exceed 10,000 rpm), rubber cup and polishing agent. This procedure shall in no way be represented to patient as a prophylaxis. This procedure shall be used only for the purpose of enamel preparation for:

1. Bleaching,

2. Cementation of fixed restorations,

3. Bonding procedures including supramarginal enamel restorations after removal of orthodontic appliances. No direct charge shall be made to the patient for such procedure.

(q) Dry canals with absorbent points and place soothing medicaments (not to include endodontic irrigation); and place and remove temporary stopping with non-mechanical hand instruments only.

(r) Place matrix bands and wedges.

(s) Select, pre-size and seat orthodontic arch wires with brackets which have been placed by the dentist. Adjustment of the arch wire may only be made by the dentist.

(t) Select and pre-size orthodontic bands which initially must be seated by the dentist.

(u) Place and remove pre-treatment separators.

(v) Cut and tuck ligatures, remove ligatures and arch wires, remove loose or broken bands.

(w) Remove and recement loose bands that previously have been contoured and fitted by a dentist, but only after a dentist has examined the affected tooth and surrounding gingival and found no evidence of pathology.

(x) Perform phlebotomy and venipuncture procedures after appropriate Board approved training is successfully completed as required by O.C.G.A. § 43-11-23.

(y) Use a rubber cup prophy on a patient with primary dentition. A dental assistant may only begin providing rubber cup prophies after the dental assistant has completed a curriculum approved by the Board or a minimum of eight hours of on-the-job training in the provision of rubber cup prophies by a dentist licensed to practice in Georgia.

Cite as Ga. Comp. R. & Regs. R. 150-9-.01

AUTHORITY: O.C.G.A. §§ 43-11-7**,** 43-11-9**,** 43-11-23**,** 43-11-80**,** 43-11-81**.**

HISTORY: Original Rule entitled "Expanded Duties of Dental Auxiliary Personnel" adopted. F. June 26, 1973; eff. July 16, 1973.

Amended: F. May 5, 1982; eff. May 25, 1982.

Amended: F. July 2, 1985; eff. July 22, 1985.

Repealed: New Rule entitled "Expanded Duties of Dental Assistants" adopted. F. Oct. 25, 1989; eff. Nov. 14, 1989.

Amended: F. June 27, 1990; eff. July 17, 1990.

Amended: F. Nov. 7, 1991; eff. Nov. 27, 1991.

Repealed: New Rule entitled "General Duties of Dental Assistants" adopted. F. Sept. 2, 1992; eff. Sept. 22, 1992.

Amended: F. Oct. 29, 1996; eff. Nov. 18, 1996.

Repealed: New Rule of same title adopted. F. Apr. 20, 1999; eff. May 10, 1999.

Repealed: New Rule of same title adopted. F. Jan. 31, 2003; eff. Feb. 20, 2003.

Amended: F. Jan. 7, 2013; eff. Jan. 27, 2013.

Amended: F. Apr. 17, 2013; eff. May 7, 2013.

Amended: F. May 2, 2018; eff. May 22, 2018.

Amended: F. Jan. 31, 2024; eff. Feb. 20, 2024.

Department 159. DEPARTMENT OF ECONOMIC DEVELOPMENT

Chapter 159-1. FILM, MUSIC & DIGITAL ENTERTAINMENT DIVISION

Subject 159-1-1. FILM TAX CREDIT

159-1-1-.06 Qualified Productions & Production Activities

(1) The Base Tax Credit is available to all qualified and certified Projects.

(2) Production Companies that act as a conduit to enable other production companies' projects to qualify for the Film Tax Credit that would not otherwise be eligible on their own will not be certified for Film Tax Credits. Work-for-hire service companies, including postproduction houses, catering companies, equipment rental houses, and motion picture laboratories are not eligible to receive the Film Tax Credit, but the Production Companies employing them may include these expenditures as part of their project expenses.

(3) Qualified Interactive Entertainment Production Companies designing platforms for outside game developers are not eligible for the Film Tax Credit; however, the studio that buys these platforms from a Georgia vendor may claim them as an expense toward the production of an Interactive Entertainment project.

(4) Expenditures incurred in Georgia for postproduction are qualified only on the portion of the project that was shot, recorded, or originally created in the state. Postproduction of footage shot outside the state is not a qualified production expenditure under O.C.G.A. § 48-7-40.26.

(5) Expenditures for the Development phase of projects do not qualify for the Film Tax Credit. Projects must have entered 'Preproduction' in order for expenditures to qualify for the Film Tax Credit.

(6) Qualified Commercial Advertisements are eligible for the Base Tax Credit; however, such Commercial Advertisements are not eligible for the GEP Tax Credit.

Cite as Ga. Comp. R. & Regs. R. 159-1-1-.06

AUTHORITY: O.C.G.A. § 48-7-40.26**.**

HISTORY: Original Rule entitled "Georgia Entertainment Promotion Tax Credit" adopted. F. Mar. 4, 2010; eff. Mar. 24, 2010.

Amended: F. May 6, 2013; eff. May 26, 2013.

Amended: F. Dec. 4, 2017; eff. Dec. 24, 2017.

Amended: F. Mar. 5, 2018; eff. Mar. 25, 2018.

Amended: F. Dec. 29, 2020; eff. Jan. 18, 2021.

Amended: F. June 18, 2021; eff. July 8, 2021.

Note: Correction of administrative typographical error in Rule History only, in July 2021 the original Rule title was cited as "Qualified Productions & Production Activities", error discovered in December 2023 and title corrected to "Georgia Entertainment Promotion Tax Credit" (i.e., as originally f. Mar. 4, 2010; eff. Mar. 24, 2010). Effective January 4, 2024.

Amended: New title, "Qualified Productions & Production Activities." F. Dec. 15, 2023; eff. Jan. 4, 2024.

Department 160. RULES OF GEORGIA DEPARTMENT OF EDUCATION

Chapter 160-3.

Subject 160-3-1. ASSESSMENT

160-3-1-.07 Testing Programs - Student Assessment

(1) **DEFINITIONS.**

(a) **Accommodation** - an allowable alteration in the administration of an assessment that assists students with access to participate in an assessment and is clearly documented within a student's Individualized Education Program (IEP), Section 504 Individual Accommodation Plan (IAP), or English Learner (EL) Testing Participation Plan. An accommodation is provided to a student during an assessment so that the assessment measures what the student knows and is able to do.

(b) **Conditional Accommodation** - a more expansive test administration accommodation that provides access to the assessment and alters the construct being measured by the assessment, available for students with more severe disabilities or limited English proficiency who would not be able to access the assessment to demonstrate their achievement without such assistance.

(c) **Conditional Administration** - a test administration in which a conditional accommodation is utilized to provide access to an assessment.

(d) **English Learner (EL)** - a student whose primary or home language is other than English and who is eligible for English language instruction based on the results of an English language proficiency assessment. (State Board of Education Rule 160-4-5-.02 Language Instruction Program for English Learners (ELs)).

(e) **English Proficiency Assessment** - an assessment administered annually to all ELs in Georgia for the purposes of determining the English language proficiency level of students; providing local educational agencies (LEA) with information that will help them evaluate the effectiveness of their English to Speakers of Other Languages (ESOL) programs; providing information that enhances instruction and learning in programs for ELs assessing the annual English language proficiency gains of students; and providing data for meeting federal and state requirements.

(f) **EL Testing Participation Committee** - a committee charged with collecting required information documenting students' eligibility for EL status and making appropriate test participation decisions, including the use of test administration accommodations.

(g) **English to Speakers of Other Languages (ESOL)** - a language instruction educational program provided to help ELs overcome language barriers and participate meaningfully in schools' educational programs.

(h) **Georgia Alternate Assessment 2.0 (GAA 2.0)** - an alternate assessment based on alternate achievement standards for students with the most significant cognitive disabilities who require substantial adaptations and supports to access the general curriculum and require additional instruction focused on relevant life skills. Instruction for students with the most significant cognitive disabilities is based on extended content standards, which are aligned to the state content standards at a reduced depth, breadth, and complexity. The purpose of the GAA 2.0 is to ensure all students, including students with the most significant cognitive disabilities, are provided access to the state content standards and given the opportunity to demonstrate progress toward achievement of the state standards.

(i) **Georgia Department of Education (GaDOE)** - the state agency charged with the fiscal and administrative management of certain aspects of K-12 public education, including the implementation of federal and state mandates. Such management is subject to supervision and oversight by the State Board of Education (SBOE).

(j) **Georgia Kindergarten Inventory of Developing Skills (GKIDS)** - a performance assessment designed to provide teachers with information about the level of instructional support needed by individual students enrolled in kindergarten and their readiness for first grade.

(k) **Georgia Milestones Assessment System (Georgia Milestones)** - a criterion-referenced test, administered in grades 3 through 8 at the end of each grade and high school at the end of each SBOE-identified course designed to measure student mastery of the state's content standards as an indicator of preparedness for the next grade, course, or educational endeavor, be that college or career. Georgia Milestones includes a norm-referenced component to provide national comparison data.

(l) **Grade-Level Student** - a student who is reported to the GaDOE at a grade level in accordance with SBOE Rule 160-5-1-.07 Student Data Collection.

(m) **Individualized Education Program (IEP)** - a written statement of special education, related services, and, as appropriate, transition services, that meets the unique needs of the student with a disability. An IEP also includes any specific test administration accommodations, needed instructional modifications, and supports for the student with a disability. The IEP is developed, reviewed, and revised by an appropriately staffed IEP team, including the student's parent(s). (SBOE Rule 160-4-7-.21 Definitions).

(n) **Individuals with Disabilities Education Act (IDEA)** - the federal law that was enacted to ensure that all students with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living; to ensure that the rights of students with disabilities and their parents are protected; to assist states, localities, educational service agencies, and federal agencies to provide for the education of students with disabilities; and to assess and ensure the effectiveness of efforts to educate students with disabilities. (SBOE Rule 160-4-7-.21 Definitions).

(o) **Local Educational Agency (LEA)** - the public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through Grade 12 public education institutions.

(p) **Modification** - an alteration in the administration of an assessment that results in a change in the content or construct being assessed, typically either through the addition or removal of content; modifications are strictly prohibited on state assessments.

(q) **National Assessment of Educational Progress (NAEP)** - a federally mandated and funded assessment program that is designed to collect information about what fourth, eighth, and twelfth grade students know and can do in a variety of key subject areas and is administered to a sample of students in all states.

(r) **Non-Standard Administration** - a test administration in which the procedures and directions provided in test administration guidance are not followed exactly as provided.

(s) **Section 504 Student** - a student who currently has an impairment that substantially limits one or more major life activities, who has a record of such impairment or who is regarded as having such an impairment, and who may not be eligible for services under IDEA.

(t) **Special Education** - specially designed instruction provided at no cost to parents that meets the unique needs of a student with a disability. Special education includes instruction in the classroom, in the home, in hospitals, institutions and other settings, physical education, travel training and vocational education. (SBOE Rule 160-4-7-.21 Definitions).

(u) **Standard Accommodation** - a test administration accommodation that provides access to the assessment without altering the construct measured by the assessment.

(v) **Standard Administration** - a test administration in which the procedures and directions provided in test administration guidance are followed exactly as provided and only standard accommodations are used, if applicable.

(w) **State Board of Education (SBOE)** - the constitutional authority which defines education policy for the public K-12 education agencies in Georgia.

(x) **Student with Disabilities** - a student who is classified as disabled according to SBOE Rule 160-4-7-.21 Definitions (10) and/or according to Section 504 of the 1973 Rehabilitation Act. [34 C.F.R. § 104.33(a)]

(y) **WIDA ACCESS** - an English language proficiency test administered annually to all ELs in Georgia for the purposes of determining the English language proficiency level of students; providing LEAs with information that will help them evaluate the effectiveness of their ESOL programs; providing information that enhances instruction and learning in programs for ELs; assessing the annual English language proficiency gains; and providing data for meeting federal and state requirements.

(z) **WIDA Alternate ACCESS** - an alternate English language proficiency test administered annually to all ELs with the most significant cognitive disabilities in Georgia. WIDA Alternate ACCESS is intended for ELs who participate, or who would be likely to participate, in the Georgia alternate content assessment(s).

(2) **GEORGIA STUDENT ASSESSMENT PROGRAM REQUIREMENTS**. Each LEA shall assess all students using SBOE-designated assessment instruments, as required. An IEP team, under limited circumstances and in accordance with GaDOE and federal guidelines, may consider the SBOE-approved alternate assessment for a small number of students with the most significant cognitive disabilities (approximately 1%) who receive special education services and are unable to participate in the general assessment. The SBOE-approved alternate assessment based on alternate achievement standards shall be the Georgia Alternate Assessment 2.0 (GAA 2.0) for students in grades 3-12 in English language arts, mathematics, science, and social studies. All ELs must participate annually in the state-adopted English proficiency assessment or alternate English proficiency assessment.

(a) **KINDERGARTEN ASSESSMENTS**.

1. Each LEA shall assure that the following requirements are met.

(i) All kindergarten students shall be assessed using the Georgia Kindergarten Inventory of Developing Skills (GKIDS), including the GKIDS Readiness Check, during their kindergarten year as the school readiness assessment for first grade.

(ii) Only teachers certified to teach kindergarten or first grade and who have been trained in the use of GKIDS shall administer GKIDS.

(iii) Kindergarten students taking a screener from the SBOE's approved list of Qualified Dyslexia Screening Tools or a dyslexia screener reviewed and approved by the SBOE and kindergarten students taking a universal reading screener pursuant to O.C.G.A. § 20-2-153.1 are exempt from participating in the English language arts domain of GKIDS.

2. The LEA shall use information obtained from the administration of GKIDS and the screeners to make placement decisions on an individual student basis. Documentation that supports an individual retention decision shall be on file in the student's permanent record. The information obtained by GKIDS and the screeners shall be used as part of the required written documentation. The student's parent/guardian shall be notified of the final placement decision. The LEA shall provide alternative, developmentally appropriate instruction to students who spend a second year in kindergarten.

(b) **FIRST-GRADE ASSESSMENTS**.

1. Each LEA shall assure that the following requirements are met.

(i) Subject to appropriations, LEAs shall administer a formative assessment with a summative component that is tied to performance indicators in English language arts/reading and mathematics in grade one.

(c) **SECOND-GRADE ASSESSMENTS**.

1. Each LEA shall assure that the following requirements are met.

(i) Subject to appropriations, LEAs shall administer a formative assessment with a summative component that is tied to performance indicators in English language arts/reading and mathematics in grade two.

(d) **THIRD-GRADE ASSESSMENTS**. LEAs shall assess all third-grade students with the state-adopted English language arts and mathematics tests annually according to a schedule established by the SBOE.

(e) **FOURTH-GRADE ASSESSMENTS**. LEAs shall assess all fourth-grade students with the state-adopted English language arts and mathematics tests annually according to a schedule established by the SBOE.

(f) **FIFTH-GRADE ASSESSMENTS**. LEAs shall assess all fifth-grade students with the state-adopted English language arts, mathematics, and science tests annually according to a schedule established by the SBOE.

(g) **SIXTH-GRADE ASSESSMENTS**. LEAs shall assess all sixth-grade students with the state-adopted English language arts and mathematics tests annually according to a schedule established by the SBOE.

(h) **SEVENTH-GRADE ASSESSMENTS**. LEAs shall assess all seventh-grade students with the state-adopted English language arts and mathematics tests annually according to a schedule established by the SBOE.

(i) **EIGHTH-GRADE ASSESSMENTS**. LEAs shall assess all eighth-grade students with the state-adopted English language arts, mathematics, science, and social studies tests annually according to a schedule established by the SBOE.

(j) **END-OF-COURSE (EOC) ASSESSMENTS.** LEAs shall assess students at the completion of core high school courses specified by the SBOE, in accordance with O.C.G.A. § 20-2-281(a), to measure student achievement in the four content areas of English language arts, mathematics, science, and social studies.

1. The following EOC assessments shall be administered to students completing the associated core high school courses: American Literature and Composition, Algebra: Concepts and Connections, Biology, and U.S. History.

(i) Beginning with the 2025-2026 school year, the EOC assessment for English language arts shall be Literature and Composition II.

2. A student shall be exempt from taking the EOC assessment for the specified core social studies course if he or she earns a post-secondary credit in that course through dual enrollment pursuant to O.C.G.A. §§ 20-2-149.2 or 20-2-161.3, if he or she passes the associated Advanced Placement (AP) course, or if he or she passes the associated International Baccalaureate (IB) course. Grades earned in the postsecondary course, Advanced Placement course, or International Baccalaureate course, in this situation, shall be used in the state accountability system. All students must take the designated EOC in English language arts, mathematics, and science as specified.

3. Individuals no longer enrolled in a Georgia public school, who were not eligible for a diploma solely as a result of not achieving a passing score on the former graduation assessments (i.e., Basic Skills Test, Georgia High School Graduation Tests, Georgia High School Writing Test), may submit a petition to their LEA to determine their eligibility for a diploma as provided for by O.C.G.A. § 20-2-281.1.

(k) **NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS (NAEP).** LEAs shall participate in the NAEP assessment programs.

(3) **STUDENT ASSESSMENT RESPONSIBILITIES FOR SPECIAL POPULATIONS.**

(a) **STUDENTS WITH DISABILITIES WHO RECEIVE EDUCATIONAL SERVICES DEFINED BY AN IEP OR SECTION 504 INDIVIDUAL ACCOMMODATION PLAN.** LEAs shall ensure that all students with IEPs or Section 504 Individual Accommodation Plans (IAP) participate in the state and local assessment programs. The IEP or IAP for these students shall identify the state-approved accommodations required to enable participation.

1. Decisions related to the participation in and identification of any needed accommodations in administration shall be made by the IEP team in the IEP review or by the IAP committee in its meeting.

2. All students with disabilities shall be coded according to the primary disability for each assessment in which they participate. Student participation in and performance on all assessments shall be accurately documented within each student's IEP or IAP so that state and federal reporting guidelines can be met and so that performance outcome measures can be monitored for compliance.

3. Accommodations must be provided for students with disabilities as identified in the IEP or IAP. Accommodation decisions made by the appropriate IEP or IAP committee shall take into account the accommodations that are currently used in the instructional or classroom assessment process and must be part of the usual instructional practice for the student. Additionally, these committees shall consider whether the accommodation is necessary for access to the assessment process, previous experience with and the usefulness of the recommended accommodation, and whether or not the recommended accommodation impacts the integrity of the assessment. Students shall receive the accommodations they need in order to meaningfully participate in the assessment, but should not be given more than is necessary to meaningfully participate. The majority of students are expected to participate in the regular assessments with only a small percentage requiring a conditional/nonstandard administration. Only state-approved accommodations may be included in an IEP or IAP.

4. Accommodations can result in administrations of the assessment that are either standard or conditional. Conditional accommodations shall be used sparingly as the majority of students requiring accommodations are able to successfully demonstrate their achievement with standard accommodations. The use of conditional accommodations must be required by the student to access the test because of his or her disability and documentation substantiating the need shall be included in the student's IEP along with specific instructional goals to address the need. Assessments differ in what results in standard and conditional administrations. Specific information concerning the standard or conditional nature of an accommodation is published annually in the *Student Assessment Handbook* and in the respective testing administration materials that accompany each assessment (e.g., test administration manuals and test examiner scripts). Should an individual student need an accommodation not on the approved list for a state test, approval must be granted by the Assessment and Accountability Division of the GaDOE before the accommodation may be used.

5. All students must be assessed annually using the appropriate state-mandated assessments listed in section (2) of this rule.

6. When an IEP team determines that a student at any grade level is not able to participate in an administration of any local or state-mandated assessment, even with reasonable accommodations, the IEP team will document the reasons and make the necessary alternate assessment decision for that student following the state-approved participation guidelines. For the state-mandated assessments listed in section (2) of this rule, the alternate assessment based on alternate achievement standards shall be the GAA 2.0. A relatively small percentage of students with the most significant cognitive disabilities (approximately 1%) are expected to participate through an alternate assessment.

7. Students with the most significant cognitive disabilities participating in the GAA 2.0 must be provided access to the state-adopted content standards. Educators may adjust the learning expectations for this group of unique students provided the instruction is based on and aligned to the grade-level content standards. Instruction may reflect pre-requisite skills but must be sufficiently challenging for the individual student.

8. All students are expected to participate in all state-mandated assessments including students pursuing a Special Education or Alternate Diploma. Most students are expected to participate in standard administrations, with a small percentage (less than 3%) under conditional administrations and a small percent (approximately 1%) in the GAA 2.0.

(i) Student participation in and performance on all state-mandated assessments, including the GAA 2.0, shall be accurately documented so that state and federal reporting guidelines can be met and so that performance outcome measures can be monitored for compliance.

(ii) All students with disabilities shall be included in the accountability reporting process.

(I) All participation data and results data shall be available to the Governor's Office of Student Achievement (GOSA) for the process of evaluating and rating school systems.

(II) The results of the GAA 2.0 shall be included as part of the state accountability system and system report cards.

(III) The LEA and GaDOE shall monitor participation rates for each assessment program, including alternate assessments, and the usage of accommodations, including conditional accommodations.

(IV) GaDOE shall automatically monitor, investigate, or both monitor and investigate any LEA not meeting assessment participation rate requirements. All remaining LEAs will be monitored on a rotational basis as a part of the regular scheduled monitoring process. Failure to meet those requirements may result in sanctions ranging from imposition of corrective action plans to withholding of funds.

(V) GaDOE will review results of all administrations and explore additional reporting formats to create meaningful and useful information from the results of standard and conditional/nonstandard administrations and the GAA 2.0.

(b) **ENGLISH LEARNER STUDENTS.**

1. Students who have been defined as ELs shall participate in all assessment programs. These students shall be coded EL=Y on each test. If a student has exited the ESOL program or an alternative language assistance program in the past four years, the student shall be coded EL=1, EL=2, EL=3, or EL=4 on each test**.** A student who has been exited for more than four years from the ESOL program shall be coded as EL=F on each test.

2. In certain situations, individual needs of ELs and former ELs in their first and second year post-exit may warrant accommodations. These accommodations shall be determined by and recorded during a documented meeting of the EL Testing Participation Committee. Former ELs in their first and second year post-exit may receive, based on individual need, standard state-approved accommodations. At the end of the first two years post exit, former ELs are no longer eligible for test administration accommodations. Testing accommodations shall be made only when appropriate documentation is on file for each eligible student. Administration of the assessments and use of test administration accommodations, including conditional accommodations for those students with very limited English proficiency, shall be according to established guidelines and procedures in the test administration manual(s), test examiner scripts, and the *Student Assessment Handbook*. Accommodation decisions made shall take into account the accommodations that are currently used in the instructional or classroom assessment process and must be part of the usual instructional practice for the student. Additionally, the EL Testing Participation Committee shall consider experience with and utility of the accommodation and whether or not the recommended accommodation impacts the integrity of the assessment. Conditional Accommodations shall be used sparingly and shall not be assigned to former ELs. The LEA and GaDOE shall monitor participation rates for each assessment program, and the usage of accommodations, including conditional accommodations.

3. The EL Testing Participation Committee shall be composed of a minimum of three members, one of whom is a certified educator. The EL/ESOL teacher/paraprofessional/aide currently serving the student with English language assistance is required to be a member of the committee. The remaining members shall be chosen from the following: regular language arts, reading or English teacher; student's parent or legal guardian or the student, if 18 years or older; school administrator; other content area teachers; counselor; school psychologist; and lead teacher. Documentation of each EL Testing Participation Committee shall be placed in the student's permanent record. These documents shall contain the following information: names of participants; date(s) of meeting(s); date of entry into U.S. schools; test scores proving eligibility for ESOL services; the dates of administration and the name of the tests to be administered; alternatives considered (i.e., regular administration, accommodations); final action including specific accommodations for each test/subtest consistent with current instructional accommodations; signatures of

committee members, school administrator and, parent, legal guardian or student if 18 years or older. The list of tests to be administered must include all state assessments that are mandated for the student's grade level. In addition to these state assessments, students who are required to participate in language proficiency tests under Title III of the Elementary and Secondary Education Act must participate in the language proficiency test prescribed by the state.

4. EL students enrolling for the first time in a U.S. school must participate in all SBOE-designated assessments and must be coded as a first time in U.S. school enrollee in state-required data collections. All scores resulting from the administration of state assessments will be removed from any statewide accountability calculations for the first year of a newly-arrived EL student's enrollment in a U.S. school. Though not used for statewide accountability purposes in the first year, such scores will serve as the baseline for student growth calculations and be included beginning in year two of such students' enrollment. Both achievement and growth will be included in statewide accountability calculations beginning in the third year of enrollment.

(4) **TESTING REGULATIONS AND PROCEDURES**. LEAs shall adhere to all written regulations and procedures relating to testing and test administration, including the distribution and collection of test materials, test security, use of test results and official testing dates established in the *Student Assessment Handbook* and assessment supplements and correspondence.

(a) Assessment guidelines shall be reviewed annually.

(b) The LEA shall ensure that individual student assessment scores become a part of students' records as soon as possible after testing and that records follow students to their new schools when requested as specified in SBOE Rule 160-5-1-.14 Transfer of Student Records.

(c) Scores for an individual student shall be made available only to said student, to the parent(s) or legal guardian(s) of said student, and to appropriate local, state, and federal governmental agencies as provided by state and federal law.

(d) LEAs shall provide individual student score reports for all state-mandated assessments to parent(s) or legal guardian(s) in a timely manner and, to the extent practicable, in a language that parent(s)/guardian(s) understand.

(e) Procedures shall be followed in compliance with O.C.G.A. § 19-7-5, Reporting of Child Abuse, and O.C.G.A. § 16-10-50, Hindering Apprehension and Punishment of a Criminal, for reporting individual writing assessments which fall under the designated situations.

(f) All assessments shall be administered by Georgia-certified educators.

(g) LEAs shall train and orient any persons involved directly or indirectly in the assessment process and procedures required for appropriate and secure administration of all state-mandated assessments.

(h) Allegations of failure to follow procedures required for appropriate and secure administration of state-mandated assessments shall be reported to the GaDOE and the Ethics Division of the Professional Standards Commission.

(i) All students shall be assessed in English.

(j) In accordance with applicable state promotion and retention policies and laws, students who do not participate in state mandated tests shall not be promoted to the next grade. For EL students enrolled in their first year in a U.S. school, placement decisions shall be made on an individual student basis by the EL Testing Participation Committee and be consistent with local school board policy.

(k) In cases where promotion and retention specifies the administration of an alternate test as a requirement for promotion to the next grade level in grades three, five, and eight, such assessment shall be an alternate version of the state-adopted test for that grade level.

(5) **STAFF DEVELOPMENT**.

(a) Teachers in grades one through 12 shall be offered the opportunity to participate annually in a staff development program on the use of tests within the instructional program designed to improve students' academic achievement. This program shall instruct teachers in the effective utilization of test results and other appropriate applications as determined by the SBOE and may be provided by either GaDOE or the LEA.

Cite as Ga. Comp. R. & Regs. R. 160-3-1-.07

AUTHORITY: O.C.G.A. §§ 16-10-50**;** 19-7-5**;** 20-2-131**;** 20-2-140**;** 20-2-142**;** 20-2-150(a)**;** 20-2-151**;** 20-2-154(a)**;** 20-2-240(a)**;** 20-2-242**;** 20-2-281**;** 20-2-282**;** 50-18-70**.**

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Amended: F. Jan. 9, 2004: eff. Jan. 29, 2004.

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Amended: F. Nov. 3, 2016; eff. Nov. 23, 2016.

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Amended: F. Nov. 7, 2019; eff. Nov. 27, 2019.

Amended: F. Mar. 25, 2021; eff. Apr. 14, 2021.

Amended: F. Jan. 11, 2024; eff. Jan. 31, 2024.

Department 160. RULES OF GEORGIA DEPARTMENT OF EDUCATION

Chapter 160-4.

Subject 160-4-2. DIVISION OF GENERAL INSTRUCTION

160-4-2-.40 Georgia Early Literacy Requirements

(1) **DEFINITIONS.**

(a) **Foundational literacy skills** - the phonological awareness, phonemic awareness, phonics, fluency, vocabulary, reading comprehension, spelling, oral language, and the intersection of reading and writing.

(b) **High-quality instructional materials** - the instructional materials aligned to the science of reading that instruct students in foundational literacy skills and grade-appropriate English language arts and reading standards approved by the State Board of Education.

(c) **Georgia Department of Education (GaDOE)** - the state agency charged with the fiscal and administrative management of certain aspects of K-12 public education, including the implementation of federal and state mandates.

(d) **Local Board of Education (LBOE)** - a county or independent board of education exercising control and management of a local school system pursuant to Article VIII, Section V, Paragraph II of the Georgia Constitution.

(e) **Local Educational Agency (LEA)** - local school system pursuant to local board of education control and management.

(f) **Multi-tiered system of supports (MTSS)** - a systemic, continuous-improvement framework in which data based problem-solving and decision making is practiced across all levels of the educational system of supporting students at multiple levels of intervention.

(g) **Reading intervention** - the evidence-based strategies frequently used to remediate reading deficiencies and includes, but is not limited to, individual and small-group instruction, multisensory approaches, tutoring, mentoring, or the use of technology that targets specific reading skills and abilities.

(h) **Science of reading** - the body of research that identifies evidence-based approaches of explicitly and systematically teaching students to read, including foundational literacy skills that enable students to develop reading skills required to meet state standards in literacy.

(i) **Significant reading deficiency** - the students in kindergarten through third grade whose score on a universal reading screener is within the range of scores determined by the department to demonstrate a lack of proficiency in foundational literacy skills.

(j) **State Board of Education (SBOE)** - the constitutional authority which defines education policy for the public K-12 education agencies in Georgia.

(k) **Structured literacy** - an evidence-based approach to teaching oral and written language aligned to the science of reading founded on the science of how children learn to read and characterized by explicit, systematic, cumulative, and diagnostic instruction in phonology, sound-symbol association, syllable instruction, morphology, syntax, and semantics.

(l) **Tiered reading intervention plan** - a plan that describes the evidence-based reading intervention services a student will receive to remediate such student's reading deficit and to ensure that such student becomes proficient in foundational literacy skills.

(m) **Universal reading screener** - a uniform tool that screens and monitors a student's progress in foundational literacy skills that is administered to students multiple times during the school year.

(2) **REQUIREMENTS.**

(a) UNIVERSAL READING SCREENERS

1. Beginning August 1, 2024, three times each school year each public school and LEA shall administer a universal reading screener to each student in kindergarten through third grade, with the first administration occurring within 30 days of the beginning of the school year;

(i) For students in first and second grades such public school or LEA shall be authorized to substitute one administration of a universal reading screener with an administration of a formative reading assessment as provided for in O.C.G.A. § 20-2-280.

(ii) Each public school or LEA shall be authorized to administer a free universal reading screener provided by GaDOE or a universal reading screener approved by the SBOE.

2. After each administration of a universal reading screener or formative reading assessment, each public school or LEA shall report the results to:

(i) Parents and guardians of students who participated in the administration; and

(ii) GaDOE for analysis.

3. The results of the universal reading screeners administered to students shall not be used as part of any education assessment accountability program provided for in Article 2 of Chapter 14 of the Official Code of Georgia Annotated.

(b) READING INTERVENTIONS

1. Beginning August 1, 2024, public schools and LEAs shall implement tiered reading intervention plans for public school students in kindergarten through third grade who, at any time during the school year, exhibit a significant reading deficiency, as measured by performance on a universal reading screener approved by the SBOE.

2. Each tiered reading intervention plan shall be implemented no later than 30 days after a student has been identified as exhibiting significant reading deficiency.

3. The tiered reading intervention plan shall describe the evidence-based reading intervention services the student will receive to remedy the reading deficit and ensure the student becomes proficient in foundational literacy skills.

4. Tiered reading intervention plans may be incorporated into and included as part of the school's existing multi-tiered system of supports or response-to-intervention frameworks.

5. Each student who has been identified as exhibiting a significant reading deficiency shall receive intensive reading intervention until such student is no longer identified as exhibiting a significant reading deficiency.

(c) INSTRUCTIONAL MATERIALS

1. By December 1, 2024, each LBOE and public school governing body shall approve high-quality instructional materials for students in kindergarten through third grade.

2. By December 15, 2024, and by August 1 each year thereafter, each LEA shall certify to GaDOE that its locally approved instructional materials and content, as defined in O.C.G.A. § 20-2-1017, constitute high-quality instructional materials.

(d) INSTRUCTIONAL SUPPORTS

1. Each public school and LEA shall provide instructional support for kindergarten through third grade teachers that shall include:

(i) Onsite teacher training on the science of reading, structured literacy, foundational literacy skills, and evidence-based decision making;

(ii) Demonstrated lessons; and

(iii) Prompt feedback for improving instruction.

2. Any public school or LEA claiming that a lack of sufficient funding prevents it from providing instructional support shall promptly and in writing notify GaDOE and describe all efforts the school or LEA has undertaken to secure sufficient funding from local, state, federal, and private sources.

(i) GaDOE shall provide technical assistance and other guidance to public schools and LEAs in identifying local, state, federal, and private funding sources to provide for instructional support.

3. GaDOE shall provide technical assistance to aid LEAs and public schools in implementing the revisions of this rule.

(e) PARENT NOTIFICATION

1. No later than fifteen days after identification of a possible reading deficiency, LEAs shall provide written notification of the possible deficiency to the parent or guardian of any student in kindergarten through third grade who at any time during the school year exhibits a significant reading deficiency. This written notification shall include:

(i) That the student has been identified as exhibiting a significant reading deficiency;

(ii) That a tiered reading intervention plan will be implemented by the student's teacher;

(iii) Results of the student's performance on the universal reading screeners administered to date;

(iv) A description of the proposed evidence-based reading interventions and supplemental instructional services and supports to be provided to the student that are designed to remedy the identified area or areas of significant reading deficiency to ensure the student becomes proficient in foundational literacy skills;

(v) Notification that the parent or guardian will be informed in writing of the student's progress toward grade level reading; and

(vi) Strategies for parents to use at home to help their child succeed in reading.

(f) TRAINING PROGRAMS

1. By July 1, 2025, all kindergarten through third grade teachers shall complete a training program developed or procured by GaDOE, in consultation with the University System of Georgia, the Professional Standards Commission, the Office of Student Achievement, Georgia's Regional Education Service Agencies, and literacy experts.

Cite as Ga. Comp. R. & Regs. R. 160-4-2-.40

AUTHORITY: O.C.G.A. §§ 20-2-153.1**,** 20-2-280**.**

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Department 160. RULES OF GEORGIA DEPARTMENT OF EDUCATION

Chapter 160-5.

Subject 160-5-1. REGIONAL EDUCATIONAL SERVICES

160-5-1-.33 Strategic Waivers and Title 20/No Waivers School Systems

(1) **DEFINITIONS.**

(a) **College and Career Academy (CCA)** - a specialized school governed by a nonprofit governing board, established as a charter school or pursuant to a contract for a strategic waivers school system or charter system, which formalizes a partnership that demonstrates a collaboration between business, industry, and community stakeholders to advance work force development between one or more local boards of education, a private individual, a private organization, or a state or local public entity in cooperation with one or more postsecondary institutions.

(b) **College and career academy certification** - a certification process, established by The Office of College and Career Academies (The Office) in collaboration with the Department of Education, for approval by the Technical College System of Georgia board and the State Board of Education. The Office shall be authorized to certify college and career academies. The State Board of Education shall accept certification by the office as one component of determining compliance with charter and strategic waivers school system or charter system contract requirements. The State Board of Education may request supplemental information from charter petitioners, strategic waivers school systems, or charter systems. Any certification process shall require that the applicant demonstrates how the proposed college and career academy will increase student achievement, provide for dual credit and dual enrollment opportunities, increase work based learning opportunities, and address work force development needs; articulates how the collaboration between business, industry, and community stakeholders will advance work force development; demonstrates local governance and autonomy; and shows other benefits that meet the needs of the students and community. Certification by The Office shall constitute a positive recommendation to the State Board of Education for renewal of a charter school or charter system pursuant to Code Section 20-2-2064.1 or an extension of a strategic waivers school system contract.

(c) **College and career academy governing board for a CCA established by a strategic waivers school system contract** - the governing board that will serve as a school-level decision-making body at the college and career academy and is responsible for ensuring the implementation of and compliance with the CCA portions of the strategic waivers school system contract. The strategic waivers school system contract establishing the college and career academy shall include provisions requiring that the college and career academy have a governing board reflective of the school community and the partnership with decision-making authority and requiring that governing board members complete initial and annual governance training provided by The Office of College and Career Academies, including, but not limited to, best practices on school governance, the constitutional and statutory requirements relating to public records and meetings, and the requirements of applicable statutes and rules and regulations, as well as any additional local school governing team training needed.

(d) **Georgia Department of Education (GaDOE)** - the state agency charged with the fiscal and administrative management of certain aspects of K-12 public education, including the implementation of federal and state mandates. Such management is subject to supervision and oversight by the State Board of Education.

(e) **Governor's Office of Student Achievement (GOSA)** - the state agency mandated by state law to create a uniform performance-based accountability system for K-12 public schools that incorporates both state and federal mandates, including student and school performance standards. Additionally, GOSA is charged with the

responsibility of publishing the State Report Card for schools and LEAs and to formulate a system of awards and consequences within the Single Statewide Accountability System.

(f) **Local Board of Education (LBOE)** - a county or independent board of education exercising control and management of a local school system pursuant to Article VIII, Section V, Paragraph II of the Georgia Constitution.

(g) **Local Educational Agency (LEA)** - local school system pursuant to local board of education control and management.

(h) **Petition** - a proposal or application to establish a strategic waivers school system.

(i) **State Board of Education (SBOE)** - the constitutional authority which defines education policy for the public K-12 education agencies in Georgia.

(j) **Substantial Hardship** - a significant, unique, and demonstrable economic, technological, legal or other type of deprivation to an LEA which impairs its ability to continue to successfully meet the requirements of educational programs or services to its students.

(k) **The Office of College and Career Academies** - a division of the Technical College System of Georgia established by O.C.G.A. § 20-4-37, that coordinates the efforts by the State Board of Education, the University System of Georgia, the Technical College System of Georgia and other not for profit postsecondary institutions accredited by the Southern Association of Colleges and Schools in the professional development, curriculum support, governing board training and development and establishment of college and career academies.

(l) **Unforeseen Circumstance** - material changes to state or federal law or other unforeseen conditions as determined by the SBOE.

(2) **REQUIREMENTS.**

(a) **General Requirements.**

1. GaDOE shall develop:

(i) an application for the Strategic Waivers contract;

(ii) a Strategic Waivers contract template; and

(iii) a Strategic Waivers contract submission process.

2. GaDOE shall develop the necessary guidance for the Strategic Waivers application process.

3. GaDOE, in consultation with GOSA, shall establish a process and procedure for the review of all Strategic Waivers contracts.

(b) **Contract Terms.**

1. Each contract shall be for a term of six years.

2. The SBOE may, upon request of the LBOE, extend the contract if the LEA successfully meets the terms of the Strategic Waivers contract by meeting school targets for at least three years or meets the fifth year targets by the end of the fifth year of accountability. (O.C.G.A. § 20-2-84(c))

3. An LEA seeking approval of a Strategic Waivers contract shall complete an electronic application and contract package templates provided by GaDOE in accordance with O.C.G.A. § 20-2-81 and guidance which shall include at least the following:

(i) School System Strategic Plan;

(ii) Flexibility Requested, including all waivers of law and rule requested;

(iii) Performance, including the academic and financial accountability targets schools must meet as agreed to by GOSA and GaDOE;

(iv) Consequences, indicating the sanctions and interventions for non-performing schools as agreed to by GOSA and GaDOE;

(v) Specific requirements related to maintaining or achieving financial stability of the LEA, including ensuring that the LEA has not been designated as a high-risk LEA by the Georgia Department of Audits and Accounts pursuant to O.C.G.A. § 20-2-67, or if it has been designated as a high-risk LEA, that it has a written corrective action plan in place and that local board of education members and appropriate personnel participate in required training to address the deficiencies; and

(vi) Any other provisions determined necessary to comply with federal and state laws, rules, regulations, guidelines, or guidance by GaDOE in consultation with GOSA.

4. In exchange for the increased flexibility the LEA is requesting, the specific Strategic Waivers contract proposal must include a commitment to meet the performance goals set forth in the contract.

5. The flexibility component of the contract shall include the waiver or variance of at least one of the following areas:

(i) Class size requirements as provided in O.C.G.A. § 20-2-182 and State Board of Education Rule 160-5-1-.08;

(ii) Expenditure controls as provided in O.C.G.A. § 20-2-171 and also categorical allotment requirements in Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated and State Board of Education Rule 160-5-1-.29;

(iii) Certification requirements as provided in O.C.G.A. § 20-2-200 and State Board of Education Rule 160-5-2-.50, with the exception of special education teacher certification requirements;

(iv) Salary schedule requirements as provided in O.C.G.A. § 20-2-212 and State Board of Education Rule 160-5-2-.05;

6. The flexibility component of the Strategic Waivers contract may also include the waiver of any other requirements or provisions of Title 20 as identified by the LEA and approved by the SBOE except as provided in O.C.G.A. § 20-2-82(e), and notwithstanding any provision to the contrary, the contract shall not be construed to waive or approve variances of any federal, state and local rules, regulations, court orders, and statutes related to civil rights; insurance; the protection of the physical and/or mental health and safety of school students, employees, and visitors; conflicting interest transactions; the prevention of unlawful conduct; any laws relating to unlawful conduct in or near a public school; or any reporting requirements pursuant to O.C.G.A. § 20-2-320 or Chapter 14 of Title 20 or O.C.G.A. §§ 20-2-160, 20-2-161(e), and 20-2-320 as required for funding purposes, as well as 20-2-740 as it relates to student safety; the requirements of O.C.G.A. § 20-2-210; the prohibition against the exclusion of students in dual credit courses from valedictorian or salutatorian determinations pursuant to O.C.G.A. § 20-2-161.3(f)(4); the requirements of O.C.G.A. § 20-2-167.1 regarding virtual instruction requirements; O.C.G.A. § 20-2-210 regarding annual performance evaluations; O.C.G.A. § 20-2-211.1; O.C.G.A. § 20-2-281 regarding student assessments or the requirements in subsection (c) of O.C.G.A. § 20-2-327; the early intervention program provided for in O.C.G.A. § 20-2-153; the provisions of O.C.G.A. § 20-1-11; the requirements of O.C.G.A. § 20-2-324.6; or the school resource officer training requirements of O.C.G.A. § 35-8-27. A local school system that has received a waiver or variance shall remain subject to the provisions of Part 3 of Article 2 of Chapter 14 of Title 20, the requirement that it shall not charge tuition or fees to its students except as may be authorized for local boards by O.C.G.A. § 20-2-133, and shall remain open to enrollment in the same manner as before the waiver request.

7. Pursuant to O.C.G.A. § 20-2-84(a), the accountability component of the contract shall include:

(i) at least one of the following student achievement measures, including both total scores and any needed targeted subgroups:

(I) High school graduation rates;

(II) SAT or ACT performance;

(III) State standardized test data, which may include end-of-grade assessments, end-of-course assessments, or a combination thereof; or

(IV) Advanced Placement or International Baccalaureate participation and performance; and

(ii) Any other accountability measures included pursuant to O.C.G.A. §§ 20-14-30- 20-14-41.

8. The consequences component of the contract shall, at a minimum, adhere to the provisions of O.C.G.A. §§ 20-2-84 and 20-2-84.1.

(i) The schedule of sanctions and interventions shall be designed to ensure that the LEA sufficiently addresses the achievement deficiencies at all non-performing schools under the LEA's management and control. Such sanctions and interventions shall include the following:

(I) If based upon the review of the first or second year accountability performance data, a school has not made sufficient progress toward meeting its academic targets, a school improvement plan will be incorporated into the following years school strategic planning process and implemented that following year. The school improvement plan will address the specific achievement deficiencies along with a targeted plan to address the deficiencies. The school improvement plan and the targeted plan will be approved and monitored by the LEA throughout the academic year;

(II) If based upon the review of the third or fourth year accountability performance data, a school has not met its targets for three years, the LEA will apply direct school management support and intensive teacher development support as outlined in the jointly developed school improvement plan between the school leadership and district leadership staff. Implementation of the school improvement plan will occur no later than the fourth or fifth year of accountability and will be monitored by the LEA; and

(III) If by the fifth year of accountability performance data, a school has not achieved three years of academic targets, the LEA will apply the consequences, provided in O.C.G.A. § 20-2-84 and O.C.G.A. § 20-2-84.1, as approved by the State Board of Education.

9. Pursuant to O.C.G.A. § 20-14-45, the terms of a Strategic Waivers contract may be amended for the purpose of agreeing to receive assistance for schools identified as turnaround eligible schools as defined in the Code section. If a local board of education does not sign an amendment within 60 days or declines to sign an amendment, the SBOE shall, within 60 days, either implement one or more of the interventions specified in O.C.G.A. § 20-14-41(a)(6) for the school(s) identified as turnaround eligible, or terminate the Strategic Waivers contract as allowed by the contract terms.

10. The SBOE shall not be authorized to waive or approve variances on any federal, state, and local rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection of the physical and/or mental health and safety of school students, employees, and visitors; conflicting interest transactions; the prevention of unlawful conduct; any laws relating to unlawful conduct in or near a public school; or the requirements provided in accordance with O.C.G.A. § 20-1-11; any reporting requirements pursuant to O.C.G.A. § 20-2-320 or Chapter 14 of Title 20 or O.C.G.A. §§ 20-2-160, 20-2-161(e), and 20-2-320 as required for funding purposes, as well as 20-2-740 as it relates to student safety; the requirements of O.C.G.A. § 20-2-210; the early intervention program pursuant to O.C.G.A. § 20-2-153, the prohibition against the exclusion of students in dual credit courses from valedictorian or salutatorian determinations pursuant to O.C.G.A. § 20-2-161.3(f)(4); the requirements of O.C.G.A. § 20-2-167.1

regarding virtual instruction requirements, O.C.G.A. § 20-2-210 regarding annual performance evaluations; O.C.G.A. § 20-2-211.1; O.C.G.A. § 20-2-281 regarding student assessments or O.C.G.A. § 20-2-324.6 regarding harmful materials or the requirements in O.C.G.A. § 20-2-327(c); or school resource officer training requirements of O.C.G.A. § 35-8-27. An LEA that has received a waiver or variance shall remain subject to the provisions of Part 3 of Article 2 of Chapter 14 of Title 20, the requirement that it shall not charge tuition or fees to its students except as may be authorized for LBOEs under O.C.G.A. § 20-2-133, and shall remain open to enrollment in the same manner as before the waiver request.

11. Strategic waivers school systems shall have the flexibility to implement a tiered teacher evaluation system and to define the measures needed to fulfill the requirements of the teacher and leader evaluations pursuant to State Board Rule 160-5-1-.37 and O.C.G.A. § 20-2-210, including:

(i) For teachers of record who teach courses that are subject to annual state assessments aligned with state standards, define any additional professional growth measures beyond measurements based on multiple student growth indicators, evaluations and/or observations, and/or standards of practice that shall count for 20 percent of the evaluation.

(ii) For teachers of record who teach courses that are not subject to annual state assessments aligned with state standards, define any:

(I) Student growth indicators, including the school or local school system total score on the annual state assessments that shall count for 30 percent of the evaluation; and

(II) Additional professional growth measures beyond measurements based on multiple student growth indicators, evaluations and/or observations, and/or standards of practice that shall count for 20 percent of the evaluation;

(iii) For principals and assistant principals, define the combination of achievement gap closure, Beat the Odds, and/or College and Career Readiness Performance Index data that shall count for 20 percent of the evaluation; and

(iv) Implement a tiered evaluation system, in which reduced observations of certain teachers of record may be conducted to provide additional time for evaluators to coach and mentor new teachers and teachers with a performance rating of 'Needs Development' or 'Ineffective' pursuant to paragraph (4) of O.C.G.A. § 20-2-210.

12. Any College and Career Academy (CCA) opened by or any existing CCA included in the SWSS must meet the definition of a CCA as defined in this rule, the LEA must notify GaDOE and Technical College System of Georgia of the opening, and the College and Career Academy must meet the following requirements related to College and Career Academies:

(i) If an existing CCA is included in the SWSS, then the current CCA's governing board would continue as the governing board of the CCA, using its current by-laws for operation and procedures for electing members;

(ii) Provide a Roles and Responsibilities chart between the CCA's governing board, the SWSS, and the CCA's higher education and business partners that includes the following:

(I) Information on the CCA's decision making authority regarding personnel decisions, financial decisions, curriculum, and instruction resource allocation, establishing and monitoring the achievement of school improvement goals, and school operations;

(II) Information on how the CCA will be funded by the LEA and other strategic partners; and

(III) Information on the services and supports to be provided to the CCA by the LEA.

(iii) The CCA established under the district's Strategic Waivers contract shall be a district initiative, and, as such, students from multiple attendance zones within the district, if applicable, shall be allowed to choose to attend the CCA.

(iv) The LEA's Strategic Waivers contract shall include the CCA.

13. An LEA seeking to establish a CCA pursuant to its Strategic Waivers contract shall ensure the CCA has a governing board reflective of the school community and the partnership with decision-making authority and that governing board members complete seven (7) hours of initial and five (5) hours of annual governance training. The training shall adhere to the Standards for Effective Governance of Georgia College and Career Academies approved by the State Board of Education in conjunction with the Technical College System of Georgia (TCSG) and shall be provided only by The Office of College and Career Academies of TCSG unless otherwise specified in this rule.

(i) Board members of any CCA governing board in the first year of implementation of the CCA shall participate, at a minimum, in seven (7) hours of training within (1) year of taking office. The training shall consist of the following minimum requirements:

(I) Two (2) hours of training on the constitutional and statutory requirements relating to public records and open meetings; and the requirements of applicable statutes and rules and regulations for a college and career academy. This training must be conducted by The Office of College and Career Academies of TCSG.

(II) Two (2) hours of Whole Board Governance Team Training that covers topics within the Standards for Effective Governance of College and Career Academies. This training must be conducted by The Office of College and Career Academies of TCSG.

(III) Three (3) hours of training that covers topics within the TCSG CCA Certification Standards, Community Workforce Development, and the role of the CCA and its partners. This training must be conducted by The Office of College and Career Academies of TCSG.

(ii) New members of a CCA governing board shall participate, at a minimum, in seven (7) hours of training within one (1) year of taking office. Board members with a break in service of more than one calendar year shall be considered new board members for training purposes. The training shall consist of the following minimum requirements:

(I) Two (2) hours of training on the constitutional and statutory requirements relating to public records and open meetings; and the requirements of applicable statutes and rules and regulations for a college and career academy. This training may be conducted by The Office of College and Career Academies of TCSG or any State Board of Education-approved training provider.

(II) Two (2) hours of Whole Board Governance Team Training that covers topics within the Standards for Effective Governance of College and Career Academies. This training must be conducted by The Office of College and Career Academies of TCSG.

(III) Three (3) hours of training that covers topics within the TCSG CCA Certification Standards, Community Workforce Development, and the role of the CCA and its partners. This training must be conducted by The Office of College and Career Academies of TCSG.

(iii) CCA governing board members with one (1) or more years of board service shall participate, as a minimum, in five (5) hours of training annually. The training shall consist of the following minimum requirements:

(I) Two (2) hours of Whole Board Governance Team Training that covers topics within the Standards for Effective Governance of College and Career Academies. This training may be conducted by The Office of College and Career Academies of TCSG or any State Board of Education-approved training provider.

(II) Three (3) hours of training that covers topics within the TCSG CCA Certification Standards, Community Workforce Development, and the role of the CCA and its partners. This training must be conducted by The Office of College and Career Academies of TCSG.

14. An LEA that provides virtual instruction through a virtual charter school whose total student enrollment is composed of more than five (5) percent of students who reside in another local school system will be held

accountable for ensuring that ninety (90) percent of QBE funds for these students are expended on virtual instruction costs in accordance with O.C.G.A. § 20-2-167.1.

(c) **Public Input and Transparency.**

1. Before the LBOE approves the complete local plan for formal submission to the SBOE, the LEA must:

(i) Submit a letter of intent to GaDOE that shall be accompanied by a LBOE resolution supporting the LEA's intent to pursue such contract;

(ii) Schedule and hold a public hearing for the purpose of providing an opportunity for full discussion and public input on the strategic plan and proposed contract, including formal, written comments or suggestions regarding the LEA's flexibility requests and performance targets and their impact on each school. The public hearing shall be advertised in a local newspaper of general circulation which shall be the same newspaper in which other legal announcements of the LBOE are advertised.

2. Public hearing notices shall be published on the LEA's website for at least five consecutive calendar days prior to a scheduled hearing. Additionally, public hearing notices shall be published in accordance with the state's Open Meetings law (O.C.G.A. § 50-14-1).

3. The LEA's final draft plan and the parts therein shall be made available to the general public. For those stakeholders that may not have access to the Internet, the LEA should make copies available upon request in accordance with the state's Open Records law (O.C.G.A § 50-18-70).

(i) If the plan or any parts of the plan are to be presented, discussed, or acted upon at a public hearing, the specific documents must be made available to the public at least five calendar days prior to the publicly announced meeting date.

4. Annual state progress reports required under section (2)(e)1.(iii) of this rule must be presented to the LEA's LBOE at a regularly scheduled public meeting and published on the LEA's website for the duration of the contract. For those stakeholders that may not have access to the Internet, the LEA should make copies available upon request in accordance with the state's Open Records law (O.C.G.A § 50-18-70).

5. Pursuant to O.C.G.A. § 20-14-49.11(c), the LEA shall post in a prominent location on its website a link to the financial information listed in O.C.G.A. § 20-14-49.11(a) - (c). This financial information includes the LEA's annual budget, personnel report, audits, and audit findings.

(d) **Contract Procedures.**

1. GaDOE, in consultation with GOSA, shall make a recommendation to the SBOE on whether the proposed terms of the contract should be approved by the SBOE. (O.C.G.A. § 20-2-82(c))

2. For a finalized contract to be in full effect, it must be approved and signed by both the LBOE and the SBOE.

3. The SBOE shall have final authority for the acceptance and approval of performance targets, flexibility, and consequences.

4. The terms of the contract may be amended either in accordance with O.C.G.A. § 20-14-45 or only if warranted due to unforeseen circumstances determined by the SBOE and upon approval of the SBOE and the LBOE. (O.C.G.A. § 20-2-83(d))

5. In the event the LEA chooses to seek an amendment of the terms of an existing contract or seek additional flexibility, the LEA shall submit a letter of intent to GaDOE that shall be accompanied by a LBOE resolution supporting the LEA's desire to amend the existing contract.

(e) **Monitoring and Support.**

1. Pursuant to O.C.G.A § 20-2-84.2, GaDOE shall:

(i) Monitor each LEA's progress towards meeting its performance goals in its contract;

(ii) Notify the SBOE if the LEA is not in compliance with those targets;

(iii) Present annual written progress reports to the SBOE on strategic waivers; and

(iv) Monitor each LEA's financial stability and provide support and guidance to LEAs that are designated as high-risk or moderate-risk by the Georgia Department of Audits and Accounts pursuant to O.C.G.A. § 20-2-67 or are at risk of being designated as high-risk or moderate risk.

2. If applicable, the Strategic Waivers School System and its schools identified as turnaround eligible shall be monitored and supported in accordance with O.C.G.A. § 20-14-46 *et seq.*

(f) **Title 20/No Waivers System.**

1. An LEA that elects not to request increased flexibility by June 30, 2015, must remain under all current laws, rules, regulations, policies, and procedures and:

(i) Notify its constituents that it will be a Title 20/No Waivers system and will remain under all current laws, rules, regulations, policies, and procedures;

(ii) Conduct a public hearing for the purpose of providing public notice that the LEA is opting to be a Title 20/No Waivers system. The public hearing shall be advertised in a local newspaper of general circulation which shall be the same newspaper in which other legal announcements of the LBOE are advertised;

(iii) Sign a statement on a form provided by the SBOE that such LEA is opting to be a Title 20/No Waivers system;

(I) Such form provided by the SBOE shall contain the following language at a minimum, "The (insert name of LEA) school system hereby declares its intent to remain a Title 20/No Waivers system pursuant to O.C.G.A. § 20-2-80. Further, (insert name of LEA) Board of Education understands that in opting remain a Title 20/No Waivers system, the (insert name of LEA) school system does not require waivers of law or rule and will remain under all current laws, rules, regulations, policies, and procedures."

2. Should unforeseen and subsequent circumstances arise that create a substantial hardship for a Title 20/No Waivers system, the SBOE may approve waiver requests made in accordance with O.C.G.A. § 20-2-244 and or § 50-13-9.1.

(i) The previous statement notwithstanding, waivers cannot be granted for:

(I) Expenditure controls and categorical allotment requirements; or

(II) Certification requirements; or

(III) Salary schedule requirements.

(ii) A class size waiver can be granted if a status quo LEA can demonstrate a substantial hardship arose after its initial election to remain under all current laws, rules, regulations, policies, and procedures.

(iii) The SBOE may approve the class size waiver request only in the limited circumstances where educationally justified and where an act of God or other unforeseen event led to the precipitous rise in enrollment within that system or led to another occurrence which resulted in the local board's inability to comply with the maximum class size requirement.

3. The SBOE is also authorized to provide a blanket waiver or variance of the class size requirements for all school systems in the state for a specified year in the event that a condition of financial exigency occurs (O.C.G.A. 20-2-244(h)).

4. An LEA that provides virtual instruction through a virtual charter school whose total student enrollment is composed of more than five (5) percent of students who reside in another local school system will be held accountable for ensuring that ninety (90) percent of QBE funds for these students are expended on virtual instruction costs in accordance with O.C.G.A. § 20-2-167.1.

5. The SBOE is authorized to sign an agreement with a Title 20/No Waivers system in accordance with O.C.G.A § 20-2-210. Such agreement shall indicate whether the system will implement a tiered teacher evaluation system and will contain the definitions of the measures needed to fulfill the requirements of the teacher and leader evaluations pursuant to state board rule 160-5-1-.37 and O.C.G.A § 20-2-210 including:

(i) A provision for a tiered evaluation system, in which reduced observations of certain teachers of record may be conducted to provide additional time for evaluators to coach and mentor new teachers and teachers with a performance rating of 'Needs Development' or 'Ineffective' pursuant to paragraph (4) of O.C.G.A § 20-2-210;

(ii) For teachers of record who teach courses that are subject to annual state assessments aligned with state standards, a definition of any additional professional growth measures beyond measurements based on multiple student growth indicators, evaluations and observations, and standards of practice that shall count for 20 percent of the evaluation.

(iii) For teachers of record who teach courses that are not subject to annual state assessments aligned with state standards, a definition of any:

(I) Student growth indicators, including the school or local school system total score on the annual state assessments that shall count for 30 percent of the evaluation; and

(II) Additional professional growth measures beyond measurements based on multiple student growth indicators, evaluations and observations, and standards of practice that shall count for 20 percent of the evaluation; and

(iv) For principals and assistant principals, a definition of the combination of achievement gap closure, Beat the Odds, and College and Career Readiness Performance Index data that shall count for 20 percent of the evaluation.

Cite as Ga. Comp. R. & Regs. R. 160-5-1-.33

AUTHORITY: O.C.G.A. §§ 20-2-67**;** 20-2-80**;** 20-2-81**;** 20-2-82**;** 20-2-83**;** 20-2-84**;** 20-2-84.1**;** 20-2-84.2**;** 20-2-84.3**;** 20-2-84.4**;** 20-2-84.5**;** 20-2-84.6**,** 20-4-37**.**

HISTORY: Original Rule entitled "School District Contracts for Flexibility, and Accountability to Improve Student Achievement" adopted. F. Oct. 9, 2008; eff. Oct. 29, 2008.

Repealed: New Rule entitled "Investing in Educational Excellence (IE2): Local Education Agency Contracts for Flexibility and Accountability" adopted. F. Nov. 4, 2009; eff. Nov. 24, 2009.

Repealed: New Rule entitled "Investing in Educational Excellence (IE2) and Status Quo School Systems" adopted. F. Apr. 2, 2015; eff. Apr. 22, 2015.

Amended: New title "Strategic Waivers and Title 20/No Waivers School Systems." F. Sep. 25, 2015; eff. Oct. 15, 2015.

Amended: F. Aug. 18, 2016; eff. Sept. 7, 2016.

Amended: F. Mar. 30, 2017; eff. Apr. 19, 2017.

Amended: F. Aug. 24, 2017; eff. Sept. 13, 2017.

Amended: F. Jan. 11, 2024; eff. Jan. 31, 2024.

Department 189. RULES OF STATE ETHICS COMMISSION

Chapter 189-8. LEADERSHIP COMMITTEES

189-8-.01 Political Party

For purposes of O.C.G.A. § 21-5-34.2(a), "political party" shall include any political body which is duly registered as provided in O.C.G.A. § 21-2-110 and qualified to nominate candidates for state-wide public office by convention pursuant to O.C.G.A. § 21-2-180.

Cite as Ga. Comp. R. & Regs. R. 189-8-.01

AUTHORITY: O.C.G.A. § 21-5-34.2**.**

HISTORY: Original Rule entitled "Political Party" adopted. F. Jan. 16, 2024; eff. Feb. 5, 2024.

Department 391. RULES OF GEORGIA DEPARTMENT OF NATURAL RESOURCES

Chapter 391-2. COASTAL RESOURCES

Subject 391-2-4. SALTWATER FISHING REGULATIONS

391-2-4-.02 Shad Fishing

(1) **Purpose.** The purpose of these Rules is to implement the authority of the Board of Natural Resources to promulgate rules and regulations based on sound principles of wildlife research and management, establishing the commercial and recreational seasons, days and places; methods of fishing and disposition; and size, creel, and possession limits for shad.

(2) **Areas Open to Commercial Shad Fishing.**

(a) Nets shall be set or fished only in flowing water within the banks of the stream channels. Nets may not under any circumstances be set or fished in waters that are not flowing such as in sloughs or dead oxbow lakes.

(b) Waters of the Savannah River system open to commercial shad fishing are the Savannah River downstream of the U.S. Highway 301 bridge, Collis Creek, Abercorn Creek, Front River, Middle River, Steamboat River, McCoy's Cut, Housetown Cut, Back River upstream from Corps of Engineers New Savannah Cut, New Savannah Cut, North Channel Savannah River downstream to a line running due south of the easternmost tip of Oyster Bed Island, South Channel Savannah River downstream to a line running from the southeast tip of Cockspur Island to the mouth of Lazaretto Creek, and Elba Island Cut between North and South Channels of the Savannah River.

(c) Reserved.

(d) Waters of the Altamaha River system open to commercial shad fishing are the Ohoopee River upstream to the U.S. Highway 1 bridge; the Altamaha River downstream of the from U.S. Highway 1 bridge including Cobb Creek Oxbow, Beards Creek from its mouth upstream to the Long-Tatnall County line (Big Lake), Sturgeon Hole from the Altamaha River to the lower mouth of Harper Slough, Old Woman's Pocket, South Branch, General's Cut, South Altamaha River, Champney River, Butler River, One Mile Cut, Wood Cut, Darien River upstream to the confluence Darien Creek, and Cathead Creek, Buttermilk Sound upstream to the mouth of Hampton River, Hampton River, Altamaha sound to the sound/beach boundary (see 391-2-4-.03), Rockdedundy River, Little Mud River, South River, Back River, North River upstream to Hird Island Creek, and Doboy Sound from the sound/beach boundary upstream to a line from range F1 R4 sec A across buoy R "178" to Sapelo Island. Old River and Mid Slough of the Penholoway River and Ellis Creek are closed to commercial shad fishing.

(e) Reserved.

(f) Reserved.

(3) **Commercial Shad Fishing Seasons.** The commercial shad fishing season shall be open as provided in subparagraphs (a), (b) and (c) of this paragraph from 1 January to 31 March; however, the Commissioner of Natural Resources, in accordance with current, sound principles of wildlife research and management, may at his discretion open or close the season 30 days after 31 March on any or all areas open to commercial shad fishing.

(a) The Altamaha River system downstream from the Seaboard Coastline Railroad bridge (at Altamaha Park) will be open to commercial shad fishing Monday through Friday each week. Upstream of this point will be open Tuesday through Saturday each week.

(b) The Savannah River system downstream from the I-95 bridge will be open to commercial shad fishing Tuesday through Friday each week. Upstream of the I-95 bridge it will be open Wednesday through Saturday each week.

(c) Reserved.

(4) **Commercial Gear and Methods for Taking Shad.**

(a) 1. Set nets and drift nets of at least four and one-half inch stretched mesh or trot lines (in accordance with O.C.G.A. 27-4-91) may be used to commercially fish for shad, provided, however, that only drift nets may be used in the Savannah River system downstream of a line between the mouth of Knoxboro Creek and McCoy's Cut at Deadman's Point; Altamaha Sound; and Doboy Sound.

2. Nothing in this section shall preclude the commercial use of pole and line gear.

(b) 1. Set nets must be placed at least six hundred (600) feet apart and shall be limited to one hundred (100) feet in length. All set nets must have one end secured to the stream's bank and be buoyed at the outer (streamward) end so as to be clearly visible to boaters.

2. Set and drift nets must be situated so as to follow one-half the stream width open and free for the passage of fish.

3. Drift nets shall not be fished closer than three hundred (300) feet apart and shall be limited to a maximum of one thousand (1,000) feet in length in saltwaters.

(c) This Rule applies only to American and hickory shad. Game fish other than American shad and hickory shad, and all species of catfish taken in shad nets must be released unharmed into the waters from which they were taken.

(d) Notwithstanding any other provision to the contrary, there shall be no possession or creel limit on commercially harvested American shad or hickory shad

(5) **Recreational Shad Fishing.**

(a) Recreational shad fishermen are restricted to two poles and lines. Fishermen using more than two poles and lines shall be considered to be fishing commercially.

(b) Bow nets shall be considered recreational fishing gear and shall have a minimum legal size of 3 1/2 inches stretched mesh.

(c) The maximum recreational daily creel and possession limit shall be eight (8) for any one or a combination of American shad or hickory shad.

Cite as Ga. Comp. R. & Regs. R. 391-2-4-.02

AUTHORITY: O.C.G.A. Title 12, Secs. 27-1-4**,** 27-4-12**,** 27-4-71**.**

HISTORY: Original Rule entitled "Commercial Shad Fishing" adopted. F. Dec. 28, 1979; eff. Jan. 17, 1980.

Amended: F. Dec. 28, 1983; eff. Jan. 17, 1984.

Amended: F. Dec. 2, 1987; eff. Dec. 22, 1987.

Amended: F. June 19, 1989; eff. July 9, 1989.

Amended: F. Dec. 9, 1994; eff. Dec. 29, 1994.

Amended: F. Nov. 4, 2010; eff. Nov. 24, 2010.

Amended: New title "Shad Fishing." F. Dec. 18, 2012; eff. Jan. 7, 2013.

Amended: F. Dec. 13, 2013; eff. Jan. 2, 2014.

Note: Correction of non-substantive typographical error in subparagraph (2)(b), "... Albercorn Creek ..." corrected to ".... Abercorn Creek ...", as requested by the Agency. Effective January 16, 2024.

Department 391. RULES OF GEORGIA DEPARTMENT OF NATURAL RESOURCES

Chapter 391-3. ENVIRONMENTAL PROTECTION

Subject 391-3-4. SOLID WASTE MANAGEMENT

391-3-4-.19 Scrap and Used Tire Management

(1) **Applicability.**

(a) Scrap tire handling shall be regulated from the point of generation through the point of final disposition. The provisions of this Rule, except where exemptions apply, shall apply to all persons presently engaged in, or proposing to be engaged in, the retail sale of new replacement tires, handling of scrap tires, and/or the collection, inventory and marketing of used tires.

(b) All persons subject to regulation under this Rule shall, in addition to the requirements of 391-3-4-.19, handle scrap tires in accordance with the provisions of O.C.G.A. 12-8-20, et seq., and the Rules for Solid Waste Management, Chapter 391-3-4, applicable to solid waste.

(2) **Definitions.** For the purposes of this Rule:

(a) "Beneficial reuse" means the use of scrap tires for purposes other than its original intended use and that have been approved by the Division prior to reuse.

(b) "Enclosure" means structure with four sides and roof or an area surrounded by a wall or fence with the purpose of controlling or limiting access.

(c) "End user" means the last person who uses the scrap tires, chips, crumb rubber, or similar materials to make a product with economic value, or, in the case of energy recovery, the person who uses the heat content or other form of energy from the incineration, combustion or pyrolysis of waste tires, chips or similar materials.

(d) "Financial Assurance" means a mechanism designed to demonstrate that funds will be available to ensure compliance with statutory, regulatory and permit requirements of tire carriers and processors. The financial mechanism must be either a surety bond or an irrevocable letter of credit.

(e) "Manufacturer" means a person who produces new tires from raw materials for the original intended use on, but not limited to, automobiles, trucks, motorcycles, trailers, recreational vehicles, construction equipment, earth-moving equipment and aircraft.

(f) "Mixed Tires" means a group of tires that may consist of "used tires," "retreadable casings," and "scrap tires."

(g) "Organized Site Cleanup Activity" means scrap tire abatement activities conducted by a government entity, non-profit, or other organization.

(h) "Point of Final Disposition" means a location approved by the Division to receive scrap tires including, but not limited to, scrap tire processors, scrap tire sorters and end users.

(i) "Residuals" means by-products resulting from the processing of scrap tires including, but not limited to, fibers, metals, inner tubes and rims.

(j) "Retreadable Casing" means a scrap tire suitable for retreading. This includes casings that have value as a potential retreaded tire. This does not include casings with tread separation, unrepaired cuts, corroded belts, sidewall damage, run-flat or skidded.

(k) "Distributor" means any person, other than a used motor vehicle parts dealer licensed in accordance with Chapter 47 of Title 43, actively engaged in the sale of new replacement tires to tire retailers for sale by such tire retailers to the ultimate consumer or who sells directly to ultimate consumers in Georgia, as further described in O.C.GA. § 12-8-40.1 and Rule 391-3-4-.19(3)(a).

(l) "Scrap Tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

(m) "Scrap Tire Generator" means any person who generates scrap tires including, but not limited to, tire retailers; retreaders; scrap tire processors; scrap tire sorters; automobile dealers; private company vehicle maintenance shops; used tire dealers; garages, and service stations; and city, county, and state governments.

(n) "Scrap Tire Processing" means any method, system, or other treatment designed to change the physical form, size, or chemical content of scrap tires for beneficial use.

(o) "Scrap Tire Processor" means any person approved through a permit issued by the Division to receive and process scrap tires, but shall not include a registered secondary metals recycler operating a scrap metal shredder for the purpose of shredding metallic scrap, including scrap automobiles containing five or fewer scrap tires per automobile into specification grades of scrap metal.

(p) "Scrap Tire Sorter" means any person, other than a registered scrap tire generator or a scrap tire processor, who handles mixed tires by separating used tires and retreadable casings from scrap tires and is approved through a permit by the Division.

(q) "Tire" means a continuous solid or pneumatic rubber covering designed for encircling the wheel of a motor vehicle and which is neither attached to the motor vehicle nor a part of the motor vehicle as original equipment.

(r) "Tire Carrier" means any person engaged in collecting or transporting tires, other than new tires. For the purpose of this Rule, tire carrier does not include a transporter of scrap or crushed vehicles.

(s) "Tire Manifest" means a form or document used to identify the quantity, composition, origin, routing and destination of scrap tires during transportation from the point of generation to a point of final disposition and to track used tires from the point of generation to another location.

(t) "Tire Retailer" means any person, other than a used motor vehicle parts dealer licensed in accordance with Chapter 47 of Title 43, actively engaged in the business of selling new replacement tires to the ultimate consumer. Tire retailers may also be, but are not limited to, manufacturers, wholesalers, distributors, and others who sell new replacement tires to the ultimate consumer.

(u) "Tire Retreader" means any person actively engaged in the business of retreading scrap tires by scarifying the surface to remove the old surface tread and attaching a new tread to make a usable tire.

(v) "Ultimate Consumer" means the last person who receives and uses a new replacement tire.

(w) "Used Tire" means a tire which has a minimum of 2/32 inch of road tread and which is still suitable for its original purpose but is no longer new. A used tire dealer shall inventory and market used tires in substantially the same fashion as a new tire and be able to provide satisfactory evidence to the division that a market for the used tire exists and that the used tire is in fact being marketed as a used tire. A used tire shall not be considered solid waste.

(x) "Used Tire Dealer" means any person, other than a used motor vehicle parts dealer licensed in accordance with Chapter 47 of Title 43, actively engaged in the business of selling used tires, as defined in this Rule.

(y) "New replacement tire" means any new tire that is used to replace tires on an existing vehicle and include, but are not limited to, tires for automobile, truck, heavy equipment, motor bike, boat and other trailers, aircraft, and recreational vehicles.

(3) Tire Management Fee.

(a) Beginning July 1, 2023, a tire management fee of $1.00 per new replacement tire is imposed upon any distributor at the time they meet one of the following criteria:

1. The distributor sells a new replacement tire to a tire retailer in the state for sale by that tire retailer to the ultimate consumer; or

2. The distributor sells a new replacement tire to the ultimate consumer in the state for use by that ultimate consumer.

(b) Local and state governments are not exempt from the tire management fee.

(c) The fee shall not be imposed on the sale of:

1. Tires with a rim size less than 12 inches;

2. Tires from any device moved exclusively by human power; or

3. Tires used exclusively for agricultural purposes, except farm truck tires.

(d) Distributors shall register with the Division and remit fees and a quarterly tire fee report to the Division, documenting the number of new replacement tires sold. The distributors shall use forms provided by the Division. The fee and report shall be remitted by the 30th day of April, July, October, and January of each year, covering the period for the preceding quarter.

(e) In collecting, reporting, and paying the fees due under this section, each distributor shall be allowed the following deductions, but only if the amount due was not delinquent at the time of payment:

1. A deduction of three percent of the first $3,000.00 of the total amount of all fees reported due on such report; and

2. A deduction of one-half of one percent of the portion exceeding $3,000.00 of the total amount of all fees reported on such report.

(4) Scrap Tire Generators.

(a) Any person who generates scrap tires in this state shall have a scrap tire generator identification number (ID number #) issued by the Division. The ID number shall be used on tire manifests. A separate ID number shall be required for each business location.

(b) The following persons shall not be required to have an ID number:

1. Scrap tire generators who generate scrap tires at out-of-state locations and ship their scrap tires to a point of final disposition in Georgia; and

2. A licensed used motor vehicle parts dealer or registered secondary metals recycler, who does not generate scrap tires for disposal or recycling.

3. A municipal solid waste collector holding a valid solid waste collection permit under authority of this part whose primary business is the collection of municipal solid waste;

4. A private individual transporting no more than 10 of the individual's own or a private individual transporting more than 10 tires if such individual can provide proof of purchase with receipt for such tires;

5. Any person transporting tires collected as part of an organized site cleanup activity;

(c) Scrap tire generators shall initiate a tire manifest to track scrap tires during transportation from the point of generation to an approved point of final disposition. The tire manifest shall include the following information:

1. Name, address, county, telephone number and scrap tire generator identification number;

2. An estimate of the number (accurate to within 10% of actual number) or weight of scrap tires to be transported;

3. Signature of the generator certifying the estimate and the date the scrap tires were picked up;

4. Name, address, telephone number and permit number of the tire carrier;

5. Signature of the permitted tire carrier, the date of pickup from the generator and the date of delivery to the point of final disposition;

6. Name, address, telephone number and permit number of the point of final disposition;

7. Signature of authorized representative at the point of final disposition certifying the weight (in tons or number of tires) and the date received from the tire carrier.

(d) If a generator chooses to use tons of tires rather than actual numbers of tires on the tire manifest for passenger and truck tires, the following conversion factor must be used:

1. Passenger Tires: 2000 lb. (one ton) = 89 tires (22.5 lb/tire)

2. Truck Tires: 2000 lb. (one ton) = 17 tires (120 lb/tire)

(e) Scrap tire generators shall ensure that any person collecting and transporting their scrap tires hold a valid tire carrier permit issued by the Division and that their scrap tires were delivered to the point of final disposition designated by the generator on the scrap tire manifest.

(f) Scrap tire generators shall retain a copy of the tire manifest signed and dated by the carrier at the time the scrap tires were collected or transported. This tire manifest copy should be kept until the generator receives the original tire manifest signed by the generator, carrier and point of final disposition. The original tire manifest shall be kept on-site for a period of three years.

(g) A scrap tire generator shall notify the Division in writing of any carrier who fails to return a properly completed tire manifest to the generator within 30 days from scrap tire pickup. Such notification shall be filed within 15 days following any failure of the carrier to deliver the tire manifest with original signature to the generator.

(h) Scrap tire generators may designate whether a tire, because of wear, damage, or defect, is a "used tire", or "retreadable casing" as defined in these Rules. However, if a generator fails to designate which tires are "used", or "retreadable casings" then all tires transported shall be considered scrap tires and must be indicated on the tire manifest.

(5) Tire Carriers.

(a) Unless otherwise exempted, any person collecting or transporting scrap or used tires shall have a tire carrier permit issued by the Division. A permit shall not be issued unless the financial assurance, as provided for in these Rules, has been submitted and approved by the Division.

(b) A separate permit and financial assurance instrument shall be required for each tire carrier business location.

(c) A tire carrier shall transport scrap tires only to a point of final disposition as defined in these Rules.

(d) Storage of scrap tires by tire carriers is prohibited.

(e) The permitted tire carrier shall maintain financial assurance in a format provided by the Division. The required financial assurance is as follows:

1. $10,000.00 for carriers transporting up to 5,000 scrap tires per month.

2. $20,000.00 for carriers transporting more than 5,000 scrap tires per month.

(f) The permitted tire carrier shall submit a quarterly report to the Division on forms provided by the Division. Reports shall be submitted by the 30th day of April, July, October and January of each year and cover the reporting period for the preceding calendar quarter. The tire carrier shall retain copies of the quarterly reports, tire manifests, invoices and weight tickets for three years at their place of business or other location approved by the Division. The tire carrier shall make these records available for review upon request by the Division.

(g) The permitted tire carrier shall display a decal issued by the Division on both the driver's and passenger's doors on each vehicle used to collect or transport tires. A decal shall not be required for a tire carrier that collects tires exclusively from outside this state and transports them directly to a scrap tire processor or end user within this state.

1. By August 1st of each year, tire carriers shall purchase decal(s) for each vehicle used to collect or transport tires.

2. The tire carrier shall pay the Division a nominal fee for each decal issued.

3. Decals are valid for a one-year period and shall expire on July 31st of each year.

(h) It shall be the responsibility of the permitted tire carrier to return the tire manifest, with the three required original signatures, to the scrap tire generator no later than 30 days from the date on which the carrier collected the scrap tires from the generator.

(i) The following persons shall not be required to have a tire carrier permit:

1. A tire retailer or distributor transporting its own used tires, if such dealer can provide proof of purchase with receipt for all used tires being transported and a document verifying the origin, route and destination of such used tires;

2. A municipal solid waste collector holding a valid solid waste collection permit under authority of this part whose primary business is the collection of municipal solid waste;

3. A private individual transporting no more than 10 of the individual's own tires or a private individual transporting more than 10 tires if such individual can provide proof of purchase with receipt for such tires;

4. A company transporting the company's own tires to a scrap tire processor or end user or for proper disposal;

5. Any person transporting tires collected as part of an organized site cleanup activity;

6. The United States, the State of Georgia, any county, municipality, or public authority.

7. Other persons, as approved by the Division, on a one time or temporary basis, as needed to further the intent of O.C.G.A. § 12-8-20, et seq., that scrap tires be reused or recycled rather than disposed.

(6) Scrap Tire Storage.

(a) No person may store more than 25 scrap tires anywhere in this state.

(b) If scrap tires are secured in a locked enclosure or are otherwise adequately secured in a manner suitable to prevent unauthorized access, then paragraph (6)(a) of this Rule shall not apply to the following:

1. A solid waste disposal site permitted by the Division, if the permit authorizes the storage of scrap tires prior to their disposal;

2. A tire retailer, distributor, or a publicly owned vehicle maintenance facility with not more than 1,500 scrap tires in storage;

3. A tire retreader with not more than 3,000 scrap tires in storage, so long as the scrap tires are of the type the retreader is actively retreading;

4. A licensed used motor vehicle parts dealer registered with the Secretary of State's office, a registered secondary metals recycler or a privately owned vehicle maintenance facility that operates solely for the purpose of servicing a commercial vehicle fleet with not more than 500 scrap tires in storage; and

5. A permitted scrap tire processor or sorter that has received approval prior to October 28, 2015 or holds a current permit, so long as the number of scrap tires in storage does not exceed the quantity approved by the Division. The Division may grant a waiver for the enclosure requirement if the person requesting the waiver can definitively show a significant and unique economic hardship which would impair the person's ability to continue operating his or her business.

6. A farm with 100 or fewer scrap tires in storage or in use for agriculture purposes. In addition, the Division may grant waivers to allow the storage or use of more than 100 scrap tires for agricultural purposes, if such storage or use does not pose a threat to human health or the environment.

(c) Any person storing scrap tires is subject to the following requirements:

1. Unless otherwise specified in an approved plan by the Division, all scrap tires shall be stored in a manner (e.g., under roof, secured tarp, or the like to prevent water accumulation) that controls the breeding and harborage of mosquitoes, rodents and other vectors;

2. Activities involving open flames and other flammable materials (oil, gas, fuel) shall not be allowed within 25 feet of a scrap tire storage area, with the exception of maintenance activities involving torches and welding equipment, as long as a fireproof barrier is used;

3. A 50-foot wide fire lane shall be placed around the perimeter of each scrap tire pile.

4. All persons engaged in the collection, storage or processing of scrap tires, retreadable or used tires shall control the presence of vectors or other nuisance pests associated with storage of the tires. Such pests may include, but are not limited to, mosquitoes, rats, mice, snakes and other animals living in or adjacent to the tire storage. Permitted or approved facilities shall maintain records for three years that include, but are not limited to:

(i) Type of control method used;

(ii) If chemical control - the name of the chemical(s);

(iii) Dates and amounts of chemical(s) used; and

(iv) Chemical storage location.

(7) Criteria for Scrap Tire Processors, Sorters and Disposal Facilities.

(a) Processing operations shall include, but not limited to, shredding, chopping, chipping, splitting, pyrolysis, microwave, and cryogenic operations. Provided financial assurance requirements of these rules have been met,

permitted scrap tire processors in existence on the effective date of this Rule may continue to operate under their existing permit. Existing facilities requesting modifications after the effective date of this Rule must fully comply with this Rule. Scrap tire processing facilities shall meet the following requirements:

1. All scrap tire processors located in this state shall submit an application and obtain a permit issued by the Director prior to operation. No person may process scrap tires without a permit issued from the Director.

2. A permitted scrap tire processor shall maintain financial assurance in a format provided by the Division in the amount of $20,000 for each business location.

3. All scrap tire processors shall have and follow an operations plan approved by the Division. The facility owner(s) or authorized representatives shall submit a written request to modify an approved operations plan. Any proposed modification to the facility and/or operations shall not be implemented until approved by the Division.

4. The operations plan shall include, zoning approval, proof of fire inspection, operational narrative, site plan and drawing of the operation, and shall be designed by a professional engineer licensed to practice in Georgia.

5. Processors must show that they have the necessary operable equipment in place to process scrap tires prior to receiving scrap tires for processing.

6. In addition to the scrap tire storage requirements in section (6) of these Rules, the following requirements apply:

(i) Storage limits are based on the processing equipment capability, proof of market, recycling rate and available storage space.

(ii) Storage of scrap tires shall not exceed a 30 day operating supply. Prior approval for increased storage limits must be approved by the Division if 30 day operating supply cannot be met.

(iii) Any processor with tires, product or residuals in enclosed trailers shall be subject to the following requirements:

(I) Trailer storage areas must be clearly depicted on a site plan.

(II) Storage area shall be no greater than 10,000 square feet per storage area.

(III) A minimum of two feet must be maintained between trailers (side-to-side and end-to-end). No more than two rows of trailers per storage area may be stored at any facility. Such storage must be end-to-end and the trailer must be stored in a manner that allows direct removal of the trailer if needed. Empty trailers stored in the area designated for scrap tire storage are subject to the same separation requirements.

(IV) A 50-foot wide fire lane shall be placed around the perimeter of each scrap tire storage area. The fire lane shall be kept free of debris, vehicles, trailers, weeds, grass and other potentially combustible material.

(iv) Processors must meet the following requirements for tires, processed tires, product, and residuals stored on the ground.

(I) A tire, processed tire, product, or residual pile shall have no greater than the following maximum dimensions:

I. Area: 10,000 square feet.

II. Height: 15 feet.

(II) A 50-foot wide fire lane shall be placed around the perimeter of each pile with the exception of noncombustible materials (rims, wires, etc.). The fire lane shall be kept free of debris, vehicles, trailers, weeds, grass and other potentially combustible material. Existing processors may comply with the fire lane requirements documented on an approved plan until the plan is modified.

(III) Storage of whole tires, products, and residuals near buildings is prohibited unless:

I. A non-combustible/non-flammable barrier (firewall) is constructed in accordance with applicable state or local firewall requirements and a 25-foot fire lane, unless otherwise set by the local fire authority or a Georgia State Certified Fire Inspector, is maintained between the firewall and the building.

II. The whole tires, processed tires, products, and residuals shall not exceed the height of the firewall.

7. Scrap tire processors shall meet the following operational requirements:

(i) Access to the processing facility and fire lane(s) for emergency vehicles shall be unobstructed at all times, with the exception of routine loading or unloading operations, provided the vehicles are attended by their drivers during that time.

(ii) In the event of fire, the owner or operator shall immediately take all necessary steps to control and extinguish the fire and control any resulting runoff (i.e., water, oil or other fluid residue).

(iii) The run-off resulting from fires or fire suppression actions shall be prevented by berms or other detention structures approved by the Division from entering drains and waters of the state. Material(s) used in berm construction must be non-combustible, non-flammable and prevent run-off.

(iv) The facility owner or operator shall provide documentation that the local fire authority or a Georgia State Certified Fire Inspector conducted a fire safety survey. The facility owner or operator shall arrange for an additional fire safety survey as part of any modification request that would increase the amount of scrap tires in storage.

(v) Operations involving the use of open flames shall not be conducted within 25 feet of a scrap tire stockpile, processed tire stockpile or processing equipment. An exception is allowed for maintenance activity using torches or welding equipment, as long as fireproof curtains or other fireproof barrier shields the ignition source from storage or equipment areas.

(vi) Access to the facility shall be controlled using fences, gates or other means of security.

(vii) An attendant shall be present when the scrap tire processing facility is open for business if the facility receives tires from persons other than the operator of the facility.

(viii) Any residuals from scrap tire processing shall be managed so as to be contained on-site and shall be controlled and disposed of in a permitted solid waste handling facility or be properly recycled.

(ix) A scrap tire processing facility shall not accept any scrap tires for processing if it has reached its approved or permitted staging limit. At least 75 percent of both the scrap and processed tires that are accumulated by the scrap tire processing facility each calendar quarter, and 75 percent by weight or volume of all scrap tires previously received and not recycled, reused or properly disposed during the preceding calendar quarter shall be processed and removed from the facility for disposal or recycling from the facility during the quarter or disposed of in a solid waste handling facility approved to accept scrap tires.

(x) Communication equipment shall be maintained at the scrap tire processing facility to ensure that the facility attendant or operator can contact local emergency response authorities in the event of a fire. The facility will notify the Division within 24 hours in the event of a fire requiring a response by the local fire jurisdiction.

(xi) The emergency/contingency portion of the operations plan shall include, but not be limited to:

(I) A list of names and numbers of persons to be contacted in the event of a fire, flood or other emergency.

(II) A list of the emergency response equipment at the facility, its location and how it should be used in the event of a fire or other emergency.

(III) A description of the procedures that should be followed in the event of a fire, including procedures to contain and dispose of the oily material generated by the combustion of large numbers of tires.

(xii) Facility shall have storm water control measures.

(xiii) Facility shall have erosion and sediment control measures.

8. Scrap tire processors recordkeeping and reporting requirements.

(i) The owner or operator of a scrap tire processing facility shall retain required records for three years and make such records available for inspection by the Division. Required records include, but are not limited to:

(I) Copies of the tire manifests for all tires received.

(II) If more than ten scrap tires were delivered by a person who is not a permitted tire carrier or generator, the number or weight of tires delivered, the date and the person's name, address, telephone number and signature.

(III) Properly dated, numbered and signed weight tickets, from certified scales at the facility or from a certified public or private scale, for scrap tires or processed tire materials received at or leaving the facility.

(IV) For all scrap tires shipped for reuse or retreading, the quantity and type (passenger car, truck tires, off the road, or others) shipped and the name and location of the person receiving the tires.

(V) For all processed tires and residuals, invoices and shipping tickets identifying the date, weight, name, address and phone number of the point of final disposition.

(ii) Owners and operators of scrap tire processing facilities shall submit a quarterly report to the Division. The quarterly report shall be submitted by the 30th day of April, July, October and January. The report shall include, but not limited to, the following:

(I) The facility name, address and permit number.

(II) The calendar quarter and year covered by the report.

(III) The total weight of scrap or processed tires received at the facility during the period covered by the report.

(IV) The total weight of scrap tires, processed tires, residuals and used tires shipped from the facility during the period covered by the report.

(V) The amount of scrap, processed tires or residuals remaining on site.

9. Scrap tire processors shall meet the following requirements for the closure of scrap tire processing facilities.

(i) The owner or operator shall provide procedures in the operations plan for closing the facility, including, but not limited to:

(I) Notification to the Division of intent to close 30 days prior to the scheduled date for closing.

(II) Closure activities and schedule for completion.

(III) Control of access to the site.

(IV) Notification to the Division when all closure activities are completed.

(b) Sorters.

1. Sorters in existence on the effective date of this Rule may continue to operate under their existing approval. New or existing facilities requesting modifications after the effective date of this Rule must be permitted by the Division.

2. All sorters shall have and follow an operations plan approved by the Division. The facility owner(s) or authorized representatives shall submit a written request to modify an approved operations plan. Any proposed modification to the facility and/or operations shall not be implemented until approved by the Division.

3. The operations plan shall include, zoning approval, proof of fire inspection, operational narrative, and site plan and drawing of the operation.

4. In addition to the scrap tire storage requirements in section (6) of these Rules, the following requirements apply:

(i) Storage limits are based on the permit.

(ii) Any sorter with tires stored in enclosed trailers shall be subject to the following requirements:

(I) Trailer storage areas must be clearly depicted on a site plan.

(II) Storage area shall be no greater than 10,000 square feet per storage area.

(III) A minimum of two feet must be maintained between trailers (side-to-side and end-to-end). All trailers in the storage area must be stored in a manner that allows an unobstructed path for direct removal of the trailer at all times. Empty trailers stored in the area designated for scrap tire storage are subject to the same separation requirements.

(IV) A 50-foot wide fire lane shall be placed around the perimeter of each scrap tire storage area. The fire lane shall be kept free of debris, vehicles, trailers, weeds, grass and other potentially combustible material.

(iii) Sorters must meet the following requirements for tires stored on the ground:

(I) A tire stockpile shall have no greater than the following maximum dimensions:

I. Area: 10,000 square feet.

II. Height: 15 feet.

(II) A 50-foot wide fire lane shall be placed around the perimeter of each pile with the exception of noncombustible materials (rims, wires, etc.). The fire lane shall be kept free of debris, vehicles, trailers, weeds, grass and other potentially combustible material.

(III) Storage of whole tires near buildings is prohibited unless:

I. A non-combustible/non-flammable barrier (firewall) is constructed in accordance with applicable state or local firewall requirements and a 25-foot fire lane, unless otherwise set by the local fire authority or a Georgia State Certified Fire Inspector, is maintained between the firewall and the building.

II. The whole tires shall not exceed the height of the firewall.

5. Sorters shall meet the following operational requirements:

(i) Access to the sorter facility and fire lane(s) for emergency vehicles shall be unobstructed at all times, with the exception of routine loading or unloading operations, provided the vehicles are attended by their drivers during that time.

(ii) In the event of fire, the owner or operator shall immediately take all necessary steps to control and extinguish the fire and control any resulting runoff (i.e., water, oil or other fluid residue).

(iii) The run-off resulting from fires or fire suppression actions shall be prevented by berms or other detention structures approved by the Division from entering drains and waters of the state. Material(s) used in berm construction must be non-combustible, non-flammable and prevent run-off.

(iv) The facility owner or operator shall provide documentation that the local fire authority or a Georgia State Certified Fire Inspector conducted a fire safety survey. The facility owner or operator shall arrange for an additional fire safety survey as part of any modification request that would increase the amount of scrap tires in storage.

(v) Operations involving the use of open flames shall not be conducted within 25 feet of a scrap tire stockpile. An exception is allowed for maintenance activity using torches or welding equipment, as long as fireproof curtains or other fireproof barrier shields the ignition source from storage or equipment areas.

(vi) Access to the sorter facility shall be controlled using fences, gates or other means of security.

(vii) An attendant shall be present when the scrap tire sorter is open for business if the sorter facility receives tires from persons other than the operator of the facility.

(viii) A scrap tire sorter facility shall not accept any scrap tires if it has reached its approved or permitted storage limit. At least 75 percent of both the scrap tires that are accumulated by the scrap tire sorter facility each calendar quarter, and 75 percent by weight or volume of all scrap tires previously received and not reused or properly disposed during the preceding calendar quarter shall be removed from the facility for disposal or recycling from the facility during the quarter or disposed of in a solid waste handling facility approved to accept scrap tires.

(ix) Communication equipment shall be maintained at the scrap tire sorter facility to ensure that the facility attendant or operator can contact local emergency response authorities in the event of a fire. The facility will notify the Division within 24 hours in the event of a fire requiring a response by the local fire jurisdiction.

(x) The emergency/contingency portion of the operations plan shall include, but not be limited to:

(I) A list of names and numbers of persons to be contacted in the event of a fire, flood or other emergency.

(II) A list of the emergency response equipment at the facility, its location and how it should be used in the event of a fire or other emergency.

(III) A description of the procedures that should be followed in the event of a fire, including procedures to contain and dispose of the oily material generated by the combustion of large numbers of tires.

(xi) Facility shall have storm water control measures.

(xii) Facility shall have erosion and sediment control measures.

6. Sorters must meet the following recordkeeping and reporting requirements.

(i) The owner or operator of a scrap tire sorter facility shall retain required records for three years and make such records available for inspection by the Division. Required records include, but are not limited to:

(I) Copies of the tire manifests for all tires received.

(II) If more than ten scrap tires were delivered by a person who is not a permitted tire carrier or generator, the number or weight of tires delivered, the date and the person's name, address, telephone number and signature.

(III) For all scrap tires shipped for reuse or retreading, the quantity and type (passenger car, truck tires, off the road, or others) shipped and the name and location of the person receiving the tires.

(IV) For all sorter scrap tires, invoices and shipping tickets identifying the date, weight, name, address and phone number of the point of final disposition.

(ii) Owners and operators of scrap tire sorter facilities shall submit a quarterly report to the Division. The quarterly report shall be submitted on the 30th day of April, July, October and January. The report shall include, but not be limited to, the following:

(I) The facility name, address and permit number.

(II) The calendar quarter and year covered by the report.

(III) The number or tons of scrap tires received at the facility during the period covered by the report.

(IV) The number or tons of scrap tires shipped from the facility during the period covered by the report.

(V) The number or tons of scrap tires remaining on site.

(iii) Municipalities operating sorter facilities for the purpose of collection are exempt from the reporting and recordkeeping requirements contained in 391-3-4-.19(7)(b)6(ii).

7. Sorters must meet the following requirements for the closure of scrap tire sorter facilities.

(i) The owner or operator shall provide procedures in the operations plan for closing the facility, including, but not limited to:

(I) Notification to the Division of intent to close 30 days prior to the scheduled date for closing.

(II) Closure activities and schedule for completion.

(III) Control of access to the site.

(IV) Notification to the Division when all closure activities are completed.

(c) Disposal Operations: All solid waste disposal facilities (landfills and thermal treatment technology facilities) having a valid Solid Waste Handling Permit issued by the Director are approved to receive scrap tires except as provided in O.C.G.A. 12-8-40.1(b).

(8) Recycling and Beneficial Reuse of Scrap Tires.

(a) For the purposes of this Rule, the following criteria will be used to determine if scrap tires are being recycled:

1. The scrap tires or processed scrap tires must have a known use, reuse or recycling potential; must be feasibly used, reused or recycled; and must have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing.

2. Scrap tires or processed scrap tires are not accumulated speculatively if the person accumulating them can show there is a known use, reuse, or recycling potential for them; that they can be feasibly sold, used, reused or recycled; and during the preceding 90 days, the amount of scrap or processed scrap tires recycled, sold, used or reused equals at least 75 percent by weight or volume of the tires received during the 90-day period.

3. Proof of recycling, sale, use, or reuse shall be provided in the form of bills of sale, or other records showing adequate proof of movement of the scrap tires in question to a recognized recycling facility or for proper use or reuse from the accumulation point. Proof must be provided that there is a known market or disposition for the scrap tires or processed scrap tires and must show that they have the necessary equipment to do so, prior to receiving scrap tires for processing.

4. A scrap tire is "sold" if the generator of the scrap tire or the person who processed the scrap tire received consideration or compensation for the material because of its inherent value.

5. A scrap tire is "used, reused, or recycled" if it is either:

(i) Employed as an ingredient (including use as an intermediate) in a process to make a product (e.g., utilizing crumb rubber to make rubber-asphalt); or

(ii) Employed in a particular function or application as an effective substitute for a commercial product (e.g., using shredded tires as a substitute for fuel oil, natural gas, coal, or wood in a boiler or industrial furnace), as long as such substitution does not pose a threat to human health or the environment, and so long as the facility is not a solid waste thermal treatment technology facility or utilizing shredded tires as a soil amendment, aggregate, etc., or

(iii) Reused for its original intended purpose as a used tire, or reused for other purposes approved by the Division, such as playground equipment, erosion control, etc.

(b) Persons proposing to use more than 25 scrap tires in a beneficial reuse project shall submit a proposal and be approved by the Division prior to commencing beneficial reuse project.

(9) Used Tire Dealers.

(a) Any person who acts as a used tire dealer in this state shall have a used tire dealer identification (ID) number issued by the Division, which shall be used on tire manifests. A separate ID number shall be required for each business location, except mobile locations.

(b) Used tire dealers shall obtain a tire carrier permit for transportation of used tires other than their own.

(c) Used tire dealers transporting tires other than their own shall initiate a tire manifest to track used tires from the point of generation to another location. The following information shall be provided on the tire manifest:

1. Name, address, county, telephone number and used tire dealer ID number;

2. The number of used tires to be transported;

3. Signature of the generator and the date the used tires were picked up;

4. Name, address, telephone number and permit number of the tire carrier;

5. Signature of the tire carrier, the date of pickup from the generator and the date of delivery to final location;

6. Name, address, telephone number and permit number of business location receiving the used tires;

7. Signature of authorized representative at the business received from the tire carrier.

(d) Used tire dealers shall keep an inventory of all used tires to be updated quarterly. Such inventory shall contain, at a minimum, number of tires at the business location categorized by rim size.

(e) Used tire dealers shall implement suitable measures to control vectors.

Cite as Ga. Comp. R. & Regs. R. 391-3-4-.19

AUTHORITY: O.C.G.A. § 12-8-20 ***et seq*.**

HISTORY: Original Rule entitled "Enforcement" was F. Jun. 9, 1989; eff. Jun. 29, 1989.

Amended: F. Sept. 4, 1991; eff. Sept. 24, 1991.

Repealed: New Rule entitled "Scrap Tire Management" adopted. F. Dec. 17, 1992; eff. Jan. 6, 1993.

Amended: F. Jun. 7, 1993; eff. Jun. 27, 1993.

Amended: New title "Scrap and Used Tire Management." F. Oct. 8, 2015; eff. Oct. 28, 2015.

Amended: F. Mar. 8, 2018; eff. Mar. 28, 2018.

Amended: F. June 10, 2021; eff. June 30, 2021.

Amended: F. Jan. 3, 2024; eff. Jan. 23, 2024.

Department 391. RULES OF GEORGIA DEPARTMENT OF NATURAL RESOURCES

Chapter 391-3. ENVIRONMENTAL PROTECTION

Subject 391-3-11. HAZARDOUS WASTE MANAGEMENT

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 October 1, 2021, 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, 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-FF	391-3-11-.10(2)
40 C.F.R. Part 265 Subparts A-G, I-R, W, and AA-FF	391-3-11-.10(1)
40 C.F.R. Part 266	391-3-11-.19
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.

Cite as Ga. Comp. R. & Regs. R. 391-3-11-.01

AUTHORITY: O.C.G.A § 12-8-60*, et seq*.

HISTORY: Original Rule entitled "General Provisions" adopted. F. Aug. 28, 1980; eff. Sept. 17, 1980.

Amended: F. July 16, 1981; eff. August 5, 1981.

Amended: F. Dec. 9, 1982; eff. Dec. 29, 1982.

Amended: F. Sept. 6, 1985; eff. Sept. 26, 1985.

Amended: F. Sept. 5, 1986; eff. Sept. 25, 1986.

Amended: F. Oct. 7, 1987; eff. Oct. 27, 1987.

Amended: F. June 8, 1988; eff. June 28, 1988.

Amended: F. Oct. 31, 1989; eff. Nov. 20, 1989.

Amended: F. Nov. 2, 1990; eff. Nov. 22, 1990.

Amended: F. Dec. 9, 1991; eff. Dec. 29, 1991.

Amended: F. Oct. 29, 1992; eff. Nov. 18, 1992.

Amended: F. Jan. 27, 1994; eff. Feb. 16, 1994.

Amended: F. Dec. 6, 1994; eff. Dec. 26, 1994.

Amended: F. Dec. 8, 1995; eff. Dec. 28, 1995.

Amended: F. Dec. 10, 1996; eff. Dec. 30, 1996.

Amended: F. Dec. 4, 1997; eff. Dec. 24, 1997.

Amended: F. Dec. 3, 1998; eff. Dec. 23, 1998.

Amended: F. Oct. 29, 1999; eff. Nov. 18, 1999.

Amended: F. Oct. 27, 2000; eff. Nov. 16, 2000.

Amended: F. Feb. 5, 2002; eff. Feb. 25, 2002.

Amended: F. Dec. 10, 2002; eff. Dec. 30, 2002.

Amended: F. Feb. 2, 2004; eff. Feb. 22, 2004.

Amended: F. Dec. 20, 2004; eff. Jan. 9, 2005.

Amended: F. Feb. 21, 2006; eff. Mar. 13, 2006.

Amended: F. June 3, 2008; eff. June 23, 2008.

Amended: F. Jul. 18, 2012; eff. Aug. 7, 2012.

Amended: F. May 18, 2015; eff. June 7, 2015.

Amended: F. June 2, 2016; eff. June 22, 2016

Amended: F. Sept. 8, 2017; eff. Sept. 28, 2017.

Amended: F. Dec. 16, 2019; eff. Jan. 5, 2020

Amended: F. Sept. 15, 2020; eff. Oct. 5, 2020

Amended: F. Oct. 3, 2023; eff. Oct. 23, 2023.

Note: Correction of non-substantive typographical errors in subparagraph (2)(d), *"40 C.F.R. Part 264 Subparts A-G, I-O, S, W, X, and AA-EE"* corrected to *"40 C.F.R. Part 264 Subparts A-G, I-O, S, W, X, and AA-FF"*, *"40 C.F.R. Part 265 Subparts A-G, I-R, W, and AA-EE"* corrected to *"40 C.F.R. Part 265 Subparts A-G, I-R, W, and AA-FF" (i.e., "AA-EE" to "AA-FF")*, as requested by the Agency. Effective January 16, 2024.

Department 510. RULES OF STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

Chapter 510-5. SUPPLEMENTAL CODE OF CONDUCT

510-5-.02 Definitions

(1) Patient or Client. The term clients/patients may be defined through the following roles:

(a) a recipient of psychological services,

(b) a corporate entity or other organization when the professional contract is to provide services of benefit primarily to the organization rather than to individuals unless the contract specifies otherwise,

(c) individuals including minors and legally incompetent adults who have legal guardians. The legal guardian shall be the client for decision-making purposes, except that the individual receiving services shall be the patient or client for:

1. Issues directly affecting the physical or emotional safety of the individual, such as sexual or other exploitative dual relationships; and

2. Issues specifically reserved to the individual and agreed to by the guardian prior to rendering of services, such as confidential communication in a therapy relationship.

(2) Student. Students are individuals matriculating in a predoctoral training program or internship.

(3) Confidential Information. Confidential information refers to information for which a psychologist or other health professional is ethically obligated not to disclose without client permission. This standard is protected by state statute except when compelled to disclose as a result of a court order.

(a) When a corporation or other organization is the client, rules of confidentiality apply to information pertaining to the organization, including personal information about individuals when such information is obtained in the proper course of that contract. Such information about individuals is subject to confidential control of the organization, not of the individual, and can be made available to the organization, unless there is an understanding between the psychologist and such individual that such information was obtained in a separate professional relationship with that individual and is, therefore, subject to confidentiality requirements in itself.

(4) Court Order. A court order is an action taken by a judge that compels disclosure unless appealed, in contrast to a subpoena which compels only a response and may be issued by an attorney.

(5) Professional Relationship. A professional relationship is a mutually agreed upon relationship between a psychologist and patients, clients, students, supervisees, employees, contractors, or other mental health providers.

(6) Psychological Services. All actions of psychologists in the context of a professional relationship with client/patients, students, supervisees, or employees.

(7) Supervisee. Supervisees are individuals who are not authorized or licensed to practice psychology independently and who function under the extended authority of the psychologist, the internship/SWE supervisor or secondary supervisor in the provision of psychological services. Supervisees are individuals who are either:

(a) employees of the supervisor,

(b) employed by the supervisor's employer, or

(c) in training.

(8) Supervisor. Supervisors are psychologists who have responsibility for the professional activities of individuals who are supervisees.

(9) Telepsychology. The provision of psychological services using telecommunication technologies. Telecommunication technologies include but are not limited to telephone, mobile devices, interactive videoconferencing, e-mail, chat, text, and Internet (e.g., self-help websites, blogs, and social media).

(10) Employee. An employee is an individual subject to the supervision of their employer, who generally retains the right to direct the time, manner, and method by which the employee performs their assigned duties. If the employee is unlicensed and providing mental health services at the direction of a psychologist, the control that an employer maintains over the time, manner, and method by which the employee provides those services is consistent with the requirements of a supervisory relationship, in which a supervising/employing psychologist is responsible for the professional activities of supervisees. An employee generally receives a year end IRS W-2 tax form.

(11) Independent Contractor. An independent contractor is an individual free from the direct supervision of the person or entity contracting for services to be provided, including the time, manner, and method by which the independent contractor provides those services. An individual providing mental health services as an independent contractor practices under the authority of their own license. The independence of a contractor to control the time, manner, and method by which the mental health services are provided is not consistent with a supervisory relationship, in which a supervising/employing psychologist is responsible for the professional activities of supervisees. An independent contractor generally receives a year end IRS 1099 tax form.

Cite as Ga. Comp. R. & Regs. R. 510-5-.02

AUTHORITY: O.C.G.A. §§ 43-1-19**,** 43-1-25**,** 43-39-5**,** 43-39-6**,** 43-39-13**.**

HISTORY: Original Rule entitled "Recording of Licenses" adopted. F. Jan. 3, 1973; eff. Jan. 23, 1973.

Repealed: New Rule entitled "Inactive Status" adopted. F. Dec. 14, 1988; eff. Jan. 3, 1989.

Repealed: New Rule entitled "Reinstatement" adopted. F. May 5, 1989; eff. May 25, 1989.

Repealed: New Rule of same title, adopted. F. Jan. 7, 1992; eff. Jan. 27, 1992.

Repealed: New Rule entitled "Definitions" adopted. F. July 27, 1994; eff. August 16, 1994.

Repealed: New Rule of same title adopted. F. Mar. 18, 2004; eff. Apr. 7, 2004.

Amended: F. Oct. 13, 2017; eff. Nov. 2, 2017.

Amended: F. Jan. 12, 2024; eff. Feb. 1, 2024.

510-5-.06 Welfare of Clients and Other Professional Relationships

(1) **Consultations and Referrals.**

(a) Psychologists arrange for appropriate consultations and referrals based principally on the best interests of their client/patients, with appropriate consent, and subject to other relevant considerations, including applicable law and contractual obligations.

(b) Psychologists' referral practices are consistent with law.

(2) **Continuity of Care.**

(a) Psychologists shall make arrangements for another appropriate professional or professionals to deal with the emergency needs of his/her patients or clients, as appropriate, during periods of foreseeable absence from professional availability, unless section 10.10 of the Code of Ethics is applicable.

(b) Psychologists make reasonable efforts to plan for continuity of care in the event that psychological services are interrupted by factors such as the psychologist's illness, death, unavailability or by the client/patient's relocation or financial limitations.

(c) Confidentiality After Termination of Professional Relationship. Psychologists shall continue to treat as confidential, information regarding client/patients after the professional relationship between the psychologist and the client/patient has ceased.

(3) **Delegation to and Supervision of Supervisees of Psychological Services in Employment Settings.**

(a) The following rules do not apply to training settings. When the delegation and supervision of psychological services is being conducted for training purposes towards licensure, psychologists must comply with the Rules regarding internships, fellowships and/or postdoctoral supervised work experience.

1. Psychologists shall not delegate professional responsibilities to a person who is not qualified to provide such services. Psychologists delegate to supervisees, with the appropriate level of supervision, only those responsibilities that such persons can reasonably be expected to perform competently and ethically based on the supervisee's education, training, and experience.

2. Psychologists shall not delegate responsibilities or accept supervisory responsibilities for work which they are not qualified and personally competent to perform. Psychologists must retain full, complete, and ultimate authority and responsibility for the professional acts of supervisees.

3. The supervisee must have appropriate education and training, including training in ethical issues, to perform the delegated functions. The psychologist is responsible for determining the competency of the supervisee and will not assign or allow the supervisee to undertake tasks beyond the scope of the supervisee's training and/or competency. The psychologist is also responsible for providing the supervisee with specific instructions regarding the limits of his/her role as supervisee.

4. The supervisee must fully inform the patient or client receiving services of his or her role as supervisee and the right of the patient or client to confer with the supervising psychologist with regard to any aspect of the services, care, treatment, evaluation, or tests being performed.

5. When clinical psychological services are rendered, the psychologist must take part in the intake process, must personally make the diagnosis when a diagnosis is required, and must personally approve and co-sign a treatment plan for each patient or client. The psychologist must meet personally with the supervisee on a continuous and regular basis concerning each patient or client and must review the treatment record, including progress notes, on a regular basis as appropriate to the task(s). The psychologist must provide a minimum of one hour of supervision for every 20 hours of face-to-face clinical contact. The psychologist shall not take primary supervisory responsibility for more than three supervisees engaged in psychological services concurrently without Board approval.

6. The selection and interpretation of psychological tests shall only be made by the psychologist. The psychologist must personally interview the patient when a diagnosis is made or is requested. In any written report, including psychological evaluations, the psychologist must approve and sign the report. When the supervisee does not participate in the actual writing of a report, but does administer and/or score psychological tests, the supervisee is not required to sign the report, but his or her name must be listed as the person who participated in the collection of the data in the report. When the supervisee personally participates in the writing of any report, then both the psychologist and the supervisee must sign the report.

Cite as Ga. Comp. R. & Regs. R. 510-5-.06

AUTHORITY: O.C.G.A. §§ 43-1-25**,** 43-39-5(d)**,** 43-39-13.

HISTORY: Original Rule entitled "Welfare of Clients and Other Professional Relationships" adopted. F. July 27, 1994; eff. August 16, 1994.

Repealed: New Rule of same title adopted. F. Mar. 18, 2004; eff. Apr. 7, 2004.

Amended: F. Jan. 12, 2024; eff. Feb. 1, 2024.

Department 510. RULES OF STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS

Chapter 510-10. UNLICENSED PRACTICE

510-10-.01 Individuals

An individual who does not hold a current license issued by the Georgia State Board of Examiners of Psychologists, and does not fall within one of the exemptions set forth in O.C.G.A. Section 43-39-7:

(a) May not render or order to render to individuals, groups, organizations, or the public for a fee or any remuneration, monetary or otherwise, any service involving the application of recognized principles, methods, and procedures of the science and profession of psychology, such as, but not limited to, diagnosing and treating mental and nervous disorders and illnesses, rendering opinions concerning diagnoses of mental disorders, including organic brain disorders and brain damage, engaging in neuropsychology, engaging in psychotherapy, interviewing, administering, and interpreting tests of mental abilities, aptitudes, interests, and personality characteristics for such purposes as psychological classification or evaluation, or for education or vocational placement, or for such purposes as psychological counseling, guidance, or readjustment.

(b) May not offer direct psychological services or supervise psychological services, including for training purposes, regardless of fee or remuneration, monetary or otherwise.

(c) May not advertise that he or she is licensed by the Board.

(d) May not use any words, letters, titles, or figures indicating or implying that he or she is licensed by the Board.

(e) May not use any words, letters, titles, or figures indicating or otherwise implying that he or she is a psychologist or is in any way practicing psychology.

(f) May not perform psychological services at the direction of a licensed psychologist as an independent contractor.

Cite as Ga. Comp. R. & Regs. R. 510-10-.01

AUTHORITY: O.C.G.A. §§ 43-1-19**,** 43-1-20.1**,** 43-1-24**,** 43-1-25**,** 43-39-5**,** 43-39-6**,** 43-39-7**,** 43-39-13**,** 43-39-17.

HISTORY: Original Rule entitled "Individuals" adopted. F. Dec. 6, 1994; eff. Dec. 26, 1994.

Repealed: New Rule of same title adopted. F. Oct. 29, 2003; eff. Nov. 18, 2003.

Amended: F. Jun. 4, 2014; eff. Jun. 24, 2014.

Amended: F. Jan. 12, 2024; eff. Feb. 1, 2024.

Department 560. RULES OF DEPARTMENT OF REVENUE

Chapter 560-2. ALCOHOL AND TOBACCO DIVISION

Subject 560-2-2. GENERAL PROVISIONS

560-2-2-.01 Definitions

(1) As used in these Regulations:

(a) "Act" means the Georgia Alcoholic Beverage Code as amended.

(b) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of Wine, from whatever source or by whatever process produced.

(c) "Alcoholic Beverage" means and includes all Alcohol, Distilled Spirits, Malt Beverage, Wine, or Fortified Wine intended for human consumption.

(d) "Alcohol Type" means the various Alcohol products within the categories of Alcoholic Beverages such as bourbon, gin and vodka for Distilled Spirits, chardonnay and pinot noir for Wine and lager and ale for Malt Beverages.

(e) "Brand" means any word, name, group of letters, symbols or combination thereof that is used to identify a specific Distilled Spirit, Malt Beverage, Wine, or other Alcoholic Beverage product and which is used to distinguish that product from other Alcoholic Beverage products.

(f) "Brand Label" means any distinctive labeling characteristics of an Alcoholic Beverage product associated with a Brand including, without limitation, trade name, trademark, trade dress, colors, packaging, Alcohol Type designation, or design. A Brand may have more than one Brand Label associated with such Brand. A difference in packaging container size alone is not considered a new or different Brand or Brand Label.

(g) "Broker" means any person who purchases or obtains an Alcoholic Beverage from an Importer, distillery, brewery, or winery and sells the Alcoholic Beverage to another Broker, Importer, or Wholesaler without having custody of the Alcoholic Beverage or maintaining a stock of the Alcoholic Beverage.

(h) "Carrier" means any person whose business is to transport goods or people while acting in the capacity as common, private, or contract transporter of a product using its facilities or those of other carriers.

(i) "Commissioner" means the state revenue commissioner, or the Commissioner's designated agent or representative.

(j) "Consular Officer" means a career consular officer who is a national of the sending country assigned to a consular post in Georgia for the exercise of consular functions, and whose sending country is a contracting party to the multilateral consular convention referred to in Rule 560-2-15-.06 or another treaty with the United States of similar import.

(k) "Consular Post" means any consulate-general, consulate, vice-consulate or consular agency.

(l) "County or Municipality" means a political subdivision of this state as defined by law and includes any form of political subdivision consolidating a county with one or more municipalities.

(m) "Department" means the Georgia Department of Revenue.

(n) "Denatured Alcohol" means a type of Alcohol to which denaturants have been added in order to render the Alcohol unfit for beverage purposes or internal human medicinal use.

(o) "Denaturants" means materials authorized for use pursuant to Chapter 1 of Title 27 of the Code of Federal Regulations.

(p) "Distilled Spirits" means any Alcoholic Beverage obtained by distillation or containing more than twenty-four percent (24%) Alcohol by volume.

1. Any beverage containing Distilled Spirits shall be classified as a Distilled Spirit, independent of any added flavorings or liquids, including other Alcoholic Beverages, even if the total Alcohol by volume is less than twenty-four percent (24%).

2. A Wine or Fortified Wine is not a Distilled Spirit.

(q) "Family or Immediate Family" means any person related to a Manufacturer, Shipper, Importer, or Broker within the first degree of consanguinity and affinity as computed according to the canon law.

(r) "Flavored Malt Beverage" means any Malt Beverage containing flavors and other non-beverage ingredients containing Alcohol. Except as provided by paragraph (r)1. below, no more than 49% of the overall Alcohol content may be derived from the addition of flavors and other non-beverage ingredients containing Alcohol.

1. In the case of Malt Beverages with an Alcohol content of more than six percent (6%) and not exceeding fourteen percent (14%) by volume, no more than one and a half percent (1.5%) of the volume of the Malt Beverage may consist of Alcohol derived from added flavors and other non-beverage ingredients containing Alcohol.

2. A Flavored Malt Beverage shall be deemed a Malt Beverage for purposes of these Regulations.

(s) "Fortified Wine" means any Alcoholic Beverage containing not more than twenty-four percent (24%) Alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, brandy. Other than brandy, only distilled spirits made from fruits, berries or grapes can be added to Wine without causing such Alcoholic Beverage to be reclassified as a Distilled Spirit.

(t) "Fraternal Organization" means any society, order, or supreme lodge, whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on the lodge system with a ritualistic form of work, and having a representative form of government.

(u) "Gallon" or "Wine Gallon" means a United States gallon of liquid measure equivalent to the volume of 231 cubic inches or the nearest equivalent metric measurement.

(v) "Georgia Tax Center" is the Department's electronic filing and payment system, which includes registration, collection, and licensing for Alcohol. This term shall include any successor electronic filing and payment system implemented by the Department.

(w) "Hard Cider" means an Alcoholic Beverage obtained by the fermentation of the juice of apples, containing not more than six percent (6%) of Alcohol by volume, including, but not limited to flavored or carbonated cider. For purposes of this regulation, hard cider shall be deemed a Malt Beverage for tax purposes. This term does not include "sweet cider."

(x) "Head of a Consular Post" means the Consular Officer charged with the duty of acting in the capacity of head of the Consular Post to which he or she is assigned.

(y) "Hotel" means any hotel, inn, or other establishment which offers overnight accommodations to the public for hire.

(z) "Importer" means any person who imports an Alcoholic Beverage into this state from a foreign country and sells the Alcoholic Beverage to another Importer, Broker, or Wholesaler and who maintains a stock of the Alcoholic Beverage.

(aa) "Individual" means a natural person.

(bb) "Licensee" means any person who is granted a license or permit by the Department concerning the manufacturing, brokering, importing, wholesaling, or shipping of Alcoholic Beverages, or who is licensed as a Retailer or Retail Consumption Dealer.

(cc) "Malt Beverage" means any Alcoholic Beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water containing not more than fourteen percent (14%) Alcohol by volume and including, but not limited to, the Alcohol Types of ale, porter, brown, stout, lager beer, small beer, and strong beer. This term does not include sake, also known as Japanese rice wine.

(dd) "Manufacturer" means any maker, producer, or bottler of an Alcoholic Beverage and:

1. In the case of Distilled Spirits, any person engaged in distilling, rectifying, or blending any Distilled Spirits;

2. In the case of Malt Beverages, any brewer; and

3. In the case of Wine, any vintner.

(ee) "Mead Wine" or "Honey Mead" means a fermented Alcoholic Beverage made from honey that may not contain an Alcoholic content of more than fourteen percent (14%) by volume or total solids content that exceeds thirty-five (35) degrees Brix.

(ff) "Military Beer" means Malt Beverages which have been purchased pursuant to these regulations which are exempt from Georgia excise taxes and which have been properly identified pursuant to Rules 560-2-15-.03 and 560-2-15-.04.

(gg) "Military Liquors" means Distilled Spirits purchased pursuant to these regulations which are exempt from Georgia excise taxes and which have been properly identified pursuant to Rules 560-2-15-.03 and 560-2-15-.04.

(hh) "Military Reservation" means a duly commissioned post, camp, base, or station of a branch of the armed forces of the United States located on territory within this state which has been ceded to the United States.

(ii) "Military Wine" means Wine purchased pursuant to these regulations which is exempt from Georgia excise taxes and which have been properly identified pursuant to Rules 560-2-15-.03 and 560-2-15-.04.

(jj) "Package" means a bottle, can, keg, barrel, or other original consumer container.

(kk) "Person" means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi-public.

(ll) "Place of Business" means the Premises of a licensed Manufacturer, Broker, Importer, Wholesaler, Retailer or Retail Consumption Dealer described in such license where Alcohol, or Alcoholic Beverages are manufactured, sold, or offered for sale.

(mm) "Premises" means one physically identifiable Place of Business operated by the same ownership and overall management with only one address registered as a single Place of Business with the local licensing authority and the State of Georgia.

(nn) "Regulations" means the regulations that are promulgated by the Commissioner pursuant to the Act.

(oo) "Representative" means a person, employee, agent, independent contractor, or salesperson with or without compensation from a Licensee, who, acting on behalf of or at the direction of the Licensee, represents the Licensee to a third-party.

(pp) "Retail Consumption Dealer" means any person who sells Distilled Spirits for consumption on the premises at retail only to consumers and not for resale.

(qq) "Retailer" means, except as to Distilled Spirits, any person who sells Alcoholic Beverages, either in unbroken packages or for consumption on the premises, at retail only to consumers and not for resale. With respect to Distilled Spirits, the term means any person who sells Distilled Spirits in unbroken packages at retail only to consumers and not for resale.

(rr) "Routine Hub Transfer" means a simultaneous transfer of Alcoholic Beverage products from one Wholesaler delivery truck (the hub truck) to another Wholesaler delivery truck(s) (the spoke truck(s)).

(ss) "Shipper" means any person who ships an Alcoholic Beverage into Georgia from outside of Georgia.

(tt) "Social Media" means websites and other web-based technology that enable users to create, share, or exchange information, ideas, messages, and other content.

(uu) "Standard Case" means six (6) containers of 1.75 liters, twelve (12) containers of 750 milliliters, twelve (12) containers of one liter, twenty-four (24) containers of 500 milliliters, twenty-four (24) containers of 375 milliliters, forty-eight (48) containers of 200 milliliters, sixty (60) containers of 100 milliliters, or one hundred twenty (120) containers of 50 milliliters.

(vv) "State" means the State of Georgia.

(ww) "Taxpayer" means any person made liable by law to file a return or to pay tax.

(xx) "Warehouse" means any premises of a Wholesaler, Manufacturer, Importer, or Shipper other than its registered Place of Business, used for the storage of Alcoholic Beverages in accordance with the express written approval of the Commissioner.

(yy) "Wholesaler" means any person who sells or distributes Alcoholic Beverages to other licensed Wholesalers, Importers, Retailers, or to Retail Consumption Dealers.

(zz) "Wine" means any Alcoholic Beverage containing not more than 24 percent (24%) Alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. Other than brandy, only distilled spirits made from fruits, berries or grapes can be added to Wine without causing such Alcoholic Beverage to be reclassified as a Distilled Spirit.

1. This term includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, other like products and Sake, which is an Alcoholic Beverage produced from rice.

2. This term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage.

3. A liquid shall first be deemed to be a "Wine" at that point in the manufacturing process when it conforms to the definition of "Wine".

Cite as Ga. Comp. R. & Regs. R. 560-2-2-.01

AUTHORITY: O.C.G.A. §§ 3-2-2**,** 3-2-3**,** 3-2-7.1**,** 48-2-12**.**

HISTORY: Original Rule entitled "Notification of Intention to Engage as a Producer" adopted. F. and eff. June 30, 1965.

Repealed: New Rule of same title adopted. F. Nov. 22, 1972; eff. Dec. 12, 1972.

Repealed: New Rule entitled "Definitions" adopted. F. May 5, 1982; eff. May 25, 1982.

Repealed: New Rule of same title adopted. F. Dec. 15, 2006; eff. Jan. 4, 2007.

Amended: F. Mar. 10, 2008; eff. Mar. 30, 2008.

Repealed: New Rule of the same title adopted. F. Oct. 1, 2010; eff. Oct. 21, 2010.

Amended: F. Nov. 1, 2013; eff. Nov. 21, 2013.

Amended: F. June 26, 2015; eff. July 16, 2015.

Amended: F. May 6, 2016; eff. May 26, 2016.

Repealed: New Rule of the same title adopted. F. Aug. 1, 2017; eff. Aug. 21, 2017.

Amended: F. May 31, 2023; eff. June 20, 2023.

Amended: F. Jan. 19, 2024; eff. Feb. 8, 2024.

560-2-2-.02 Licensing Qualifications

(1) No Person shall manufacture, distribute, sell, handle, possess for sale, or otherwise deal in Alcoholic Beverages or non-beverage Alcohol without first obtaining all applicable licenses required by the Act and these regulations.

(2) Every Person applying for a state license, permit, or registration to deal in Alcoholic Beverages shall make application on forms through the Georgia Tax Center, accessible through the Department's website, or in any other manner prescribed by the Commissioner, and under oath shall answer all questions, supply all information and statements (including information regarding applicant's employees and all Persons with a beneficial interest in the applicant), furnish all certificates, affidavits, bonds and other supporting data or documents as reasonably required by the Commissioner.

(a) All license applications under these regulations shall be a permanent record.

(b) Willful failure to furnish the Department with any of the information required by these regulations or by law shall constitute grounds for denial or revocation of a license.

(3) Applications for a state license, permit, or registration shall state the identical name and address of the applicant as stated in the application for a license required by local governing authorities.

(a) Every license shall specify the premises where the Licensee shall have its Place of Business and such location shall not be changed during the term of the license.

(b) Any Fraternal Organization shall be permitted to apply for a license in the name of any qualified officer or member of such organization.

(c) Any legal entity, including but not limited to, all partnerships, limited liability companies, domestic or foreign corporations, lawfully registered and doing business under the laws of Georgia or the laws of another state and authorized by the Secretary of State to do business in Georgia which seeks to obtain an Alcoholic Beverage or non-beverage Alcohol license may be permitted to apply for a license in the name of the legal entity as it is registered in the Office of the Secretary of State of Georgia. Notwithstanding the foregoing, however:

1. In its application for an Alcoholic Beverage or non-beverage Alcohol license, the legal entity shall provide the Commissioner with the name and address of its agent authorized to receive service of process under the laws of Georgia, together with a listing of its current officers and their respective addresses.

2. Any change in the status of the Licensee's registered agent, including but not limited to, change of address, or name, shall be reported to the Commissioner within five (5) days of such occurrence.

3. In the event that a legal entity fails to appoint or maintain a registered agent in Georgia as required by law, or whenever its registered agent cannot with due diligence be found at the registered office of the corporation as designated in its application for license, the Commissioner shall be appointed agent to receive any citation for violation of these regulations.

4. Process may be served upon the Commissioner by leaving with the Commissioner duplicate copies of such citations.

5. In the event that the notice of citation is served upon the Commissioner or one of the Commissioner's designated agents, the Commissioner shall immediately forward one of the copies to the corporation at its registered office.

6. Any service made upon the Commissioner shall be answerable within thirty (30) days.

7. The Commissioner shall keep a record of all citations served upon the Commissioner under this Regulation, and shall record the time of service and the disposition of that service.

(4) The state license issued shall be valid for the calendar year indicated; provided that:

(a) The Licensee is actively engaged in business; and

(b) If applicable, has a valid county or municipal license.

(5) In the event a Licensee ceases to be actively engaged in business, or if a Licensee's local license becomes invalid in any way, the state license shall be invalid and the Licensee of that business shall immediately notify and return the state license to the Department.

(a) Any license issued to a Retailer after November 1, 2023 by a local licensing jurisdiction that does not conform with the requirements of O.C.G.A. § 3-2-7.1 shall be deemed an invalid license until the local licensing jurisdiction satisfies the requirements of O.C.G.A. § 3-2-7.1 and, until such requirements are met, no state license shall be issued to any such Retailer.

(6) No alcohol license application will be granted where it would violate any Department regulations or other laws of the State of Georgia.

(7) A Licensee that desires to continue in business during the next calendar year must make a new application for that year on or before November 1 of the preceding year.

(8) Any untrue, misleading, or omitted statement or information contained in an application shall be cause for denial and, if any license has been granted, shall be cause for its revocation.

(9) The failure of any applicant, or failure of any Person, firm, corporation, legal entity, or organization having any interest in any operation for which an application has been submitted, to meet any obligations imposed by the tax laws or other law or regulation of Georgia shall be grounds for denial of the license, permit or registration for which an application is made.

(10) To protect the public interest or welfare, no license to sell Alcoholic Beverages of any kind shall be issued by the Commissioner to:

(a) Any person as determined by the Commissioner, who, by reason of that person's business experience, financial standing, trade associations, personal associations, records of arrests, or reputation in any community in which the person has resided, is not likely to maintain the operation for which the person is seeking a license in conformity with federal, state or local laws;

(b) Any person convicted of a felony who served any part of a criminal sentence, including probation, within the ten (10) years immediately preceding the date of receipt of submission of the application; or

(c) Any person who has been convicted of a misdemeanor who served any part of a criminal sentence, including probation, within the five (5) years immediately preceding the date of receipt of submission of the application.

(11) The Commissioner may decline to issue a state license to a person for the operation of a Place of Business when any person having any interest in the operation of that Place of Business or control over such Place of Business does not meet the same requirements as set forth in these regulations for the Licensee.

(12) If the Commissioner has reason to believe that the applicant is not entitled to the license for which the applicant has applied, the Commissioner shall notify the applicant in writing.

(a) The applicant shall have fifteen (15) days from the date of the notice to request, in writing, a hearing on the application.

(b) Upon receipt of applicant's written request, the Commissioner shall provide the applicant with due notice and opportunity for a hearing on the application pursuant to Subject 560-2-16.

(c) If the Commissioner, after providing notice and an opportunity for a hearing, finds the applicant is not entitled to a license, the applicant shall be advised in writing of the findings upon which that denial is based.

(13) In order to ensure correspondence is timely received, any change to an applicant's or licensee's contact information including, but not limited to, a change of mailing address, email address, or telephone number, shall be updated via the Georgia Tax Center, or in any other manner prescribed by the Commissioner, within five (5) days of such change.

Cite as Ga. Comp. R. & Regs. R. 560-2-2-.02

AUTHORITY: O.C.G.A. §§ 3-2-2**,** 3-2-3**,** 3-2-7.1**,** 48-2-12**.**

HISTORY: Original Rule entitled "License Application" adopted. F. and eff. June 30, 1965.

Repealed: New Rule of same title adopted. F. Oct. 23, 1969; eff. Nov. 1, 1969, as specified by the Agency.

Repealed: New Rule entitled "Financial Transactions" adopted. F. May 5, 1982; eff. May 25, 1982.

Repealed: F. Sept. 6, 2006; eff. Sept. 26, 2006.

Amended: New Rule entitled "Licensing Qualifications" adopted. F. Oct. 1, 2010; eff. Oct. 21, 2010.

Amended: F. Oct. 5, 2023; eff. Oct. 25, 2023.

Amended: F. Jan. 19, 2024; eff. Feb. 8, 2024.

Department 560. RULES OF DEPARTMENT OF REVENUE

Chapter 560-2. ALCOHOL AND TOBACCO DIVISION

Subject 560-2-3. RETAILER/RETAIL CONSUMPTION DEALER

560-2-3-.02 Restriction to Retailer Business Hours; Exception; Restrictions on Other Mercantile Establishments; Manner of Operation

(1) No Retailer of Distilled Spirits shall open its Place of Business or furnish, sell, or offer for sale, any Alcoholic Beverage at any of the following times:

(a) In violation of a county or municipal ordinance or regulation;

(b) In violation of a special order of the Commissioner;

(c) Sundays prior to 11:00 a.m. or after 11:30 p.m., except as otherwise provided in O.C.G.A. § 3-3-7; or

(d) Any other day prior to 8:00 a.m. or after 11:45 p.m.

(2) No Retailer of Distilled Spirits shall be in or permit others to be in its Place of Business at any of the following times:

(a) In violation of a county or municipal ordinance or regulation;

(b) In violation of a special order of the Commissioner;

(c) On Sundays prior to 9:00 a.m.;

(d) On Sundays after 12:00 a.m. (midnight) or, if the Place of Business closes earlier than 11:30 p.m., 30 minutes past the closing time;

1. Example: Package store A closes at 11:00 p.m. The Retailer and all other persons are prohibited from being in the Place of Business after 11:30 p.m.

(e) On all days other than Sunday, prior to 6:00 a.m.;

(f) On all days other than Sunday, after 12:15 a.m. or, if the Place of Business closes earlier than 11:45 p.m., 30 minutes past the closing time.

1. Example: Package store A closes at 11:30 p.m. The Retailer and all other persons are prohibited from being in the Place of Business after 12:00 a.m. (midnight).

(3) Nothing contained in paragraph (2) shall prohibit a Retailer from being in its Place of Business at any time:

(a) For purposes of responding to emergency situations such as fire or burglary;

(b) For purposes of taking inventory, making repairs, renovating, or any other Alcoholic Beverage business purpose which does not involve the presence of Persons other than the Retailer, its agents or employees, when the activities could not reasonably be carried out during regular business hours, provided that the Licensee posts on all door entrances to the Place of Business a sign to read: "CLOSED, NO CUSTOMERS ALLOWED ON PREMISES."

(c) This exception does not relieve the Licensee from full compliance with all local laws and regulations or authorize the presence on the Retailer's Place of Business of any Person other than the Retailer, its agents or employees.

(4) Except as provided in Rule 560-2-3-.14, no Retailer shall operate in connection with any other mercantile establishment.

Cite as Ga. Comp. R. & Regs. R. 560-2-3-.02

AUTHORITY: O.C.G.A. §§ 3-2-2**,** 3-3-7**,** 48-2-12**.**

HISTORY: Original Rule entitled "Registration of Producers and Sellers; Joint Registrants; Registration Fees" adopted. F. and eff. June 30, 1965.

Repealed: New Rule entitled "Registration of Producers, Sellers, Joint Registrants and Brands; Registration Fee; Additional Brand Registrations" adopted. F. Oct. 23, 1969; eff. Nov. 1, 1969, as specified by the Agency.

Repealed: New Rule entitled "Licensed Producer" adopted. F. May 5, 1982; eff. May 25, 1982.

Repealed: F. Nov. 8, 2006; eff. Nov. 28, 2006.

Amended: New Rule entitled "Restriction to Retailer Business Hours; Exception; Restrictions on Other Mercantile Establishments; Manner of Operation" adopted. F. Oct. 1, 2010; eff. Oct. 21, 2010.

Amended: F. Feb. 28, 2012; eff. Mar. 19, 2012.

Amended: F. May 31, 2023; eff. June 20, 2023.

Amended: F. Jan. 19, 2024; eff. Feb. 8, 2024.

Department 560. RULES OF DEPARTMENT OF REVENUE

Chapter 560-11. LOCAL GOVERNMENT SERVICES DIVISION

Subject 560-11-6. CONSERVATION USE PROPERTY

560-11-6-.09 Table of Conservation Use Land Values

(1) For the purpose of prescribing the 2024 current use values for conservation use land, the state shall be divided into the following nine Conservation Use Valuation Areas (CUVA 1 through CUVA 9) and the following accompanying table of per acre land values shall be applied to each acre of qualified land within the CUVA for each soil productivity classification for timber land (W1 through W9) and agricultural land (A1 through A9):

(a) CUVA #1 counties: Bartow, Catoosa, Chattooga, Dade, Floyd, Gordon, Murray, Paulding, Polk, Walker, and Whitfield. Table of per acre values: W1 1,014, W2 910, W3 827, W4 758, W5 695, W6 643, W7 603, W8 553, W9 504, A1 1,844, A2 1,743, A3 1,616, A4 1,481, A5 1,334, A6 1,193, A7 1,061, A8 931, A9 796;

(b) CUVA #2 counties: Barrow, Cherokee, Clarke, Cobb, Dawson, DeKalb, Fannin, Forsyth, Fulton, Gilmer, Gwinnett, Hall, Jackson, Lumpkin, Oconee, Pickens, Towns, Union, Walton, and White. Table of per acre values: W1 1,374, W2 1,245, W3 1,121, W4 1,015, W5 935, W6 878, W7 828, W8 760, W9 689, A1 2,020, A2 1,801, A3 1,602, A4 1,415, A5 1,266, A6 1,133, A7 1,014, A8 920, A9 828;

(c) CUVA #3 counties: Banks, Elbert, Franklin, Habersham, Hart, Lincoln, Madison, Oglethorpe, Rabun, Stephens, and Wilkes. Table of per acre values: W1 1,348, W2 1,173, W3 1,057, W4 1,015, W5 935, W6 855, W7 719, W8 585, W9 489, A1 1,537, A2 1,398, A3 1,251, A4 1,108, A5 966, A6 871, A7 715, A8 597, A9 504;

(d) CUVA #4 counties: Carroll, Chattahoochee, Clayton, Coweta, Douglas, Fayette, Haralson, Harris, Heard, Henry, Lamar, Macon, Marion, Meriwether, Muscogee, Pike, Schley, Spalding, Talbot, Taylor, Troup, and Upson. Table of per acre values: W1 991, W2 887, W3 804, W4 737, W5 641, W6 597, W7 519, W8 449, W9 364, A1 1,259, A2 1,128, A3 1,034, A4 923, A5 810, A6 672, A7 582, A8 451, A9 323;

(e) CUVA #5 counties: Baldwin, Bibb, Bleckley, Butts, Crawford, Dodge, Greene, Hancock, Houston, Jasper, Johnson, Jones, Laurens, Monroe, Montgomery, Morgan, Newton, Peach, Pulaski, Putnam, Rockdale, Taliaferro, Treutlen, Twiggs, Washington, Wheeler, and Wilkinson. Table of per acre values: W1 843, W2 781, W3 717, W4 657, W5 592, W6 533, W7 466, W8 403, W9 334, A1 933, A2 811, A3 754, A4 689, A5 614, A6 522, A7 428, A8 337, A9 245;

(f) CUVA #6 counties: Bulloch, Burke, Candler, Columbia, Effingham, Emanuel, Glascock, Jefferson, Jenkins, McDuffie, Richmond, Screven, and Warren. Table of per acre values: W1 834, W2 766, W3 699, W4 637, W5 568, W6 503, W7 436, W8 367, W9 299, A1 1,058, A2 929, A3 851, A4 781, A5 689, A6 573, A7 466, A8 357, A9 250;

(g) CUVA #7 counties: Baker, Calhoun, Clay, Decatur, Dougherty, Early, Grady, Lee, Miller, Mitchell, Quitman, Randolph, Seminole, Stewart, Sumter, Terrell, Thomas, and Webster. Table of per acre values: W1 894, W2 813, W3 740, W4 664, W5 586, W6 511, W7 436, W8 357, W9 281, A1 1,230, A2 1,115, A3 991, A4 862, A5 738, A6 619, A7 477, A8 361, A9 243;

(h) CUVA #8 counties: Atkinson, Ben Hill, Berrien, Brooks, Clinch, Coffee, Colquitt, Cook, Crisp, Dooly, Echols, Irwin, Jeff Davis, Lanier, Lowndes, Telfair, Tift, Turner, Wilcox, and Worth. Table of per acre values: W1 972, W2 880, W3 788, W4 699, W5 607, W6 519, W7 427, W8 337, W9 273, A1 1,245, A2 1,176, A3 1,061, A4 946, A5 831, A6 717, A7 553, A8 449, A9 330;

(i) CUVA #9 counties: Appling, Bacon, Brantley, Bryan, Camden, Charlton, Chatham, Evans, Glynn, Liberty, Long, McIntosh, Pierce, Tattnall, Toombs, Ware, and Wayne. Table of per acre values: W1 984, W2 887, W3 804, W4

715, W5 621, W6 535, W7 443, W8 354, W9 273, A1 1,152, A2 1,110, A3 997, A4 887, A5 776, A6 664, A7 553, A8 440, A9 330.

Cite as Ga. Comp. R. & Regs. R. 560-11-6-.09

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-7**,** 48-5-7.4**,** 48-5-269**.**

HISTORY: Original Rule entitled "Table of Conservation Use Land Values" adopted. F. May 28, 1993; eff. June 17, 1993.

Repealed: New Rule of same title adopted. F. May 13, 1994; eff. June 2, 1994.

Repealed: New Rule of same title adopted. F. Mar. 1, 1995; Mar. 21, 1995.

Repealed: New Rule of same title adopted. F. Jan. 28, 1996; eff. Feb. 18, 1996.

Repealed: New Rule of same title adopted. F. Feb. 24, 1997; eff. Mar. 16, 1997.

Repealed: New Rule of same title adopted. F. Jan. 27, 1998; eff. Feb. 16, 1998.

Repealed: New Rule of same title adopted. F. Mar. 10, 1999; eff. Mar. 30, 1999.

Amended: F. Feb. 2, 2000; eff. Feb. 22, 2000.

Amended: F. Apr. 20, 2001; eff. May 10, 2001.

Repealed: New Rule of same title adopted. F. Apr. 17, 2002; eff. May 7, 2002.

Repealed: New Rule of same title adopted. F. May 19, 2003; eff. June 8, 2003.

Repealed: New Rule of same title adopted. F. Mar. 4, 2004; eff. Mar. 24, 2004.

Amended: F. Mar. 29, 2005; eff. Apr. 18, 2005.

Repealed: New Rule of same title adopted. F. Mar. 1, 2006; eff. Mar. 21, 2006.

Amended: F. Feb. 21, 2007; eff. Mar. 13, 2007.

Amended: F. Apr. 21, 2008; eff. May 11, 2008.

Repealed: New Rule of same title adopted. F. Apr. 15, 2009; eff. May 5, 2009.

Repealed: New Rule of same title adopted. F. Mar. 15, 2010; eff. Apr. 4, 2010.

Repealed: New Rule of same title adopted. F. Mar. 3, 2011; eff. Mar. 23, 2011.

Amended: F. Apr. 24, 2012; eff. May 14, 2012.

Amended: F. Jun. 10, 2013; eff. Jun. 30, 2013.

Amended: F. Apr. 22, 2014; eff. May 12, 2014.

Amended: F. May 18, 2015; eff. June 7, 2015.

Amended: F. Feb. 23, 2016; eff. Mar. 14, 2016.

Amended: F. Mar. 24, 2017; eff. Apr. 13, 2017.

Amended: F. Mar. 6, 2018; eff. Mar. 26, 2018.

Amended: F. Feb. 1, 2019; eff. Feb. 21, 2019.

Amended: F. Mar. 6, 2020; eff. Mar. 26, 2020.

Amended: F. Mar. 4, 2021; eff. Mar. 24, 2021.

Amended: F. May 4, 2022; eff. May 24, 2022.

Amended: F. Mar. 13, 2023; eff. Apr. 2, 2023.

Amended: F. Jan. 22, 2024; eff. Feb. 11, 2024.

Department 560. RULES OF DEPARTMENT OF REVENUE

Chapter 560-11. LOCAL GOVERNMENT SERVICES DIVISION

Subject 560-11-11. FOREST LAND PROTECTION

560-11-11-.12 Table of Forest Land Protection Act Land Use Values

(1) For the purpose of prescribing the 2024 current use values for conservation use land, the state shall be divided into the following nine Forest Land Protection Act Valuation Areas (FLPAVA 1 through FLPAVA 9) and the following accompanying table of per acre land values shall be applied to each acre of qualified land within the FLPAVA for each soil productivity classification for timber land (W1 through W9):

(a) FLPAVA #1 counties: Bartow, Catoosa, Chattooga, Dade, Floyd, Gordon, Murray, Paulding, Polk, Walker, and Whitfield. Table of per acre values: W1 1,014, W2 910, W3 827, W4 758, W5 695, W6 643, W7 603, W8 553, W9 504;

(b) FLPAVA #2 counties: Barrow, Cherokee, Clarke, Cobb, Dawson, DeKalb, Fannin, Forsyth, Fulton, Gilmer, Gwinnett, Hall, Jackson, Lumpkin, Oconee, Pickens, Towns, Union, Walton, and White. Table of per acre values: W1 1,374, W2 1,245, W3 1,121, W4 1,015, W5 935, W6 878, W7 828, W8 760, W9 689;

(c) FLPAVA #3 counties: Banks, Elbert, Franklin, Habersham, Hart, Lincoln, Madison, Oglethorpe, Rabun, Stephens, and Wilkes. Table of per acre values: W1 1,348, W2 1,173, W3 1,057, W4 1,015, W5 935, W6 855, W7 719, W8 585, W9 489;

(d) FLPAVA #4 counties: Carroll, Chattahoochee, Clayton, Coweta, Douglas, Fayette, Haralson, Harris, Heard, Henry, Lamar, Macon, Marion, Meriwether, Muscogee, Pike, Schley, Spalding, Talbot, Taylor, Troup, and Upson. Table of per acre values: W1 991, W2 887, W3 804, W4 737, W5 641, W6 597, W7 519, W8 449, W9 364;

(e) FLPAVA #5 counties: Baldwin, Bibb, Bleckley, Butts, Crawford, Dodge, Greene, Hancock, Houston, Jasper, Johnson, Jones, Laurens, Monroe, Montgomery, Morgan, Newton, Peach, Pulaski, Putnam, Rockdale, Taliaferro, Treutlen, Twiggs, Washington, Wheeler, and Wilkinson. Table of per acre values: W1 843, W2 781, W3 717, W4 657, W5 592, W6 533, W7 466, W8 403, W9 334;

(f) FLPAVA #6 counties: Bulloch, Burke, Candler, Columbia, Effingham, Emanuel, Glascock, Jefferson, Jenkins, McDuffie, Richmond, Screven, and Warren. Table of per acre values: W1 834, W2 766, W3 699, W4 637, W5 568, W6 503, W7 436, W8 367, W9 299;

(g) FLPAVA #7 counties: Baker, Calhoun, Clay, Decatur, Dougherty, Early, Grady, Lee, Miller, Mitchell, Quitman, Randolph, Seminole, Stewart, Sumter, Terrell, Thomas, and Webster. Table of per acre values: W1 894, W2 813, W3 740, W4 664, W5 586, W6 511, W7 436, W8 357, W9 281;

(h) FLPAVA #8 counties: Atkinson, Ben Hill, Berrien, Brooks, Clinch, Coffee, Colquitt, Cook, Crisp, Dooly, Echols, Irwin, Jeff Davis, Lanier, Lowndes, Telfair, Tift, Turner, Wilcox, and Worth. Table of per acre values: W1 972, W2 880, W3 788, W4 699, W5 607, W6 519, W7 427, W8 337, W9 273;

(i) FLPAVA #9 counties: Appling, Bacon, Brantley, Bryan, Camden, Charlton, Chatham, Evans, Glynn, Liberty, Long, McIntosh, Pierce, Tattnall, Toombs, Ware, and Wayne. Table of per acre values: W1 984, W2 887, W3 804, W4 715, W5 621, W6 535, W7 443, W8 354, W9 273.

Cite as Ga. Comp. R. & Regs. R. 560-11-11-.12

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-5-7**,** 48-5-7.7**,** 48-5-269**.**

HISTORY: Original Rule entitled "Table of Forest Land Protection Act Land Use Values" adopted as ER. 560-11-11-0.40-.12. F. and eff. May 22, 2009, the date of adoption.

Amended: Permanent Rule of same title adopted. F. June 26, 2009; eff. July 16, 2009.

Repealed: New Rule of same title adopted. F. Mar. 15, 2010; eff. Apr. 4, 2010.

Repealed: New Rule of same title adopted. F. Mar. 3, 2011; eff. Mar. 23, 2011.

Amended: F. Apr. 24, 2012; eff. May 14, 2012.

Amended: F. June 25, 2013; eff. July 15, 2013.

Amended: F. Apr. 22, 2014; eff. May 12, 2014.

Amended: F. May 18, 2015; eff. June 7, 2015.

Amended: F. Feb. 23, 2016; eff. Mar. 14, 2016.

Amended: F. Mar. 24, 2017; eff. Apr. 13, 2017.

Amended: F. Mar. 6, 2018; eff. Mar. 26, 2018.

Amended: F. Feb. 1, 2019; eff. Feb. 21, 2019.

Amended: F. Mar. 6, 2020; eff. Mar. 26, 2020.

Note: Correction of non-substantive typographical error in paragraph (d), "316 W1 882" corrected to "W1 882", as requested by the Agency. Effective March 26, 2020.

Amended: F. Mar. 4, 2021; eff. Mar. 24, 2021.

Amended: F. May 4, 2022; eff. May 24, 2022.

Amended: F. Mar. 13, 2023; eff. Apr. 2, 2023.

Amended: F. Jan. 22, 2024; eff. Feb. 11, 2024.

Department 560. RULES OF DEPARTMENT OF REVENUE

Chapter 560-12. SALES AND USE TAX DIVISION

Subject 560-12-2. SUBSTANTIVE RULES AND REGULATIONS

560-12-2-.117 High-Technology Data Center Equipment

(1) **Purpose.** This Rule addresses the sales and use tax exemption in O.C.G.A. § 48-8-3(68.1) for certain High-Technology Data Center Equipment.

(2) **Definitions.** For purposes of this Rule, the following definitions apply:

(a) "Data Center Owner" means the owner of a High-Technology Data Center or any Related Members.

(b) "Exemption Start Date," used synonymously with the term "Investment Start Date," means the date on or after July 1, 2018, chosen by the Data Center Owner and indicated on its certificate of exemption application, which begins the seven-year period during which the Minimum Investment Threshold must be met.

(c) "High-Technology Data Center" means a facility, campus of facilities, or array of interconnected facilities in this state that:

1. Is developed to power, cool, secure, and connect the Data Center Owner's equipment or the computer equipment of the Data Center Owner's High-Technology Data Center Customers;

2. Has an investment budget plan that meets the High-Technology Data Center Minimum Investment Threshold; and

3. Is located wholly within one county in this state, unless otherwise approved by the Commissioner.

(d) "High-Technology Data Center Customer" means a client, tenant, licensee, or end user of a High-Technology Data Center that is a party to a contract with a Data Center Owner that holds a High-Technology Data Center exemption certificate under this Rule. The contract is subject to the requirements in paragraph (2)(d)1.

1. Contract Requirements.

(i) The Data Center Owner must be a party to the contract;

(ii) The contract must be for data center services provided by the Data Center Owner at the High-Technology Data Center location stated on the Data Center Owner's High-Technology Data Center exemption certificate; and

(iii) The initial term of the contract must be at least 36 months.

2. A client, tenant, licensee, or end user of a High-Technology Data Center is a High-Technology Data Center Customer only while such client, tenant, licensee, or end user is a party to a contract described in paragraph (2)(d)1.

3. The initial term of the contract may begin before the Exemption Start Date for purposes of meeting the initial 36-month term. However, the High-Technology Data Center Customer may only make exempt purchases and uses of High-Technology Data Center Equipment during the period set forth in paragraph (3)(b).

4. If a qualifying contract is extended for any consecutive term after the initial term, the customer remains a High-Technology Data Center Customer during such term so long as the requirements of this Rule are met.

(e) "High-Technology Data Center Equipment."

1. Subject to the exclusion in paragraph (2)(e)2., High-Technology Data Center Equipment means:

(i) Computer equipment, as defined in O.C.G.A. § 48-8-3(68), of a Data Center Owner or such equipment of a High-Technology Data Center Customer that is used or deployed in the High-Technology Data Center; and

(ii) The Data Center Owner's or High-Technology Data Center Customer's materials, components, machinery, hardware, software, or equipment, including but not limited to, emergency backup generators, air handling units, cooling towers, energy storage or energy efficiency technology, switches, power distribution units, switching gear, peripheral computer devices, routers, batteries, wiring, cabling, or conduit, which equipment or materials are used to:

(I) Create, manage, facilitate, or maintain the physical and digital environments for computer equipment in the High-Technology Data Center;

(II) Protect the High-Technology Data Center Equipment from physical, environmental, or digital threats; or

(III) Generate or provide constant delivery of power, environmental conditioning, air cooling, or telecommunications services for the High-Technology Data Center.

2. This term does not include Real Property, as defined in this Rule.

(f) "High-Technology Data Center Minimum Investment Threshold," used synonymously with the term "Minimum Investment Threshold," means:

1. Creating and maintaining an average of the qualifying number of New Quality Jobs during the Investment Period as described in paragraph (4); and

2. Making the qualifying aggregate expenditures during the Investment Period, as described in paragraph (4).

(g) "Investment Period" means the seven-year period, chosen by the Data Center Owner, during which the Minimum Investment Threshold must be met.

1. The Investment Period begins on the Investment Start Date.

2. The Investment Period ends seven consecutive years after the Investment Start Date on the same month and date as the Investment Start Date.

3. The Investment Period may be any consecutive seven-year period that begins on or after July 1, 2018, and ends on or before December 31, 2031.

(h) "New Quality Job" means a new quality job, as defined in O.C.G.A. § 48-7-40.17(a)(2), that is created and maintained by the Data Center Owner or its customers and that meets the requirements in paragraph (4).

(i) "Real Property" means land, any buildings thereon, and any fixtures attached thereto. Fixtures are tangible personal property that has been installed or attached to land or to any building thereon and that is intended to remain permanently in its place. A consideration for whether tangible property is a fixture is whether its removal would cause significant damage to such property or to the real property to which it is attached.

(j) "Related Member" means a related member as defined in O.C.G.A. § 48-7-28.3 with respect to the owner of a High-Technology Data Center.

(3) **Scope of the Exemption.**

(a) The purchase and use of High-Technology Data Center Equipment to be incorporated or used in a High-Technology Data Center are exempt from state and local sales and use tax, subject to the following conditions:

1. The High-Technology Data Center Equipment must be incorporated or used in the High-Technology Data Center named or described on the Data Center Owner's exemption certificate;

2. The purchaser must be a Data Center Owner or a High Technology Data Center Customer;

3. Such Data Center Owner must meet the High-Technology Data Center Minimum Investment Threshold at the High-Technology Data Center named or described on the Data Center Owner's exemption certificate;

4. Such Data Center Owner must obtain a certificate of exemption; and

5. If the purchaser is a High-Technology Data Center Customer, the High-Technology Data Center Customer must obtain a certificate of exemption.

(b) Subject to the terms and conditions of this Rule,

1. A Data Center Owner holding a High-Technology Data Center exemption certificate may make exempt purchases and uses of High-Technology Data Center Equipment from the Exemption Start Date through and including December 31, 2031; and

2. A High-Technology Data Center Customer holding an exemption certificate may make exempt purchases and uses of High-Technology Data Center Equipment only during the effective dates on its exemption certificate.

(i) A High-Technology Data Center Customer exemption certificate is effective beginning the later of the Data Center Owner's Exemption Start Date or the start date of the contract for data center services between the Data Center Owner and the High-Technology Data Center Customer. A High-Technology Data Center Customer exemption certificate ends the earlier of the date such contract ends or December 31, 2031.

(4) **Minimum Investment Threshold.**

(a) To meet the High-Technology Data Center's Minimum Investment Threshold, the following conditions must be met:

1. An average of the qualifying number of New Quality Jobs must be created and maintained, as set forth in paragraphs (4)(b) and (c), during the Investment Period; and

2. The required amount of qualifying aggregate expenditures must be spent, as set forth in paragraphs (4)(b) and (d), during the Investment Period.

(b) The New Quality Jobs and aggregate expenditure requirements are based on the population of the county in which the High-Technology Data Center is located as reported in the United States decennial census of 2010. If county population data from a more recent United States decennial census is available as of the Investment Start Date, county population must be based upon such data.

1. For Data Center Owners that apply for and receive a High-Technology Data Center exemption certificate prior to May 9, 2022, the New Quality Jobs and aggregate expenditure requirements are as follows:

(i) For a High-Technology Data Center located in a county in this state having a population greater than 50,000:

(I) An average of 20 New Quality Jobs; and

(II) $250 million in qualifying aggregate expenditures.

(ii) For a High-Technology Data Center located in a county in this state having a population greater than 30,000 and less than 50,001:

(I) An average of 20 New Quality Jobs; and

(II) $150 million in qualifying aggregate expenditures.

(iii) For a High-Technology Data Center located in a county in this state having a population less than 30,001:

(I) An average of 20 New Quality Jobs; and

(II) $100 million in qualifying aggregate expenditures.

2. For Data Center Owners that apply for and receive a High-Technology Data Center exemption certificate on or after May 9, 2022, the Data Center Owner must meet the following New Quality Jobs and aggregate expenditure requirements during the Investment Period, even if the Investment Start Date begins before May 9, 2022:

(i) For a High-Technology Data Center located in a county in this state having a population greater than 50,000:

(I) An average of 25 New Quality Jobs; and

(II) $250 million in qualifying aggregate expenditures.

(ii) For a High-Technology Data Center in a county in this state having a population greater than 30,000 and less than 50,001:

(I) An average of 10 New Quality Jobs; and

(II) $75 million in qualifying aggregate expenditures.

(iii) For a High-Technology Data Center located in a county in this state having a population less than 30,001:

(I) An average of 5 New Quality Jobs; and

(II) $25 million in qualifying aggregate expenditures.

(c) New Quality Jobs.

1. An employee occupying a New Quality Job must:

(i) Regularly work 30 hours or more per week in the county where the High-Technology Data Center is located on matters directly related to the High-Technology Data Center; and

(ii) Receive compensation for such work described in paragraph (4)(c)1.(i) in an amount equaling or exceeding 110% of the average wage for all industries of the county where the High-Technology Data Center is located, as reported in the most recent Georgia Employment & Wages report available on the day that the New Quality Job is first filled during the Investment Period. The county average wage remains constant with respect to that job position for the duration of the Investment Period.

2. For purposes of satisfying the Minimum Investment Threshold, a Data Center Owner may count New Quality Jobs created and maintained by the Data Center Owner and New Quality Jobs created and maintained by the Data Center Owner's customers.

3. To determine the average number of New Quality Jobs created and maintained during the Investment Period, a Data Center Owner must count the number of New Quality Jobs on the payroll by the last payroll period of each month during the Investment Period, add the monthly numbers, and divide the sum by the number of months in the Investment Period.

(d) Qualifying Aggregate Expenditures.

1. Qualifying expenditures are:

(i) Expenditures on the design and construction of the High-Technology Data Center (including expenditures on Real Property); and

(ii) High-Technology Data Center Equipment to be used or incorporated in the High-Technology Data Center.

2. Qualifying expenditures made by either the Data Center Owner or the High-Technology Data Center Customer may count towards the Minimum Investment Threshold.

3. Real Property expenditures count towards the Minimum Investment Threshold only to the extent that the expenditures are made by the Data Center Owner as part of the construction and design of the High-Technology Data Center. The purchase of a pre-existing High-Technology Data Center campus does not constitute "the construction and design of the High-Technology Data Center" and therefore does not count toward the Minimum Investment Threshold. While Real Property expenditures may count toward the Minimum Investment Threshold, Real Property is not exempt under this Rule.

4. If a qualifying expenditure is made pursuant to a lease, the term of which extends before or after the Investment Period, the expenditure amount that may be used for purposes of satisfying the expenditure requirement must be determined by dividing the total amount to be paid pursuant to the lease by the number of calendar years in the lease term and then multiplying that quotient by the number of calendar years in the lease term that are during the Investment Period.

5. A Data Center Owner may not count the purchase or lease of the same High-Technology Data Center Equipment more than once. For example, if a Data Center Owner purchases High-Technology Data Center Equipment and subsequently leases it to a High-Technology Data Center Customer or a related member (as defined at O.C.G.A. § 48-7-28.3), only one transaction, either the original purchase or the subsequent lease, may count for purposes of satisfying the Minimum Investment Threshold.

(5) **Certificates of Exemption.**

(a) Application Process.

1. A Data Center Owner or High-Technology Data Center Customer desiring to secure the benefits of the exemption provided by O.C.G.A. § 48-8-3(68.1) must file an application for a certificate of exemption.

2. Only the owner of the High-Technology Data Center or one Related Member may apply for a certificate of exemption for a High-Technology Data Center.

3. Applications must be filed electronically with the Department.

4. A High-Technology Data Center exemption application may request the applicant's legal name, mailing address, the High-Technology Data Center location, Investment Start Date, the applicant's Georgia income tax filing and payment history, the value of the applicant's title or interest in Real Property owned in this state, a limited waiver of confidentiality for the administration of this exemption, documentation sufficient to show the likelihood of satisfying the High-Technology Data Center Minimum Investment Threshold, and any other information required by the Department for the determination of the claim for exemption.

5. A High-Technology Data Center Customer exemption application may request the applicant's legal name, mailing address, name of the Data Center Owner that holds an exemption certificate and that has contract with the applicant to provide data services at the High-Technology Data Center listed on the Data Center Owner's exemption certificate, a copy of such contract for data center services, and any other information required by the Department for the determination of the claim for exemption.

(i) The Department will not issue a certificate of exemption to a High-Technology Data Center Customer until a certificate of exemption has been issued to its corresponding Data Center Owner.

6. This application requirement is applicable to holders of direct payment permits granted under Regulation 560-12-1-.16.

(b) Issuance of Certificate.

1. Upon approval of the application, including a determination that a Data Center Owner will more likely than not meet the Minimum Investment Threshold, the Department will issue a certificate of exemption to such Data Center Owner.

2. A certificate of exemption issued to a High-Technology Data Center Customer is for the exclusive use of the qualifying applicant. A certificate of exemption issued to a Data Center Owner is for the exclusive use of the owner of the High-Technology Data Center and its Related Members but may be transferrable upon the sale of the High-Technology Data Center and the approval of the Commissioner.

(c) Bond.

1. As a condition precedent to the issuance of a certificate of exemption to a Data Center Owner, the Department, in the Commissioner's discretion, may require a good and valid bond with a surety company authorized to do business in this state.

2. In determining whether to require a bond and the value of such bond, the Commissioner will consider factors, including, but not limited to, the value of the Data Center Owner's title or interest in Real Property owned in this state as of the application date and the Data Center Owner's Georgia tax filing and payment history.

3. If required, the bond must be in an amount fixed by the Department, not to exceed $20 million.

4. Such bond must be forfeited and paid to the general fund in an amount representing all taxes and interest required to be repaid if the Data Center Owner fails to meet the Minimum Investment Threshold prior to the expiration of the seven-year Investment Period.

5. Such bond will be released when the Data Center Owner timely meets the Minimum Investment Threshold.

6. High-Technology Data Center Customers are not required to obtain a bond.

(d) Revocation.

1. A certificate of exemption issued pursuant to this exemption to a Data Center Owner is subject to revocation if the Department determines that such Data Center Owner has not complied with the provisions of the exemption, including, but not limited to, the following:

(i) During the Investment Period, the Department determines that the Data Center Owner is not likely to meet the applicable Minimum Investment Threshold;

(ii) At the conclusion of the Investment Period, the Department determines the Data Center Owner failed to meet the applicable Minimum Investment Threshold;

(iii) The Data Center Owner does not file the annual report as required in paragraph (7); or

(iv) The Data Center Owner claims an income tax credit in violation of paragraph (9).

2. A certificate of exemption issued pursuant to this Rule to a High-Technology Data Center Customer is subject to revocation if the Department determines that such certificate holder has not complied with the provisions of the exemption, including, but not limited to, the following:

(i) The certificate of exemption of its corresponding Data Center Owner is revoked; or

(ii) The High-Technology Data Center Customer is not, or is no longer, a party to a contract in accordance with paragraph (2)(d).

3. Revocation procedures for Data Center Owner's certificates of exemption.

(i) If it is determined that there are grounds for revocation of a Data Center Owner's certificate of exemption, the Department will send written notice to the Data Center Owner stating the grounds for revocation. Effective the 31st day following the date of the notice, the Department will revoke the Data Center Owner's certificate of exemption, unless:

(I) within 30 days from the date of the notice, the Data Center Owner provides the Department with a detailed plan to remedy each cause for revocation; and

(II) the Department determines that the Data Center owner is more likely than not to remedy each cause for revocation within 90 days from the Department's receipt of the plan.

(ii) If the Department determines that the Data Center Owner has failed to remedy each cause for revocation within 90 days from the Department's receipt of the plan, then the Department will revoke the Data Center Owner's certificate of exemption effective the 91st day after the Department's receipt of the plan. The Department will notify the Data Center Owner in writing of the grounds for revocation, the revocation date, and the procedure by which the certificate holder may dispute the revocation.

4. Once a certificate of exemption has been revoked, the certificate holder must immediately notify all vendors to which such certificate holder furnished the certificate of exemption that such certificate of exemption is no longer valid. The certificate holder must maintain records of notifications of revocation sent to vendors.

5. It is unlawful for any person to attempt to evade sales and use taxes by using a certificate of exemption obtained through fraud or by using a certificate of exemption to which a purchaser is not entitled.

6. Upon the revocation of the Data Center Owner's certificate of exemption, the owner of the High-Technology Data Center and its Related Members will be liable for all tax exempted or refunded under this exemption, plus interest as computed under O.C.G.A. § 48-2-40. If tax and interest are not paid within 90 days of the revocation of the certificate of exemption, penalties will accrue pursuant to O.C.G.A. § 48-8-66.

7. If a High-Technology Data Center Customer's certificate of exemption is revoked, the customer, the owner of the customer's corresponding High-Technology Data Center, and the owner's Related Members may be liable, as provided below, for all tax exempted or refunded under this exemption on the customer's purchases, plus interest as computed under O.C.G.A. § 48-2-40. If tax and interest are not paid within 90 days of the revocation of the certificate of exemption, penalties will accrue pursuant to O.C.G.A. § 48-8-66.

(i) If a High-Technology Data Center Customer's certificate of exemption is revoked solely because its corresponding Data Center Owner's certificate of exemption is revoked, the High-Technology Data Center Customer is not required to repay the tax exempted or refunded under this exemption on the customer's purchases. The owner of the customer's corresponding High-Technology Data Center and the owner's Related Members are required to repay such tax.

(ii) If a High-Technology Data Center Customer certificate of exemption is revoked because the certificate holder does not meet the definition of High-Technology Data Center Customer, the purported customer is required to repay the tax exempted or refunded under this exemption for periods when the purported customer did not meet the definition of High-Technology Data Center Customer.

(iii) If a High-Technology Data Center Customer's certificate of exemption is revoked solely because of the expiration of a qualifying contract with a certificated Data Center Owner, neither the High-Technology Data Center

Customer nor the Data Center Owner is required to repay the tax exempted or refunded for periods when the customer met the definition of a High-Technology Data Center Customer.

8. Nothing in this Rule prohibits the reinstatement or reissuance of a certificate of exemption to a qualified Data Center Owner or its customer.

(e) All certificates of exemption issued to Data Center Owners pursuant to this exemption expire on December 31, 2031, by operation of law.

(6) **Claiming the Benefit of the Exemption.**

(a) Any person making a sale or lease of High-Technology Data Center Equipment must collect the sales and use tax unless the purchaser furnishes such seller with a valid and complete certificate of exemption.

(b) A High-Technology Data Center Equipment supplier is relieved from the collection of sales and use tax on the sale or lease of High-Technology Data Center Equipment if the supplier takes a certificate of exemption from a certificate holder in good faith.

(c) Refund Claims.

1. Subject to paragraph (6)(c)5. of this Rule and other applicable laws, a refund claim may be filed for taxes paid on purchases or uses qualifying for this exemption for any period on or after July 1, 2018, during which the Data Center Owner or customer had not yet applied for or received its certificate of exemption from the Department.

2. Claimants must submit refund claims electronically.

3. As a condition precedent to the issuance of a refund, the claimant must apply for and receive its certificate of exemption.

4. As provided by O.C.G.A. § 48-2-35.1, refunds issued pursuant to this exemption do not bear interest.

5. A refund claim may be filed by the taxpayer at any time within three years after the date of the payment of the tax to the Department.

(d) Notwithstanding otherwise applicable recordkeeping requirements, any Data Center Owner or High-Technology Data Center Customer claiming the benefit of this exemption must keep and preserve all books and records as long as needed to support such claim.

(7) **Annual Report.**

(a) Each Data Center Owner holding an exemption certificate pursuant to this Rule must submit an annual report electronically to the Department. The annual report is due on the dates set forth in this paragraph or the first day following that is not a Saturday, Sunday, legal holiday, or day on which the Federal Reserve Bank is closed.

1. The annual report must be submitted by April 30 of each calendar year if the Data Center Owner or its High-Technology Data Center Customer claimed or will claim the benefit of the exemption for purchases in the prior calendar year.

2. Notwithstanding paragraph (7)(a)(1), if the Data Center Owner's Investment Start Date begins in a calendar year prior to the calendar year of application, the annual report(s) for those prior year(s) are due 30 days following the date the Department grants the exemption certificate or April 30th of the year of application, whichever is later.

(i) Example: If the Department grants an exemption certificate on January 1, 2021 to a Data Center Owner with an investment start date of July 1, 2018, the annual reports for years 2018 through 2020 are due on April 30, 2021. The annual report for 2021 is due May 2, 2022 (because April 30, 2022 is a Saturday).

(ii) Example: If the Department grants an exemption certificate on April 15, 2021 to a Data Center Owner with an investment start date of July 1, 2018, the annual reports for years 2018 to 2020 are due May 17, 2021 (because May 15, 2021 is a Saturday). The annual report for 2021 is due May 2, 2022 (because April 30, 2022 is a Saturday).

3. The Department may exercise its discretion to approve a Data Center Owner's request for an extension beyond the applicable deadline.

4. The annual reporting requirement does not end at the expiration of the Investment Period. The annual report is required for every year in which the Data Center Owner holds a valid exemption certificate pursuant to this Rule.

(b) The annual report must include the following:

1. The amount of tax exempted or refunded under this exemption on purchases by the owner of the High-Technology Data Center and its Related Members during the preceding calendar year;

2. A list of the Data Center Owner's High-Technology Data Center Customers holding exemption certificates under this Rule;

3. The amount of tax exempted or refunded under this exemption on purchases by each High-Technology Data Center Customer during the preceding calendar year;

4. The number of New Quality Jobs created or maintained in accordance with paragraph (4) on a monthly basis during the preceding calendar year;

5. A list of each New Quality Job created and maintained in accordance with paragraph (4), including a description of each position, each position's wage, each position's regular work hours, and the location at which each position's job duties are performed;

6. A methodology to verify that employees are working at least 30 hours per week on matters directly related to the High-Technology Data Center in the county where the High-Technology Data Center is located;

7. The total amount of High-Technology Data Center's employee payroll during the preceding calendar year;

8. The total amount of qualifying aggregate expenditures made since the Investment Start Date that the Data Center Owner counts for purposes of satisfying the expenditure requirement of its Minimum Investment Threshold. This amount does not need to be reported after the Data Center Owner submits its investment report as described in Paragraph (8) of this Rule at the conclusion of the Investment Period; and

9. A list of expenditures that count toward the Data Center Owner's Minimum Investment Threshold, including the dollar amount of each purchase, the name of the purchaser, the date of purchase, the vendor, and description of the purchase. This list is not required after the Data Center Owner submits its investment report as described in paragraph (8) of this Rule at the conclusion of the Investment Period.

(c) A Data Center Owner's failure to submit a complete and accurate annual report is grounds for the revocation of the Data Center Owner's certificate of exemption.

(8) **Investment Report.**

(a) Within 60 days after the end of the Investment Period, the Data Center Owner must file a report electronically with the Department.

(b) The report must detail the following:

1. The expenditures incurred that count toward its Minimum Investment Threshold, including the name of the purchaser, the expenditure date, the vendor, the dollar amount, and a description of each purchase;

2. The average number of New Quality Jobs created and maintained during the Investment Period, as calculated in paragraph (4)(c);

3. A description of each position and each position's wage and regular work hours; and

4. Any other information that the Commissioner may reasonably require to determine whether the Data Center Owner has met the Minimum Investment Threshold.

(c) If it is determined that a Data Center Owner failed to meet its Minimum Investment Threshold, such owner of the High-Technology Data Center and its Related Members must repay all taxes exempted or refunded pursuant to the Data Center Owner's certificate of exemption and all taxes exempted or refunded pursuant to the certificates of exemption of the Data Center Owner's High-Technology Data Center Customers.

1. Interest will be due at the rate specified in O.C.G.A. § 48-2-40 computed from the date such taxes would have been due but for this exemption.

2. Such repayment of taxes and interest must be made within 90 days after notification of such failure.

3. Such repayment will be calculated notwithstanding otherwise applicable periods of limitation for assessment.

(9) **Impact on Certain Income Tax Credits.**

(a) During any tax year in which a Data Center Owner holds a valid exemption certificate under this Rule with respect to a High-Technology Data Center, the owner of such High-Technology Data Center is not entitled to claim any credit authorized under O.C.G.A. §§ 48-7-40 through 48-7-40.33 or O.C.G.A. § 36-62-5.1 for jobs, investments, or any business activity created by, arising from, related to, or connected in any way with such High-Technology Data Center.

(b) A Related Member is not entitled to claim any credit authorized under O.C.G.A. §§ 48-7-40 through 48-7-40.33 or O.C.G.A. § 36-62-5.1 in any tax year for jobs, investments, or any business activity created by, arising from, related to, or connected in any way with a High-Technology Data Center, if, during that tax year such Related Member or the associated owner of such High-Technology Data Center holds a valid exemption certificate and the Related Member takes any of the following actions:

1. Makes expenditures for such High-Technology Data Center that count toward the Minimum Investment Threshold;

2. Makes exempt purchases of High-Technology Data Center Equipment that is used or deployed in such High-Technology Data Center;

3. Employs persons to fill New Quality Jobs at such High-Technology Data Center; or

4. Contracts with High-Technology Data Center Customers for data center services at such High-Technology Data Center.

(c) If a determination is made by the Department that the Data Center Owner must repay all taxes exempted or refunded pursuant this exemption, the owner of the High-Technology Data Center and its Related Members may, notwithstanding otherwise applicable periods of limitation, file amended income tax returns claiming any credit to which they would have been entitled under O.C.G.A. §§ 48-7-40 through 48-7-40.33 or O.C.G.A. § 36-62-5.1 but for having claimed the exemption set forth in this Rule.

Cite as Ga. Comp. R. & Regs. R. 560-12-2-.117

AUTHORITY: O.C.G.A. §§ 48-2-12**,** 48-7-40.17**,** 48-8-3**,** 48-8-3.2**.**

HISTORY: Original Rule entitled "High-Technology Data Center Equipment" adopted. F. Apr. 16, 2019; eff. May 6, 2019.

Amended: F. Oct. 16, 2023; eff. Nov. 5, 2023.

Amended: F. Jan. 17, 2024; eff. Feb. 6, 2024.

Department 770. WATER WELL STANDARDS ADVISORY COUNCIL

Chapter 770-1. ORGANIZATION

770-1-.03 Meetings

(1) The Council shall meet at least three (3) times a year to carry out regular business.

(2) The Chairperson or the Director may call additional regular or special meetings as necessary.

(3) Notice of the meeting shall be given to all members of the Council at least ten (10) days prior to the date of the meeting.

(4) Notice to the public shall be made in accordance with the requirements of the Georgia Open Meetings Act, O.C.G.A. § 50-14-1 et seq.

Cite as Ga. Comp. R. & Regs. R. 770-1-.03

AUTHORITY: O.C.G.A. § 12-5-120 ***et seq*.**

HISTORY: Original Rule entitled "Meetings" adopted. F. July 13, 1978; eff. August 2, 1978.

Repealed: New Rule of same title adopted. F. Mar. 19, 1987; eff. Apr. 8, 1987.

Repealed: New Rule of same title adopted. F. Aug. 7, 2006; eff. Aug. 27, 2006.

Amended: F. Jan. 25, 2024; eff. Feb. 14, 2024.

770-1-.04 Order of Business

The order of business shall be as follows:

(a) the Chairperson shall call the meeting to order; or if the Chairperson is not present the quorum council shall choose a temporary chairperson from the attendees to conduct the meeting;

(b) quorum check, four (4) members shall constitute a quorum;

(c) approval of minutes of previous meeting;

(d) correspondence;

(e) reports of Director including inspections and enforcement actions;

(f) reports of committees;

(g) unfinished business;

(h) new business;

(i) consideration of applications for approval and licensing report;

(j) announcements;

(k) adjournment.

Cite as Ga. Comp. R. & Regs. R. 770-1-.04

AUTHORITY: O.C.G.A. § 12-5-120 ***et seq.***

HISTORY: Original Rule entitled "Order of Business" adopted. F. July 13, 1978; eff. August 2, 1978.

Repealed: New Rule of same title adopted. F. Mar. 19, 1987; eff. Apr. 8, 1987.

Repealed: New Rule of same title adopted. F. Aug. 7, 2006; eff. Aug. 27, 2006.

Amended: F. Jan. 25, 2024; eff. Feb. 14, 2024.

Department 770. WATER WELL STANDARDS ADVISORY COUNCIL

Chapter 770-2. DEFINITIONS

770-2-.01 Definitions

All terms used in these rules shall be interpreted in accordance with the definitions set forth in the Water Well Standards Act of 1985, or as herein defined.

(a) "Act" means the Water Well Standards Act of 1985.

(b) "Certificate" means a document certifying that a person has met the requirements of the Water Well Standards Act and the Rules of the Council for "Pump Installation", as defined herein, and is authorized by the Council to legally engage in business as a Pump Contractor.

(c) "Construction" or "Water Well Construction" means all acts necessary to construct or repair a water well regulated under the Act (O.C.G.A. 12-5-120 through 12-5-138), including locating and drilling and the installation, removal or service of pumps and pumping equipment on or in water wells.

(d) "Council" means the State Water Well Standards Advisory Council.

(e) "Director" means the Director of the Environmental Protection Division of the Georgia Department of Natural Resources.

(f) "Division" means the Environmental Protection Division of the Department of Natural Resources, State of Georgia.

(g) "Driller", for the purpose of licensing as a Water Well Contractor, means any person who engages in water well drilling and drilling operations and the installation, removal or service of pumps and pumping equipment. "Driller" shall not include a person who only installs, removes, and services pumps and pumping equipment.

(h) "License" means a document verifying that a person has met the requirements of the Water Well Standards Act and the Rules of the Council for constructing water wells and is authorized by the Council to legally engage in business as a Water Well Contractor.

(i) "Pump Contractor" or "Pump Installer" means any person engaging in the business of installing, removing or servicing pumps and pumping equipment on or in water wells regulated under the Act (O.C.G.A. 12-5-120 through 12-5-138). "Pump Contractor" or "Pump Installer" shall not include a person who also constructs water wells as a driller, well driller, drilling contractor or water well contractor.

(j) "Pump Installation" means all acts necessary to install, remove, and or service water well pumps onsite.

(k) "Water Well Contractor" means any person engaging in the construction of water wells and installing, removing or servicing water well pumps and pumping equipment. "Water Well Contractor" shall not include a person who only installs, removes, or services pumps and pumping equipment.

(l) "Well Driller" or "Drilling Contractor" for the purpose of licensing as a water well contractor, means any person engaging in the construction of water wells and installing, removing or servicing pumps and pumping equipment. "Well Driller" or "Drilling Contractor" shall not include a person who only installs, removes or services pumps and pumping equipment on or in water wells.

(m) "Bona Fide Business Partner" means any person who has a written business partnership agreement with a licensed Water Well Contractor or certified Pump Contractor executed by the Bona Fide Business Partner(s) and the Water Well Contractor(s) or the Pump Contractor(s) under which the parties have formed a business to carry out Water Well Construction and/or Pump Installation to share related risks and benefits.

(n) "Full-Time Employee" means any person who is formally employed by a licensed Water Well Contractor or certified Pump Contractor to conduct Water Well Construction and/or Pump Installation under the license or certification of that Water Well Contractor or Pump Contractor, as demonstrated by an employment agreement executed by both the Full-Time Employee and the Water Well Contractor and/or the Pump Contractor or by other sufficient documentation of employment, such as federal or state employment tax forms.

(o) "Notice to Correct" means any written communication from the Council or the Division describing any alleged violations of the Act or of any law or any of the rules of the State of Georgia relating to wells that the Council or the Division, respectively have authority to enforce, including any violation of standards or rules adopted pursuant to this Act, whether or not the phrase or term "Notice to Correct" appears on such written communication.

Cite as Ga. Comp. R. & Regs. R. 770-2-.01

AUTHORITY: O.C.G.A. § 12-5-120 ***et seq*.**

HISTORY: Original Rule entitled "Definitions" adopted. F. July 13, 1978; eff. August 2, 1978.

Repealed: New Rule of same title adopted. F. Mar. 19, 1987; eff. Apr. 8, 1987.

Repealed: New Rule of same title adopted. F. Aug. 7, 2006; eff. Aug. 27, 2006.

Amended: F. Jan. 25, 2024; eff. Feb. 14, 2024.

Department 770. WATER WELL STANDARDS ADVISORY COUNCIL

Chapter 770-3. APPLICATIONS AND EXAMINATIONS

770-3-.01 Applications

(1) Any person desiring to engage in the business of water well construction or the business of pump installation in Georgia shall apply to the Council for a license as a water well contractor or a certificate as a pump contractor, respectively, in accordance with these Rules (770-1 to 770-8).

(2) All applications for licensing and certification shall be submitted to the Division on forms approved and provided by the Council.

(a) An application may not be accepted by the Division for filing unless the application is complete and is accompanied by the examination scores and required fee(s).

1. The application fee shall be set by the Council. Check or money order shall be made payable to the Department of Natural Resources.

2. The financial assurance shall be either:

i. a performance bond payable to the Director and issued by an insurance company authorized to issue such bonds in this state; or

ii. an irrevocable letter of credit issued in favor of and payable to the Director from a commercial bank or other financed institution approved by the Director. The amount of the bond and irrevocable letter of credit for a water well contractor shall be set by the Director in an amount not to exceed $75,000. The amount of the bond or irrevocable letter of credit for a pump contractor may be less but shall not exceed the amount of the bond or irrevocable letter of credit for a water well contractor.

(b) If a business has more than one water well contractor or pump contractor, that business, in lieu of obtaining bonds or irrevocable letters of credit for each individual licensee or certificate holder, may substitute a blanket bond or blanket irrevocable letter of credit for all water well contractors or pump contractors within that business. The blanket bond or blanket irrevocable letter of credit shall be payable to the Director in an amount not to exceed $75,000.

(3) An applicant for a license as a water well contractor and an applicant for a certificate as a pump contractor shall be required to submit proof of passing results for examinations prepared by the National Ground Water Association and administered by a provider designated by the National Ground Water Association.

(4) An applicant for a license as a water well contractor shall be required to have two (2) years experience working in the water well construction business under a licensed water well contractor. An applicant for a certificate as a pump contractor shall be required to have two (2) years experience working in the pump installation business under a certified pump contractor or under a licensed water well contractor.

(a) The applicant shall list his or her experience on the application including the names and addresses of the water well contractors or pump contractors from whom the experience was gained and any other references, and such other information as may be required by these rules or the Council.

(b) Satisfactory proof of two (2) years' experience shall be made by the following:

1. By presenting certified affidavits that the applicant has had at least two (2) years of full-time experience from one or more licensed water well contractors if applying for a water well contractor's license, or presenting certified affidavits from one or more certified pump contractors or one or more licensed water well contractors if applying for a pump contractor's certificate.

2. If the required experience was obtained under two (2) or more licensed water well contractors or certified pump contractors, then a certified affidavit specifying exact dates of such experience shall be required from each licensed or certified contractor.

3. The Council may require the applicant and the contractors who swear to such affidavits to appear before the Council to discuss the applicant's qualifications.

4. In lieu of the method described above, an applicant may present other proof that is satisfactory to the Council of two (2) years' experience.

(5) Persons who can document that they have been in the business of installing, removing or servicing pumps and pumping equipment prior to December 31, 2003 may be granted a pump contractors certificate by submitting a complete application accompanied by the examination scores, paying the appropriate fees, and submitting an acceptable bond or irrevocable letter of credit.

(6) The Council shall not approve an application or issue any new license or certificate or renew any old license or certificate prior to the Director or the Director's designee receiving an acceptable bond or irrevocable letter of credit.

(7) The Council shall, by majority vote of the quorum, approve or deny an application. The Council may deny an application under this Rule for, but not limited to, insufficient information regarding experience in the water well construction or pump installation business or lack of other information the Council deems necessary to evaluate the experience and qualifications of the applicant.

(a) Notice will be given to an applicant, by first-class mail, of the Council's action approving or denying an application.

(b) An applicant whose application has been denied shall be notified by first-class mail of the Council's decision within twenty (20) days of such denial. The Council shall state the reason(s) for the denial in the letter. The applicant shall have the right to appeal to the Council any denial, in accordance with the Georgia Administrative Procedure Act, O.C.G.A. 50-13-1, et seq.

(c) Any person whose application has been denied may request in writing to the Council, within thirty (30) days of the date of the letter of denial, an informal conference before the Council, for the purpose of explaining, but not supplementing, the application. Based on the person's explanation, the Council may reconsider the denial. Such reconsideration shall take the form of a majority vote of the quorum. If the applicant does not request an informal conference before the Council, the denial shall be final on the date that is thirty (30) days after the date of the Council's denial notice.

(d) An applicant whose application has been denied may thereafter file a new application at any time unless in its notice of denial the Council imposes a period of deferment on the filing of a new application. The application fee shall accompany the new application; however, no application fee shall be required of an applicant who files a new application under this provision within one year of the date of the denial of his or her original application.

Cite as Ga. Comp. R. & Regs. R. 770-3-.01

AUTHORITY: O.C.G.A. § 12-5-120 ***et seq*.**

HISTORY: Original Rule entitled "Experience" adopted. F. July 13, 1978; eff. August 2, 1978.

Repealed: New Rule entitled "Applications" adopted. F. Mar. 19, 1987; eff. Apr. 8, 1987.

Amended: F. June 3, 1998; eff. June 23, 1998.

Repealed: New Rule of same title adopted. F. Aug. 7, 2006; eff. Aug. 27, 2006.

Amended: F. Jan. 25, 2024; eff. Feb. 14, 2024.

770-3-.02 Examinations

(1) Examinations shall be given in a manner, time and place prescribed by a testing provider approved by the National Ground Water Association.

(2) The examinations shall relate to the applicant's knowledge of ground water, water well construction, pump installation, and the general content of these Rules and the Act as appropriate.

(3) Written examinations for water well contractors and for pump contractors shall be prepared by the National Ground Water Association.

(4) The examinations for a license for a water well contractor or for a certificate for a pump contractor shall be written tests administered by a provider designated by the National Ground Water Association. All examination centers will be equipped to provide access in accordance with the Americans with Disabilities Act (ADA) of 1990, and every reasonable accommodation will be made in meeting a candidate's needs.

(5) The passing grade for any examination taken by the applicant shall be seventy (70) percent.

Cite as Ga. Comp. R. & Regs. R. 770-3-.02

AUTHORITY: O.C.G.A. § 12-5-120 ***et seq*.**

HISTORY: Original Rule entitled "Satisfactory Proof of Experience" adopted. F. July 13, 1978; eff. August 2, 1978.

Repealed: New Rule entitled "Examinations" adopted. F. Mar. 19, 1987; eff. Apr. 8, 1987.

Amended: F. June 3, 1998; eff. June 23, 1998.

Repealed: New Rule of same title adopted. F. Aug. 7, 2006; eff. Aug. 27, 2006.

Amended: F. Jan. 25, 2024; eff. Feb. 14, 2024.

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Chapter 770-4. FEES

770-4-.01 Fees

All applicable fees for water well and pump contractors, including but not limited to fees for license and certificate application, license and certificate by reciprocity, restorations and duplicate copy of license and certificate, shall be set by the Council. However, water well contractor license renewal fees shall be set by the Division and pump contractor certificate renewal fees shall be set by the Council.

Cite as Ga. Comp. R. & Regs. R. 770-4-.01

AUTHORITY: O.C.G.A. § 12-5-120 ***et seq*.**

HISTORY: Original Rule entitled "Applications" adopted. F. July 13, 1978; eff. August 2, 1978.

Repealed: New Rule entitled "Fees" adopted. F. Mar. 19, 1987; eff. Apr. 8, 1987.

Amended: F. June 3, 1998; eff. June 23, 1998.

Repealed: New Rule of same title adopted. F. Aug. 7, 2006; eff. Aug. 27, 2006.

Amended: F. Jan. 25, 2024; eff. Feb. 14, 2024.

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Chapter 770-5. LICENSE AND CERTIFICATE

770-5-.01 Issuance

(1) After the applicant has passed all of the required examinations and submitted a complete application, and after the Council has voted to approve an application and the applicant has submitted all of the required items, the applicant shall be issued a license or certificate, as appropriate, in a form approved by the Council.

(2) Notwithstanding any other provisions of law, a person licensed as a water well contractor pursuant to Code Section 12-5-127 or certified as a pump contractor pursuant to Code Section 12-5-138 is not required to be licensed or certified under Chapter 14 of Title 43, when in the course of constructing a water well, he or she makes certain electrical or plumbing connections or performs other electrical or plumbing work incidental to the drilling and construction of the well; provided, however, that any such electrical and plumbing work meets or exceeds all applicable local, state, or federal codes, whichever are most stringent.

Cite as Ga. Comp. R. & Regs. R. 770-5-.01

AUTHORITY: O.C.G.A. § 12-5-120 ***et seq*.**

HISTORY: Original Rule entitled "Fees" adopted. F. July 13, 1978; eff. August 2, 1978.

Repealed: New Rule entitled "Qualification" adopted. F. Mar. 19, 1987; eff. Apr. 8, 1987.

Repealed: New Rule of same title adopted. F. Aug. 7, 2006; eff. Aug. 27, 2006.

Amended: New title, "Issuance." F. Jan. 25, 2024; eff. Feb. 14, 2024.

770-5-.04 Restoration

A licensee or certificate holder whose license or certificate has expired may have such license or certificate restored by applying for a water well contractor license or pump contractor certificate in accordance with Chapter 770-3 of these rules and payment of a restoration fee in the amount established by the Council.

Cite as Ga. Comp. R. & Regs. R. 770-5-.04

AUTHORITY: O.C.G.A. § 12-5-120 ***et seq*.**

HISTORY: Original Rule entitled "Penalty" adopted. F. Mar. 19, 1987; eff. Apr. 8, 1987.

Repealed: New Rule of same title adopted. F. Aug. 7, 2006; eff. Aug. 27, 2006.

Amended: New title, "Restoration." F. Jan. 25, 2024; eff. Feb. 14, 2024.

770-5-.08 Water Well Construction Activities

(1) Any person in a water well construction business who has been granted a Water Well Contractor's license by the Council shall be responsible for water well construction activities performed or approved by such person.

(2) Any approved activity by the licensee shall be posted at the site of the activity on forms provided by the Council.

(3) A water well contractor's license is not required for a person who constructs a well on his/her own or leased property intended for use only in a single-family house which is his/her permanent residence or intended for use only for farming purposes on his/her farm, for a well that produces less than 25,000 gallons per day, so long as the waters to be produced are not intended for use by the public or in any residence other than his/her own. However, a person is prohibited from drilling a well or wells on property he or she owns and is developing for resale unless such person has a license as a water well contractor.

(4) All wells must be constructed in accordance with the requirements set forth in the Act and meeting the standards typically used in the industry. Further, any fluids used in the drilling process must be disinfected or must be taken from a source meeting all maximum contaminant levels provided for in the Georgia Safe Drinking Water Act, O.C.G.A. § 12-5-170 et seq. and the rules promulgated thereunder.

Cite as Ga. Comp. R. & Regs. R. 770-5-.08

AUTHORITY: O.C.G.A. § 12-5-120 ***et seq*.**

HISTORY: Original Rule entitled "Water Well Construction Activities" adopted. F. Mar. 19, 1987; eff. Apr. 8, 1987.

Repealed: New Rule of same title adopted. F. Aug. 7, 2006; eff. Aug. 27, 2006.

Amended: New title, "Water Well Construction Activities." F. Jan. 25, 2024; eff. Feb. 14, 2024.

770-5-.09 Pump Installation Activities

(1) Any person in a pump installation business who has been granted a pump contractor certificate by the Council shall be responsible for pump removal, repair, and installation activities performed or approved by such person.

(2) During any onsite removal, installation, or service of a water well pump, the certified pump contractor shall make a reasonable effort to maintain the integrity of ground water and to prevent contamination, and shall perform such activities in accordance with generally accepted standards and practices customarily used by competent pump contractors.

(3) Following any water well pump installation, removal or onsite service, the well and pumping equipment shall be disinfected with chlorine applied so that a concentration of at least fifty (50) parts per million of chlorine shall be obtained in all wetted parts of the well and pumping equipment with a minimum contact period of two (2) hours before pumping the well.

(4) All materials used in the replacement or repair of any water well pump shall meet the requirements for a new installation.

(5) A pump contractor certificate is not required for a person who installs, removes or services a pump on his/her own or leased property intended for use only in a single-family house which is his/her permanent residence or intended for use only for farming purposes for a well that produces less than 25,000 gallons per day, so long as the waters to be produced are not intended for use by the public or in any residence other than his/her own. However, a person is prohibited from installing, removing or servicing a pump or pumping equipment on property he or she owns and is developing for resale unless such person is licensed as a water well contractor or certified as a pump contractor in Georgia.

Cite as Ga. Comp. R. & Regs. R. 770-5-.09

AUTHORITY: O.C.G.A. § 12-5-120 ***et seq*.**

HISTORY: Original Rule entitled "Pump Installation Activities" adopted. F. Aug. 7, 2006; eff. Aug. 27, 2006.

Amended: F. Jan. 25, 2024; eff. Feb. 14, 2024.

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Chapter 770-6. LICENSING AND CERTIFICATION BY RECIPROCITY

770-6-.01 License and Certificate by Reciprocity

(1) Any person requesting licensing or certification by reciprocity shall complete and submit an approved application form and performance bond or irrevocable letter of credit accompanied by an application fee of an amount determined by the Council. The Council may also elect to require any applicant for licensing or certification by reciprocity to take an examination or examinations as described in Rule 770-3-.02.

(2) The application shall be accompanied by a copy of the applicant's valid and current water well contractor's license, pump contractor's certificate, or equivalent, issued by another state, territory, or possession of the United States.

(3) Reciprocity privileges may be granted to water well contractors or pump contractors holding a valid license or certificate from outside the State of Georgia only when the standards for the non-Georgia licensing or certification are at least as stringent as Georgia's and such other state, territory, or possession grants reciprocal privileges to Georgia licensed or certified water well contractors or pump contractors.

Cite as Ga. Comp. R. & Regs. R. 770-6-.01

AUTHORITY: O.C.G.A. § 12-5-120 ***et seq*.**

HISTORY: Original Rule entitled "Qualification" adopted. F. July 13, 1978; eff. August 2, 1978.

Repealed: New Rule entitled "License by Reciprocity" adopted. F. Mar. 19, 1987; eff. Apr. 8, 1987.

Repealed: New Rule entitled "License and Certificate by Reciprocity" adopted. F. Aug. 7, 2006; eff. Aug. 27, 2006.

Amended: F. Jan. 25, 2024; eff. Feb. 14, 2024.

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Chapter 770-7. ENFORCEMENT PROCEDURES

770-7-.01 Suspension and Revocation

The Council may suspend or revoke a license or certificate upon a finding of one or more of the following grounds:

(a) material misstatement in the application for license or certificate or in any documents submitted as part of such application;

(b) willful disregard or violation of the Act or of any laws and rules of the State of Georgia relating to wells, including any violation of standards or rules adopted pursuant to this Act;

(c) willfully aiding or abetting another in the violation of the Act or of any laws or rules of the State of Georgia relating to wells, including any violation of standards or rules adopted pursuant to this Act;

(d) incompetency in the performance of the work of a water well contractor or pump contractor;

(e) making substantial misrepresentations or false promises in connection with the occupation of a water well contractor or pump contractor;

(f) failure to provide and maintain on file at all times with the Director a valid, up-to-date performance bond or irrevocable letter of credit in the amount determined by the Director;

(g) failure to use reasonable care, judgment or application of the well driller's or pump contractor's knowledge or ability in the performance of the well driller's or pump contractor's duties, or failure to properly perform well driller or pump contractor duties;

(h) allowing an unlicensed driller or an uncertified pump contractor to use or to work under the licensed driller's license or a certified pump contractor's certificate, respectively, in any way. However, this shall not apply to any Full-Time Employee, licensed driller, certified pump contractor, or to a bona fide Business Partner of the licensed or certified Water Well Contractor;

(i) failing to comply with any Notice to Correct to the license or certificate holder, including failing to perform any actions required in the Notice to Correct to address those violations, unless the license or certificate holder requests a hearing in accordance with the requirements of Rule 770-7-.02.

Cite as Ga. Comp. R. & Regs. R. 770-7-.01

AUTHORITY: O.C.G.A. § 12-5-120 ***et seq*.**

HISTORY: Original Rule entitled "License by Reciprocity" adopted. F. July 13, 1978; eff. August 2, 1978.

Repealed: New Rule entitled "Suspension and Revocation" adopted. F. Mar. 19, 1987; eff. Apr. 8, 1987.

Repealed: New Rule of same title adopted. F. Aug. 7, 2006; eff. Aug. 27, 2006.

Amended: F. Jan. 25, 2024; eff. Feb. 14, 2024.

770-7-.02 Written Complaints, Enforcement, Hearings

(1) The Council may consider suspension or revocation of a license or certificate upon receiving the results of an inspection performed by the Director or upon receiving a written complaint from a third party that the licensee or certificate holder in question has violated the Act or any law and rules of the State of Georgia relating to wells, including any violation of standards or rules adopted pursuant to this Act. Written complaints must be sent to the Council within two (2) years from the completion of the well or within one (1) year from the completion of the pump installation.

(a) For third party written complaints, the Council will examine the contents of the complaint and then may either dismiss the complaint against a licensee or certificate holder based upon the written facts presented to the Council by the complaint, or notify the license or certificate holder of the complaint by certified mail or statutory overnight delivery and specify a time period for the licensee or certificate holder to show compliance with all lawful requirements for the retention of the license or certificate.

1. If the license or certificate holder satisfies the complaint within the specified timeframe, no further action will be required of the Council.

2. If the complaint is not satisfied within the time period specified in the notice, the Council may elect to suspend or revoke the license or certificate or to request the Director conduct an inspection as described in Code Section 12-5-136. If the Council elects to request that the Director conduct an inspection, the Council shall review the results of that inspection and then either dismiss the complaint, suspend or revoke the license or certificate, request that the Director issue a Notice to Correct, or notify the license or certificate holder in writing that a hearing will be conducted in accordance with the Georgia Administrative Procedure Act, O.C.G.A. 50-13-1, et seq.

(b) For an inspection performed by the Director, the Council will examine the contents of the inspection and then may either determine not to pursue further enforcement or to notify the license or certificate holder of the inspection by certified mail or statutory overnight delivery and specify a time period for the licensee or certificate holder to show compliance with all lawful requirements for the retention of the license or certificate.

1. If the license or certificate holder resolves the inspection violations within the specified timeframe, no further action will be required of the Council.

2. If the inspection violations are not resolved within the time period specified in the notice, the Council may elect to suspend or revoke the license or certificate, request that the Director issue a Notice to Correct, or notify the license or certificate holder in writing that a hearing will be conducted in accordance with the Georgia Administrative Procedure Act, O.C.G.A. 50-13-1, et seq.

(2) In any situation where the Council elects to suspend or revoke a license or certificate without first conducting a hearing, the Council will inform the license or certificate holder in writing of that suspension or revocation, specifying which of the grounds in Rule 770-7-.01 apply.

(3) In any situation where the Council elects to request that the Director issue a Notice to Correct, the Notice to Correct will describe the repairs necessary to correct the violations and specify the timeframe to make such repairs. If the licensee or certificate holder timely makes the identified repairs to the satisfaction of the Council and so notifies the Division by certified mail, then the Council will not pursue further enforcement. If the repairs identified in the Notice to Correct are not made within the specified timeframe, the Council may request that the Director place a demand on the licensee or certificate holder's bond or irrevocable letter of credit. The Director may use the proceeds from such bond or irrevocable letter of credit to contract with another licensee or certificate holder to perform the necessary repairs.

(4) If a licensee or certificate holder contends that the Director's Notice to Correct is inappropriate, the licensee or certificate holder may request a hearing to be conducted in accordance with the Georgia Administrative Procedures Act O.C.G.A. 50-13-1, et seq. Such a request for a hearing must be sent to the Council within thirty (30) days of the date of the Director's Notice to Correct.

(5) For any hearings conducted by the Council, the Council will notify the licensee or certificate holder in writing by certified mail or by hand delivery of the date, time and place of the hearing, together with a copy of any related complaint or inspection and any other relevant material. The notice will include all information required by the Georgia Administrative Procedures Act, O.C.G.A. 50-13-1, et seq., for contested cases.

(6) After the conclusion of any hearing on a complaint related to alleged violations by a licensee or certificate holder, the Council shall issue such written findings documenting its decision as required by the Georgia Administrative Procedures Act, O.C.G.A. 50-13-1, et seq.

(7) Any person whose license or certificate is expired, suspended or revoked or otherwise rendered invalid or ineffective shall not perform the duties of a water well contractor or pump contractor in the State of Georgia.

(8) The licensee or certificate holder shall have the right to appeal any decision by the Council regarding a complaint in accordance with the Georgia Administrative Procedures Act (O.C.G.A. 50-13-1, et seq.).

(9) The Council, by majority vote of the quorum, may reissue a license or certificate to any person whose license or certificate has been revoked upon written application to the Council by the applicant, showing good cause to justify such reissuance.

Cite as Ga. Comp. R. & Regs. R. 770-7-.02

AUTHORITY: O.C.G.A. § 12-5-120 ***et seq*.**

HISTORY: Original Rule entitled "Written Complaints" adopted. F. Mar. 19, 1987; eff. Apr. 8, 1987.

Repealed: New Rule of same title adopted. F. Aug. 7, 2006; eff. Aug. 27, 2006.

Amended: New title, "Written Complaints, Enforcement, Hearings." F. Jan. 25, 2024; eff. Feb. 14, 2024.

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Chapter 770-8. CONTINUING EDUCATION

770-8-.01 Continuing Education

(1) All persons seeking renewal of licenses or certificates are required to complete at least four (4) hours of continuing education annually.

(a) In order to receive a license or certificate renewal, each driller or pump contractor shall provide evidence to the Council that the requisite hours of approved continuing education courses or programs have been received.

(b) In order to be acceptable for license or certificate renewal, continuing education courses or programs shall have been received by the licensee during the period two (2) years prior to license renewal date.

(2) Only courses or programs designated or approved by the Council shall be acceptable for license or certificate renewal.

(a) The Council may provide courses or designate those courses offered by the Georgia Department of Natural Resources, Environmental Protection Division, institutions of higher learning, vocational-technical schools, and trade, technical, or professional organizations which are relevant. Continuing education courses or programs related to water well construction or standards conducted by public utilities, equipment manufacturers, or institutions under the State Board of Technical and Adult Education shall constitute acceptable continuing professional education programs for the purposes of this subsection.

(b) Persons teaching courses or programs offered by entities, other than those in 770-8-0.1(2) (a), shall be approved by the Council if they provide written evidence of satisfactory qualification to the Council. Qualifications shall be based on:

1. Professional certification or licensure to practice in the field(s) or profession(s) covered by the course(s) taught; or

2. Significant education, training and experience in the field(s) or profession(s) covered by the course(s) taught; or

3. A combination of 1. and 2. above.

(c) Approval of a course(s) or program(s) shall be issued by the Council before the course or program is offered, based on a written request of the entity offering the course(s) or program(s). The request shall provide a detailed narrative describing the course(s) or program(s) to be offered and the qualifications of the instructor(s).

(d) Approval of a course shall be valid for a period of one year and shall be automatically renewed from year to year unless the Council issues notice of the expiration of the approval for such course at least 30 days prior to the end of the last period for which the course is approved. In such event, approval of the course shall expire or terminate at the end of the then-current period of approval.

(e) Qualifying continuing education courses or programs shall be in the areas of industry best practice, safety, environmental protection, ground-water geology, technological advances, business management, or government regulation.

(f) Courses or programs conducted by manufacturers specifically to promote their products shall not be approved.

(g) Continuing education courses shall be designed for water well contractors and pump contractors having variable educational backgrounds.

(3) Upon application by the licensee or certificant, the Council may waive the continuing education requirements in cases of hardship, disability, or illness or under such other circumstances as the Council deems appropriate.

Cite as Ga. Comp. R. & Regs. R. 770-8-.01

AUTHORITY: O.C.G.A. § 12-5-120 ***et seq*.**

HISTORY: Original Rule entitled "Suspension and Revocation" was filed on July 13, 1978; effective August 2, 1978.

Amended: Rule repealed. Filed March 19, 1987; effective April 8, 1987.

Amended: New Rule entitled "Continuing Education" adopted. F. Jun. 3, 1998; eff. Jun. 23, 1998.

Amended: F. Jan. 25, 2024; eff. Feb. 14, 2024.