



Making HSRA Cost Effective ... Still Protective

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Georgia - A Study Committee of the House and Senate is now considering the projected funding shortfall for the State's Hazardous Waste Trust Fund. The Study Committee is also reviewing experience to date with the Hazardous Site Response Act (HSRA) program to determine what improvements might allow for more cost-effective results going forward. Any report of the Study Committee's findings and recommendations must be made by December 1, 2001, when the Study Committee is scheduled to stand abolished.

To inform the Study Committee of business and industry's HSRA program experience and recommended improvements, the Georgia Industry Environmental Coalition¹ (GIEC) has sponsored preparation of a white paper for consideration by the Study Committee and other interested parties. The Executive Summary of the white paper follows. The full document may be obtained by contacting GIEC at dphillips@giec.org or 770-421-3520.

Executive Summary

The Hazardous Site Response Act (HSRA) was enacted in 1992 to meet the important and necessary goal of cleaning up those sites in Georgia that "pose a threat to human health or the environment." This is a goal that conscientious business and industry supports without equivocation. At the same time, however, Georgia business and industry supports cost-effective methods for achieving this goal. Georgia business and industry welcomes the establishment of the Joint HSRA Reauthorization Study Committee and trusts that this paper is a helpful summary of first-hand experience with HSRA since 1992.

Since HSRA's inception, approximately 70% of the sites that HSRA has attempted to address have involved businesses and industries. Business and industry experience at scores of these sites has shown that the current HSRA program imposes rigid, inflexible compliance obligations that, in many cases, do not have a corresponding benefit to the protection of human health or the environment. This approach to administering the HSRA program threatens to add billions of dollars of unnecessary costs to the cleanups of Georgia sites, drain the Trust Fund, and hinder brownfield redevelopment. The HSRA program is now poised to take advantage of this experience to date and the experiences of other federal and state programs that share the same goal of protecting human health and the environment.

Georgia business and industry has identified eight critical shortcomings in the HSRA program that add substantial unnecessary costs:

- 1. The HSRA program uses presumptions that are not based on real-world scenarios of risk as a basis for setting the nature and extent of required cleanups.*** Rather than using realistic and sensible evaluations of the risks posed at a particular site, the HSRA program has established a set of assumptions that presume certain exposures and risks are present at every site even where no scientific or factual basis for such presumption exists.
- 2. The HSRA program has created an inventory of sites that is unreasonably expansive.*** EPD lists sites on the inventory often based on incomplete or inaccurate information, and then makes it difficult or impossible to efficiently remove a site from the inventory once it is listed, even if the responsible party can demonstrate that no risk to human health or the environment exists at the site.

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3. ***The site investigations required by the HSRA program do not take into account either the actual risk posed by the site or the cleanup standards that will be invoked.*** As a result, responsible parties often spend hundreds of thousands of dollars on investigative studies, often chasing an elusive background concentration point that bears no real relation to risk, that has no cleanup significance, and that often stigmatizes adjoining properties and gives rise to needless litigation in the process.
4. ***The HSRA program imposes a regulatory presumption that all ground water in the State is drinking water.*** The HSRA program ignores the reality that many sites exist where the ground water (particularly the shallow ground water) is not used as drinking water and will not realistically be used as such in the future. This HSRA program presumption has the effect of forcing soil and ground-water cleanups to expensive and often unnecessary extremes, because of a hypothetical exposure assumption created by regulatory fiat often with no factual or scientific basis.
5. ***The HSRA program imposes a regulatory presumption that every point on a site is a point of exposure.*** HSRA cleanup requirements are driven by calculated risk factors, but the HSRA program often will not accept realistic, site-specific, exposure assumptions to derive the risk factors. For example, unlike programs in other states, the HSRA program imposes a presumption that day-to-day, residential soil exposures will occur at all soil depths and even under buildings or pavements.
6. ***The HSRA program requires each and every point on a site to meet the calculated average cleanup standard.*** Even though the cleanup standards are based on average exposure concentrations, the HSRA program insists on using the average as a not-to-exceed, bright-line standard for cleanups that applies, not on an average basis across the site, but to each and every point at the site. This inappropriate application of the cleanup concentration term results in the removal of more soil at greater costs than necessary to achieve the cleanup goal.
7. ***The HSRA program imposes a preference for bulk removal over cost-saving alternative and innovative remedies.*** The most dramatic consequence of the HSRA program's demands in this regard is the substantial underutilization of engineering and institutional controls, as well as innovative, remedial technologies which achieve protection of human health and the environment at costs far below removal or other cost-intensive remedies.
8. ***The HSRA program compounds these costly shortcomings by cumulative application.*** For example, the unrealistic assumptions in the risk calculation that increase the soil and ground-water volume subject to cleanup are often then compounded by the requirement for costly removal remedies.

Based on an informal, non-scientific, cost survey of sites on the Hazardous Site Inventory now undergoing remediation, it is not unrealistic to predict that the current HSRA program will ultimately result in expenditures for HSRA compliance on the order of \$5 billion. Review of HSRA's shortcomings suggests that a significant portion of this projected cost would not be necessary to achieve protection of human health and the environment. In fact, the cumulative effect of these costly shortcomings causes cleanups in Georgia to be from 1.5 to 10 times more expensive than cleanups at similar sites in other states.

Fortunately, the shortcomings mentioned above can be addressed through a limited number of legislative changes. Those recommended changes are reflected in Attachment A, a red-lined, amended version of the HSRA statutory language.

If effectively implemented, these recommended legislative changes will reduce pressure on the Trust Fund and encourage more brownfield redevelopment in communities across Georgia. Further, implementation of these changes will begin to ease the excessive financial burden that the current HSRA program places on business and industry, local governments, and individuals while still protecting human health and the environment.

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¹ GIEC is a not-for-profit, technically-based organization of diverse, regulated industry in Georgia. GIEC researches pertinent environmental and regulatory issues for the purpose of providing input to EPD and other interested parties.
