

GEORGIA INDUSTRY ENVIRONMENTAL COALITION

RUSH - TIME SENSITIVE INFORMATION

TO: GIEC Membership & Other Interested Parties

FROM: Millard Etling, Communications Workgroup Chairman

SUBJECT: HSRA Release Reporting Notification Rule Comments
Public Comment Proposed Rule of December 15, 1993

DATE: January 12, 1994

Attached please find a "generic" set of comments that expresses GIEC's major concerns with the "revised" HSRA Release Notification Rules currently out for public comment. GIEC will again be providing more detailed comments on these rules directly to EPD by the due date of January 18, 1994. However, it is still very important that individual member companies also provide independent comments as well. Please feel free to use the attached comments to develop a set of comments for your company. Also, feel free to share these GIEC comments with other companies and organizations and other interested parties including any local and state officials you might want to inform. **All comments must be received by January 18, 1994 at the following address:**

Mr. Harold Reheis
Director, Georgia EPD
Georgia Dept. of Natural Resources
205 Butler Street, S.E.
Suite 1152
Atlanta, GA 30334

GIEC Membership & Other Interested Parties
Page Two

Again, it is imperative that EPD be made aware of the continuing broad-based concern with these rules. Please provide your own individual company comments and share these comments with other companies and organizations in your area. GIEC would appreciate receiving a copy of any comments you might submit directly to EPD.

Please be aware that a public meeting with the EPD will be held on **Friday, January 14, 1994 at 10:00 a.m.** at The Holiday Inn Express Hotel, 795 Washington Street (near the Atlanta Fulton County Stadium), Atlanta, Georgia. The proposed Rules will be considered for adoption by the Board of Natural Resources on January 26, 1994. The meeting, which is open to the public, will be at 9:00 a.m. in the Department of Natural Resources Board Room at 205 Butler Street, Suite 1252, Atlanta, Georgia.

SUGGESTED GENERIC COMMENTS ON DNR EPD PROPOSED RULES 391-3-19:

HAZARDOUS SITE RESPONSE: RELEASE REPORTING NOTIFICATION RULE

PUBLIC COMMENT PROPOSED RULE OF DECEMBER 15, 1993

General Comments:

Here are some suggested points to make in general comments:

- **PROVIDE THE OPTION OF SCORING BEFORE NOTIFICATION AND REPORTING**

As presently proposed by the EPD, an owner would be required to first **notify** EPD of any HSRA-regulated-substance concentrations exceeding "**background**" in groundwater or any soil concentrations exceeding specified "Notification Concentrations". Then, EPD would score the subject notifiable release using the RQSM and the associated guidance document. Then, if the RQSM score for either the "groundwater pathway" or "on-site exposure" exceeds the respective "threshold score", the owner would then be directed by EPD to "report" the subject release to EPD and EPD would then place the "reportable release" on the Hazardous Site Inventory (HSI). In effect, the proposed process will produce **two** sets of sites: those that required notification and those that required reporting with "reported" sites being a subset of the notification set.

GIEC recommends that the proposed rule be revised to allow owners the option of first scoring their own notifiable releases (using the RQSM and associated guidance document): if the documented RQSM threshold scores are not exceeded, the release would not be reportable and no notification would be required. Conversely, if an RQSM threshold score is exceeded, the release would require concurrent notification and reporting. Those owners that do not choose to first score their sites would be required to notify EPD of the notifiable release and EPD would score the site and advise the owner of the results.

By allowing this optional sequence of scoring/notification/reporting rather than notification/scoring/reporting, sites that do not require reporting under HSRA will not be unnecessarily stigmatized by HSRA notification. Such an option is entirely consistent with the Act itself because only reporting of reportable releases is required and there is no provision for generating two lists of sites (notifiable and reportable) as the presently proposed EPD scheme would do.

GIEC SUPPORTS THE USE OF A SCREENING MODEL

GIEC supports the concept of a generic screening model (like RQSM) to decide which sites/releases are to be reported and subsequently placed on the HSI. To the maximum extent possible, the RQSM should be designed and applied in a manner such that those sites/releases with a reasonable potential to pose a danger to human health or the environment are reported. At the same time, the RQSM should not automatically trigger the reporting and listing of sites/releases that do not reasonably pose a danger to human health or the environment. In effect, the RQSM must make a reasonable preliminary distinction between those releases that may pose a danger and those that do not. GIEC recognizes that no such generic screening model can be a substitute for legitimate site specific investigation and risk evaluation on a case-by-case basis. To that end, and with certain technical correction/revisions to the proposed generic model, GIEC supports the RQSM so long as EPD agrees that subsequent requirements (regulations) and decisions regarding the need for and extent of corrective action will give full and fair consideration to site-specific investigations and scientific risk evaluations on a case-by-case basis.

PROPOSED SOIL NOTIFICATION DERIVATIONS ARE FLAWED

EPD has again proposed soil notification concentrations (NCs) that are not based upon sound scientific principles. In particular, the assumed relationship between soil concentrations and potentially resulting groundwater concentrations greatly overstates the potential for such groundwater contamination. Further, many of the EPD-assumed (non-MCL) groundwater reference values are more stringent than would be suitable for continuous lifetime consumption as a drinking water supply. Groundwater reference values should include MCLs, health advisories or similarly computed values where MCLs are not yet available. Any such equilibrium-based estimates must be accompanied by the application of reasonable Dilution Attenuation Factors (DAFs). GIEC suggests that the soil/groundwater equilibrium approach should **apply a DAF of at least 100**. Sound and reasonable science must be applied. EPD's failure to do so requires the notification of soil concentrations that do not have the reasonable potential to pose a danger to human health or the environment. Again, EPD has exceeded the scope and legislative mandate of HSRA by proposing such excessively stringent soil notification concentrations.

• **HEALTH ADVISORY CONCENTRATIONS SHOULD SUPPLEMENT MCL LIST**

For the groundwater pathway of the RQSM, EPD has proposed to use MCLs as a key reference point for assigning scores under "1e. Exposure to ground water release". If a known release for an MCL substance is detected at concentrations less than the MCL, then the assigned score (1e) is "zero" for all cases. But if there is not MCL available for detected substance, then the 1e score is 3 for "no human exposure suspected", 12 for "suspected human exposure" and 18 for "known exposure". The effect of this skewed weighing is to dramatically increase the overall groundwater pathway score for Non-MCL substances and thereby cause the unjustified and unnecessary listing of certain sites on the HSI list just because there is not yet an MCL for detected substance present at concentrations that may well be recognized as "safe-enough-to-drink".

Therefore, GIEC strongly recommends that the proposed rule and guidance be revised to make use of EPA Health Advisory concentrations for drinking water (and similarly computed advisory values) as the HSRA-equivalent of EPA MCL concentrations.

• **NEED FOR CLEAN-UP STANDARDS ESTABLISHED CONCURRENTLY WITH REPORTABLE RELEASES**

Concerns still remain with the current approach of developing rules for reportable releases separate from those for clean-up. The two are so intertwined, they must be considered and developed concurrently. Due to public perception, it will be difficult, if not impossible, to establish clean-up standards that differ from those define reportable releases.

• **HSRA PROCESS FLOWCHART AS PART OF THE RULEMAKING PROCESS**

Promulgating protective yet practical rules to implement the HSRA is highly dependent upon developing an understanding of how the entire HSRA process will work. It is requested that EPD include in the rulemaking process of HSRA a process flow map or chart defining the entire HSRA process including, but not limited to, the following components: release reporting, listing on the HSI, determination that corrective action is required, property notices, conducting corrective action, termination of corrective action and removal from the HSI.