

**PROPOSED AMENDMENTS TO THE RULES OF THE
DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION
RELATING TO HAZARDOUS SITE RESPONSE, CHAPTER 391-3-19**

The Rules of the Department of Natural Resources, Chapter 391-3-19, Hazardous Site Response are hereby amended, added to, repealed in part, revised, as hereinafter explicitly set forth in the attached amendments, additions, partial repeals, and revisions for specific rules, or such subdivisions thereof as may be indicated.

[Note: Underlined text is proposed to be added. Lined-through text is proposed for deletion.]

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 offsite 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 \$115.00. 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 as provided for in O.C.G.A. § 12-8-95.1(a).

(i) Determination of applicable fee. Each large quantity generator shall determine which off-site management fee as provided for in O.C.G.A. § 12-8-95.1(a)(1) is applicable for each ton of hazardous waste which has been shipped for off-site management based upon the method of offsite 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 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 of this subsection for the calendar year in which such shipment for off-site management occurred.

(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 as provided for in O.C.G.A. § 12-8-95.1(a)(2). When a ton of hazardous waste undergoes more than one form of onsite management the large quantity generator shall determine which fee in 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 this subsection but shall instead pay the applicable off-site management fee as required by subsection 391-3-19-.03(2). 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 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.

(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 as provided for in O.C.G.A. § 12-8-95.1(a)(3).

(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.

(b) Each receiving facility shall determine which fee in 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 this subsection that receiving facility shall not pay the off-site management fee in subsection 391-3-19-.03(2). 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 of this subsection for the calendar year in which such waste was received.

(5) Fees for hazardous substance reporting. The requirements of this subsection are applicable to each person required to report pursuant to 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)(c).

(a) Each person required to report pursuant to Section 313 of Title III of SARA shall pay O.C.G.A. § 12-8-95.1(a)(4), for each reporting facility with such payments being due to the Division not later than July 1 of the following year.

(b) 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 on US EPA Toxic Chemical Release Inventory Form R and/or Form A, or any other such document as may hereafter be designed, prescribed or required by the US EPA for reporting pursuant to Section 313 of Title III of SARA. In order to calculate the fee required by this section, the total of all releases listed on all such Forms or documents submitted by the same facility for the preceding calendar year shall be used. Any item for which reporting is required on said Forms or documents and which meets the definition of a release as defined by this Chapter shall be counted towards the total of all releases, except those items specifically excluded by this section.

(c) Persons who report pursuant to Section 313 of Title III of SARA shall not be required to pay the hazardous substance reporting fees required by this section for the following facilities:

1. Facilities which report only for substances not defined as regulated substances under Rule 391-3-19-.02; and
2. Facilities which report only for petroleum fuels, lubricants, and hydraulic fluids and components thereof that are defined as regulated substances under Rule 391-3-19-.02.

(6) Partial waivers of hazardous waste management and hazardous substance reporting fees.

(a) ~~Beginning January 1, 1998, the~~ Director may, in his sole discretion, upon receipt of a request for a partial waiver, ~~and concurrence with an annual written recommendation from the director of the Pollution Prevention Assistance Division,~~ grant a waiver of up to 25% of the hazardous waste management and hazardous substance reporting fees required by this section which are owed by a facility for the prior calendar year. In deciding whether to grant a waiver to persons who are large quantity generators of hazardous waste or who are required to report releases pursuant to Section 313 of SARA Title III, the Director may consider whether the facility has reduced the amount of hazardous waste generated or the amount of releases reported pursuant to Section 313 of SARA Title III.

(b) ~~The recommendation of the Pollution Prevention Assistance Division director shall document that the facility for which the waiver is recommended has reduced their generation of wastes and participated in~~

~~a program established by the Pollution Prevention Assistance Division to recognize and reward pollution performance and environmental improvement.~~

~~(c) The recommendation from the Pollution Prevention Assistance Division director shall stipulate the program under which the waiver is recommended and the percentile amount of waiver applicable, as defined by such program, along with the name of the owner and the EPA ID number of the facility for which the waiver is recommended. The recommendation shall also include a signed certification from the applicant facility acknowledging that funds in an amount equivalent to the waiver requested have been or will be applied to the facility's pollution prevention activities.~~

~~(d) No waiver shall be granted to any facility which is in violation of any Act, Rule, regulation, permit, or order subject to the enforcement authority of EPD.~~

~~(e) No facility which owes delinquent hazardous waste management or hazardous substance reporting fees shall be granted a waiver.~~

~~(f) No facility shall be granted a waiver of fees for more than three years.~~

~~(g) If in any year the sum of all waivers recommended by the director of the Pollution Prevention Assistance Division exceeds ten percent (10%) of the total dollar amount collected by EPD for hazardous waste management and hazardous substance reporting fees in the preceding calendar year, the EPD director may cap the total dollar amount of waivers to be awarded in the current year at ten percent (10%) of the total dollar amount collected for hazardous waste management and hazardous substance reporting fees in the preceding calendar year. In any year the director imposes a cap on waivers pursuant to this section, the waivers awarded to individual facilities shall be calculated using the following formula: $AW = [0.10(TC)](APP) TW$~~

~~Where:~~

~~AW = Amount of adjusted waiver to be awarded to an individual facility.~~

~~TC = Total amount of hazardous waste management and hazardous substance reporting fees collected in the preceding calendar year.~~

~~APP = Individual facility's waiver application amount.~~

~~TW = Total amount of all waivers recommended by Pollution Prevention Assistance Division for the current year.~~

(7) 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 onsite, 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 decision making 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.

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);

(b) Any defined release which is being cleaned-up under emergency response authorities other than the Hazardous Site Response Act where the person responsible for the cleanup remains in compliance with instructions given by the Division or by an on-scene coordinator under the NCP, such exclusion to expire 180 days after the date upon which the release began if at or after that time any of the criteria of Rule 391-3-19-.04(3) are met;

(c) Emissions regulated under the Georgia Air Quality Control Act, O.C.G.A. §12-9-1 et seq.;

(d) Releases of substances regulated under the Georgia Asbestos Safety Act, O.C.G.A. §12-2-1 et seq., except for releases at inactive disposal sites that are not in compliance with the performance standards in 40 CFR 61.153;

(e) Point source discharges that are regulated under the Georgia Water Quality Control, O.C.G.A. §12-5-20 et seq.;

(f) Releases of a pesticide which has been registered under the Georgia Pesticide Control Act, O.C.G.A. §2-7-50 et seq., when the release consists solely of the use of said pesticide in a manner consistent

with its label or labeling;

(g) Releases regulated solely under the Georgia Underground Storage Tank Act, O.C.G.A. §12-13-1 et seq.;

(h) Releases of any petroleum-based fuel, lubricant, or hydraulic fluid;

(i) Releases consisting of treatment or disposal in a unit that is regulated a permit issued, or rules promulgated, pursuant to the Georgia Hazardous Waste Management Act, O.C.G.A. §12-8-60 et seq., the Georgia Solid Waste Management Act, O.C.G.A. §12-8-20 et seq., or the Georgia Water Quality Control Act, O.C.G.A. §12-5-20 et seq., provided the Director has been informed, in accordance with requirements in such permit or rules, of any discovery that such releases exceed standards permitted by these statutes and the rule promulgated pursuant to these statutes;

(j) Releases arising from the use of a commercial product that has been manufactured and sold for household use which is used by a private individual in a manner consistent with and incidental to the manufacturer's recommended use of the product;

(k) Releases arising from the application to soil of fertilizers, liming materials, or soil amendments (unless any are used in a manner constituting disposal as defined and regulated in the Rules for Hazardous Waste Management, Chapter 391-3-11);

(l) Release of naturally-occurring radionuclides described in 40 CFR 302.6(c);

(m) Direct radiation and/or releases of radionuclides regulated by the Division under the Georgia Radiation Control Act, O.C.G.A. §31-13 et seq., or by the U.S. Nuclear Regulatory Commission, or any successor agency, under the Atomic Energy Act of 1954, as amended;

(n) Any release to ground water that is discovered solely as a result of detection within a public drinking water system being monitored in accordance with the Rules for ~~Sale~~ Safe Drinking Water, Chapter 391-3-5, provided that the Director is informed of such detection in accordance with the aforementioned Rules; and

(o) Releases that arise from land-disturbing activities involving the extraction and stockpiling of ores and mineral, or involving the removal, stockpiling, and replacement of overburden materials, at any mine permitted under the Georgia Surface Mining Act, O.C.G.A., §12-4-70 et seq.

(p) Any release to soil reported to EPD during development or implementation of an approved prospective purchaser corrective action plan submitted pursuant to O.C.G.A 12-8-200 et seq.

(3) Release requiring notification. Any of the following releases, when discovered, are releases that require notification under Rule 391-3-19-.04(4), unless excluded under Rule 391-3-19-.04(2):

(a) Releases to ground water. A release of a regulated substance which causes the concentration in ground water to exceed concentrations given in Table 1 of Appendix III, or for those substances not listed, the highest concentration of any of the following: the detection limit, Secondary Maximum Contaminant levels for Drinking Water listed in Rule 391-3-5, or background~~the naturally occurring background concentration~~;

(b) Releases to soil. A release of a regulated substance which causes the concentration in soil to exceed a concentration in Appendix I; or

(c) Other releases. The discarding or abandonment of a regulated substance in barrels, drums, other containers, tanks, or other storage or transportation vessels, in process units, or in waste management units which have neither a permit nor interim status under the Georgia Hazardous Waste Management Act, O.C.G.A. §12-8-60 et seq., the Georgia Solid ~~Water~~ Waste Management Act, O.C.G.A. §12-8-20 et seq., or the Georgia Water Quality Control Act, O.C.G.A. §12-5-20 et seq.

(4) **Notification requirements.** Within 30 days ~~after the effective date of these rules or after the date of~~ discovery by the property owner of a release which requires notification under Rule 391-3-19-.04(3), ~~whichever is later,~~ the property owner shall notify the Director of the release on such forms as specified by the Director. Upon the request of the Director, the property owner shall provide other such information as may be needed to ensure that the criteria of Rule 391-3-19-.05(1) may be accurately evaluated. At the owner's option, the owner may complete the worksheets found in Appendix II of this Chapter to make a preliminary determination that a release may exceed a reportable quantity. If said worksheets indicate that a release exceeding a reportable quantity may have occurred, the owner may submit the information required under Rule 391-3-19- 05(2) along with the worksheets in lieu of the above notification. In addition, the owner may petition the Director at the time of notification requesting a 90 day deferment of the Director's listing determination pursuant to Rule 391-3-19-.05(1) in order to obtain additional samples, perform a removal, or take other remedial actions, to be followed by submittal of an amended notification. The deferment petition must specify interim measure for any suspected immediate health threat.

391-3-19-.05 Reporting of Releases Exceeding Reportable Quantities and Listing of Sites on the Hazardous Site Inventory. Amended.

(1) **Listing on the Hazardous Site Inventory.** The Director shall list a site on the Hazardous Site Inventory if the Director determines that a release exceeding a reportable quantity has occurred or that a release poses a danger to human health and the environment. A determination that a release exceeding a reportable quantity has occurred shall be made in accordance with the method in Appendix II.

(2) **Release reporting.** If the Director determines that a release exceeding a reportable quantity has occurred, he shall notify the property owner in writing of his finding. If the Director determines that a release exceeding a reportable quantity has not occurred, he shall likewise issue such determination in writing. Within 45 days of the receipt of the Director's written determination that a release exceeding a reportable quantity has occurred, the property owner shall submit the following information unless such information has already been submitted pursuant to Rule 391-3-19-.04(4):

(a) Name, mailing address, and telephone number of the site's property owner, lessee, tenant, or facility owner or operator;

(b) Street address of the site or, if a numbered street address is not available, a location descriptor;

(c) An original of the most current topographic map of scale 1:24,000 produced by the United States Geological Survey, with the geographic center of the site identified;

(d) A description of the property boundaries in the vicinity of the site, by legal description, survey plat,

tax map, or other means;

(e) A chemical name, taken from appendix I, of each regulated substance released at the site which independently meets the notification criteria in Rule 391-3-19-.04(3);

(f) A general description of the nature of the release and the location of areas affected by the release or by its subsequent migration, both within and beyond the original site's property boundaries;

(g) If known, the source, quantity, and the date of the regulated substance released;

(h) Suspected or known date and quantity of each release at the site;

(i) Suspected or known source of each release at the site and the known or estimated extent of the area contaminated by said release or by its subsequent migration, both within and beyond the site's property boundaries;

(j) A summary of actions taken to investigate, clean up, or otherwise remediate the site;

(k) A statement which identifies the criteria of Rule 391-3-19-.04(3) by which the property owner determined that a release which requires notification has occurred.

(3) **Notification under CERCLA 103(c).** A property owner that has previously notified EPA under Section 103(c) of CERCLA may satisfy the requirements of Rule 391-3-19- 05(2) by submitting a copy of the 103(c) notice together with the topographic map referenced in Rule 391-3-19-.05(2)(c).

(4) **Removal of sites from the Hazardous Site Inventory.** The Director shall remove a site or an individual property at a site from the Hazardous Site Inventory if any of the following apply:

(a) The Director determines that it did not have had a release which either exceeded a reportable quantity or posed a danger to human health or the environment at the time of listing the site on the Hazardous Site Inventory.

(b) The Director determines, that the site or individual property meets Type 1, Type 2, ~~or~~ Type 3, ~~or~~ Type 4, or Type 5 risk reduction standards of Rule 391-3-19-.07, and when required, the property owner has complied with Rule 391-3-19-.08(4) or Rule 391-3-19-.08(7).

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, Class IV, or Class V pursuant to Rule 391-3-19-.06(2)(a) through (d):

(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.

(d) Class V applies to any site or individual property at a site which has been listed on the Hazardous Site Inventory for which the Director has made a determination pursuant to Rule 391-3-19-.06(6)(b)5 that the site has had a known release needing corrective action and at which corrective action is being performed in compliance with a corrective action plan approved by the Director which will bring the site into compliance with the risk reduction standards. If the Director determines that corrective action is not being performed in compliance with the approved corrective action plan, the site may be reclassified to Class I.

(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 that demonstrate compliance with Type 1 or Type 2 risk reduction standards or that reflect background 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 below those listed in Table 1 of Appendix III or, for those substances not listed, the highest concentration of any of the following: the detection limit, Secondary Maximum Contaminant Levels for Drinking Water listed in Rule 391-3-5, or background. ~~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(7)(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(7)(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, Class IV or Class V 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). Upon compliance with Rule 391-3-19-.08(7), the Director shall remove the site or property from the inventory.

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). If the site or an individual property at the site is a Class V site and the Director determines corrective action is not being conducted in accordance with the approved corrective action plan, the Director may reclassify the site as a Class I site and designate the site in 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).

5. 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, but corrective action is being performed in compliance with a corrective action plan approved by the Director which will bring the site into compliance with the risk reduction standards, the Director shall reclassify the site or individual property as a Class V site and designate the site or individual property on the Hazardous Site Inventory as having a known release needing corrective action. Upon making such designation, the Director shall also state that corrective action is being performed in compliance with a corrective action plan approved by the Director that will bring the site or individual property into compliance with the risk reduction standards. Upon such designation being made, 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) to the extent that such notices have not already been made.

(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 or Class V 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;
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-.08 Property Notices.

(1) **Notices of private property instruments.** This Rule applies to the owner of any property that is included in a site which is listed on the Hazardous Site Inventory and which has been designated as needing corrective action pursuant to Rule 391-3-19-.06(6). The requirements of this paragraph do not apply to the owner of any property at the site where the Director concurs with a demonstration that the property complies, independently of other properties at the site, with either Type 1 or Type 2 risk reduction standards.

(a) From and after the date any owner receives written notice from the Director under Rule 391-3-19-.06(6)(d) that property of such owner that is listed on Hazardous Site Inventory has been designated as needing corrective action, the owner of any such property shall include the following notice in any warranty deed, mortgage, security deed, lease, rental agreement, or other instrument that is thereafter given or caused to be given by the property owner which creates an interest in or grants a use of the property:

"This property has been listed on the state's hazardous site inventory due to a release of a regulated substance and has been designated as needing corrective action in accordance with the Rules for Hazardous Site Response. ~~due to the presence of hazardous wastes, hazardous constituents, or hazardous substances regulated under state law.~~ Contact the property owner or the Georgia Environmental Protection Division for further information concerning this property. This notice is provided in compliance with the Georgia Hazardous Site Response Act."

[Note: The term "instrument that is thereafter given or caused to be given by the property owner which creates an interest in or grants a use of the property" does not include options or contracts to purchase real property.]

(b) Rule 391-3-19-.08(1)(a) shall not apply after filing of the affidavit referred to in Rule 391-3-19-.08(6).

(2) **Affidavit in county deed records.** No later than forty five (45) days from the date the Director issues the written notice pursuant to Rule 391-3-19-.06(6)(d) that a property or part thereof listed on the Hazardous Site Inventory has been designated as needing corrective action, the owner of any such property shall cause to be prepared an affidavit of such fact in recordable form as set forth in O.C.G.A. §

44-2-20 and shall file such affidavit with the clerk of the superior court of each county in which the real property or any part thereof lies. Such affidavit shall be recorded in the clerk's deed records pursuant to O.C.G.A. § 44-2-20. Such affidavit shall include the statement provided in Rule 391-3-19-.08(1). The requirements of this paragraph do not apply to the owner of any property where the Director concurs with a demonstration that the property complies, independently of other properties at the site, with either Type 1 or Type 2 risk reduction standards.

(3) **Petitions for hearing.** The notices required by Rule 391-3-19-.08(1) and (2) shall be stayed if the property owner files a petition for a hearing in accordance with O.C.G.A. Section 12-8-73 within thirty (30) days of the date the Director issues the written notice pursuant to Rule 391-3-19-.06(6)(d) that the site upon which the property is located needs corrective action.

(4) **Documentation of property notices.** Within thirty (30) days after the recorded affidavit required by Rule 391-3-19-.08(2) is returned by the county clerk to the property owner, the property owner shall submit a copy of such recorded affidavit to EPD.

(5) **Director's affidavit in county deed records.** Where ownership or control of any real property at a site subject to Rule 391-3-19-.08(1) and (2) is involuntarily acquired by a unit of state or local government through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign, the Director shall give thirty (30) days notice to any person who owned, operated, or otherwise controlled activities at the property immediately beforehand that the property is subject to the requirements of Rule 391-3-19-.08 and that, barring said person's contest under Rule 391-3-19-.08(3), the Director shall prepare and file the notice referenced in Rule 391-3-19-.08(2).

(6) **Subsequent affidavits.** If, subsequent to the filing of the initial affidavit referenced in Rule 391-3-19-.08(2), the Director determines that no further action is needed, and the property is removed from the Hazardous Site Inventory pursuant to Rule 391-3-19-.05(4), the Director shall notify the property owner in writing of such determination whereupon the property owner may file an additional affidavit with the clerk of superior court attaching a copy of such determination, which shall be restricted to the following declaration:

"This property was listed on the state's hazardous site inventory and ~~was designated as needing corrective action due to the presence of hazardous wastes, hazardous constituents, or hazardous substances regulated under state law. However, this~~ The property has since been determined to meet the delisting requirements of Section 391-3-391-.05(4) of the Rules for Hazardous Site Response. ~~designated as needing n~~No further action is required at this property, and it has been removed from the state's hazardous site inventory. A copy of the determination is attached hereto. The notice requirements of O.C.G.A. § 12-8-97 no longer apply to this property and prior notices given under this code section are no longer in effect. The property owner or the Georgia Environmental Protection Division may be contacted for further information concerning this property. This notice is provided in compliance with the Georgia Hazardous Site Response Act."

(7) **Environmental covenants.**

The owner of any listed property at which ~~the~~ Type 3, 4 or 5 risk reduction standards of Rule 391-3-19-.07(8),(9), or 10 are being used shall, upon the request of the Director, execute an environmental covenant for such property as provided for in O.C.G.A. § 44-16-1 et seq. The covenant shall be recorded with the clerk of superior court for the county in which the property is located, and a copy shall be provided to any zoning or land use planning authority that has jurisdiction over the property. Such

restrictions shall run with the land and be binding on the owner's successors and assigns.

(a) If the Director determines subsequent to the execution and recording of the covenant that the property is in compliance with Type 1 or 2, 3, or 4 risk reduction standards and removes the property from the Hazardous Site Inventory, the Director shall so notify the property owner whereupon the covenant may be ~~amended or~~ terminated.

(b) The covenant may include, but not necessarily be limited to, provisions to accomplish the following:

1. Prohibit activities on the property that may substantially interfere with a remedial action, operation and maintenance, long-term monitoring, or other measures necessary to ensure the integrity of the remedial action.
2. Prohibit activities that may result in human exposures above those specified for residential scenarios in Rule 391-3-19-.07(6) and (7) or for nonresidential scenarios at Rule 391-3-19-.07(8) and (9), whichever scenario is applicable, and activities that would result in the release of a regulated substance which has been remedied in accordance with Rule 391-3-19-.07(10).
3. Allow the Director to enforce the restrictions set forth in the covenant by legal action in a court of appropriate jurisdiction.
4. Require the installation and maintenance of a permanent marker that denotes a Type 5 restriction.~~on each side of the site which delineates the restricted area.~~
5. Describe uses of the property that are prohibited.