

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 at background concentrations. An acceptable determination of background concentrations shall be made from samples that are representative of soil conditions not affected by a release of a regulated substance. In support of the definition of the extent of soil contamination the compliance report shall describe the following:

- (i) General approach used;
- (ii) Analytical parameters selected and rationale for selection;
- (iii) Location of all sampling points by sample identification number on a map with scale of 1 inch = 200 feet or less and, where applicable, on vertical cross-sections of appropriate number and scale;
- (iv) Sampling and analysis procedures including but not limited to:
 - (I) Sampling equipment and collection techniques;
 - (II) Field analytical or measurement techniques including make and model of equipment and calibration schedule and type;
 - (III) Sample handling and preservation techniques;
 - (IV) Equipment decontamination procedures;
 - (V) Chain-of-custody procedures; and
 - (VI) Laboratory analytical techniques, including references to the analytical methods used, if standard, or in cases where standard analytical techniques do not exist, descriptions of the analytical methods used, including quality assurance and quality control procedures utilized;
- (v) A description of any statistical procedures used to evaluate data;
- (vi) Procedures used to establish background soil concentrations; and

(vii) Narrative and tabular summary of all pertinent field data and the results of all final laboratory analyses that are supported by sufficient quality assurance/quality control data to validate the results.

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

- (i) Analytical parameters selected and rationale for selection;
- (ii) A description of the methods used to characterize subsurface geology;
- (iii) A description of the methods used to characterize horizontal and vertical groundwater gradients, flow rates, and flow directions;
- (iv) A description of the methods used to determine hydraulic conductivities and other pertinent hydrogeological characteristics, including a description of any slug and/or aquifer pumping tests;
- (v) A description of groundwater monitoring well locations, and their installation and construction methods, including:
 - (I) A map with scale of 1 inch = 200 feet or less depicting all existing well locations including a survey of each well's surface reference point and the elevation of its top-of-casing;
 - (II) Type of well casing material;
 - (III) Description of well-intake design including screen slot size and length, filter pack materials and length, and method of filter pack emplacement;
 - (IV) Method used to seal the well from the surface and any other features designed to prevent or minimize downward migration of contaminants along the well annulus; and
 - (V) Description of the methods and procedures used to develop the wells;
- (vi) Description of all sampling and analysis procedures used, including at a minimum:
 - (I) Procedures and timing for measuring groundwater elevations for each sampling event;
 - (II) Well evacuation procedures including volume evacuated prior to sampling;
 - (III) Sample withdrawal techniques, sampling equipment and materials (tubing, rope, pump, etc.);
 - (IV) Sample handling and preservation techniques;
 - (V) Procedures for decontaminating sampling equipment between samples and sampling events;
 - (VI) Chain-of-custody procedures for all phases of sample management; and
 - (VII) Laboratory analytical techniques, including references to the analytical methods used, if standard, or in cases where standard analytical techniques do not exist, descriptions of the analytical methods used, including quality assurance and quality control procedures utilized.
- (vii) A description of procedures used to determine background groundwater quality which is representative of ground water not affected by a release;
- (viii) A map with scale of 1 inch = 200 feet or less depicting the horizontal extent of contamination;

(ix) A map with scale of 1 inch = 200 feet or less depicting the potentiometric surface of ground water;

(x) Maps and vertical cross-sections of appropriate scale depicting concentrations for all contaminants superimposed upon site stratigraphic features and monitoring wells; and

(xi) Narrative and tabular summary of all pertinent field data and the results of all final laboratory analyses that are supported by sufficient quality assurance/quality control data to validate the results.

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

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

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

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

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

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

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

(4) Certification of compliance with risk reduction standards.

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

(b) The compliance status certification shall be signed by the applicable person described in Items 1 through 4 of Rule 391-3-19-.03(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).

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.

Authority O.C.G.A. Sec. 12-8-90 et seq. **History.** Original Rule entitled “Corrective Action” adopted. F. July 1, 1994. eff. July 21, 1994. **Amended:** F. Feb. 28, 1995; eff. Mar. 20, 1995. **Amended:** F. July 3, 2003; eff. July 23, 2003. **Amended:** F. Nov. 25, 2009; eff. Dec. 15, 2009.