

Georgia Department of Natural Resources

205 Butler Street, S.E., Suite 1158, Atlanta, Georgia 30334

Joe D. Tanner, Commissioner
Environmental Protection Division

Harold F. Reheis, Director
404/657-8600

January 3, 1995

Mr. Raymond L. Osborne
Corporate Environmental Manager
Douglas and Lomason
PO Box 20783
Atlanta, GA 30320

RE: Rules for Hazardous Site Response

Dear Mr. Osborne:

Enclosed is a copy of a public notice announcing our intent to amend the Georgia Rules for Hazardous Site Response.

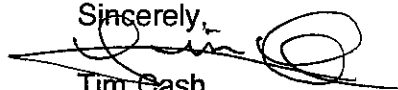
Copies of the proposed amendments to the rule and the public notice are being sent out during the public comment period to persons who have requested a copy.

With some exceptions, these proposed amendments are essentially the same as those transmitted to you under cover of my December 9, 1994 letter. The only exceptions are changes to Rule 391-3-19-.09(3)(b) and (c). Rule 391-3-19-.09(3)(b) was changed in response to comments we received from Mike McRae (copy enclosed) as well as in response to discussions at both the November and December Advisory Committee meetings. It was agreed that the percent cost share for eligible costs exceeding \$500,000 for sites owned or operated by county, city, or municipal corporations would be increased from 25% to 50%. Rule 391-3-19-.09(3)(c) was also changed in response to Mike McRae's comments that pointed out problems associated with the suspension of funding at critical levels. Although a general consensus was reached by the Advisory Committee that the ceiling for resumption of payments could be eliminated from the proposed rule, the need for maintaining a floor for suspension of payments was considered imperative.

As stated in the public notice, the proposed amendments to the rule will be available for public review and comment from January 6, 1995 through February 7, 1995. A public hearing is scheduled for February 6, 1995 in Room 401 of the Department of Transportation Building across from the State Capitol in Atlanta. We are proposing to present these amendments to the Board of Natural Resources for adoption at their February 22, 1995 board meeting.

I sincerely appreciate your efforts in helping us develop these proposed rule amendments. If you have any questions about the draft rule or the public review process, please call me at (404) 657-8600.

Sincerely,



Tim Cash
Program Manager
Hazardous Site Response Program

Enclosure

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**PROPOSED RULES OF
GEORGIA DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION**

Chapter 391-3-19: Hazardous Site Response

SUMMARY. Comments are solicited from the public on proposed amendments to the Rules for Hazardous Site Response, Chapter 391-3-19. The following changes are proposed:

- A new rule section, 391-3-19-.09 "Funding to State and Local Governments from the Hazardous Waste Trust Fund," is being proposed to address the statutory requirements of the Hazardous Site Response Act (HSRA), O.C.G.A., §12-8-95(b)(4) which call for the adoption of rules to govern the financing of state and local costs associated with the investigation, remediation, and post-closure of certain sites;
- An existing rule section, 391-3-19-.03, which deals with hazardous waste management fees, is being modified to include hazardous substance reporting fees mandated by Senate Bill 432; incorporate changes made to HSRA during the 1994 session of the Georgia General Assembly, and require submittal of Hazardous Waste Management Fee Records by March 31; and
- A new subparagraph is being added to existing Rule 391-3-19-.06(7)(a) to exclude corrective action and assessment monitoring required by a permit or order issued pursuant to the Comprehensive Solid Waste Management Act from certain requirements of the Georgia Rules for Hazardous Site Response.

Proposed Rule 391-3-19-.09 pertains to the financing of the state and local share of costs associated with the investigation, remediation, post-closure care and maintenance of sites where state or local government are responsible for such costs and which are listed on either the National Priority List by the U.S. Environmental Protection Agency or listed on the state Hazardous Site Inventory under HSRA. This Rule sets forth the following:

- Eligibility requirements for state and local governments to receive financial assistance from the Hazardous Waste Trust Fund;
- Cost-sharing provisions for eligible costs up to \$2,000,000 per site;
- Description of costs that are eligible for funding and costs that are not eligible for funding;
- Procedures for state and local governments to apply for financial assistance from the Hazardous Waste Trust Fund.

Proposed revisions to Rule 391-3-19-.03 reflect amendments made to HSRA during the 1994 legislative session of the Georgia General Assembly and pertain to the collection of fees to be deposited into the Hazardous Waste Trust Fund as follows:

- Persons reporting under the federal Superfund Amendments and Reauthorization Act, Title III, Section 312 or 313 are now required to pay a flat-rate annual hazardous substance reporting fee, with exceptions being those persons reporting solely for non-HSRA-regulated substances or petroleum products.
- The amendment clarifies that hazardous waste generators are not required to include hazardous wastewaters when determining their generator status. Additionally, dilution of hazardous wastewaters is classified as treatment and subject to hazardous waste management fee assessment.
- A separate payment ceiling is established for total annual fees charged for hazardous wastewaters that are hazardous wastes managed solely on-site. Hazardous waste management fees for hazardous wastewaters are presently included under the payment ceiling for all hazardous waste managed on-site.
- A separate hazardous waste management fee is established for hazardous wastes burned for energy recovery after January 1, 1995. Before the 1994 amendments of HSRA, burning of hazardous waste for energy recovery was classified as treatment.

The proposed revision to Rule 391-3-19-.06 would allow corrective action and assessment monitoring required under a permit or an order issued under the Georgia Comprehensive Solid Waste Management Act to be excluded from some of the requirements of the Rule for Hazardous Site Response. Sites in this category that are listed on the state Hazardous Site Inventory would not be required to certify compliance with cleanup standards under the Rules for Hazardous Site Response as long as they are being cleaned up under the Georgia Comprehensive Solid Waste Management Act. This amendment is being proposed to avoid duplicative regulation of the same activities at the same site under two different sets of requirements.

The amendment to Chapter 391-3-19 is described on the following pages. For economy and convenience sake, long sections of existing final rules in the Chapter which are not being amended are not repeated; thus, Rules .04, .05, .07, .08 and Appendices I through III are not shown. The amendment's proposed additions are underlined; proposed deletions are shown crossed out with a single horizontal line.

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NOTICE OF PUBLIC HEARING

The Environmental Protection Division (EPD) of the Georgia Department of Natural Resources will hold a public hearing on proposed amendments to the Georgia Rules for Hazardous Site Response (Rules), Chapter 391-3-19, on Monday, February 6, 1995 at 10:00 a.m. in Room 401 of the Department of Transportation Building, 2 Capitol Square, Atlanta, Georgia. These Rules are to be considered for promulgation under the authority of the Georgia Hazardous Site Response Act, O.C.G.A. §12-8-90 *et seq.*, as amended (the Act).

The rulemaking being proposed today would address the requirement in the Act for promulgation of rules for financing of the state, county, city, and municipal corporation share of costs associated with the investigation, remediation, post-closure care, and maintenance of sites on the federal National Priority List, or sites placed on the state Hazardous Site Inventory.

This rulemaking also proposes to amend Section 391-3-19-.03 of the Rules for Hazardous Site Response to incorporate the 1994 amendments to the Act which relate to the payment of hazardous waste fees. These proposed changes clarify what hazardous wastes are to be counted in determining generator status, establish requirements for payment of hazardous substance reporting fees, establish separate fees on hazardous wastes burned for energy recovery, and set maximum payments on hazardous wastes that are wastewaters treated on-site.

This rulemaking also proposes to amend Section 391-3-19-.06(7) of the Rules for Hazardous Site Response to exclude sites undertaking corrective action and assessment monitoring required by a permit or order issued under the Georgia Comprehensive Solid Waste Management Act from certain requirements of the Rules for Hazardous Site Response.

A package consisting of a summary document, the proposed Rules amendment, and the Act is available for public review and comment from January 6, 1995 through February 7, 1995, from 8:00 - 4:30 at the following locations:

Environmental Protection Division
205 Butler Street, SE
Floyd Towers East, Suite 1162
Atlanta, Georgia 30334

Middle Georgia Regional Office
Environmental Protection Division
2620 Shurling Drive
Macon, Georgia 31202

Southeast Regional Office
Environmental Protection Division
1 Conservation Way
Brunswick, Georgia 31523-8602

Southwest Regional Office
Environmental Protection Division
2024 Newton Road
Albany, Georgia 31708

Northeast Regional Office
Environmental Protection Division
745 Gaines School Road
Athens, Georgia 30605

An exact copy of the proposed Rules amendment will be provided to any person who requests it by calling EPD at (404) 657-8600.

Public involvement in this rulemaking process is essential and important to EPD. Statements and comments may be made orally or in writing at the hearing; lengthy statements or taped messages should be submitted for the record. Written comments may be submitted at any time during the public comment period but must be received by close of business on February 7, 1995 and should be addressed to Harold Reheis, Director, EPD, 205 Butler Street, SE, Suite 1152, Atlanta, Georgia 30334.

The proposed Rules amendment will be considered for adoption by the Board of Natural Resources on February 22, 1995. 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.

For further information please contact Tim Cash, Manager, Hazardous Sites Response Program, Hazardous Waste Management Branch, at (404) 657-8600.

8/1/95 10:00 AM

**RULES OF
GEORGIA DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION**

**Chapter 391-3-19
HAZARDOUS SITE RESPONSE**

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391-3-19-.01	General Provisions	391-3-19-.05	Reporting of Releases Exceeding Reportable Quantities and Listing of Sites on the Hazardous Site Inventory
391-3-19-.02	Conventions	391-3-19-.06	Corrective Action
391-3-19-.03	Hazardous Waste Management Fees	391-3-19-.07	Risk Reduction Standards
391-3-19-.04	Release Notification	391-3-19-.08	Property Notices

Rule 391-3-19-.03 adopted May 26, 1993 (effective June 16, 1993); Rules 391-3-19-.04 and .05 adopted January 26, 1994 (effective February 20, 1994); Rules 391-3-19-.06, .07, and .08 adopted June 29, 1994 (effective July 21, 1994).

391-3-19-.01 General Provisions

(1) **Purpose.** The purpose of these Rules is to establish policies, procedures, requirements, and standards to implement the Georgia Hazardous Site Response Act, Official Code of Georgia Annotated (O.C.G.A.) §12-8-90 et seq. (1992), as amended. These Rules are promulgated to protect and enhance the quality of Georgia's environment and to protect the public health, safety, and well-being of its citizens.

(2) **Authority.** These Rules are issued under the authority of the Georgia Hazardous Site Response Act (HSRA), O.C.G.A. §12-8-90 et seq.
O.C.G.A. Sec. 12-8-90 et seq.

391-3-19-.02 Conventions

(1) **Abbreviations**

CERCLA--Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended

CFR--Code of Federal Regulations

HEAST--USEPA's Health Effects Assessment Summary Tables

HSRA--Georgia Hazardous Site Response Act, O.C.G.A. §12-8-90 et seq.

IRIS--USEPA's Integrated Risk Information System

NCP--The National Oil and Hazardous Substances Pollution Contingency Plan,
40 CFR Part 300

O.C.G.A.--Official Code of Georgia, Annotated

RAGS, Part A--"Risk Assessment Guidance for Superfund: Volume 1 - Human Health
Evaluation Manual (Part A)," USEPA document EPA/540/1-89/002, December 1989

RAGS, Part B--"Risk Assessment Guidance for Superfund: Volume 1 - Human Health Evaluation Manual (Part B, Development of Risk-based Preliminary Remediation Goals)," USEPA document EPA/540/R-92/003, December 1991
SARA--Federal Superfund Amendments and Reauthorization Act of 1986, as amended
SW-846--"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA Publication SW-846
USEPA--United States Environmental Protection Agency

(2) **Definitions.** Unless otherwise defined in this chapter, the definition of all terms included in the HSRA, O.C.G.A. 12-8-90 et seq, as amended, the Georgia Hazardous Waste Management Act (HWMA) O.C.G.A. §12-8-60 et seq., as amended, and in the Rules for Hazardous Waste Management, Section 391-3-11-.02, shall have the same meaning in this chapter. When used in this chapter, the following terms shall have the meaning given below:

(a) *Approved analytical test method* means SW-846 test methods that have been promulgated, recommended, or otherwise approved by USEPA, or methods approved for use by the Division;

(b) *Conditionally exempt small quantity generator* means a hazardous waste generator who generates 220 pounds or less of hazardous waste in one month;

(c) *Defined release* means any release which is an event which has a known duration of less than 30 consecutive days, which has a known source, and which involves quantities that are known or can be estimated;

(d) *Detection limit* means the practical quantitation limit (PQL), defined as the lowest concentration, for an approved analytical test method and for a given sample matrix, at which the quantity of a regulated substance can be measured with a stated degree of confidence under routine laboratory operating conditions;

(e) *Final receiving facility* means a receiving facility that receives a hazardous waste and from which that hazardous waste will not be reshipped for further off-site management;

(f) *Free product* means any non-aqueous phase liquid that contains a regulated substance and that has accumulated at a groundwater surface, has pooled above a low permeability boundary in an aquifer, or can move freely in the aquifer;

(g) *Ground water* means any subsurface water that is in a zone of saturation;

(h) *Large quantity generator* means a hazardous waste generator who generates 2.2 pounds or more of acute hazardous waste or 2200 pounds or more of hazardous waste in one month;

(i) *Non-residential property* means any real property or portion of a property not currently being used for human habitation or for other purposes with a similar potential for human exposure, at which activities have been or are being conducted that can be categorized in one of the 1987 Standard Industrial Classification (SIC) major groups 01-97 inclusive (except the four-digit codes 4941, 8051, 8059, 8062-3, 8069, 8211, 8221-2, 8351, 8661, and 9223). Non-residential property includes all of the contiguous

block(s) and lot(s) controlled by the same owner or operator that are vacant land, or that are used in conjunction with such business. For leased properties, non-residential property includes the leasehold and any external tank, surface impoundment, septic system, or any other structure, vessel, contrivance, or unit that provides, or is utilized for the management of regulated substances to or from the leasehold;

(j) *Off-site management* means the movement of hazardous waste beyond the property boundary of the facility where it was generated for disposal, incineration, treatment, storage, burning for energy recovery, recycling and/or reuse at a receiving facility;

(k) *On-site management* means the disposal, incineration, treatment, storage, burning for energy recovery, recycling and/or reuse of self-generated hazardous waste by any large quantity generator before it is shipped for off-site management or discharged from an outfall regulated under the Georgia Water Quality Control Act;

(l) *Out-of-state generator* means any generator outside the State of Georgia that ships hazardous waste to a receiving facility located within the State of Georgia;

(m) *Receiving facility* means a facility that receives hazardous waste for disposal, incineration, treatment, storage, burning for energy recovery, recycling and/or reuse;

(n) *Regulated substance* means any substance defined in the Hazardous Waste Management Act, O.C.G.A. §12-8-62, by the terms "hazardous waste" or "hazardous constituent," or any substance defined in the Hazardous Site Response Act, O.C.G.A. §12-8-92, as "hazardous substance" (all such regulated substances are listed in Appendix I of this Chapter);

(o) *Release* means any intentional or unintentional act or omission resulting in the spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including without limitation the abandonment or discarding of barrels, containers, and other closed receptacles, of any hazardous waste, hazardous constituent, or hazardous substance; provided however, that such term shall not include any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons; emissions from the engine exhaust of any motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station; or the normal application of fertilizer;

(p) *Reportable quantity* means the amount of any released regulated substance which causes a site to meet the criteria for listing on the Hazardous Site Inventory pursuant to the screening method provided in Appendix II of this Chapter;

(q) *Reshipped for further off-site management* means when a receiving facility has received hazardous waste and where such hazardous waste has undergone disposal, incineration, treatment, storage, recycling and/or reuse at that receiving facility and the receiving facility subsequently signs the manifest accompanying such hazardous waste to send it to another receiving facility where it will undergo further disposal, incineration, treatment, storage, burning for energy recovery, recycling and/or reuse;

(r) *Residential property* means any property that does not exclusively meet the definition of non-residential property. In addition to recognized residential use, it also includes property used for

establishments classified by those SIC codes that are excepted from the definition herein of "non-residential". Also, a portion of non-residential property that is used in part for residential activities, such as a day care center, is defined as residential;

(s) *Responsible party* means any person who has contributed or who is contributing to a release, as defined at O.C.G.A. 12-8-92(9);

(t) *Self-generated hazardous waste* means hazardous waste generated by a large quantity generator or a small quantity generator;

(u) *Shipped for off-site management* means when a generator signs the manifest accompanying a hazardous waste shipment bound for a receiving facility where it will undergo disposal, incineration, treatment, storage, burning for energy recovery, recycling and/or reuse at that facility;

(v) *Site* means that portion of the owner's contiguous property and any other owner's property affected by a release exceeding a reportable quantity;

(w) *Small quantity generator* means a hazardous waste generator who generates greater than 220 pounds but less than 2200 pounds of hazardous waste in one month;

(x) *Soil* means any unconsolidated earth material, together with any unconsolidated plant or animal matter or foreign material that has become incorporated into it, that either consists of, remains within, or comes to be deposited on, native soil or regolith;

(y) *Ton of hazardous waste* means a standard short ton (2000 pounds) including any fraction thereof;

(z) *Wastewater* means any self-generated hazardous waste that undergoes on-site management in a wastewater treatment facility prior to its discharge from an outfall that is regulated under the Georgia Water Quality Control Act.

(3) **Number and gender.** As used in this chapter, words in the singular also include the plural and words in the masculine gender also include the feminine and vice versa, as the case may require.

Authority O.C.G.A. Sec. 12-8-90 et seq.

391-3-19-.03 Hazardous Waste Management and Hazardous Substance Reporting Fees

(1) **Exclusions.** Hazardous waste generated by the following is exempted from the hazardous waste management fees required by this section:

(a) Conditionally exempt small quantity generators;

(b) Corrective action required by an order, permit, or approved closure plan issued pursuant to the Georgia Hazardous Waste Management Act, O.C.G.A. §12-8-60 et seq, as amended;

(c) Corrective action required by an order of the Director pursuant to the Hazardous Site Response Act, O.C.G.A. §12-8-90 et seq as amended; and

(d) Response actions required under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

(2) Fees for off-site management of hazardous wastes. The requirements of this subsection are applicable to generators that ship self-generated hazardous waste for off-site management.

(a) For the purpose of determining the tonnage of hazardous waste shipped for off-site management to which the fees of this subsection apply, the generator shall use the amount recorded on the manifest accompanying each hazardous waste shipment expressed in tons. These amounts shall be measured by methods that provide an accurate and precise measurement of the weight in tons of each shipment received by the final receiving facility.

1. Small quantity generators. Each small quantity generator shall pay an annual fee to the Division of \$100.00. Small quantity generators are not subject to any other provisions of this section regarding hazardous waste management fees; they may, however, be subject to the provisions regarding hazardous substance reporting fees.

2. Receiving facilities that are large quantity generators. Receiving facilities that are large quantity generators are subject to the requirements of this subsection only with respect to self-generated hazardous wastes.

3. Large quantity generators. Each large quantity generator shall pay an annual fee to the Division of either \$100.00, or for each ton of hazardous waste shipped for off-site management, the applicable fee in Schedule I of this subsection, whichever amount is greater for that calendar year. With respect to the fees specified in Schedule I of this subsection, no large quantity generator shall pay more than \$75,000.00 per calendar year.

**SCHEDULE I
FEE SCHEDULE FOR HAZARDOUS WASTES SHIPPED OFF-SITE
BY LARGE QUANTITY GENERATORS**

<u>If management at final receiving facility is</u>	<u>then fee is</u>
Incineration or disposal	\$20 per ton
Treatment or storage	16 per ton
<u>Burning for energy recovery</u>	<u>9 per ton</u>
Recycling or reuse	2 per ton

(i) Determination of applicable fee. Each large quantity generator shall determine which off-site management fee in Schedule I of this subsection is applicable for each ton of hazardous waste which has been shipped for off-site management based upon the method of off-site management that waste undergoes at the final receiving facility. When a large quantity generator ships a ton of hazardous waste for off-site management and pays the applicable fee of Schedule I of this subsection, that large quantity generator

shall not pay any additional fees for any further off-site management of that hazardous waste. For each ton of hazardous waste shipped for off-site management, each large quantity generator shall pay the applicable fee in Schedule I of this subsection for the calendar year in which such shipment for off-site management occurred.

~~(ii) Fees for hazardous wastes which are sludges generated by on-site treatment of wastewater. When a large quantity generator ships a ton of hazardous waste for off-site management, that large quantity generator shall not pay the applicable off-site management fee in Schedule I of this subsection if that hazardous waste is a sludge removed during the on-site treatment of wastewater that was a hazardous waste and the large quantity generator pays the on-site treatment fee of Schedule II of Section 391-3-19-.03(3) for the on-site treatment of that wastewater.~~

(ii) Beginning January 1, 1995, large quantity generators shall pay an annual fee of \$9.00 for each ton of hazardous waste that is shipped off-site to be burned for energy recovery.

(3) **Fees for on-site management of hazardous wastes.** The requirements of this subsection are applicable to large quantity generators whose self-generated wastes undergo on-site management and which are not ultimately shipped for off-site management. For each ton of hazardous waste that undergoes on-site management and which is not ultimately shipped for off-site management, each large quantity generator shall pay to the Division per calendar year the applicable fee in Schedule II of this subsection. When a ton of hazardous waste undergoes more than one form of on-site management the large quantity generator shall determine which fee in Schedule II of this subsection is applicable based upon the final method of on-site management that waste undergoes. For each ton of hazardous waste which undergoes on-site management and which is ultimately shipped for off-site management, the large quantity generator shall not pay the applicable on-site management fee of Schedule II of this subsection but shall instead pay the applicable off-site management fee as required by subsection 391-3-19-.03(2). With respect to the fees required by this subsection, no large quantity generator shall pay to the Division per calendar year more than the amounts shown in Schedules III and IV of this subsection. For the purpose of determining the tonnage of hazardous waste managed on-site, each large quantity generator shall employ direct measurement or other techniques that provide a precise and accurate determination of the tonnage of hazardous waste undergoing on-site management. Each large quantity generator shall pay the applicable fee in Schedule II of this subsection for the on-site management of that hazardous waste for the calendar year in which such on-site management occurred.

(a) For the purposes of this subsection, a generator who generates wastewater that is a hazardous waste shall not be required to count said wastewater in determining its generator status. However, if a generator determines that it is a large quantity generator, even without counting its hazardous waste wastewater, the generator shall pay the applicable fees on those wastewaters. For the purposes of this section, dilution of wastewater that is a hazardous waste shall be considered to be treatment and subject to the fees applicable to treated or stored hazardous waste.

(b) Beginning January 1, 1995, large quantity generators shall pay an annual fee of \$2.50 for each ton of hazardous waste that is burned on-site for energy recovery.

**SCHEDULE II
FEE SCHEDULE FOR HAZARDOUS WASTES MANAGED ON-SITE BY
LARGE QUANTITY GENERATORS**

<u>If waste is managed on-site by</u>	<u>the fee is</u>
Incineration or disposal	\$10 per ton
Treatment or storage	4 per ton
<u>Burning for energy recovery</u>	<u>2.50 per ton</u>
Recycling or reuse	1 per ton

**SCHEDULE III
GRADUATED CAP ON TOTAL PAYMENTS PER
CALENDAR YEAR FOR HAZARDOUS WASTES,
EXCLUDING HAZARDOUS WASTEWATER FOR
PAYMENTS DUE 7/1/95 AND THEREAFTER,
MANAGED ON-SITE BY LARGE QUANTITY GENERATORS**

<u>Payments due on</u>	<u>for wastes managed</u>	<u>are capped at</u>
7/1/93	7/1/92 - 12/31/92	\$ 25,000
7/1/94	1/1/93 - 12/31/93	25,000
7/1/95	1/1/94 - 12/31/94	50,000
7/1/96	1/1/95 - 12/31/95	50,000
7/1/97	1/1/96 - 12/31/96	75,000
Thereafter	1/1 - 12/31	75,000

**SCHEDULE IV
GRADUATED CAP ON TOTAL PAYMENTS PER
CALENDAR YEAR FOR HAZARDOUS WASTEWATER MANAGED
ON-SITE BY LARGE QUANTITY GENERATORS**

<u>Payments due on</u>	<u>for wastes managed</u>	<u>are capped at</u>
<u>7/1/95</u>	<u>1/1/94 - 12/31/94</u>	<u>\$ 1,500</u>
<u>7/1/96</u>	<u>1/1/95 - 12/31/95</u>	<u>3,000</u>
<u>7/1/97</u>	<u>1/1/96 - 12/31/96</u>	<u>7,500</u>
<u>Thereafter</u>	<u>1/1 - 12/31</u>	<u>7,500</u>

(4) Fees for hazardous waste received from out-of-state generators. The requirements of this subsection are applicable to receiving facilities that receive hazardous waste from an out-of-state generator. For each ton of hazardous waste received by a receiving facility from an out-of-state generator, the receiving facility shall pay to the Division the applicable fee in Schedule ~~IV~~ V of this subsection.

(a) For the purpose of determining the tonnage of hazardous waste received to which the fees of this section apply, the receiving facility shall use the amount recorded on the manifest accompanying each hazardous waste shipment expressed in tons. These amounts shall be measured by methods that provide an accurate and precise measurement of the weight in tons of each shipment received by the receiving facility. With respect to the fees specified in Schedule ~~IV~~ V of this subsection, no receiving facility shall be required to pay more than \$75,000.00 per calendar year per out-of-state generator.

(b) Each receiving facility shall determine which fee in Schedule ~~IV~~ V of this subsection is applicable for each ton of hazardous waste received from an out-of-state generator based upon the method of management that waste undergoes at the final receiving facility. When a receiving facility receives a ton of hazardous waste from an out-of-state generator and pays the applicable fee in Schedule ~~IV~~ V of this subsection that receiving facility shall not pay an additional fee in Schedule ~~IV~~ I of this subsection. For each ton of hazardous waste received by a receiving facility from an out-of-state generator, the receiving facility shall pay to the Division the applicable fee in Schedule ~~IV~~ V of this subsection for the calendar year in which such waste was received.

(c) Beginning January 1, 1995, receiving facilities shall pay an annual fee of \$9.00 for each ton of hazardous waste that is burned for energy recovery.

SCHEDULE ~~IV~~ V
FEE SCHEDULE FOR HAZARDOUS WASTES RECEIVED BY
RECEIVING FACILITIES FROM OUT-OF-STATE GENERATORS

<u>If management at final receiving facility is</u>	<u>then fee is</u>
Incineration or disposal	\$20 per ton
Treatment or storage	16 per ton
<u>Burning for energy recovery</u>	<u>9 per ton</u>
Recycling or reuse	2 per ton

(5) Fees for hazardous substance reporting. The requirements of this subsection are applicable to each person required to report pursuant to Section 312 or Section 313 of Title III of the federal Superfund Amendments and Reauthorization Act of 1986 (SARA), with the exception of persons specified in 391-3-19-.03(5)(d).

(a) Beginning July 1, 1994 and continuing annually thereafter, each person required to report pursuant to Section 312 of Title III of SARA shall pay to the Division an annual hazardous substance reporting fee of \$500.00 with such payments being due to the Division not later than the following July 1.

(b) Beginning July 1, 1994, each person required to report pursuant to Section 313 of Title III of SARA shall pay to the Division the appropriate annual hazardous substance reporting fee in Schedule VI of this subsection with such payments being due to the Division not later than the following July 1.

(c) All hazardous substance reporting fees due on July 1 of each year shall be based on the hazardous substances reported for the preceding calendar year.

(d) The following persons who report pursuant to Section 312 or Section 313 of Title III of SARA shall not be required to pay the hazardous substance reporting fees required by this section:

(i) Persons who report only for substances not defined as regulated substances under Rule 391-3-19-.02; and

(ii) Persons who report only for petroleum fuels, lubricants, and hydraulic fluids and components thereof that are defined as regulated substances under Rule 391-3-19-.02.

SCHEDULE VI
FEE SCHEDULE FOR SECTION 313
HAZARDOUS SUBSTANCE REPORTERS

<u>Payment Due Date</u>	<u>Period Substances Reported For</u>	<u>Annual Fee</u>
<u>7/1/95</u>	<u>7/1/94 - 12/31/94</u>	<u>\$ 500</u>
<u>7/1/96</u>	<u>1/1/95 - 12/31/95</u>	<u>1,000</u>
<u>7/1/97</u>	<u>1/1/96 - 12/31/96</u>	<u>1,500</u>
<u>Thereafter</u>	<u>1/1 - 12/31</u>	<u>1,500</u>

~~(5)~~ **(6) Payment of hazardous waste management and hazardous substance reporting fees.**

(a) Payment due date. All hazardous waste management fees required by this section shall be paid to the Division not later than July 1 following the calendar year in which they were managed on-site, shipped for off-site management or received from an out-of-state generator. All hazardous substance reporting fees shall be paid to the Division not later than July 1 following the year for which a report is filed. Persons who make payments of fees required by this section later than thirty (30) days after the due date specified in this subsection shall pay a penalty of fifteen percent (15%) of the balance due and shall pay interest on the unpaid balance at the rate imposed by law for delinquent taxes due to the state.

(b) Hazardous waste management fee record. The payment of hazardous waste management fees required by this section shall be accompanied by such forms and other supporting information as may be prescribed by the Director. Any large quantity generator or receiving facility required to pay a fee under

this Section shall maintain a written hazardous waste management fee record of the total amount, in tons, of hazardous waste managed on-site, shipped for off-site management or received from an out-of-state generator during the calendar year. Completed Hazardous Waste Management Fee Records shall be submitted to the Hazardous Sites Response Program by no later than March 31 of each year.

1. The hazardous waste management fee record shall provide a description of the method used to measure the amount of hazardous waste that is of sufficient detail to demonstrate that such method provides an accurate and precise measurement.

2. For hazardous waste shipped for off-site management or received from an out-of-state generator, the hazardous waste management fee record shall include the following information:

(i) Manifest number for each shipment;

(ii) Date of each shipment or receipt;

(iii) Name and EPA identification number of the designated facility, final receiving facility and the generator for each shipment; and

(iv) By EPA hazardous waste number and method of management at the designated facility and the final receiving facility (i.e., incineration or disposal, treatment or storage, burning for energy recovery, recycling or reuse), the tons of hazardous waste for each shipment and the total tons of hazardous waste for the calendar year.

(c) Signatories to the hazardous waste management fee record. The hazardous waste management fee record shall be signed no later than March 31 of each year by the following:

1. For a corporation: By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decisionmaking functions for the corporation, or the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; or

2. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

3. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes the chief executive officer of the agency, or a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA); or

4. By a duly authorized representative of that person. A person is a duly authorized representative only if the authorization is made in writing by a person described in this subsection and the authorization specifies either an individual or a position having responsibility for overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent,

or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).

(d) Certification. Any person signing the hazardous waste management fee record required under this subsection shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(e) Availability, retention, and disposition of the hazardous waste management fee record. Each large quantity generator and receiving facility shall keep a copy of the signed hazardous waste management fee record required by this subsection, including any supporting information used to complete the record, for a period of three years from the end of the calendar year for which the record was completed. The hazardous waste management fee record and all supporting information shall be furnished upon request, and made available at all reasonable times for inspection by any representative of the Division. The retention period for all records required under this subsection may be extended at the request of the Director and is extended automatically during the course of any proceedings initiated by the Director pursuant to this subsection.

O.C.G.A. Sec. 12-8-90 et seq.

391-3-19-.06 Corrective Action

(1) **Applicability.** The requirements of Rule 391-3-19-.06 apply to any person who is a responsible party at a site listed on the Hazardous Site Inventory except as otherwise provided for in Rule 391-3-19-.06(7).

(2) **Classification of sites on the Hazardous Site Inventory.** Upon listing a site on the Hazardous Site Inventory, the Director shall designate the site or any individual property at the site as Class II unless or until he determines that it should be designated as Class I, Class III, or Class IV pursuant to Rule 391-3-19-.06(2)(a) through (c):

(a) Class I applies to any site or any individual property at a site which:

1. Includes the source of a release to a groundwater drinking water supply that has caused, or is likely to cause, human exposure through drinking water to concentrations of a regulated substance that exceed any of the Type 1 groundwater criteria described in Rule 391-3-19-.07(6)(b);

2. Has had a release which continues to add contaminants to soil, water, or air, or that continues to expand in area or volume;

3. Has had a release of a regulated substance that results in or is likely to result in any of the following:

(i) Bioaccumulation of a regulated substance in flora or fauna that causes adverse toxicological effects or that results in the need to recommend that human consumption be limited;

(ii) Adverse acute or chronic effects to domestic animals, fish, shellfish, or wildlife;

4. Includes an abandoned facility where the potential for exposure to a regulated substance is not controlled through on-site management;

5. Has been classified as Class I pursuant to Rule 391-3-19-.06(6)(b)(4) or (c); or

6. Does not meet any other criteria of Rule 391-3-19-.06(2)(a) but the Director has determined that it nevertheless poses a danger to human health or the environment.

(b) Class III applies to any site or individual property at a site which has been listed on the Hazardous Site Inventory (but not classified as Class IV pursuant to Rule 391-3-19-.06(2)(c)) and which and has been determined by the Director to be in compliance with the Type 3, Type 4 or Type 5 risk reduction standards of Rule 391-3-19-.07.

(c) Class IV applies to any site or individual property at a site which has been listed on the Hazardous Site Inventory and at which corrective action as described in Rule 391-3-19-.06(7)(a) is being conducted or has been completed.

(3) Compliance status report.

(a) Any person who is a responsible party for a site on the Hazardous Site Inventory shall submit to the Director a compliance status report that documents the current status of the site with regard to the risk reduction standards of Rule 391-3-19-.07 for all regulated substances associated with each release at the site. The Director shall in writing request the submittal of said report and specify a deadline for submittal based on a priority for submittal to be determined by the Director.

(b) The report required by Rule 391-3-19-.06(3)(a) shall, at a minimum, include the items enumerated below for all regulated substances associated with each release at the site, unless otherwise stated in writing by the Director. This report should be compiled on the basis of site conditions which exist after the completion of any voluntary corrective action taken by the responsible party prior to the submittal of the report. Reports on previous investigations or remedial activities required under other laws or regulations or undertaken voluntarily should be incorporated into the compliance status report when possible.

1. A description of each known source which has contributed or is contributing to a release including:

- (i) Source name, number or other descriptor;
- (ii) Location of source on a map of scale of 1 inch = 200 feet or less;
- (iii) Name of each regulated substance released from each source;
- (iv) Chronology of each source of a release; and
- (v) If a source is an engineered structure or a waste management unit, a description of the function, design, dimensions, capacity and operation of the source, including as-built construction drawings where available.

2. If a release involves soil contamination, a complete definition of the horizontal and vertical extent of such soil contamination. Satisfactory evidence of a complete definition of the horizontal and vertical extent of soil contamination shall consist of an appropriate number of data points at sufficient locations with concentrations at background concentrations. An acceptable determination of background concentrations shall be made from samples that are representative of soil conditions not affected by a release of a regulated substance. In support of the definition of the extent of soil contamination the compliance report shall describe the following:

- (i) General approach used;
- (ii) Analytical parameters selected and rationale for selection;
- (iii) Location of all sampling points by sample identification number on a map with scale of 1 inch = 200 feet or less and, where applicable, on vertical cross-sections of appropriate number and scale;
- (iv) Sampling and analysis procedures including but not limited to:

- (I) Sampling equipment and collection techniques;
 - (II) Field analytical or measurement techniques including make and model of equipment and calibration schedule and type;
 - (III) Sample handling and preservation techniques;
 - (IV) Equipment decontamination procedures;
 - (V) Chain-of-custody procedures; and
 - (VI) Laboratory analytical techniques, including references to the analytical methods used, if standard, or in cases where standard analytical techniques do not exist, descriptions of the analytical methods used, including quality assurance and quality control procedures utilized;
- (v) A description of any statistical procedures used to evaluate data;
- (vi) Procedures used to establish background soil concentrations; and
- (vii) Narrative and tabular summary of all pertinent field data and the results of all final laboratory analyses that are supported by sufficient quality assurance/quality control data to validate the results.

3. If a release involves groundwater contamination, a complete definition of the horizontal and vertical extent of groundwater contamination. Satisfactory definition of the horizontal and vertical extent of groundwater contamination shall consist of an appropriate number of data points at sufficient locations with concentrations at background concentrations. An acceptable determination of background concentrations shall be made from samples that are representative of groundwater conditions not affected by a release of a regulated substance. The compliance status report shall, at a minimum, describe the following:

- (i) Analytical parameters selected and rationale for selection;
- (ii) A description of the methods used to characterize subsurface geology;
- (iii) A description of the methods used to characterize horizontal and vertical groundwater gradients, flow rates, and flow directions;
- (iv) A description of the methods used to determine hydraulic conductivities and other pertinent hydrogeological characteristics, including a description of any slug and/or aquifer pumping tests;
- (v) A description of groundwater monitoring well locations, and their installation and construction methods, including:

- (I) A map with scale of 1 inch = 200 feet or less depicting all existing well locations including a survey of each well's surface reference point and the elevation of its top-of-casing;

- (II) Type of well casing material;
- (III) Description of well-intake design including screen slot size and length, filter pack materials and length, and method of filter pack emplacement;
- (IV) Method used to seal the well from the surface and any other features designed to prevent or minimize downward migration of contaminants along the well annulus; and
- (V) Description of the methods and procedures used to develop the wells;
- (vi) Description of all sampling and analysis procedures used, including at a minimum:
 - (I) Procedures and timing for measuring groundwater elevations for each sampling event;
 - (II) Well evacuation procedures including volume evacuated prior to sampling;
 - (III) Sample withdrawal techniques, sampling equipment and materials (tubing, rope, pump, etc.);
 - (IV) Sample handling and preservation techniques;
 - (V) Procedures for decontaminating sampling equipment between samples and sampling events;
 - (VI) Chain-of-custody procedures for all phases of sample management; and
 - (VII) Laboratory analytical techniques, including references to the analytical methods used, if standard, or in cases where standard analytical techniques do not exist, descriptions of the analytical methods used, including quality assurance and quality control procedures utilized;
- (vii) A description of procedures used to determine background groundwater quality which is representative of ground water not affected by a release;
- (viii) A map with scale of 1 inch = 200 feet or less depicting the horizontal extent of contamination;
- (ix) A map with scale of 1 inch = 200 feet or less depicting the potentiometric surface of ground water;
- (x) Maps and vertical cross-sections of appropriate scale depicting concentrations for all contaminants superimposed upon site stratigraphic features and monitoring wells; and
- (xi) Narrative and tabular summary of all pertinent field data and the results of all final laboratory analyses that are supported by sufficient quality assurance/quality control data to validate the results.

4. A description of any human or environmental receptors who may have been or could be potentially exposed to a release at the site.

5. A description of all properties which are part of the site including the address and location of such property, its legal description, and the property owner's name, address and telephone number.

6. The name, address and telephone number of any other person who may be a responsible party for the site and a description of the type and amount of regulated substances such party may have contributed to a release.

7. A summary of any previous actions taken to eliminate, control, or minimize any potential risk at the site, including actions taken to comply with the risk reduction standards of Rule 391-3-19-.07.

8. If the responsible party certifies pursuant to Rule 391-3-19-.06(4)(c) that the site is not in compliance with any of the risk reduction standards of Rule 391-3-19-.07, the compliance status report may include a proposed corrective action plan that describes the corrective action that the responsible party has determined is necessary to achieve compliance with the applicable risk reduction standards of Rule 391-3-19-.07.

9. If the responsible party certifies pursuant to Rule 391-3-19-.06(4)(c) that the site is in compliance with the Type 3, Type 4 or Type 5 risk reduction standards of Rule 391-3-19-.07, the compliance status report may include a proposed corrective action plan that describes the continuing actions that the responsible party has determined are necessary to achieve or maintain compliance with the Type 3, Type 4 or Type 5 risk reduction standards.

10. Attached to the front of the compliance status report, a concise statement of the findings of the report presented in plain language, immediately followed by the certification required pursuant to Rule 391-3-19-.06(4)(a).

(4) Certification of compliance with risk reduction standards.

(a) The compliance status report required by Rule 391-3-19-.06(3) shall include a compliance status certification regarding the responsible party's own determination as to the status of a site or any individual property at a site with regard to the applicable risk reduction standards of Rule 391-3-19-.07 for all regulated substances evaluated by the compliance status report.

(b) The compliance status certification shall be signed by the applicable person described in Items 1 through 4 of Rule 391-3-19-.03~~(5)~~(6)(c). Where the compliance status report is submitted for two or more cooperating responsible parties, the certification may be signed by a duly authorized representative of said responsible parties, "duly authorized" having the same meaning as in Item 4 of Rule 391-3-19-.03~~(5)~~(6)(c).

(c) Any person signing the certification of compliance required under Rule 391-3-19-.06(4) shall make the following certification:

I certify under penalty of law that this report and all attachments were prepared under my direction in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or

those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Based on my review of the findings of this report with respect to the risk reduction standards of the Rules for Hazardous Site Response, Rule 391-3-19-.07, I have determined that [(choose either of the following statements): 1) This site/property is in compliance with Type 1, Type 2, Type 3, Type 4, or Type 5 risk reduction standards (specify lowest numbered Type that applies, or all applicable types if more than one Type is applicable) or 2) This site/property is not in compliance with any Type risk reduction standards.].

(5) Public participation.

(a) Within 7 days after submitting to the Director the compliance status report required pursuant to Rule 391-3-19-.06(3), the responsible party who submits the report shall publish a notice in both a major local newspaper of general circulation and the legal organ of the local governments in whose jurisdiction the site is located, announcing that such report is available for inspection by the general public. The public notice must include:

1. The name, address and location of the site as it appears on the Hazardous Site Inventory, and, if the plan applies to less than the full site, the street address and owner's name for applicable properties;

2. The following statement: *"The Georgia Environmental Protection Division, Department of Natural Resources, State of Georgia (EPD) has placed this site on the Hazardous Site Inventory pursuant to its authority under the Hazardous Site Response Act and Rules promulgated thereunder. As required by the Rules for Hazardous Site Response, the responsible party for this site was required to investigate the site and submit a compliance status report to EPD summarizing the results of that investigation. EPD is currently reviewing the compliance status report to determine if corrective action is needed for regulated substances that have been released at this site. Before EPD decides whether corrective action is needed, the public has the opportunity to review the compliance status report and provide comments to EPD about the report."*;

3. Announcement of a 30-day public comment period beginning on the date of the published notice, and the name, address and telephone number of an EPD contact person to whom written or oral comments can be made;

4. Name, address and telephone number of the responsible party or its designated contact person; and

5. Location where the report may be viewed and copied.

(b) Within 7 days after submitting to the Director a proposed corrective action plan, or any subsequent revisions thereof, the responsible party who submits the plan shall publish a notice in both a major local newspaper of general circulation and the legal organ of the local governments in whose jurisdiction the site is located, announcing that such plan is available for inspection by the general public. The public notice must include:

1. The name, address and location of the site as it appears on the Hazardous Site Inventory, and, if the plan applies to less than the full site, the street address and owner's name for applicable properties;

2. The following statement: *"The Georgia Environmental Protection Division, Department of Natural Resources, State of Georgia (EPD) has placed this site on the Hazardous Site Inventory pursuant to its authority under the Hazardous Site Response Act and Rules promulgated thereunder. The Director of EPD has determined that this site needs corrective action and has required the responsible party for this site to submit to EPD a proposed corrective action plan that describes the corrective action the responsible party has determined is necessary to comply with the risk reduction standards of EPD's Rules for Hazardous Site Response. Before EPD decides whether to approve this proposed corrective action plan, the public has the opportunity to review the proposed corrective action and provide comments to EPD about the plan."*

3. Announcement of a 30-day public comment period beginning on the date of the published notice, and the name, address and telephone number of an EPD contact person to whom written or oral comments can be made;

4. Name, address and telephone number of the responsible party or its designated contact person; and

5. Location where the plan may be viewed and copied.

(c) Where a proposed corrective action plan is submitted at the same time as the compliance status report required under Rule 391-3-19-.06(3), the same procedures as described under Items (a) and (b) above shall be followed, but with the substitution of the following statement for that given in Item (2):

"The Georgia Environmental Protection Division, Department of Natural Resources, State of Georgia (EPD) has placed this site on the Hazardous Site Inventory pursuant to its authority under the Hazardous Site Response Act and Rules promulgated thereunder. As required by the Rules for Hazardous Site Response, the responsible party for the site was required to investigate the site and submit a compliance status report to EPD summarizing the results of that investigation. The responsible party has submitted to EPD, along with the compliance status report, a proposed corrective action plan that describes the corrective action the responsible party has determined is necessary to comply with the risk reduction standards of EPD's Rules for Hazardous Site Response. Before EPD decides whether to approve the proposed corrective action plan, the public has the opportunity to review the compliance status report and proposed corrective action and provide comments to EPD about the report and plan."

(d) Within 15 days after publishing the public notice required by Rule 391-3-19-.06(5)(a), (b), or (c), the responsible party shall provide the Director with an exact copy of the public notice as it appeared in the paper.

(e) Within 7 days after submitting to the Director either the compliance status report required pursuant to Rule 391-3-19-.06(3), or a proposed corrective action plan, the responsible party shall provide to the county government in the county in which the site is located and to the government of any city in whose jurisdictions the site is located a written notice providing the same information required in Rule 391-3-19-.06(5)(a), (b), or (c) as applicable.

(f) Upon making a determination pursuant to Rule 391-3-19-.06(6) or upon determining that a proposed corrective action plan should be approved, the Director shall publish notice of such determination in both a major local newspaper of general circulation and the legal organ of the local governments in whose jurisdiction the site is located.

(6) **Determination of the need for corrective action.** Rule 391-3-19-.06(6) applies to any site or individual property at a site listed on the Hazardous Site Inventory.

(a) Any site or individual property at a site that is classified on the Hazardous Site Inventory as Class I, Class III or Class IV pursuant to Rule 391-3-19-.06(2) shall also be designated by the Director as having a known release needing corrective action.

(b) For any site or individual property at a site listed on the Hazardous Site Inventory, the Director shall review the compliance status certification required by Rule 391-3-19-.06(4) and do the following:

1. If the responsible party certifies that the site or an individual property at the site is in compliance with the Type 1 or Type 2 risk reduction standards of Rule 391-3-19-.07, and the Director concurs with that certification, the Director shall designate the site or property as not needing further action and shall remove the site or property from the Hazardous Site Inventory in accordance with Rule 391-3-19-.05(4).

2. If the responsible party certifies that the site or an individual property at the site is in compliance with the Type 3 or Type 4 risk reduction standards of Rule 391-3-19-.07, and the Director concurs with that certification, the Director shall designate the site or property on the Hazardous Site Inventory as having a known release needing corrective action, reclassify it as Class III, and state on the Inventory that corrective action shall presently consist of those activities needed to maintain compliance with the Type 3 or Type 4 risk reduction standards, including the property notices of Rule 391-3-19-.08(1) and (2). Upon compliance with Rule 391-3-19-.08(4), the Director shall remove the site or property from the Hazardous Site Inventory in accordance with Rule 391-3-19-.05(4).

3. If the responsible party certifies that the site or an individual property at the site is in compliance with the Type 5 risk reduction standards of Rule 391-3-19-.07, and the Director concurs with that certification, the Director shall designate the site or property on the Hazardous Site Inventory as having a known release needing corrective action, reclassify it as Class III, and state on the Inventory that corrective action shall presently consist of those activities needed to maintain compliance with the Type 5 risk reduction standards, including the property notices of Rule 391-3-19-.08(1), (2), and (7).

4. If the responsible party certifies that the site or an individual property at the site is not in compliance with any of the risk reduction standards of Rule 391-3-19-.07, the Director shall reclassify the site as a Class I site and designate the site on the Hazardous Site Inventory as having a known release needing corrective action, whereupon the owner of any property at the site which is not independently in compliance with Type 1 or Type 2 risk reduction standards shall make the property notices required by Rule 391-3-19-.08(1) and (2).

(c) The Director may reclassify a site or an individual property at a site listed on the Hazardous Site Inventory from Class II to Class I, and designate the site or property as having a known release needing corrective action, if:

1. The responsible party fails to submit or fails to agree to submit the compliance status report within the time specified in Rule 391-3-19-.06(3)(a); or

2. The compliance status report is deficient with respect to the requirements of Rule 391-3-19-.06(3)(b) and the Director has notified the responsible party in writing of such deficiencies and the responsible party has failed to correct such deficiencies by a deadline to be specified by the Director in writing; or

3. The responsible party certifies pursuant to Rule 391-3-19-.06(4) that the site or an individual property at the site is not in compliance with any of the applicable risk reduction standards of Rule 391-3-19-.07; or

4. The Director does not concur with the responsible party's certification made pursuant to Rule 391-3-19-.06(4) that the site or an individual property at the site is in compliance with the applicable risk reduction standards of Rule 391-3-19-.07.

(d) Upon making a determination pursuant to Rule 391-3-19-.06(6)(a)-(c) that a site has a known release needing corrective action, the Director shall provide the responsible party, and the owner of each property at the site which continues not to comply with either Type 1 or Type 2 risk reduction standards of Rule 391-3-19-.07, with written notice of such determination, including a statement concerning the requirements of Rule 391-3-19-.08.

(e) If the Director determines pursuant to Rule 391-3-19-.06(6)(b) that a site or an individual property at a site listed as Class I on the Hazardous Site Inventory subsequently comes into compliance with the risk reduction standards of Rule 391-3-19-.07, the Director shall reclassify such site or property in accordance with the provisions of Items 1 through 3 of Rule 391-3-19-.06(6)(b), except that the deed notice provisions of Rule 391-3-19-.08(1) and (2) need not be repeated.

(f) Notwithstanding a previous determination of the Director made pursuant to Rule 391-3-19-.06(6)(a) through (e), the Director may reclassify a site or an individual property at a site listed on the Hazardous Site Inventory as necessary to protect human health and the environment.

(7) Other corrective actions.

(a) The requirements of Rule 391-3-19-.06(3) through (5) do not apply to any person who is a responsible party for any of the following at a site or individual property listed on the Hazardous Site Inventory unless Rule 391-3-19-.06(7)(b) applies:

1. Corrective action required by an order of the Director executed before the effective date of these Rules pursuant to O.C.G.A. § 12-8-71(b) of the Hazardous Waste Management Act;

2. Corrective action required by an order of the Director executed before the effective date of these Rules pursuant to O.C.G.A. § 12-8-96(a) of HSRA;

3. Remedial actions conducted in accordance with a Record of Decision (ROD) under the NCP (referenced at 40 CFR 300.430(f)(5));

4. Remedial actions where compliance is demonstrated with applicable cleanup standards promulgated under the federal Toxic Substances Control Act; ~~or~~

5. Corrective action required by a hazardous waste management facility permit issued by the Director which contains conditions requiring corrective action in accordance with O.C.G.A. §12-8-66(e) of the Hazardous Waste Management Act; or

6. Corrective action and assessment monitoring required by a solid waste handling permit or an order issued by the Director pursuant to the Comprehensive Solid Waste Management Act.

(b) Any site or individual property at which corrective action as described in Rule 391-3-19-.06(7)(a) is being conducted or has been completed shall be presumed to be in compliance with Type 5 of the risk reduction standards of Rule 391-3-19-.07(10) upon its listing on the Hazardous Site Inventory, and the requirements of Rule 391-3-19-.06(3) through (5) do not apply to any person who is a responsible party at such site unless:

1. The responsible party elects to certify compliance with other than Type 5 risk reduction standards of Rule 391-3-19-.07, in which case the site or property shall remain on the Hazardous Site Inventory as Class IV until the Director reclassifies it in accordance with 391-3-19-.06(6);

2. The Director determines that such corrective action fails to protect human health and the environment and that additional corrective action is necessary to comply with the risk reduction standards of Rule 391-3-19-.07, in which case the Director may reclassify the site or property in accordance with Rule 391-3-19-.06(6)(f); or

3. The Director determines that such corrective action fails to meet the Type 5 risk reduction standards of Rule 391-3-19-.07(10), in which case the Director may reclassify the site or property pursuant to 391-3-19-.06(6)(f).

(c) For any site described in Rule 391-3-19-.06(7)(a)(5) that is not also described by Item 1, 2, or 3 of Rule 391-3-19-.06(7)(b), the property notice requirements of Rule 391-3-19-.08(1) and (2) shall not apply until the Director makes a determination that corrective action is needed pursuant to the Rules for Hazardous Waste Management, Chapter 391-3-11.

391-3-19-.09 Funding to State and Local Governments from the Hazardous Waste Trust Fund.

(1) Purpose and Scope. This Rule applies to the use of the Hazardous Waste Trust Fund to finance the state and local share of costs associated with the investigation, remediation, post-closure care and maintenance of sites placed on the National Priorities List pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, and on the Hazardous Site Inventory pursuant to the Hazardous Site Response Act. For the purposes of this Rule, *state* means any agency, board, bureau, commission or authority of the State of Georgia. For the purposes of this Rule, *local government* means any county or municipality or consolidated city-county government, any local solid waste management authority, or any regional solid waste management authority created pursuant to O.C.G.A. §12-8-53 of the Comprehensive Georgia Solid Waste Management Act.

(2) Eligibility Requirements. A state or local government may be eligible to receive financial assistance from the Hazardous Waste Trust Fund under this section for eligible costs described in Rule 391-3-19-.09(4)(a) provided that the state or local government meets all the following eligibility requirements:

(a) the site for which financial assistance is requested is a solid waste handling facility as defined by Rule 391-3-4-.01(67) of the Rules for Solid Waste Management and is listed on the National Priorities List or the Hazardous Site Inventory;

(b) the Director has notified the state or local government in writing that they are a responsible party for the site;

(c) the state or local government has entered into a contract with the Director which describes the financial assistance provided and the activities for which the monies shall be used;

(d) the state or local government has established and maintains an accounting system in accordance with the Governmental Accounting Standards Board (GASB);

(e) the state or local government has adopted an authorizing resolution; and

(f) the state or local government has submitted to the Director a completed application for financial assistance on forms as provided by the Director.

(g) the state or local government has submitted to the Director a written statement of the percentage of total costs associated with the actions described in Rule 391-3-19-.09(4)(a) for which a state or local government is liable. Such statement shall also include a description of how such percentage was determined including the results of negotiations with any other responsible parties for the site.

(3) Financial Assistance. A state or local government that meets all the eligibility requirements described in Rule 391-3-19-.09(2) may receive financial assistance from the Hazardous Waste Trust Fund as described in Rule 391-3-19-.09(3)(a) and (b). However, total payment of eligible costs from the Hazardous Waste Trust Fund shall in no event exceed \$2,000,000 per site.

(a) For state or local governments that have been designated as a responsible party for a site, and that are not the owner of the site, the Director may pay up to 50% of the first \$500,000 of eligible costs, as described in Rule 391-3-19-.09(4)(a), and up to 25% of all eligible costs exceeding \$500,000.

(b) For counties or municipal corporations that have been designated as a responsible party for a site and that own or operate such site, the Director shall pay 100% of the first \$500,000 of eligible costs, as described in Rule 391-3-19-.09(4)(a), and may pay up to 50% of all eligible costs exceeding \$500,000.

(c) In the event that the unencumbered balance of the Hazardous Waste Trust Fund falls below \$4.0 million, the Director may suspend the provision of financial assistance to state and local governments as described herein.

(4) Eligible Costs. Eligible costs are the percentage of the total costs associated with the actions described in Rule 391-3-19-.09(4)(a) for sites described in Section 391-3-19-.09(2)(a) for which a state or local government may seek financial assistance pursuant to Rule 391-3-19-.09(2).

(a) Only the costs associated with the following actions are eligible for payment:

1. Completion and submittal of a compliance status report as required by Rule 391-3-19-.06(3);
2. Certification of compliance with the risk reduction standards as required by Rule 391-3-19-.06(4);
3. Compliance with the public participation requirements required by Rule 391-3-19-.06(5);
4. Corrective action required by an order of the Director issued pursuant to O.C.G.A. §12-8-96 of the Hazardous Site Response Act;
5. Response required by an order of the EPA Regional Administrator issued pursuant to Sections 104 and 106 of CERCLA. For the purposes of this section, the term *response* shall have the same meaning as that used in Section 101(25) of CERCLA;
6. Post-closure care not required by Section 391-3-4-.12 of the Rules for Solid Waste Management but which may be required by the Director under an order issued pursuant to the Hazardous Site Response Act; or
7. Corrective action and assessment monitoring required by a solid waste handling permit or an order issued by the Director pursuant to the Comprehensive Solid Waste Management Act.

(b) The following costs are not eligible for payment:

1. Purchase or routine maintenance of equipment of a durable nature that is expected to have a period of service of one (1) year or more after being put into use at the site without material impairment of its physical condition, unless the applicant can adequately demonstrate that the equipment was a total loss and that the loss occurred during the activities for which reimbursement is being requested;
2. Materials or supplies not purchased specifically for the activities for which reimbursement is being

requested;

3. Administrative costs associated with filing an application for funding from the Hazardous Waste Trust Fund;

4. Employee salaries and out-of-pocket expenses normally provided for in the applicant's operating budget (i.e. meals, fuel) and employee fringe benefits;

5. Medical expenses incurred as a result of activities at the site;

6. Legal expenses;

7. Other expenses which the Director determines are not directly related to the investigation, remediation, post-closure care and maintenance of the site;

8. Costs arising as a result of claims for damages filed by third parties against the state or local government or its agents;

9. Costs resulting from releases that occur as a result of violations of state or federal laws, rules or regulations; and

10. Post-closure care required solely by Section 391-3-4-.12 of the Rules for Solid Waste Management.

11. Any costs described in Rule 391-3-19-.09(4)(a) for sites where the state or local government becomes the owner or operator after the site is listed on the Hazardous Site Inventory or the National Priorities List.

12. Any costs described in Rule 391-3-19-.09(4)(a) for sites where the state or local government voluntarily becomes the owner or operator and where the state or local government had knowledge at the time of becoming the owner or operator that a release of a regulated substance had occurred at such site.

(5) Application Procedures. Any state or local government that meets the eligibility requirements under Section 391-3-19-.09(2) and that is seeking financial assistance from the Hazardous Waste Trust Fund shall submit an application on forms as may be provided by the Director.

(a) The Director may determine that an application is incomplete and shall notify the applicant that additional information is required before the application may be further processed or approved.

(b) The Director must approve an application prior to the expenditure of funds from the Hazardous Waste Trust Fund under this section.