

SYNOPSIS OF PROPOSED REVISIONS TO GEORGIA'S RULES FOR HAZARDOUS SITE RESPONSE – 391-3-19

Rule 391-3-19-.02 and Table 3 of Appendix II are being amended.

Purpose: To incorporate revised toxicity hierarchy to match hierarchy specified by United States Environmental Protection Agency.

Main Feature: On December 5, 2003 (OSWER Directive 9285.7-53), United States Environmental Protection Agency has revised its hierarchy of human health toxicity values generally recommended for use in risk assessments. Prior to that date, the hierarchy was United States Environmental Protection Agency's Integrated Risk Information System, then United States Environmental Protection Agency's Health Effects Assessment Summary Tables, and finally, other peer reviewed toxicity values. On that date, United States Environmental Protection Agency hierarchy was revised to United States Environmental Protection Agency's Integrated Risk Information System, then United States Environmental Protection Agency's Provisional Peer Reviewed Toxicity Values, and finally, other peer reviewed toxicity values, which includes United States Environmental Protection Agency's Health Effects Assessment Summary Tables. By updating this hierarchy to match United States Environmental Protection Agency's hierarchy, the Division will ensure that the most current toxicological data is being used to demonstrate cleanups are protective of human health.

Rule 391-3-19-.03 is being amended.

Purpose: To reference OCGA citation relating to current fees and eliminate outdated tables.

Main Feature: This will eliminate confusion by the regulated community regarding applicable payments pursuant to O.C.G.A. §12-8-95.1.

Rule 391-3-19-.04 is being amended.

Purpose: To reference notification forms as specified by the Director which require additional information such as tax parcel identification numbers and acreage.

Main Feature: Since 2000, the Division has made available a release notification form that requested additional information

necessary to evaluate the release, for example, distance to the nearest receptors, and to aid persons in identifying sites listed on the Hazardous Site Inventory by requiring submittal of a tax parcel identification number and acreage. By specifying the use of this form, the Division can process the information on the release notification forms quicker and eliminate additional work by the Division's staff.

Rule 391-3-19-.06 is being amended.

Purpose: To correct a citation error caused by previous rulemaking.

Main Feature: On July 14, 1999, EPD adopted regulations that allowed the Director to waive a percentage of the hazardous waste management and hazardous substance reporting fees. When these regulations were inserted, the later citation relating to applicable person(s) authorized to sign a certification of compliance was not updated to the revised citation.

Rule 391-3-19-.08 is being amended.

Purpose: To comply with the Georgia Uniform Environmental Covenant Act.

Main Feature: On July 1, 2008, the Georgia Uniform Environmental Covenant Act became law and established a standard for covenants to restrict activity or use limitation due to contamination. Current regulations require the placement of a restrictive covenant. The proposed regulatory revisions incorporate the placement of an environmental covenant pursuant to the Georgia Uniform Environmental Covenant Act.

Appendix I Regulated Substances and Soil Concentrations that Trigger Notification is being amended.

Purpose: To correct errors between duplicate entries, correct notification concentration based on physical properties, and identify regulated substances that may normally occur in background concentrations, and to provide clarification.

Main Feature: 1,2 dinitrobenze and 1, 4 dinitrobenzene are duplicate entries to its synonyms of o-dinitrobenzene and benzene, 1.2-dinitro-, and p-dinitrobenzene and benzene, 1.4-dinitro-, respectively. These two entries do not match the notification

concentration specified by the other duplicate entries. This revision corrects this discrepancy.

Black phosphorus is a duplicate entry to its synonyms of red, violet, white, and yellow phosphorus and phosphorus, elemental. This entry does not match the notification concentration specified by the other duplicate entries. This revision corrects this discrepancy.

Carbon disulfide and its synonyms (carbon bisulfide and dithiocarbonic anhydride) are being revised to include the designation of "BG" which indicates this can be a naturally occurring compound in the environment. This revision will allow property owners to determine if a detection of carbon disulfide is naturally occurring, or not. If they determine it is naturally occurring, the property owner is not required to notify. This revision will eliminate unnecessary release notifications to EPD and speed up property transactions.

There are 3 isomers of dichloroethylene:

- 1,1 dichloroethylene;
- cis 1,2 dichloroethylene; and
- trans 1,2 dichloroethylene

Two of these isomers, 1,1 dichloroethylene and trans 1,2 dichloroethylene, are specifically listed in Appendix I. The third isomer is listed as dichloroethylene, not otherwise specified. As cis 1,2 dichloroethylene is a very common degradation product of certain chlorinated solvents in the environment, listing cis 1,2 dichloroethylene as dichloroethylene, not otherwise specified causes routine confusion by the regulated community. This revision adds cis 1,2 dichloroethylene specifically as a regulated substance and eliminates dichloroethylene, not otherwise specified.

DES is a synonym of stilbestrol and diethylstilbestrol. Oxacyclopentadiene is a synonym of furfuran and furan. Propane, 2,2'-oxybis[1-chloro- is a synonym of DCIP, bis(2-chloro-1methylethyl)ether and bis(chloroisopropyl)ether. These entries do not match the notification concentration specified by the other duplicate entries. This revision corrects this discrepancy.

Appendix III Table 1 Groundwater Criteria is being amended.

Purpose: To reflect current Maximum Contaminant Levels.

Main Feature: The Maximum Contaminant Levels (drinking water standards) for arsenic and trihalomethanes (total) have been updated since the original publication of Appendix 1, Table 1 “Groundwater Criteria.” EPD is currently enforcing these drinking water standards under 391-3-19-.07 which states “[c]ompliance with these standards does not preclude the requirement to comply with any stricter standards that may be applicable under other state or federal law or regulations.” Revising these standards will eliminate erroneous certifications of compliance. Cis 1,2 dicholoethylene did not have an Maximum Contaminant Levels at the time Appendix 1, Table 1 “Groundwater Criteria” was adopted. By adding this standard, it will not be necessary for responsible parties to calculate site-specific standards for detected cis 1,2 dicholoethylene. This will also reduce the number of erroneous certification of compliance as responsible parties often certify to the Maximum Contaminant Levels for cis 1,2 dicholoethylene.

Appendix IV Table 1 Parameters, Definitions, and Default Values to be used in Equation 1 and 2 is being amended.

Purpose: To correct an error in a citation.

Main Feature: Current citation cited is “391-3-19.07(9)(c).” This revision corrects the citations to “391-3-19-.07(9)(c).”

Statement of Rationale

Rules for Hazardous Waste Management

The basis of these proposed rule revisions is to:

- Update the Rules for Hazardous Site Response based on changes to the Hazardous Site Response Act, Uniform Environmental Covenant Act, and the Safe Drinking Water Act.
- Allow responsible parties to utilize current, scientifically supported, toxicity values in lieu of outdated hierarchy
- Eliminate outdated information, and correct citations and errors in tables.
- Reduce notification requirements for carbon disulfide.

These rules will have no cost impacts on the Division since we will not hire new staff or ask for an increased budget to implement these rules.

The rules will not mandate increased costs to any responsible party in Georgia since they already are complying with the changes in the Maximum Contaminant Levels and hazardous waste management and hazardous substance reporting fees. These rules may reduce costs to responsible parties by establishing cleanups based on the latest toxicological data, and possibly eliminating costly errors and/or resubmittals, and the need to develop site-specific cleanup standards.