

**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.

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

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

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

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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, .0-7, 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

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

(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

**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>

(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

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.

(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:

- (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.

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:

(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:

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.

(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

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

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

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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).

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

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

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

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

SW-846--"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,"
USEPA Publication SW-846

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

(l) *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);

(m) *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;

(n) *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;

(o) *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, recycling and/or reuse;

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

(q) *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, recycling and/or reuse at that facility;

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

(s) *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;

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
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.

(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

(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 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 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 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 of this subsection that receiving facility shall not pay an additional fee in Schedule IV 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 of this subsection for the calendar year in which such waste was received.

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

<u>If management at final receiving facility is</u>	<u>the fee is</u>
Incineration or disposal	\$20 per ton
Treatment or storage	16 per ton
Recycling or reuse	2 per ton

(5) Payment of hazardous waste management 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. 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.

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-.04 Release Notification

(1) **No duty to sample prior to notification.** Rule 391-3-19-.04(4) requires an owner of real property to notify the Director when a release described in Rule 391-3-19-.04(3) is discovered. An owner of real property is not required to sample prior to such notification. However, any owner of real property where a release has occurred shall furnish to the Director any information which that person may have or reasonably obtain which is relevant to the release when requested by the Director.

(2) **Exclusions.** The following are excluded from the notification requirements of this section:

(a) Any release that, within 30 days of the owner's discovery or of the effective date of these rules, whichever is later, no longer meets any criterion for notification under Rule 391-3-19-.04(3);