

Voluntary Remediation Program

Frequently Asked Questions

Updated June 13, 2013

1. **Are you planning to issue any additional guidance documents?** The Georgia Environmental Protection Division (EPD) is utilizing this “Frequently Asked Questions” as a means to provide additional guidance. While these responses provide guidance, please note that in the event of conflict between this guidance and the Voluntary Remediation Program Act (VRPA), the VRPA takes precedence. If you are considering enrollment of your property in the VRP, EPD encourages you to schedule a meeting to discuss the specifics of the site and the proposed application.
2. **What is a qualifying Property?** In order to be considered for the voluntary remediation program, a qualifying property must be listed on the Hazardous site Inventory, a Brownfield property, or otherwise have a release of regulated substances into the environment.

- a. The property must not be listed on the federal National Priorities List (NPL);
- b. The property must not be undergoing response activities required by the EPA;
- c. The property must not be a permitted facility under RCRA.

Any liens filed pursuant to OCGA 12-8-96(e) or 12-13-12(b) against the property must be satisfied or settled and released.

3. **What are the criteria for Participation?** A participant in the voluntary remediation program must be the property owner of the voluntary remediation property or have express permission to enter another’s property to perform corrective action including, to the extent applicable, implementing controls.

A participant must not be in violation of any order, judgment, statute, rule, or regulation subject to enforcement by EPD.

4. **What is considered a violation of an order, judgment, statute, rule, or regulation subject to the enforcement authority of the Director?** When an applicant has failed to comply with any environmental laws under OCGA Chapter 12 or Rules under Chapter 13, the applicant would be considered in violation and the applicant would be considered ineligible. This would include failure to comply with a written directive of the Director or a duly authorized representative where the applicant is required to provide, do and/or complete, information by a specified deadline.
5. **If I’m subject to an Order of the Director, does this prevent me from being an applicant/participant under the VRPA?** Being subject to an Order does not prevent you from being an applicant/participant

under the VRPA; however, please refer to the question “What is considered a violation of an order, judgment, statute, rule, or regulation subject to the enforcement authority of the Director?” for additional information.

6. What items are required for application?

- a. A voluntary remediation plan prepared and stamped by a Georgia-registered professional engineer or registered professional geologist in a streamlined form prescribed by the Director and including a milestone schedule with semi-annual reports through the submittal of a final compliance status report; and
- b. A Voluntary Remediation Plan Application Form and Checklist which specifies the streamline form prescribed by the Director (http://www.gaepd.org/Documents/epdforms_hwb.html#voluntary); and
- c. A Non-refundable \$5,000 application fee.

7. I am still unsure about what I need to submit in my VRP Application. Could you clarify?

- a. Voluntary Remediation Plan Application Form and Checklist
- b. \$5,000 check made out to the Georgia Department of Natural Resources
- c. Copies of the warranty deed for the qualifying property(ies)
- d. Tax Plat of qualifying property(ies) and adjoining properties including tax parcel ID numbers
- e. Graphic 3-D preliminary conceptual site model using all current information to illustrate: surface and subsurface setting; known or suspected source(s); how contamination might move within the environment; potential human health and ecological receptors; complete or incomplete exposure pathways that may exist.
- f. Preliminary remediation plan
- g. Table of delineation standards

(Note: Laboratory Analysis Sheets are not required for submittal in a VRP application. Laboratory Analysis Sheets are required in progress reports and the compliance status report for the qualifying property.)

8. Are there any types of sites that are not good candidates for the VRP?

- Sites that will not be able to certify compliance with the risk reduction standards in a timely manner are not good candidates for the expedited program.

- Sites where a receptor has already been impacted, unless the application includes a plan to mitigate.
- Sites that have impacted multiple surrounding properties which are unlikely to execute UECs. If the remedial plan involves executing covenants on adjoining properties, EPD recommends that you approach those owners prior to VRP application.
- Sites that are near completion of cleanup under HSRA

9. **Do I have to submit or resubmit a release notification if I have submitted a Voluntary Remediation Program (VRP) application?** If the owner of the qualifying property submits a VRP application addressing that release within thirty (30) days of discovery of the release (§391-3-19-.04 of the Rules for Hazardous Site Response), a separate release notification does not have to be submitted.
10. **I have a deadline to submit a Compliance Status Report (CSR), Corrective Action Plan (CAP), or other document pursuant to the Hazardous Site Response Act (HSRA), but want to submit a VRP application instead. What do I need to do?** Since you have a previously established schedule for submittal of a CSR, CAP, or other document, you must submit your VRP application before the currently established due date. Once the application is submitted, these HSRA deadlines are suspended until the Director either accepts you as a participant in the Voluntary Remediation Program or notifies you that your application is unacceptable and specifies a new deadline under HSRA.
11. **Can the implementation of an approved HSRA CAP be delayed or suspended while I re-evaluate corrective action options under the VRP?** The approved CAP is to be implemented.
12. **Are there any other costs other than the application fee?** EPD may bill for other costs beyond the application fee. EPD, at its sole discretion, will charge for personnel time to review and respond to any documents submitted to EPD or requested by EPD to demonstrate ongoing cleanup and compliance with cleanup standards under the Act, including, but not limited to, the application, compliance status report, progress report, previously submitted documents if needed to complete a review of a current document, documents submitted for non-qualifying properties, and documents to demonstrate continued compliance with cleanup standards along with direct administrative costs such as file management, invoicing, etc. EPD will also bill for costs associated with inspections relating to these documents. Currently, EPD is billing personnel time at \$75.00/hour and other items, such as travel expenses and modeling software, at cost plus a 5% additional charge for administrative management.
13. **Can I request a waiver of the fees?** Pursuant to OCGA 12-8-104(a)(6), the Director has issued a Waiver Memorandum (http://www.gaepd.org/Files_PDF/VRP/feewaiver.pdf) specifying the conditions under which the Director will grant fee waivers.

14. **What is the commitment in hours to the applicant?** EPD is allowed to recover its costs beyond the \$5,000 application fee. EPD is currently billing personnel cost at a rate of \$75.00/hour plus a 5% administrative management fee for items such as travel costs, purchase of GW models, etc. Each application is unique and EPD is unable to provide a specific cost to the applicant.
15. **What happens if I don't pay the fees when requested?** Pursuant to OCGA 12-8-107(a), the Director may not issue a written concurrence with a certification of compliance if there is an outstanding fee to be paid by the participant. If the participant fails to pay an outstanding invoice by the specified due date, the Director may terminate the enrollment of the property and the participant's requirements for failure to comply with the provisions, purposes, standards, and policies of the voluntary remediation program [OCGA 12-8-107(d)].
16. **What happens if a VRP Participant withdraws from the program or is removed from the Program by EPD?** If the site is listed on the HSI, it would be subject to HSRA. If the site was not on the inventory, the site may be evaluated for potential HSI listing. Should the site withdraw or be removed from the VRP, EPD will notify the responsible party of the next action or document.
17. **Does site delineation require sampling to the property boundary?** No. Site delineation under the voluntary remediation program only requires delineation to specific concentrations [please refer to OCGA 12-8-108(1) for site delineation concentration criteria]. Once delineation to those concentrations is reached, you do not need to delineate further. However, if delineation has not been achieved before the qualifying property boundary is reached, additional delineation off-property is required. If groundwater corrective action is not required in accordance with OCGA 12-8-107(g)2, EPD may reduce groundwater delineation requirements once you have demonstrated that any potential exposure pathways will be mitigated.
18. **If certain steps in the VRP Checklist have already been completed at the qualifying property (ex. full site characterization and delineation) prior to application, does the schedule remain 5 years until submittal of the CSR?** The goal of VRPA is to expedite site cleanup and removal from the HSI. Therefore, if a property has already completed certain portions of the characterization and investigation, EPD encourages the applicant to shorten the schedule accordingly.
19. **Is Monitored Natural Attenuation (MNA) acceptable as a method of corrective action under the voluntary remediation program?** All corrective action methods may be considered under the voluntary remediation program. However, some potential corrective actions may not be appropriate due to the type and quantity of regulated substance released in each media and the conditions at that specific qualifying property. Please also see OCGA 12-8-108 for VRP standards and policies that may be considered and used in connection with the investigation and remediation of a qualifying property.

20. **I will be relying on controls for the purpose of certifying compliance with cleanup standards. What additional documentation do I need to provide to EPD?** For any property where controls will be used for the purpose of certifying compliance, an environmental covenant, including EPD as a party to the covenant, must be executed. A list of property abutters, their mailing information, and tax parcel identification numbers must be provided along with the proposed environmental covenant for execution by the Director.
21. **I want to set my point of exposure at my property line. Is this acceptable?** Point of exposure is defined as the nearest of a) the closest existing downgradient drinking water supply well, b) likely nearest future location of a downgradient drinking water supply well where public water is not currently available and is unlikely to be made available in the foreseeable future, or c) 1000 feet downgradient from the delineated site contamination. Therefore, provided your property line is reached before these criteria are exceeded, yes, you may set your point of exposure at your property line.
22. **Can you provide additional information regarding the environmental covenant?** Additional information including a model environmental covenant is located at the following link (<http://www.gaepd.org/Documents/uec.html>). While the model environmental covenant may be modified to address site-specific information, certain criteria may not be revised without EPD approval. Please also note that the state of Georgia will sign the environmental covenant as a “Grantee/Entity with express power to enforce” but not as a “Grantee/Holder”. The participant must identify and make arrangements for another party to be the holder of the environmental covenant.
23. **Can an environmental covenant be removed from a Property?** Yes, the UEC may be terminated in accordance with OCGA 44-16-9 and 44-16-10, once certain requirements have been met. A model UEC termination document is available at http://www.gaepd.org/Files_DOC/forms/hwb/UECTermination.doc.
24. **What type of liability protection is provided under the VRP Program?** There is no liability protection provided under the VRPA.
25. **When is a financial assurance instrument required?** Financial assurance (FA) may be required for approved controls that require long term care and/or monitoring. EPD may also require FA upon approval of the VRP application in accordance with OCGA 12-8-107(c). Reasons that EPD may request FA include, but are not limited to, poor historical performance under HSRA, expensive corrective action, large groundwater plumes, and failure to maintain the VRP schedule.
26. **If a financial assurance instrument is already in place for a site/property that is enrolled in the VRP, can that instrument be cancelled?** The applicant may submit a request to EPD to cancel the FA document. However, if the VRP application does not cover all impacted properties, EPD may require FA for the

properties which are still being addressed under HSRA. In addition, EPD may determine that FA is required for the VRP cleanup and issue an Order pursuant to OCGA 12-8-107(c).

27. **Does EPD have model documents available for crafting financial assurance instruments?** Acceptable financial assurance instruments are trust funds, surety bonds, letters of credit, performance bonds, certificates of deposit, financial tests, and corporate guarantees. Model financial assurance documents can be found at http://www.gaepd.org/Documents/epdforms_hwb.html#cleanup. The Response and Remediation Program is working with the Attorney General's Office to develop a model for an escrow agreement that may be used as a financial assurance instrument.
28. **Is responding to a "comment" letter required for acceptance into the VRP?** No. The comments may be addressed during the implementation of the voluntary investigation and remediation plan. However, EPD may require that certain comments be addressed by a certain date that would be specified in the letter.
29. **Is participation in the VRP transferable when a property is sold?** Yes; however the new owner would need to submit a new application form. Any remaining balance of the original \$5,000 application fee would be applied to the new applicant. Once there is no balance remaining from the original application fee, the participant will be invoiced for the cost of EPD's review of subsequent documents. The new applicant is expected to maintain the approved VRP schedule.
30. **What are the major differences in the delineation and cleanup criteria between the VRP, Brownfield and HSRA?** See table (http://www.gaepd.org/Files_PDF/VRP/Cleanuptable.pdf).
31. **Can a qualifying property be cleaned up under both the VRPA and the Georgia Hazardous Site Reuse and Redevelopment Act (aka Brownfield Act)?** A qualifying property under the Hazardous Site Reuse and Redevelopment Act (HSRRA) may also qualify under the VRPA. However, while a cleanup under HSRRA provides a limitation of liability to the prospective purchaser, cleanups using the standards and policies under the VRPA do not provide a limitation of liability.
32. **Can a property be delisted from a site if the property meets the risk reduction standards (RRS) but other parcels of the site do not?** Individual parcels within a site may be delisted upon the Director's concurrence that compliance with risk reduction standards has been achieved.
33. **Can a site or property that is part of an HSI site be delisted under VRPA if it meets Type 5 cleanup criteria?** Yes.