



U.S. DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
Office for Coastal Management  
Silver Spring Metro Center, Building 4  
1305 East-West Highway  
Silver Spring, Maryland 20910

OCT - 6 2016

Jill Andrews,  
Coastal Resources Division  
GA Department of Natural Resources  
One Conservation Way  
Brunswick, GA 31520

Dear Ms. Andrews:

Thank you for the Coastal Resources Division's September 1, 2016 (received on September 7, 2016) request that changes to the Georgia Erosion and Sedimentation Act be incorporated into the Georgia Coastal Management Program. You requested that the changes described below be incorporated as routine program changes (RPCs), pursuant to Coastal Zone Management Act (CZMA) regulations at 15 C.F.R. part 923, subpart H, and the National Oceanic and Atmospheric Administration's (NOAA's) Office for Coastal Management's Program Change Guidance (July 1996).

Based on our review of your submission, we concur, that the changes are RPCs and approve the changes to the federally approved Georgia Coastal Management Program. The changes to the Erosion and Sedimentation Act, O.C.G.A. § 12-7-3, 12-7-6, 12-7-7, 12-7-7.1 and 12-7-17; the Erosion and Sediment Control Regulations, Chapter 391-3-7; and Chapter 6 of the Manual for Erosion and Sediment Control in Georgia have been approved as enforceable policies of the Georgia Coastal Management Program. These policies may only be applied for CZMA federal consistency review purposes after you publish notice of this approval pursuant to 15 C.F.R. § 923.84(b)(4) and the Office for Coastal Management's Addendum to the July 1996 Program Change Guidance (November 2013). Please include in the public notice the list of changes and that they are subject to qualifications as provided in this letter, and send a copy of the notice to the Office for Coastal Management.

### **CHANGES APPROVED**

See the attached table of the revised sections of the Georgia Erosion and Sedimentation Act, O.C.G.A. § 12-7-1, et seq., Erosion and Sedimentation Control Regulations, Chapter 391-3-7 and the Manual for Erosion and Sediment Control (2016) approved for incorporation into the Georgia Coastal Management Program.

### **QUALIFICATIONS**

**Incorporation by Reference** – As a standard qualification applying to the approval of all enforceable policies, states may not incorporate enforceable policies by reference. If an approved enforceable policy refers to another statute, regulation, policy, standard, guidance, or other such requirement or document (hereinafter "referenced policy"), the referenced policy itself must be submitted to and approved by the Office for Coastal Management as an enforceable policy in

order to be applied under the federal consistency review provisions of the CZMA. Therefore, no referenced policy in these approved enforceable policies may be applied to determine federal consistency unless that referenced policy has been separately approved by the Office for Coastal Management.

Compliance with Local Ordinances and Procedures – The Erosion and Sediment Control Regulations, Rule 391-3-7-.09 (Local Issuing Authorities) contains requirements for local government implementation of the Erosion and Sedimentation Act. When conducting CZMA reviews, compliance with local government procedures or standards is not determinative of whether an activity is consistent for CZMA federal consistency purposes. Only the state has the authority to determine whether an activity is consistent. Georgia’s Coastal Resources Division may consider local determinations in its findings but must base its decision on the substantive standards within of the federally approved enforceable policies the Georgia Coastal Management Program.

References to Federal Agency Procedures, Authorizations and Statutes - O.C.G.A. § 12-7-6, Rules 391-3-7-.05 and -.11 and Chapter 6 of the Erosion and Sediment Control Manual reference the U.S. Army Corps of Engineers and the Federal Water Pollution Control Act relating to permitting, Corps authorizations, and mitigation. References to the federal agencies and federal statutes are viewed as statements noting that other authorities may apply and may be controlling of activities. These statements are not enforceable policies for CZMA review purposes although they are found within otherwise approvable policies.

#### PUBLIC AND FEDERAL AGENCY COMMENTS

The Office for Coastal Management received no comments on this RPC submission.

Thank you for your cooperation with this review. Please contact Melissa Rada at (843) 740-1236 if you have any questions.

Sincerely,

  
 Joelle Gore, Chief  
Stewardship Division

Revised sections of the Georgia Erosion and Sedimentation Act, O.C.G.A. § 12-7-1, et seq., Erosion and Sedimentation Control Regulations, Chapter 391-3-7 and the Manual for Erosion and Sediment Control (2016) approved for incorporation into the Georgia Coastal Management Program on October 6, 2016.

Name/Description of State or Local Law/Regulation/Policy/Program Authority	State/Local Legal Citation	Date Adopted by State	Date Effective in State
<b>ADDED:</b>			
Rules of the Department of Natural Resources Environmental Protection Division Relating to Erosion and Sedimentation Control	DNR Rules and Regulations, Chapter 391-3-7	1/29/2016	4/20/2016
Manual for Erosion and Sediment Control in Georgia (only the substantive standards within Chapter 6 may be applied for CZMA review purposes)	Georgia Soil and Water Conservation Commission, 2016 Edition	11/19/2015	1/1/2016
<b>MODIFIED:</b>			
*Erosion and Sedimentation Act	O.C.G.A. 12-7-1	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-2	1/29/16	4/20/16
Erosion and Sedimentation Act	O.C.G.A. 12-7-3	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-4	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-5	1/29/16	4/20/16
Erosion and Sedimentation Act	O.C.G.A. 12-7-6	1/29/16	4/20/16
Erosion and Sedimentation Act	O.C.G.A. 12-7-7	1/29/16	4/20/16
Erosion and Sedimentation Act	O.C.G.A. 12-7-7.1	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-8	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-9	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-10	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-11	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-12	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-13	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-14	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-15	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-16	1/29/16	4/20/16
Erosion and Sedimentation Act	O.C.G.A. 12-7-17	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-18	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-19	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-20	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-21	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-22	1/29/16	4/20/16
Changes marked with an asterisk (*) are incorporated into the Georgia Coastal Management Program, but DO NOT contain enforceable policies that can be used for CZMA Federal Consistency review purposes.			

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Routine Program Change  
to the State of Georgia  
Coastal Management Program

Request for Concurrence  
September 2016

Submitted by: The Georgia Department of Natural Resources  
Coastal Resources Division  
1 Conservation Way  
Brunswick, GA 31520



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## **INTRODUCTION**

The following constitutes a request by the State of Georgia for the National Oceanic and Atmospheric Administration (NOAA) Office of Coastal Management (OCM) to concur in the incorporation of Routine Program Changes (RPC) to the State of Georgia's Coastal Management Program (CMP).

Since 1997, there have been several State legislative and regulatory changes to the Erosion and Sedimentation Act and associated regulations. The submitted changes fall under existing State authority within the Georgia CMP and are not so substantial as to require an Amendment.

In accordance with requirements for RPC as set forth in 15 CFR 923.84 and the guidelines for RPC contained in OCM's Program Change Guidance from July 1996, the State of Georgia has prepared the following analysis of the routine changes to Georgia's enforceable policy. The analysis explains 1) why the submitted change to the State CMP are RPC and not Amendments and 2) identifies the statutory and regulatory changes to the policy since 1997.

## **ANALYSIS OF CHANGES**

Under 15 CFR 923.80(d), Amendments are defined as substantial changes in one or more of five listed coastal management program areas. Further, OCM's Program Change Guidance from July 1996 states that a substantial change is a high threshold based on a case-by-case determination. Such determination is made by reviewing indicators of substantial change, such as whether new or revised enforceable policies address coastal uses or resources not previously managed or major changes in the way a state CMP manages coastal uses or resources. OCM's Program Change Guidance also states that an explanation why a proposed change will not result in an Amendment should describe the elements of the State CMP that are affected.

Georgia's CMP enforceable policies are based on State regulations and were incorporated into the Georgia CMP Final Environmental Impact Statement (FEIS) at the time of the Georgia CMP approval in December 1997. However, over time, these regulations are periodically amended. Prior to the amended regulations becoming part of the CMP, they must first be approved by OCM through the RPC process. The submitted program changes amend the State's Erosion and Sedimentation Act and associated regulations for the State of Georgia. The State submits these changes as Routine Program Changes pursuant to 15 CFR 923.84.

The submitted routine changes to the State of Georgia Erosion and Sedimentation Act and associated regulations addresses statutory and regulatory changes the State has adopted since 1997. These changes could be interpreted as affecting elements of the State CMP within the State coastal zone, however they do not substantially change the authorities and organization of the Georgia CMP. The submitted changes are a minor clarification of existing CMP authority that NOAA and the U.S. Environmental Protection Agency (EPA) recommended in order to

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increase environmental protection within the State’s coastal zone and of the State’s coastal resources.

The submitted routine changes fall within the existing State authority listed above and included in the CMP and do not substantially change the State’s enforceable policies. The changes to the Erosion and Sedimentation Act and associated regulations fall under the existing State CMP authority to create minor amendments to that policy to further the effective management of the State’s coastal resources. The following section discusses changes to the regulation currently in the CMP, as well as new authorities and/or regulations to be added. Descriptions of each program change are included in the analyses below, which identify the enforceable policy to be modified, describe the nature of the program change, and identify impacts the change will have on the existing State CMP. The analyses demonstrate that the submitted program changes are not substantial in nature and are therefore not considered program amendments.

## **PROPOSED CHANGES**

### EROSION AND SEDIMENTATION ACT AMENDMENTS AND MANUAL

During the 2003, 2004, 2006, 2007, 2009, 2010, 2012, and 2015 sessions, the Georgia legislature amended the Erosion and Sedimentation Act (ESA) (O.C.G.A. 12-7-1, *et seq.*) in a variety of ways. The following table summarizes the nature of the amendments in each section of the ESA as well as the implementation impact to the Georgia CMP. These amendments do not affect new uses subject to management (subpart B) or special management areas (subpart C), results in no changes to program boundaries (subpart D) or authorities and organization (subpart E), and does not affect coordination, public involvement and national interest (subpart F). The full text of the Erosion and Sedimentation Act amendments, in underline/strike-through format, is provided in Appendix A.

<b>ESA Code Section</b>	<b>Nature of Amendment</b>	<b>CMP Impact</b>
12-7-1	Short title was changed (2003)	Clarified code title; no impact
12-7-2	Purpose was reworded (2003)	Clarified purposed; no impact
12-7-3	Definitions were amended (2003, 2015)	Clarified term definitions; no impact
12-7-4	Local ordinances governing land-disturbing activities was amended (2003)	Clarified governing authority; no impact
12-7-5	Development and adoption of rules and regulations governing land-disturbing activities in certain counties and municipalities was amended (2003)	Clarified rules adoption; no impact
12-7-6	Best management practices required for all land-disturbing activities, minimum standards for rules and regulations, ordinances, and resolutions was	Water and sewer lines became exempt with specifications and a 25

	amended (2003, 2004, 2006, 2009, 2010, 2012, 2015)	foot buffer along coastal marshlands was established
12-7-7	Land-disturbing activities; permit or notice of intent requirement; permit violations were amended (2003, 2015)	Land size changed from 5 to 1 acre and clarified Council members
12-7-8	County or municipality as issuing authority; review of actions was amended (2003, 2007)	Clarified local issuing authority; no impact
12-7-9	Issuance of permits and conditions under which such permits shall be issued was amended (2003)	Clarified permit and fee issuances; no impact
12-7-10	Review and approval of erosion and sediment control plans was amended (2003)	District must approve a plan within 35 days
12-7-11	Issuance, denial, suspension, revocation, and modification of permits was amended (2003)	Grammatical clarifications; no impact
12-7-12	Order for corrective action was amended (2003)	Stop work orders were added
12-7-13	Injunctive relief was amended (2003)	Grammatical clarifications; no impact
12-7-14	Civil action or emergency order by director was amended (2003)	Director may issue action and emergency orders
12-7-15	Civil penalties; hearings was amended (2003)	Struck penalties less than \$2,500
12-7-16	Procedure for hearing and review was amended (2003)	Clarified hearing and review procedures; no impact
12-7-17	Exceptions were amended (2003)	Acre size changed to 1 and clarified compliance enforcement
12-7-18	Chapter not authorizing violations of Water Quality Control Act was amended (2003)	Grammatical clarifications; no impact
12-7-19	Education and training certification requirements (2003, 2007)	Clarified required levels of training; no impact
12-7-20	Stakeholder Advisory Board was amended (2003)	Clarified Advisory Board requirements; no impact
12-7-21	Code section was repealed (2003)	No impact
12-7-22	Authorized an electronic filing and reporting system (2003)	Clarified use of electronic filing/reporting; no impact

In addition, the ESA references the ‘*Manual for Erosion and Sediment Control in Georgia*’. This manual provides guidance in the implementation of the ESA for landowners, developers, consultants, architects, engineers, land surveyors, planners, local government officials and employees, the Georgia Environmental Protection Division, the Georgia Soil and Water

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Conservation Districts, local issuing authorities, and design professionals. This manual is essential to provide the intended audience the appropriate guidance on planning, designing, and constructing erosion and sediment control structures that will comply with the ESA. Chapter 6 of the Manual provides information on the Best Management Practice Standards and Specifications for General Land-Disturbing Activities. This chapter contains standards and specifications for planning, design and installation of erosion and sediment control measures. Those standards are intended to provide minimum criteria for use at the state and local level, although many variations in climate, soils, topography, physical features and planned land use may require modifications at the local level. Local officials will assure that standards and specifications are implemented in harmony with existing ordinances, rules and regulations. The Manual does not affect new uses subject to management (subpart B) or special management areas (subpart C), results in no changes to program boundaries (subpart D) or authorities and organization (subpart E), and does not affect coordination, public involvement and national interest (subpart F). The full text of the *Manual for Erosion and Sediment Control in Georgia*, as referenced in the Erosion and Sedimentation Act, is provided on the enclosed CD as Appendix B.

#### RULES RELATING TO EROSION AND SEDIMENT CONTROL, CHAPTER 391-3-7

During the 2016 session, the Georgia legislature adopted the Rules of the Georgia Department of Natural Resources Environmental Protection Division relating to Erosion and Sedimentation Control, Chapter 391-3-7. Buffers on state waters are valuable in protecting and conserving land and water resources; and therefore should be protected. This rule applies a 25-foot buffer variance to all projects legally eligible for variances and to all state waters having vegetation wrested from the channel by normal stream flow, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. This rule further designates exemptions, project application and review criteria, and mitigation criteria. This rule does not add any additional enforceable policies on resources not previously managed, nor does it change any of the five program areas described in 15 C.F.R. Part 923. It does not affect new uses subject to management (subpart B) or special management areas (subpart C), results in no changes to program boundaries (subpart D) or authorities and organization (subpart E), and does not affect coordination, public involvement and national interest (subpart F). The full text of the Rules of the Department of Natural Resources Environmental Protection Division Relating to Erosion and Sedimentation Control, Chapter 391-3-7 as adopted by the Georgia Department of Natural Resources Board of Commissioners in January 2016 is provided on the enclosed CD as Appendix C.

#### **PUBLIC NOTICE**

This Routine Program Change Request for Concurrence was publicly advertised on September 1, 2016 through the Brunswick News and on September 2, 2016 through the Savannah News. This RPC was also distributed as a public notice through the legal organ of the eleven coastal zone

counties as well as through the DNR GovDelivery system, and on the DNR website at <http://coastalgadnr.org/cm/about/pdoc>. Copies of the legal ad and public notice announcements are provided in Appendix D. A hard copy of the published legal ad will be forwarded to NOAA.

## CONCLUSION

Pursuant to Coastal Zone Management Act and 15 CFR 923.80, the Georgia Department of Natural Resources (GDNR) has reviewed the regulatory changes submitted for incorporation into the State CMP and have concluded that the submitted program changes are not Amendments. GDNR believes that these changes will not substantially change the enforceable authorities of the CMP, uses subject to management under the State CMP, or national interests in the State’s coastal zone. The GDNR also believes that the submitted changes increase the ability of the State to manage, preserve, and sustain the coastal resources of the State of Georgia. Therefore, according to the standards set forth by 15 CFR 923.80(d), 15 CFR 923.84 and the OCM’s Program Change Guidance from July 1996, the State of Georgia submits these changes as Routine Program Changes and requests and recommends the OCM’s concurrence with this action for incorporation into the State CMP.

Table 1. Summary of Proposed Changes (\*to be approved in program, but not as an enforceable policy)

<b>Name/Description of State or Local Law/Regulation/Policy/Program Authority</b>	<b>State/Local Legal Citation</b>	<b>Date Adopted by State</b>	<b>Date Effective in State</b>
<b>ADDED:</b>			
Rules of the Department of Natural Resources Environmental Protection Division Relating to Erosion and Sedimentation Control	DNR Rules and Regulations, Chapter 391-3-7	1/29/2016	4/20/2016
*Manual for Erosion and Sediment Control in Georgia (except Chapter 6)	Georgia Soil and Water Conservation Commission, 2016 Edition	11/19/2015	1/1/2016
Chapter 6 of the Manual for Erosion and Sediment Control in Georgia	Georgia Soil and Water Conservation Commission, 2016 Edition	11/19/2015	1/1/2016
<b>MODIFIED:</b>			
*Erosion and Sedimentation Act	O.C.G.A. 12-7-1	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-2	1/29/16	4/20/16
Erosion and Sedimentation Act	O.C.G.A. 12-7-3	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-4	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-5	1/29/16	4/20/16
Erosion and Sedimentation Act	O.C.G.A. 12-7-6	1/29/16	4/20/16
Erosion and Sedimentation Act	O.C.G.A. 12-7-7	1/29/16	4/20/16
Erosion and Sedimentation Act	O.C.G.A. 12-7-7.1	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-8	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-9	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-10	1/29/16	4/20/16
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*Erosion and Sedimentation Act	O.C.G.A. 12-7-12	1/29/16	4/20/16

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*Erosion and Sedimentation Act	O.C.G.A. 12-7-13	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-14	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-15	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-16	1/29/16	4/20/16
Erosion and Sedimentation Act	O.C.G.A. 12-7-17	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-18	1/29/16	4/20/16
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*Erosion and Sedimentation Act	O.C.G.A. 12-7-21	1/29/16	4/20/16
*Erosion and Sedimentation Act	O.C.G.A. 12-7-22	1/29/16	4/20/16

## APPENDIX A

### Erosion and Sedimentation Act Legislative Amendments

Legislative amendments to Georgia’s **Erosion and Sedimentation Act** between 1997 and 2016 (TEXT: Inserted text, ~~TEXT~~: Deleted text, \*: Approved into CMP, but not included as an enforceable policy).

Code Section	Legislative Amendment
*O.C.G.A. 12-7-1: Short title	<u>This chapter shall be known and may be cited as the ‘Erosion and Sedimentation Act of 1975’.</u>
*O.C.G.A. 12-7-2: Purpose	<u>It is found that soil erosion and sediment deposition onto lands and into waters within the watersheds of this state are occurring as a result of widespread failure to apply proper soil erosion and sedimentation control practices in land clearing, soil movement, and construction activities and that such erosion and sediment deposition result in pollution of state waters and damage to domestic, agricultural, recreational, fish and wildlife, and other resource uses. It is therefore declared to be the policy of this state and the intent of this chapter to strengthen and extend the present erosion and sediment control activities and programs of this state and to provide for the establishment and implementation of a state-wide comprehensive soil erosion and sediment control program to conserve and protect the land, water, air, and other resources of this state.</u>
O.C.G.A. 12-7-3: Definitions	<p>As used in this chapter, the term:</p> <p>(1) ‘Board’ means the Board of Natural Resources.</p> <p>(2) ‘Buffer’ means the area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.</p> <p><u>(2.1) ‘Coastal marshlands’ shall have the same meaning as in Code Section 12-5-282.</u></p> <p>(3) ‘Commission’ means the State Soil and Water Conservation Commission.</p> <p>(4) ‘Director’ means the director of the Environmental Protection Division of the Department of Natural Resources.</p> <p>(5) ‘District’ means any one of the soil and water conservation districts of this state.</p> <p>(6) ‘Division’ means the Environmental Protection Division of the Department of Natural Resources.</p> <p>(7) ‘Drainage structure’ means a device composed of a virtually nonerodible material such as concrete, steel, plastic, or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for storm-water management, drainage control, or flood control purposes.</p> <p>(8) ‘Erosion and sediment control plan’ or ‘plan’ means a plan for the control of soil erosion and sediment resulting from a land-disturbing activity.</p> <p><del>(9) ‘Issuing authority’ means the governing authority of any county or municipality which is certified pursuant to subsection (a) of Code Section 12-7-8 and the division in those instances where an application for a permit is submitted to the division.</del></p> <p><del>(10) ‘Land-disturbing activity’ means any activity which may result in soil erosion from water or wind and the movement of sediments into state water or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in paragraph (5) of Code Section 12-7-17.</del></p> <p><u>(9.1) ‘Larger common plan of development or sale’ means a contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For purposes of this paragraph, ‘plan’ means an announcement, piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.</u></p>

	<p><u>(10) ‘Local issuing authority’ means the governing authority of any county or municipality which is certified pursuant to subsection (a) of Code Section 12–7–8.</u></p> <p><u>(10.1) ‘Maintenance’ means actions necessary or appropriate for retaining or restoring a currently serviceable improvement to the specified operable condition to achieve its maximum useful life. Maintenance includes emergency reconstruction of recently damaged parts of a currently serviceable structure so long as it occurs within a reasonable period of time after damage occurs. Maintenance does not include any modification that changes the character, scope, or size of the original design.</u></p> <p><u>(10.2) ‘Manual for Erosion and Sediment Control in Georgia’ or ‘manual’ means the published guidance of the commission governing the design and practices to be utilized in the protection of this state's natural resources from erosion and sedimentation which shall be based foremost upon sound engineering principles and repeatable bench and field testing of structural and vegetative best management practices and which shall have the annual approval of the Erosion and Sediment Control Overview Council established pursuant to Code Section 12–7–7.1.</u></p> <p><u>(10.3) ‘Operator’ means the party or parties that have:</u></p> <p><u>(A) Operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or</u></p> <p><u>(B) Day-to-day operational control of those activities that are necessary to ensure compliance with a storm-water pollution prevention plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the storm-water pollution prevention plan or to comply with other permit conditions.</u></p> <p><u>(11) ‘Person’ means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of this state, any interstate body, or any other legal entity.</u></p> <p><u>(12) ‘Qualified personnel’ means any person who meets or exceeds the education and training requirements of Code Section 12–7–19.</u></p> <p><u>(13) ‘Roadway drainage structure’ means a device, such as a bridge, culvert, or ditch, composed of a virtually nonerodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled way consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.</u></p> <p><u>(13.1) ‘Serviceable’ means usable in its current state or with minor maintenance but not so degraded as to essentially require reconstruction.</u></p> <p><del>(13)</del><u>(14) ‘Soil and water conservation district approved plan’ means an erosion and sediment control plan approved in writing by a soil and water conservation district.</u></p> <p><u>(15) ‘State general permit’ means the National Pollution Discharge Elimination System general permit or permits for storm-water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of Code Section 12–5–30.</u></p> <p><del>(14)</del><u>(16) ‘State waters’ includes any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the state, which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.</u></p>
<p>*O.C.G.A. 12-7-4: Local ordinances governing land-disturbing activities</p>	<p><u>(a) The governing authority of each county and each municipality shall adopt a comprehensive ordinance establishing the procedures governing land-disturbing activities which are conducted within their respective boundaries. Such ordinances shall be consistent with the standards provided by this chapter. Local governing authorities shall have the authority, by such ordinance, to delegate in whole or in part the responsibilities of the governing authorities, as set forth in this chapter, to any constitutional or statutory local planning and zoning commission. Where the local governing authority deems it appropriate,</u></p>

	<p><u>it may integrate such provisions with other local ordinances relating to land development including but not limited to tree protection, flood plain protection, stream buffers, or post development storm-water management; and the properties to which any of the types of ordinances identified in this Code section shall apply, whether or not such ordinances are integrated, shall include without limitation property owned by the local governing authority or by a local school district, except as otherwise provided by Code Section 12-7-17.</u></p> <p><u>(b) Nothing in this chapter shall be construed as to limit or exclude any design professional, including but not limited to any professional engineer or registered land surveyor, or Natural Resource Conservation Service employee, within any county, municipality, or consolidated government in this state from performing such professional services as may be incidental to the practice of his or her profession, including any and all soil erosion and sedimentation control plans, storm-water management reports including hydrological studies, and site plans, when such professional has demonstrated competence through such qualifications, education, experience, and licensing as required for practice in this state by applicable provisions of Title 43 related to such profession; provided, however, that any such person shall be subject to the requirements of Code Section 12-7-19.</u></p>
<p>*O.C.G.A. 12-7-5: Development and adoption of rules and regulations governing land-disturbing activities in certain counties and municipalities</p>	<p><u>The board, by appropriate rules and regulations, shall adopt the procedures governing land-disturbing activities which are conducted in those counties and municipalities which do not have in effect an ordinance conforming to this chapter. Such rules and regulations shall be developed by the division in consultation with the commission and shall contain provisions which meet those minimum requirements set forth in Code Section 12-7-6.</u></p>
<p>O.C.G.A. 12-7-6: Best management practices required for all land-disturbing activities; minimum standards for rules and regulations, ordinances and resolutions</p>	<p>(a)(1) Best management practices as set forth in subsection (b) of this Code section shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the director or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of storm water issued pursuant to subsection (f) of Code Section 12-5-30. As used in this subsection, the terms ‘proper design’ and ‘properly designed’ mean designed <del>to control soil erosion and sedimentation for all rainfall events up to and including a 25 year rainfall event</del> <u>in accordance with the hydraulic design specifications contained in the ‘Manual for Erosion and Sediment Control in Georgia’ specified in subsection (b) of this Code section.</u></p> <p>(2) A discharge of storm-water runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local issuing authority <del>or by the division</del> or of any <u>state</u> general permit <del>for construction activities</del> issued by the division pursuant to subsection (f) of Code Section 12-5-30 for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than ten nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the director. <u>This paragraph shall not apply to any land disturbance associated with the construction of single-family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five acres.</u></p> <p>(3) Failure properly to design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a local issuing authority <del>or by the division</del> or of any <u>state</u> general permit <del>for construction activities</del> issued by the division pursuant to subsection (f) of Code Section 12-5-30 for each day on which such failure occurs.</p> <p>(4) The director may require, in accordance with regulations adopted by the board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land-disturbing activities occur.</p>

(b) The rules and regulations, ordinances, or resolutions adopted pursuant to this chapter for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the 'Manual for Erosion and Sediment Control In Georgia' published by the State Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

- (1) Stripping of vegetation, regrading, and other development activities shall be conducted in such a manner so as to minimize erosion;
- (2) Cut and fill operations must be kept to a minimum;
- (3) Development plans must conform to topography and soil type, so as to create the lowest practicable erosion potential;
- (4) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;
- (5) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
- (6) Disturbed soil shall be stabilized as quickly as practicable;
- (7) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
- (8) Permanent vegetation and structural erosion control measures must be installed as soon as practicable;
- (9) To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of this chapter;
- (10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping surfaces of fills;
- (11) Cuts and fills may not endanger adjoining property;
- (12) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
- (13) Grading equipment must cross flowing streams by the means of bridges or culverts, except when such methods are not feasible, provided, in any case, that such crossings must be kept to a minimum;
- (14) Land-disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on site or preclude sedimentation of adjacent waters beyond the levels specified in subsection (a) of this Code section;
- (15) ~~Except as provided in paragraph (16) of this subsection, there is established a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to Code Section 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented; provided, however, that buffers of at least 25 feet established pursuant to Part 6 of Article 5 of Chapter 5 of this title shall remain in force unless a variance is granted by the director as provided in this paragraph. The following requirements shall apply to any such buffer:~~
  - (A) ~~No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as~~

long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and There is established a 25 foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except:

(i) As provided by paragraph (16) of this subsection;

(ii) Where the director determines to allow a variance that is at least as protective of natural resources and the environment;

(iii) Where otherwise allowed by the director pursuant to Code Section 12-2-8;

(iv) Where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented;

(v) Along any ephemeral stream. As used in this division, the term 'ephemeral stream' means a stream:

(I) That under normal circumstances has water flowing only during and for a short duration after precipitation events;

(II) That has the channel located above the ground-water table year round;

(III) For which ground water is not a source of water; and

(IV) For which runoff from precipitation is the primary source of water flow; or

(vi) Where shoreline stabilization is installed; provided, however, that this exception shall be limited to the construction of bulkheads and sea walls only to the extent required to prevent the erosion of the shoreline. This exception shall be limited to Lake Oconee and Lake Sinclair and shall be limited to the duration of such construction.

Unless exempted under division (v) of this subparagraph, buffers of at least 25 feet established pursuant to Part 6 of Article 5 of Chapter 5 of this title shall remain in force unless a variance is granted by the director as provided in this paragraph.

(B) On or before December 31, 2000, the board shall adopt rules which contain specific criteria for the grant or denial by the director of requests for variances. After such date, no variance shall be granted by the director which is not consistent with the criteria contained in such rules; provided, however, that, should the board fail to adopt rules which contain specific criteria for the grant or denial of requests for variances by the director on or before December 31, 2000, the authority of the director to issue such variances shall be suspended until the board adopts such rules; and No land-disturbing activities shall be conducted within any such buffer; and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed, except as otherwise provided by this paragraph. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed.

(C) On or before December 31, 2004, the board shall adopt rules which contain specific criteria for the grant or denial by the director of requests for variances. After such date, no variance shall be granted by the director which is not consistent with the criteria contained in such rules. Such rules shall provide, at a minimum, that the director shall consider granting a variance in the following circumstances:

(i) Where a proposed land-disturbing activity within the buffer would require the landowner to acquire a permit from the United States Army Corps of Engineers under Section 404 of the federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. Section 1344, and the Corps of Engineers has approved a mitigation plan to be implemented as a condition of such a permit;

(ii) Where the landowner provides a plan satisfactory to the director that shows that, even with the proposed land-disturbing activity within the buffer, the completed project will result in maintained or improved water quality downstream of the project; or

(iii) Where a project with a proposed land disturbing activity within the buffer is located in or upstream and within ten linear miles of a stream segment listed as impaired under Section 303(d) of the federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. Section 1313(d) and the landowner provides a plan satisfactory to the director that shows that the completed project will result in maintained or improved water quality in such listed stream segment and that the project has no adverse impact relative to the pollutants of concern in such stream segment; and All projects covered under divisions (i), (ii), and (iii) of this subparagraph shall meet all criteria set forth in rules for specific variance criteria adopted by the board by December 31, 2004.

(D) The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:

(i) Stream crossings for water lines; or

(ii) Stream crossings for sewer lines.

(16) There is established a 50 foot buffer, as measured horizontally from the point where vegetation has been wredted by normal stream flow or wave action, along the banks of any state waters classified as 'trout streams' pursuant to Article 2 of Chapter 5 of this title except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25 foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the board providing for notice to the division or local issuing authority of the location and extent of the piping and prescribed methodology for minimizing the impact of such piping and for measuring the volume of water discharged by the stream. Any such pipe must stop short of the downstream landowner's property, and the landowner must comply with the buffer requirement for any adjacent trout streams. The director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to any such buffer:

(A) No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; ~~and~~

(B) On or before December 31, 2000, the board shall adopt rules which contain specific criteria for the grant or denial by the director of requests for variances. After such date, no variance shall be granted by the director which is not consistent with the criteria contained in such rules; provided, however, that, should the board fail to adopt rules which contain specific criteria for the grant or denial of requests for variances by the director on or before December 31, 2000, the authority of the director to issue such variances shall be suspended until the board adopts such rules.; and

(C) The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented:

(i) Stream crossings for water lines; or

(ii) Stream crossings for sewer lines; and

(c) Nothing contained in this chapter shall prevent ~~an~~ any local issuing authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in ~~subsections (a) and~~ subsection (b) of this Code section.

(d) The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this Code section or the terms of the permit.

(17)(A) There is established a 25 foot buffer along coastal marshlands, as measured horizontally from the coastal marshland-upland interface, as determined in accordance with Part 4 of Article 4 of Chapter 5 of this title, the ‘Coastal Marshlands Protection Act of 1970,’ and the rules and regulations promulgated thereunder, except:

(i) Where the director determines to allow a variance that is at least as protective of natural resources and the environment;

(ii) Where otherwise allowed by the director pursuant to Code Section 12-2-8;

(iii) Where an alteration within the buffer area has been authorized pursuant to Code Section 12-5-286;

(iv) For maintenance of any currently serviceable structure, landscaping, or hardscaping, including bridges, roads, parking lots, golf courses, golf cart paths, retaining walls, bulkheads, and patios; provided, however, that if such maintenance requires any land-disturbing activity, adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented;

(v) Where a drainage structure or roadway drainage structure is constructed or maintained; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented;

(vi) On the landward side of any currently serviceable shoreline stabilization structure; and

(vii) For the maintenance of any manmade storm-water detention basin, golf course pond, or impoundment that is located entirely within the property of a single individual, partnership, or corporation; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.

(B) No land-disturbing activity shall be conducted within any such buffer and a buffer shall remain in its current, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed, except as otherwise provided by this paragraph. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation so long as a protective vegetative cover remains to protect water quality and aquatic habitat; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time so long as a protective vegetative cover remains to protect water quality and aquatic habitat.

(C) On or before December 31, 2015, the board shall promulgate rules and regulations that:

(i) Contain criteria for the grant or denial by the director of requests for variances pursuant to this paragraph, including where an alteration within the buffer area has been authorized pursuant to a permit issued by the United States Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act of 1972, as amended, or Section 10 of the Rivers and Harbors Act of 1899; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented; and

(ii) Provide for variances by rule, subject to specified conditions, for certain categories of activities within the buffer that will have minimal impact on the water quality or aquatic habitat of the adjacent marsh, including where the area within the buffer is not more than 500 square feet; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.

(D) The board may adopt rules and regulations that provide for an expedited process for certain categories of activities within the buffer based on the size, scope, location, and character of the proposed activity within the buffer.

(E) The buffer requirements of this paragraph shall not apply to crossings for utility lines that cause a width of disturbance of not more than 50 feet within the buffer; provided,

	<p><u>however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.</u></p> <p><u>(F) The buffer shall not apply to:</u></p> <p><u>(i) Any land-disturbing activity conducted pursuant to and in compliance with a valid and effective land-disturbing permit issued subsequent to April 22, 2014, and prior to the effective date of this Act; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented; or</u></p> <p><u>(ii) Any lot for which the preliminary plat has been approved prior to the effective date of this Act if roadways, bridges, or water and sewer lines have been extended to such lot prior to the effective date of this Act and if the requirement to maintain a 25 foot buffer would consume at least 18 percent of the high ground of the platted lot otherwise available for development; provided, however, that adequate erosion control measures are incorporated into the project plans and specifications and such measures are fully implemented.</u></p>
<p>O.C.G.A. 12-7-7: Land-disturbing activities; permit or notice of intent requirement; permit violations</p>	<p>(a) No land-disturbing activities shall be conducted in this state, except those land-disturbing activities provided for in Code Section 12-7-17, without the <del>property owner where the land-disturbing activity will occur</del> <u>operator</u> first securing <del>the a</del> <u>a</u> permit <u>from a local issuing authority or providing notice of intent to the division</u> as required by this Code section.</p> <p>(b) In those counties and municipalities which are certified <u>as local issuing authorities</u> pursuant to subsection (a) of Code Section 12-7-8:</p> <p>(1) The application for such permit shall be made to and the permit shall be issued by the governing authority of the county wherein such land-disturbing activities are to occur, in the event that such activities will occur outside the corporate limits of a municipality; and</p> <p>(2) In those instances where such activities will occur within the corporate limits of any municipality, the application for such permit shall be made to and the permit shall be issued by the governing authority of the municipality in which such land-disturbing activities are to occur; <u>and</u></p> <p><u>(3) The local issuing authority shall conduct inspections and enforce the permits it issues.</u></p> <p>(c) In those counties and municipalities which are not certified pursuant to subsection (a) of Code Section 12-7-8, <del>the application for such permit shall be made to and the permit shall be issued by the division</del> <u>the terms of the state general permit shall apply, those terms shall be enforced by the division, and no individual land-disturbing activity permit under this Code section will be required; provided, however, that notice of intent shall be submitted to the division prior to commencement of any land-disturbing activities under the state general permit in any of such uncertified counties or municipalities.</u></p> <p><u>(d)(1) Fees assessed pursuant to paragraph (5) of subsection (a) of Code Section 12-5-23 shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development.</u></p> <p><u>(2) In a jurisdiction that is certified pursuant to subsection (a) of Code Section 12-7-8, half of any such fees levied shall be submitted by the applicant to the local issuing authority and half of such fees shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of Code Section 12-7-17 shall be submitted in full to the division, regardless of the existence of a local issuing authority in the jurisdiction. In a jurisdiction where there is no local issuing authority, the full fee shall be submitted to the division.</u></p> <p><del>(d)(e)</del> <u>(e) Except as provided in this subsection, no permit shall be issued pursuant to subsection (b) or (c) of this Code section unless the erosion and sediment control plan has been approved by the appropriate district as is required by Code Section 12-7-10. When the governing authority of a county or municipality lying within the boundaries of the district demonstrates capabilities to review and approve an erosion and sediment control plan and requests an agreement with the district to conduct such review and approval, the district, with the concurrence of the commission, shall enter into an agreement which allows the governing authority to conduct review and approval without referring the application and plan to the district, if such governing authority meets the conditions specified by the district as set forth in the agreement. A district may not enter into an agreement authorized in this</u></p>

	<p>Code section with the governing authority of any county or municipality which is not certified pursuant to subsection (a) of Code Section 12-7-8.</p> <p><del>(e)</del>(f)(1) If a permit applicant has had two or more violations of previous permits or this Code section within three years prior to the date of filing of the application under consideration, the <u>local</u> issuing authority may deny the permit application.</p> <p>(2) The <u>local</u> issuing authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this Code section or with the conditions of the permit after issuance, the <u>local</u> issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. This subsection shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the <u>local</u> issuing authority with respect to alleged permit violations.</p> <p><del>(f) No permit may be issued pursuant to subsection (b) or (c) of this Code section unless the applicant provides a statement by the tax collector or tax commissioner of the county in which the property for which the permit is requested lies and by the official responsible for the collection of municipal taxes in the municipality within which such property lies, if applicable, certifying that all ad valorem taxes levied against the property and due and owing have been paid.</del></p>
<p>O.C.G.A. 12-7-7.1: Erosion and sediment control plans for construction or maintenance projects of Department of Transportation or State Road and Tollway Authority; Erosion and Sediment Control Overview Council</p>	<p>(a) As used in this Code section, the term ‘contractor’ means the individual, firm, corporation, or combination thereof or governmental organization contracting with the Department of Transportation or State Road and Tollway Authority for the performance of prescribed work.</p> <p>(b)(1) In addition to the requirements of Code Section 12-7-6, the Department of Transportation or the State Road and Tollway Authority after July 1, <del>2000</del> 2003, shall not contract for land-disturbing activity on any construction or maintenance project that will disturb <del>five</del> <u>one</u> or more contiguous acres of land until an erosion and sediment control plan for such project has been prepared and accepted pursuant to this Code section.</p> <p>(2) Through its own forces or by means of the acquisition of professional service pursuant to the provisions of Chapter 22 of Title 50, the Department of Transportation or the State Road and Tollway Authority shall be responsible for the preparation of an erosion and sediment control plan for any construction or maintenance project as required by paragraph (1) of this subsection. Any consultant providing such professional service shall be prequalified by the Department of Transportation as a responsible bidder for the design of erosion and sediment control plans. The division shall assist the Department of Transportation in developing the prequalification approval process for purposes of this subsection.</p> <p>(c) Upon completion of a proposed plan, the same shall be submitted to the division for review and comment <u>as required by the state general permit</u>.</p> <p>(d)(1) All bidders for any construction or maintenance project subject to this Code section shall review and submit with their bid proposal a cost estimate as a separate bid for the implementation of the plan, it being understood that the contractor may utilize either its own personnel and resources, qualified subcontractors, or both for implementation of the plan. All contractors and subcontractors for such project shall be prequalified by the Department of Transportation as a responsible bidder for the installation of erosion and sediment control devices in accordance with a plan. The division shall assist the Department of Transportation in developing the prequalification approval process for purposes of this subsection.</p> <p>(2) The contractor for a construction or maintenance project subject to this Code section shall be responsible for implementing the plan on the awarded project. Payment to any contractor under any contract for implementing any part or all of any plan shall not be on a lump sum basis; rather, such payment shall be based upon unit prices for specific quantities of work performed pursuant to the approved erosion and sediment control plan plus any additional quantities of completed work necessitated by project conditions affecting erosion and sediment control, including without limitation soil types and weather conditions.</p>

Charges for all maintenance and cleaning of erosion and sediment control devices shall likewise be paid on a unit price basis.

(e)(1) Through the services of independent consultants, contractors, or subcontractors, or by its own forces, the Department of Transportation shall monitor the water quality and inspect the installation and maintenance of the best management practices in accordance with the plan. All such consultants, contractors, or subcontractors shall be prequalified by the Department of Transportation as a responsible bidder for the inspection of such best management practices and shall have the necessary expertise to determine that such practices are being installed and maintained in accordance with the plan. The division shall assist the Department of Transportation in developing the prequalification approval process for purposes of this subsection.

(2) Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the director or to any other allegation of noncompliance with paragraph (2) of subsection (a) of Code Section 12-7-6.

(3) If deficiencies in the plan or installation or maintenance of best management practices are discovered during the inspection, the Department of Transportation or the State Road and Tollway Authority shall determine the appropriate corrective action. Further, the Department of Transportation or State Road and Tollway Authority may require the consultant to amend the plan or the contractor to change its procedures by change order or supplemental agreement in order to institute such changes as may be necessary to correct any errors or deficiencies in the plan, the implementation of the plan, or the maintenance of the best management practices.

(4) The division, the Department of Transportation, or the State Road and Tollway Authority shall control or coordinate the work of its employees inspecting any project so as to prevent any delay of, interference with, or hindrance to any contractor performing land-disturbing activity on any project subject to the provisions of this Code section.

(f)(1) There shall be an Erosion and Sediment Control Overview Council which shall approve the Manual for Erosion and Sediment Control in Georgia prior to publication by the commission. In addition, the council shall provide guidance on the best management practices for implementing any erosion and sediment control plan for purposes of this Code section. The council shall be composed of nine members, including one member of the House of Representatives who shall be appointed by the Speaker of the House of Representatives and serve at the pleasure thereof; one member who shall be appointed by the Lieutenant Governor and serve at the pleasure thereof; and seven members who shall be appointed by the Governor and serve at the pleasure thereof, including one employee each from the Department of Transportation, the Environmental Protection Division of the Department of Natural Resources, and the Georgia Regional Transportation State Road and Tollway Authority, a professional engineer licensed to practice in this state from a private engineering consulting firm practicing environmental engineering, two representatives one representative of the highway contracting industry certified by the Department of Transportation, one representative of the electric utility industry, and a chairperson. The council shall meet prior to December 1, 2015, to approve the most current version of the manual and at all other times as necessary to approve any subsequent changes or updates to the manual prior to its implementation. Such meetings shall be held at the call of the chairperson. Each councilmember shall receive a daily allowance in the amount specified in subsection (b) of Code Section 45-7-21; provided, however, that any full-time state employee serving on the council shall draw no compensation but shall receive necessary expenses. The commissioner is authorized to pay such compensation and expenses from department funds.

(2) The council may develop recommendations governing the preparation of plans and the installation and maintenance of best management practices. If a dispute concerning the requirements of this Code section should arise, the Erosion and Sediment Control Overview Council shall mediate the dispute.

(g) Nothing in this Code section shall be construed to affect the division's authority under Article 2 of Chapter 5 of this title, the 'Georgia Water Quality Control Act'.

<p>*O.C.G.A. 12-7-8: County or municipality as issuing authority; review of actions</p>	<p>(a)(1) If a county or municipality has enacted ordinances which meet or exceed the standards, requirements, and provisions of this chapter <u>and the state general permit, except that the standards, requirements, and provisions of the ordinances for monitoring, reporting, inspections, design standards, turbidity standards, and education and training, and project size thresholds with regard to education and training requirements shall not exceed the state general permit requirements,</u> and which are enforceable by such county or municipality, and if a county or municipality documents that it employs qualified personnel to implement enacted ordinances, the director may certify such county or municipality as <del>an</del> <u>a local</u> issuing authority for the purposes of this chapter.</p> <p>(2) <u>A local issuing authority shall regulate both primary and secondary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. A local issuing authority must review, revise, or amend its ordinances within 12 months of any amendment to this chapter.</u></p> <p>(3) <u>Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of the ordinances such local issuing authority adopted pursuant to this chapter as are applied to private persons, and the division shall enforce such requirements upon the local issuing authority.</u></p> <p>(b) The districts or the commission or both shall <del>periodically</del> review <u>semi-annually</u> the actions of counties and municipalities which have been certified as <u>local</u> issuing authorities pursuant to subsection (a) of this Code section. The districts or the commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion and sedimentation control program. The districts or the commission shall notify the division and request investigation by the division if any deficient or ineffective local program is found.</p> <p>(c) <u>The board, on or before December 31, 2003, shall promulgate rules and regulations setting forth the requirements and standards for certification and the procedures for decertification of a local issuing authority.</u> The division may periodically review the actions of counties and municipalities which have been certified as <u>local</u> issuing authorities pursuant to subsection (a) of this Code section. Such review may include, but shall not be limited to, review of the administration and enforcement of <u>and compliance with</u> a governing authority's ordinances and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to subsection (a) of this Code section has not administered <del>or</del> <u>enforced, or complied with</u> its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to subsection <del>(d)</del> <u>(e)</u> of Code Section 12-7-7, the division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have <del>30</del> <u>90</u> days within which to take the necessary corrective action to retain certification as <del>an</del> <u>a local</u> issuing authority. If the county or municipality does not take necessary corrective action within 30 days after notification by the division, the division <del>may</del> <u>shall</u> revoke the certification of the county or municipality as <del>an</del> <u>a local</u> issuing authority.</p> <p>(d) The director may determine that the public interest requires initiation of an enforcement action by the division. Where such a determination is made and the <u>local</u> issuing authority has failed to secure compliance, the director may implement the board's rules and seek compliance under provisions of Code Sections 12-7-12 through 12-7-15. For purposes of this subsection, enforcement actions taken by the division pursuant to Code Sections 12-7-12 through 12-7-15 shall not require prior revocation of certification of the county or municipality as <del>an</del> <u>a local</u> issuing authority.</p>
<p>*O.C.G.A. 12-7-9: Issuance of permits and conditions under which such</p>	<p>(a) Applications for permits shall be submitted in accordance with this chapter and the rules and regulations, ordinances, and resolutions adopted pursuant <del>hereto</del> <u>to this chapter</u>. Such applications shall be accompanied by the applicant's erosion and sediment control plans and by such supportive data as will affirmatively demonstrate that the land-disturbing activity</p>

permits shall be issued	<p>proposed will be carried out in such a manner that the minimum requirements set forth in Code Section 12-7-6 shall be met. <u>All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan or that such a visit was not required in accordance with rules and regulations established by the board.</u></p> <p>(b) No permit shall be issued to any applicant unless the <u>local</u> issuing authority affirmatively determines that the plan embracing such activities meets the requirements of Code Section 12-7-6. <u>All applicable fees shall be paid prior to issuance of the land disturbance permit by the local issuing authority.</u></p> <p>(c) Permits shall be issued or denied as soon as practicable after the application therefor has been filed with the <u>local</u> issuing authority, but in any event not later than 45 days thereafter.</p>
*O.C.G.A. 12-7-10: Review and approval of erosion and sediment control plans	<p>Except as otherwise provided by Code Section 12-7-7, immediately upon receipt of an application for a permit the application and plan for sediment and erosion control shall be referred to the appropriate district wherein such land-disturbing activities are proposed to take place, for its review and approval or disapproval concerning the adequacy of the erosion and sediment control plan proposed by the applicant. <u>A district shall approve or disapprove a plan within 35 days of receipt. Failure of a district to act within 35 days shall be considered an approval of the pending plan.</u></p>
*O.C.G.A. 12-7-11: Issuance, denial, suspension, revocation, and modification of permits	<p>(a) Within the time specified by Code Section 12-7-9, the <u>local</u> issuing authority shall issue or deny the permit. The <u>local</u> issuing authority, upon denial of a permit, shall state its reasons for the denial, setting forth specifically wherein such application is found to be deficient. Any land-disturbing activity permitted under this chapter shall be carried out in accordance with this chapter and the ordinance, resolution, or rules and regulations adopted and promulgated pursuant <del>hereto</del> <u>to this chapter</u>. The <u>local</u> issuing authority shall specify on the permit the conditions under which the activity may be undertaken.</p> <p>(b) The permit may be suspended, revoked, or modified by the <u>local</u> issuing authority, as to all or any portion of the land affected by the plan, upon a finding that the holder or his <u>or her</u> successor in title is not in compliance with the approved erosion and sediment control plan or that the holder or his <u>or her</u> successor in title is in violation of this chapter or any ordinance, resolution, rule, or regulation adopted or promulgated pursuant to this chapter. A holder of a permit shall notify any successor in title to him <u>or her</u> as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.</p>
*O.C.G.A. 12-7-12: Order for corrective action	<p>(a) <del>Whenever</del> <u>Except as provided in subsection (d) of this Code section, whenever</u> the director has reason to believe that a violation of any provision of this chapter, any rule or regulation of the board, or any order of the director has occurred in a county or municipality which is not certified pursuant to subsection (a) of Code Section 12-7-8, the director may issue an order directed to such violator or violators. The order shall specify the provisions of this chapter or the rules or regulations or order alleged to have been violated and may require that land-disturbing activity be stopped until necessary corrective action and mitigation have been taken or may require that necessary corrective action and mitigation be taken within a reasonable time to be prescribed in the order. Any order issued by the director under this Code section shall be signed by the director. Any such order shall become final unless the person or persons named therein request, in writing, a hearing pursuant to Code Section 12-7-16.</p> <p>(b) <del>Whenever an</del> <u>Except as provided in subsection (d) of this Code section, whenever a local</u> issuing authority has reason to believe that a violation of any provision of a local ordinance or resolution has occurred within the jurisdiction of the <u>local</u> issuing authority, the <u>local</u> issuing authority may require that land-disturbing activity be stopped until necessary corrective action and mitigation have been taken or may require that necessary corrective action and mitigation be taken within a reasonable time.</p> <p>(c) The following procedures shall apply to the issuances of stop work orders:  (1) For the first and second violations of the provisions of this chapter, the director or the <u>local</u> issuing authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the director or <u>local</u> issuing authority shall issue a stop work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided,</p>

	<p>however, that, if the violation presents an imminent threat to public health or waters of the state, the director or <u>local</u> issuing authority shall issue an immediate stop work order in lieu of a warning;</p> <p>(2) For a third and each subsequent violation, the director or <u>local</u> issuing authority shall issue an immediate stop work order; and</p> <p>(3) All stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.</p> <p><u>(d) When a violation of this chapter in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the local issuing authority or by the director or his or her designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the local issuing authority or by the director or his or her designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.</u></p>
<p>*O.C.G.A. 12-7-13: Injunctive relief</p>	<p>Whenever, in the judgment of the director, any person has engaged in or is about to engage in any act or practice which constitutes or would constitute a violation of this chapter, the rules and regulations adopted pursuant <del>hereto</del> <u>to this chapter</u>, or any order or permit conditions in a county or municipality which is not certified pursuant to subsection (a) of Code Section 12-7-8, he <u>or she</u> may make application to the superior court of the county where such person resides or, if such person is a nonresident of the state, to the superior court of the county in which the violative act or practice has been or is about to be engaged in for an order enjoining such act or practice or for an order requiring compliance with this chapter, the rules and regulations adopted pursuant <del>hereto</del> <u>to this chapter</u>, or the order or permit condition. Upon a showing by the director that such person has engaged in or is about to engage in any such violative act or practice, a permanent or temporary injunction, restraining order, or other order shall be granted without the necessity of showing the lack of an adequate remedy at law.</p>
<p>*O.C.G.A. 12-7-14: Civil action or emergency order by director</p>	<p><u>(a) Notwithstanding any other provision of this chapter to the contrary, upon receipt of evidence that certain land-disturbing activities occurring in a municipality or county which is not certified pursuant to subsection (a) of Code Section 12-7-8 are presenting an imminent and substantial danger to the environment or to the health of humans, the director may bring an action as provided in Code Section 12-7-13 to restrain immediately any person causing or contributing to the danger caused by such land-disturbing activities or to take such other action as may be necessary.</u></p> <p><u>(b) If it is not practicable to assure prompt protection of the environment or the health of humans solely by commencement of such a civil action, the director may issue such emergency orders as may be necessary to protect the environment or the health of humans who are or may be affected by such land-disturbing activities. Notwithstanding any other provision of this chapter, such order shall be immediately effective for a period of not more than 48 hours, unless the director brings an action under subsection (a) of this Code section before the expiration of such period. Whenever the director brings such an action within such period, such order shall be effective for such period of time as may be authorized by the court pending litigation or thereafter.</u></p>
<p>*O.C.G.A. 12-7-15: Civil penalties; hearings</p>	<p><del>(a)(1) Except as provided in paragraph (2) of this subsection, any</del> <u>Any</u> person who violates any provision of this chapter, the rules and regulations adopted pursuant <del>hereto</del> <u>to this chapter</u>, or any permit condition or limitation established pursuant to this chapter or who negligently or intentionally fails or refuses to comply with any final or emergency order of the director issued as provided in this chapter shall be liable for a civil penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this chapter, notwithstanding any provision in any city charter to the contrary, municipal courts shall be authorized to impose a penalty not to exceed \$2,500.00 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases</p>

	<p>brought as violations of this chapter under county ordinances approved under this chapter shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which the violation or failure or refusal to comply continues shall be a separate violation.</p> <p><del>(2) The following penalties shall apply to land-disturbing activities performed in violation of any provision of this chapter, any rules and regulations adopted pursuant hereto, or any permit condition or limitation established pursuant to this chapter:</del></p> <p><del>(A) The director or the issuing authority shall assess and collect a minimum penalty of \$250.00 per day for each violation involving the construction of a single-family dwelling by or under contract with the owner for his or her own occupancy; and</del></p> <p><del>(B) The director or the issuing authority shall assess and collect a minimum penalty of \$1,000.00 per day for each violation involving land-disturbing activities other than as provided in subparagraph (A) of this paragraph.</del></p> <p><del>(b) Whenever the director has reason to believe that any person has violated any provision of this chapter, any rule or regulation adopted pursuant hereto, or any permit condition or has negligently or intentionally failed or refused to comply with any final order or emergency order of the director, he may, upon written request, cause a hearing to be conducted before a hearing officer appointed by the board. Upon finding that such person has violated any provision of this chapter, any rule or regulation adopted pursuant hereto, or any permit condition or has negligently or intentionally failed or refused to comply with any final order or emergency order of the director, the hearing officer shall issue his decision imposing civil penalties as provided in this Code section. Such hearing and any administrative or judicial review thereof shall be conducted in accordance with Code Section 12-7-16.</del></p> <p><del>(c) In rendering a decision under this Code section imposing civil penalties, the hearing officer shall consider all factors which are relevant, including, but not limited to, the following:</del></p> <p><del>(1) The amount of civil penalty necessary to ensure immediate and continued compliance and the extent to which the violator may have profited by failing or delaying to comply;</del></p> <p><del>(2) The character and degree of impact of the violation or failure on the natural resources of the state, especially on any rare or unique natural phenomena;</del></p> <p><del>(3) The conduct of the person incurring the civil penalty in promptly taking all feasible steps and procedures necessary or appropriate to comply or to correct the violation or failure;</del></p> <p><del>(4) Any prior violations or failures to comply by such person with statutes, rules, regulations, orders, or permits administered, adopted, or issued by the director;</del></p> <p><del>(5) The character and degree of injury to or interference with public health or safety which is caused or threatened to be caused by such violation or failure; and</del></p> <p><del>(6) The character and degree of injury to or interference with reasonable use of property which is caused or threatened to be caused by such violation or failure.</del></p> <p><del>(d) This Code section shall apply only to violations, failures, or refusals to comply which occur in a municipality or county which is not certified pursuant to subsection (a) of Code Section 12-7-8.</del></p>
*O.C.G.A. 12-7-16: Procedure for hearing and review	<p><u>All hearings on and review of contested matters, orders, or permits issued by or filed against the director and all hearings on and review of any other enforcement actions or orders initiated by the director under this chapter shall be provided and conducted in accordance with subsection (c) of Code Section 12-2-2. The hearing and review procedure provided in this Code section is to the exclusion of all other means of hearings or review.</u></p>
O.C.G.A. 12-7-17: Exceptions	<p><del>(a) This chapter shall not apply to the following activities:</del></p> <p><del>(1) Surface mining, as the same is defined in Code Section 12-4-72;</del></p> <p><del>(2) Granite quarrying and land clearing for such quarrying;</del></p> <p><del>(3) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;</del></p> <p><del>(4) The construction of single-family residences, when such are constructed by or under contract with the owner for his or her own occupancy, or the construction of single-family residences construction disturbs less than one acre and is not a part of a platted subdivision;</del></p>

~~a planned community, or an association of other residential lots consisting of more than two lots~~ larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in subsection (b) of Code Section 12-7-6 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of this title. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of subsection (b) of Code Section 12-7-6 and the buffer zones provided by this paragraph shall be enforced by the issuing authority;

(5) Agricultural operations as defined in Code Section 1-3-3 to include those practices involving the establishment, cultivation, or harvesting of products of the field or orchard; the preparation and planting of pasture land; farm ponds; dairy operations; livestock and poultry management practices; and the construction of farm buildings;

(6) Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs (15) and (16) of subsection (b) of Code Section 12-7-6, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after the completion of such forestry practices;

(7) Any project carried out under the technical supervision of the ~~Soil and Water~~ Natural Resources Conservation Service of the United States Department of Agriculture;

(8) Any project involving ~~one and one-tenth acres or less~~ less than one acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, 'state waters' excludes channels and drainageways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year round; provided, however, that any person responsible for a project which involves ~~one and one-tenth acres or less~~ less than one acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainageway must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained in this chapter shall prevent a city or county which is ~~an~~ a local issuing authority from regulating any such project which is not specifically exempted by paragraph (1), (2), (3), (4), (5), (6), (7), (9), or (10) of this ~~subsection~~ Code section;

(9) Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, ~~that such projects shall conform to the minimum requirements set forth in Code Section 12-7-6; provided, further,~~ that construction or maintenance projects of the Department of Transportation or the State Road and Tollway Authority which disturb ~~five~~ one or more contiguous acres of land shall be subject to the provisions of Code Section 12-7-7.1; except where the Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the local issuing authority, the local issuing authority

	<p><u>shall enforce compliance with the minimum requirements set forth in Code Section 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;</u></p> <p>(10) Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, <del>provided that any such land-disturbing activity shall conform to the minimum requirements set forth in Code Section 12-7-6;</del> <u>any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in Code Section 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in Code Section 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the local issuing authority shall enforce compliance with the minimum requirements set forth in Code Section 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;</u> and</p> <p>(11) Public water system reservoirs.</p> <p><del>(b) Where subsection (a) of this Code section requires compliance with the minimum requirements set forth in Code Section 12-7-6, issuing authorities shall enforce compliance with the minimum requirements as if a permit had been issued and violations shall be subject to the same penalties as violations by permit holders.</del></p>
<p>*O.C.G.A. 12-7-18: Chapter not authorizing violations of Water Quality Control Act</p>	<p>No provision of this chapter shall authorize any person to violate Article 2 of Chapter 5 of this title, the ‘Georgia Water Quality Control Act,’ or the rules and regulations promulgated and approved <del>thereunder</del> <u>under said article</u> or to pollute any waters of this state as defined <del>thereby</del> <u>in said article</u>.</p>
<p>*O.C.G.A. 12-7-19: Education and training certification requirements</p>	<p><u>(a)(1) Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the commission in accordance with this Code section and in consultation with the division and the Stakeholder Advisory Board created pursuant to Code Section 12-7-20.</u></p> <p><u>(2) On or after the effective date of this subsection, for each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.</u></p> <p><u>(3) Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this chapter.</u></p> <p><u>(4) If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of this Code section, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall have until December 31, 2007, to meet those educational requirements specified in paragraph (4) of subsection (b) of Code Section 12-7-19 and shall not be required to meet any educational requirements that exceed those specified in said paragraph.</u></p>

	<p><u>(b) No less than the following training programs shall be established:</u></p> <p><u>(1) A fundamentals seminar (Level 1) will be established which provides sufficient training to all participants as to the applicable laws, requirements, processes, and latest means and methods recognized by this state to effectively control erosion and sedimentation;</u></p> <p><u>(2) An advanced fundamentals seminar (Level 1) will be established which provides additional details of installation and maintenance of best management practices for both regulatory and nonregulatory inspectors and others;</u></p> <p><u>(3) An introduction to design seminar (Level 2) will be established which provides required training to design and review a successful erosion, sedimentation, and pollution control plan;</u></p> <p><u>(4) An awareness seminar (Level 1) will be established which does not exceed two hours in duration and which provides information regarding the erosion and sediment control practices and processes in the state and which will include an overview of the systems, laws, and roles of the participants; and</u></p> <p><u>(5) A trainer and instructor seminar will be established for both Level 1 and Level 2 trainers and instructors which will provide the minimum training as to applicable laws and best management practices and design of erosion, sedimentation, and pollution control plans in this state.</u></p> <p><u>(c) Trainer and instructor qualifications will be established with the following minimum requirements:</u></p> <p><u>(1) Level 1 trainers and instructors shall meet at least the following minimum requirements and any other requirements as set by the commission:</u></p> <p><u>(A) Education: four-year college degree or five years' experience in the field of erosion and sediment control;</u></p> <p><u>(B) Experience: five-years' experience in the field of erosion and sediment control. Where years of experience is used in lieu of the education requirement of subparagraph (A) of this paragraph, a total of ten years' field experience is required;</u></p> <p><u>(C) Approval by the commission and the Stakeholder Advisory Board; and</u></p> <p><u>(D) Successful completion of the Level 1 trainer and instructor seminar found in paragraph (5) of subsection (b) of this Code section; and</u></p> <p><u>(2) Level 2 trainers and instructors shall meet at least the minimum requirements of a Level 1 trainer or instructor, any other requirements as set by the commission, and successful completion of the Level 2 trainer and instructor seminar created under paragraph (5) of subsection (b) of this Code section.</u></p> <p><u>(d) In addition to the requirements of subsection (c) of this Code section, the commission shall establish and any person desirous of holding certification must obtain a passing grade as established by the Stakeholder Advisory Board on a final exam covering the material taught in each mandatory seminar; provided, however, that there shall be no final exam requirement for purposes of paragraph (4) of subsection (b) of this Code section. Final exams may, at the discretion of the commission, serve in lieu of attendance at the seminar. Any person shall be authorized to administer a final examination for any seminar for which he or she was the instructor.</u></p> <p><u>(e)(1) A certification provided by achieving the requirements established by the commission shall expire no later than three years after its issuance.</u></p> <p><u>(2) A certified individual shall be required to attend and participate in at least four hours of approved continuing education courses, as established by the commission, every three years.</u></p> <p><u>(3) A certification may be extended or renewed by meeting requirements established by the commission.</u></p> <p><u>(4) Revocation procedures may be established by the commission in consultation with the division and the Stakeholder Advisory Board.</u></p>
<p>*O.C.G.A. 12-7-20: Stakeholder Advisory Board</p>	<p><u>(a) There shall be a Stakeholder Advisory Board to consist of not more than 13 members.</u></p> <p><u>(b) Members shall be appointed by the Governor, shall serve at the pleasure thereof, and shall represent the following interests:</u></p> <p><u>(1) The division;</u></p> <p><u>(2) The commission;</u></p> <p><u>(3) Soil and water conservation districts;</u></p> <p><u>(4) The Department of Transportation;</u></p>

	<p><u>(5) Municipal governments;</u>  <u>(6) County governments;</u>  <u>(7) Public utilities;</u>  <u>(8) The engineering and design community;</u>  <u>(9) The construction community;</u>  <u>(10) The development community;</u>  <u>(11) The environmental community;</u>  <u>(12) The Erosion and Sediment Control Overview Council; and</u>  <u>(13) Educators.</u>  <u>(c) The Stakeholder Advisory Board shall elect one of its members as chairperson. The chairperson shall call all meetings of the Stakeholder Advisory Board.</u>  <u>(d) The Stakeholder Advisory Board shall be responsible for working together with the division and the commission to establish, evaluate, and maintain the education and training program established pursuant to Code Section 12-7-19, including but not limited to reviewing course curricula, educational materials, and exam and testing procedures; evaluating trainer and instructor qualifications; and reviewing audit results performed by the commission.</u>  <u>(e) The Stakeholder Advisory Board may conduct such meetings at such places and at such times as it may deem necessary or convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this Code section. Meetings shall be held on the written notice of the chairperson. The notice of a meeting shall set forth the date, time, and place of the meeting. Minutes shall be kept of all meetings.</u>  <u>(f) A majority of the members shall constitute a quorum of the Stakeholder Advisory Board. The powers and duties of the Stakeholder Advisory Board shall be transacted, exercised, and performed only pursuant to an affirmative vote of a majority of those members present at a meeting at which a quorum is present.</u>  <u>(g) Members of the Stakeholder Advisory Board shall not be entitled to any compensation for the rendering of their services to the Stakeholder Advisory Board.</u></p>
*O.C.G.A. 12-7-21	Repealed July 1, 2006.
*O.C.G.A. 12-7-22: Joint effort with the Pollution Prevention Assistance Division	<p><u>In order to achieve efficiencies and economies for both the division and the regulated community by the use of electronic filing for certain application and reporting requirements of this chapter and National Pollution Discharge Elimination System permits, the division and the Pollution Prevention Assistance Division of the department shall jointly work toward implementing such an electronic filing and reporting system as soon as practicable and allowable under federal regulations.</u></p>

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## APPENDIX B

### Manual for Erosion and Sediment Control in Georgia

The full text of the Manual are saved as a pdf document on the enclosed CD and as a pdf link below.

[GSWCC-2016-Manual for E&S Control.pdf](#)

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## APPENDIX C

### **Rules of the Department of Natural Resources Environmental Protection Division Relating to Erosion and Sedimentation Control, Chapter 391-3-7**

The full text of the Rules are saved as a pdf document on the enclosed CD and as a pdf link below.

[E&S Ch391-3-7 Rule\\_Adopted 012916.pdf](#)

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**APPENDIX D**

**Public Notices**

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Legal Ad  
The Brunswick News  
Savannah Morning News

**Public Notice**  
**Georgia Coastal Management Program**  
**Request for Program Changes**

The Georgia Department of Natural Resources Coastal Resources Division (CRD) is submitting to the National Oceanic and Atmospheric Administration's (NOAA) Office for Coastal Management (OCM) a request for Routine Program Changes (RPC) to the approved Georgia Coastal Management Program. The State considers the Program Changes to be routine and not substantial changes to the authorities of the Georgia Coastal Management Program. CRD is seeking OCM's concurrence in this determination.

A copy of the RPC request may be obtained by contacting the Coastal Resources Division or visiting the web site at <http://coastalgadnr.org/cm/about/pdoc>.

Any comments on whether this request for Program Changes does or does not constitute routine changes may be submitted directly to the NOAA Office for Coastal Management, 1305 East-West Highway (N/OCM6), Silver Spring, Maryland 20910, attention Joelle Gore, Chief, Stewardship Division. Comments are due to NOAA by October 1, 2016.

If you have questions regarding the Georgia Coastal Management Program please contact Jan Mackinnon at (912) 264-7128.

Media Contact: Nancy Butler (912) 262.3140 or [nancy.butler@dnr.ga.gov](mailto:nancy.butler@dnr.ga.gov)

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**Public Notice**  
**GA DNR Requests Routine Program Changes to**  
**Georgia Coastal Management Program**

BRUNSWICK, GA (September 1, 2016) -- The Georgia Department of Natural Resources Coastal Resources Division (CRD) is submitting to the National Oceanic and Atmospheric Administration's (NOAA) Office for Coastal Management (OCM) a request for Routine Program Changes to the approved Georgia Coastal Management Program. The State considers the Program Changes to be routine and not substantial changes to the authorities of the Georgia Coastal Management Program. CRD is seeking OCM's concurrence in this determination.

A copy of the RPC request may be obtained by contacting the Coastal Resources Division or visit the web site at <http://coastalgadnr.org/cm/about/pdoc>.

Any comments on whether this request for Program Changes does or does not constitute routine changes may be submitted directly to the NOAA Office for Coastal Management, 1305 East-West Highway (N/OCM6), Silver Spring, Maryland 20910, attention Joelle Gore, Chief, Stewardship Division. Comments are due to NOAA by October 1, 2016.

If you have questions regarding the Georgia Coastal Management Program please contact Jan Mackinnon at (912) 264-7218.

Media Contact: Nancy Butler at (912) 262.3140 or [nancy.butler@dnr.ga.gov](mailto:nancy.butler@dnr.ga.gov)

Nancy Butler  
Ga DNR/CRD  
One Conservation Way  
Brunswick, GA 31520  
912.262.3140  
[nancy.butler@dnr.ga.gov](mailto:nancy.butler@dnr.ga.gov)