

House Bill 285

By: Representatives Stokes of the 72<sup>nd</sup>, Westmoreland of the 86<sup>th</sup>, Rogers of the 20<sup>th</sup>,  
Drenner of the 57<sup>th</sup>, James of the 114<sup>th</sup> and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 2-6-27 of the Official Code of Georgia Annotated, relating to  
2 additional duties and powers of the State Soil and Water Conservation Commission, so as  
3 to provide for implementation of an education and training program; to amend Title 12 of the  
4 Official Code of Georgia Annotated, relating to conservation and natural resources, so as to  
5 change certain provisions relating to powers and duties of the Board of Natural Resources  
6 and the director of the Environmental Protection Division of the Department of Natural  
7 Resources as to control of water pollution and surface-water use generally; to change certain  
8 provisions relating to permits for construction, modification, or operation of facilities which  
9 discharge pollutants into waters and permits for discharge of dredged or fill material into  
10 waters and wetlands; to extensively revise certain provisions relating to control of soil  
11 erosion and sedimentation; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Code Section 2-6-27 of the Official Code of Georgia Annotated, relating to additional duties  
15 and powers of the State Soil and Water Conservation Commission, is amended by inserting  
16 a new paragraph (7.1) to read as follows:

17 "(7.1) To formulate such rules and regulations in consultation with the Environmental  
18 Protection Division of the Department of Natural Resources, to exercise such powers, and  
19 to perform such duties as are necessary to implement the administration of the education  
20 and training program established under Code Section 12-7-19;"

21 **SECTION 2.**

22 Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural  
23 resources, is amended in subsection (a) of Code Section 12-5-23, relating to powers and  
24 duties of the Board of Natural Resources and the director of the Environmental Protection  
25 Division of the Department of Natural Resources as to control of water pollution and

1 surface-water use generally, by striking "and" at the end of paragraph (3), striking the period  
2 and inserting "; and" in lieu thereof at the end of paragraph (4), and adding a new paragraph  
3 (5) to read as follows:

4 "(5)(A) By December 31, 2003, the board shall promulgate rules and regulations which  
5 establish a fee system designed to offset the costs of the state-wide implementation of  
6 the National Pollution Discharge Elimination System general permit or permits for  
7 storm-water runoff from construction activities as is now in effect or as may be  
8 amended or reissued in the future pursuant to the state's authority to implement the  
9 same through federal delegation under the Federal Water Pollution Control Act, as  
10 amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of Code Section 12-5-30.  
11 (B) Fees established by the board under this paragraph shall be no less than that which  
12 is required to properly administer Chapter 7 of this title, provided that such fees shall  
13 not exceed \$80.00 per acre of land-disturbing activity as defined in Code Section  
14 12-7-3."

### 15 SECTION 3.

16 Said title is further amended in subsection (c) of Code Section 12-5-23, relating to powers  
17 and duties of the Board of Natural Resources and the director of the Environmental  
18 Protection Division of the Department of Natural Resources as to control of water pollution  
19 and surface-water use generally, by striking paragraph (15) and inserting in lieu thereof the  
20 following:

21 "(15) Perform any and all acts and exercise all incidental powers necessary to carry out  
22 the purposes and requirements of this article and of the Federal Water Pollution Control  
23 Act, as amended, 33 U.S.C. Section 1251, et seq., relating to this state's participation in  
24 the National Pollutant Discharge Elimination System established under that act and shall  
25 administer the fee program established by the board pursuant to paragraph (5) of  
26 subsection (a) of this Code section;"

### 27 SECTION 4.

28 Said title is further amended in Code Section 12-5-30, relating to permits for construction,  
29 modification, or operation of facilities which discharge pollutants into waters and permits for  
30 discharge of dredged or fill material into waters and wetlands, by adding a new subsection  
31 (g) to read as follows:

32 "(g) It is declared to be the public policy of this state, in furtherance of its responsibility  
33 to protect the public health, safety, and well-being of its citizens and to protect and enhance  
34 the quality of its environment, to prevent or mitigate where possible discharges of sediment  
35 into the waters of the state. The General Assembly declares its intent to partially fund the

1 execution of the public policy set forth in this subsection and Chapter 7 of this title by and  
2 through the division with permit fees for the National Pollution Discharge Elimination  
3 System general permit or permits for storm-water runoff from construction activities as is  
4 now in effect or as may be amended or reissued in the future pursuant to the state's  
5 authority to implement the same through federal delegation under the Federal Water  
6 Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of  
7 this Code section. Such fees shall be administered by the division pursuant to rules and  
8 regulations established by the board pursuant to paragraph (5) of subsection (a) of Code  
9 Section 12-5-23. The General Assembly further declares its intent that the amount of funds  
10 provided by such permit fees will not be utilized for any purposes other than the  
11 administration of Chapter 7 of this title by the division or a local issuing authority and the  
12 administration of the state general permit defined in Code Section 12-7-3 by the division,  
13 which purposes shall specifically include without limitation the study and report required  
14 by Code Section 12-7-21; provided, however, that nothing in this subsection shall be  
15 construed so as to allow the department to retain any funds required by the Constitution of  
16 Georgia to be paid into the state treasury; provided, further, that the department shall  
17 comply with all provisions of Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act,'  
18 except Code Section 45-12-92, prior to expending any funds derived from such permit  
19 fees."

## 20 SECTION 5.

21 Said title is further amended by striking Chapter 7, relating to control of soil erosion and  
22 sedimentation, and inserting in lieu thereof the following:

## 23 "CHAPTER 7

24 12-7-1.

25 This chapter shall be known and may be cited as the 'Erosion and Sedimentation Act of  
26 1975.'

27 12-7-2.

28 It is found that soil erosion and sediment deposition onto lands and into waters within the  
29 watersheds of this state are occurring as a result of widespread failure to apply proper soil  
30 erosion and sedimentation control practices in land clearing, soil movement, and  
31 construction activities and that such erosion and sediment deposition result in pollution of  
32 state waters and damage to domestic, agricultural, recreational, fish and wildlife, and other  
33 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.

12-7-3.

As used in this chapter, the term:

(1) 'Board' means the Board of Natural Resources.

(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.

(3) 'Commission' means the State Soil and Water Conservation Commission.

(4) 'Director' means the director of the Environmental Protection Division of the Department of Natural Resources.

(5) 'District' means any one of the soil and water conservation districts of this state.

(6) 'Division' means the Environmental Protection Division of the Department of Natural Resources.

(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.

(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.

~~(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.~~

~~(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.

(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.

(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.

1 (12) 'Qualified personnel' means any person who meets or exceeds the education and  
2 training requirements of Code Section 12-7-19.

3 (13) 'Roadway drainage structure' means a device, such as a bridge, culvert, or ditch,  
4 composed of a virtually nonerodible material such as concrete, steel, plastic, or other such  
5 material that conveys water under a roadway by intercepting the flow on one side of a  
6 traveled way consisting of one or more defined lanes, with or without shoulder areas, and  
7 carrying water to a release point on the other side.

8 ~~(13)~~(14) 'Soil and water conservation district approved plan' means an erosion and  
9 sediment control plan approved in writing by a soil and water conservation district.

10 (15) 'State general permit' means the National Pollution Discharge Elimination System  
11 general permit or permits for storm-water runoff from construction activities as is now  
12 in effect or as may be amended or reissued in the future pursuant to the state's authority  
13 to implement the same through federal delegation under the Federal Water Pollution  
14 Control Act, as amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of Code  
15 Section 12-5-30.

16 ~~(14)~~(16) 'State waters' includes any and all rivers, streams, creeks, branches, lakes,  
17 reservoirs, ponds, drainage systems, springs, wells, coastal marshlands or marshlands or  
18 estuarine areas as defined in Code Section 12-5-282, and other bodies of surface or  
19 subsurface water, natural or artificial, lying within or forming a part of the boundaries of  
20 the state, which are not entirely confined and retained completely upon the property of  
21 a single individual, partnership, or corporation.

22 12-7-4.

23 The governing authority of each county and each municipality shall adopt a comprehensive  
24 ordinance establishing the procedures governing land-disturbing activities which are  
25 conducted within their respective boundaries. Such ordinances shall be consistent with the  
26 standards provided by this chapter. Local governing authorities shall have the authority, by  
27 such ordinance, to delegate in whole or in part the responsibilities of the governing  
28 authorities, as set forth in this chapter, to any constitutional or statutory local planning and  
29 zoning commission. Where the local governing authority deems it appropriate, it may  
30 integrate such provisions with other local ordinances relating to land development  
31 including but not limited to tree protection, flood plain protection, stream buffers, or  
32 postdevelopment storm-water management.

33 12-7-5.

34 The board, by appropriate rules and regulations, shall adopt the procedures governing  
35 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.

12-7-6.

(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 ~~to control soil erosion and sedimentation for all rainfall events up to and including a 25 year rainfall event 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.

(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 ~~or by the division~~ or of any state general permit ~~for construction activities~~ 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. This paragraph shall not apply to any land disturbance associated with the construction of single-family homes which are not part of a subdivision or planned common development unless five acres or more will be disturbed.

(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 ~~or by the division~~ or of any state general permit ~~for construction activities~~ issued by the division pursuant to subsection (f) of Code Section 12-5-30 for each day on which such failure occurs.

(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.

(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,

1 protections at least as stringent as the state general permit; and best management practices,  
2 including sound conservation and engineering practices to prevent and minimize erosion  
3 and resultant sedimentation, which are consistent with, and no less stringent than, those  
4 practices contained in the 'Manual for Erosion and Sediment Control In Georgia' published  
5 by the State Soil and Water Conservation Commission as of January 1 of the year in which  
6 the land-disturbing activity was permitted, as well as the following:

- 7 (1) Stripping of vegetation, regrading, and other development activities shall be  
8 conducted in such a manner so as to minimize erosion;
- 9 (2) Cut and fill operations must be kept to a minimum;
- 10 (3) Development plans must conform to topography and soil type, so as to create the  
11 lowest practicable erosion potential;
- 12 (4) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;
- 13 (5) The disturbed area and the duration of exposure to erosive elements shall be kept to  
14 a practicable minimum;
- 15 (6) Disturbed soil shall be stabilized as quickly as practicable;
- 16 (7) Temporary vegetation or mulching shall be employed to protect exposed critical  
17 areas during development;
- 18 (8) Permanent vegetation and structural erosion control measures must be installed as  
19 soon as practicable;
- 20 (9) To the extent necessary, sediment in run-off water must be trapped by the use of  
21 debris basins, sediment basins, silt traps, or similar measures until the disturbed area is  
22 stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to  
23 a condition of continuous compliance with the requirements of this chapter;
- 24 (10) Adequate provisions must be provided to minimize damage from surface water to  
25 the cut face of excavations or the sloping surfaces of fills;
- 26 (11) Cuts and fills may not endanger adjoining property;
- 27 (12) Fills may not encroach upon natural watercourses or constructed channels in a  
28 manner so as to adversely affect other property owners;
- 29 (13) Grading equipment must cross flowing streams by the means of bridges or culverts,  
30 except when such methods are not feasible, provided, in any case, that such crossings  
31 must be kept to a minimum;
- 32 (14) Land-disturbing activity plans for erosion and sedimentation control shall include  
33 provisions for treatment or control of any source of sediments and adequate  
34 sedimentation control facilities to retain sediments on site or preclude sedimentation of  
35 adjacent waters beyond the levels specified in subsection (a) of this Code section;
- 36 (15) Except as provided in paragraph (16) of this subsection, there is established a 25  
37 foot buffer along the banks of all state waters, as measured for coastal marshlands

1 horizontally from the delineated boundary of jurisdictional marshlands pursuant to Part  
2 4 of Article 4 of Chapter 5 of this title; and for all other state waters, as measured  
3 horizontally from the point where vegetation has been wrested by normal stream flow or  
4 wave action, except where the director determines to allow a variance that is at least as  
5 protective of natural resources and the environment, where otherwise allowed by the  
6 director pursuant to Code Section 12-2-8, or where a drainage structure or a roadway  
7 drainage structure must be constructed, provided that adequate erosion control measures  
8 are incorporated in the project plans and specifications and are implemented; provided,  
9 however, that buffers of at least 25 feet established pursuant to Part 6 of Article 5 of  
10 Chapter 5 of this title shall remain in force unless a variance is granted by the director as  
11 provided in this paragraph. The following requirements shall apply to any such buffer:

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

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

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

35 (i) Stream crossings for water lines; or

36 (ii) Stream crossings for sewer lines; and

(16) There is established a 50 foot buffer, as measured horizontally from the point where vegetation has been wrested 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.

(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.

12-7-7.

(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 property owner where the land-disturbing activity will occur first securing ~~the~~ a permit from a local issuing authority or providing notice of intent to the division as required by this Code section.

(b) In those counties and municipalities which are certified as local issuing authorities pursuant to subsection (a) of Code Section 12-7-8:

(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~~

(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; and

(3) The local issuing authority shall conduct inspections and enforce the permits it issues.

(c) In those counties and municipalities which are not certified pursuant to subsection (a) of Code Section 12-7-8, ~~the application for such permit shall be made to and the permit shall be issued by the division~~ 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.

(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

1 for each acre of land-disturbing activity included in the planned development or each  
 2 phase of development.

3 (2) In a jurisdiction that is certified pursuant to subsection (a) of Code Section 12-7-8,  
 4 half of any such fees levied shall be submitted by the applicant to the local issuing  
 5 authority and half of such fees shall be submitted to the division; except that any and all  
 6 fees due from an entity which is required to give notice pursuant to paragraph (9) or (10)  
 7 of Code Section 12-7-17 shall be submitted in full to the division, regardless of the  
 8 existence of a local issuing authority in the jurisdiction. In a jurisdiction where there is no  
 9 local issuing authority, the full fee shall be submitted to the division.

10 ~~(d)~~(e) Except as provided in this subsection, no permit shall be issued pursuant to  
 11 subsection (b) ~~or (c)~~ of this Code section unless the erosion and sediment control plan has  
 12 been approved by the appropriate district as is required by Code Section 12-7-10. When the  
 13 governing authority of a county or municipality lying within the boundaries of the district  
 14 demonstrates capabilities to review and approve an erosion and sediment control plan and  
 15 requests an agreement with the district to conduct such review and approval, the district,  
 16 with the concurrence of the commission, shall enter into an agreement which allows the  
 17 governing authority to conduct review and approval without referring the application and  
 18 plan to the district, if such governing authority meets the conditions specified by the district  
 19 as set forth in the agreement. A district may not enter into an agreement authorized in this  
 20 Code section with the governing authority of any county or municipality which is not  
 21 certified pursuant to subsection (a) of Code Section 12-7-8.

22 ~~(e)~~(f)(1) If a permit applicant has had two or more violations of previous permits or this  
 23 Code section within three years prior to the date of filing of the application under  
 24 consideration, the local issuing authority may deny the permit application.

25 (2) The local issuing authority may require the permit applicant to post a bond in the form  
 26 of government security, cash, irrevocable letter of credit, or any combination thereof up  
 27 to, but not exceeding, \$3,000.00 per acre of the proposed land-disturbing activity, prior  
 28 to issuing the permit. If the applicant does not comply with this Code section or with the  
 29 conditions of the permit after issuance, the local issuing authority may call the bond or any  
 30 part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the  
 31 site of the land-disturbing activity and bring it into compliance. This subsection shall not  
 32 apply unless there is in effect an ordinance or statute specifically providing for hearing and  
 33 judicial review of any determination or order of the local issuing authority with respect to  
 34 alleged permit violations.

35 ~~(f) No permit may be issued pursuant to subsection (b) or (c) of this Code section unless~~  
 36 ~~the applicant provides a statement by the tax collector or tax commissioner of the county~~  
 37 ~~in which the property for which the permit is requested lies and by the official responsible~~

1 ~~for the collection of municipal taxes in the municipality within which such property lies, if~~  
2 ~~applicable, certifying that all ad valorem taxes levied against the property and due and~~  
3 ~~owing have been paid.~~

4 12-7-7.1.

5 (a) As used in this Code section, the term 'contractor' means the individual, firm,  
6 corporation, or combination thereof or governmental organization contracting with the  
7 Department of Transportation or State Road and Tollway Authority for the performance of  
8 prescribed work.

9 (b)(1) In addition to the requirements of Code Section 12-7-6, the Department of  
10 Transportation or the State Road and Tollway Authority after July 1, 2000 2003, shall not  
11 contract for land-disturbing activity on any construction or maintenance project that will  
12 disturb ~~five~~ one or more contiguous acres of land until an erosion and sediment control  
13 plan for such project has been prepared and accepted pursuant to this Code section.

14 (2) Through its own forces or by means of the acquisition of professional service pursuant  
15 to the provisions of Chapter 22 of Title 50, the Department of Transportation or the State  
16 Road and Tollway Authority shall be responsible for the preparation of an erosion and  
17 sediment control plan for any construction or maintenance project as required by  
18 paragraph (1) of this subsection. Any consultant providing such professional service shall  
19 be prequalified by the Department of Transportation as a responsible bidder for the design  
20 of erosion and sediment control plans. The division shall assist the Department of  
21 Transportation in developing the prequalification approval process for purposes of this  
22 subsection.

23 (c) Upon completion of a proposed plan, the same shall be submitted to the division for  
24 review and comment as required by the state general permit.

25 (d)(1) All bidders for any construction or maintenance project subject to this Code section  
26 shall review and submit with their bid proposal a cost estimate as a separate bid for the  
27 implementation of the plan, it being understood that the contractor may utilize either its  
28 own personnel and resources, qualified subcontractors, or both for implementation of the  
29 plan. All contractors and subcontractors for such project shall be prequalified by the  
30 Department of Transportation as a responsible bidder for the installation of erosion and  
31 sediment control devices in accordance with a plan. The division shall assist the  
32 Department of Transportation in developing the prequalification approval process for  
33 purposes of this subsection.

34 (2) The contractor for a construction or maintenance project subject to this Code section  
35 shall be responsible for implementing the plan on the awarded project. Payment to any  
36 contractor under any contract for implementing any part or all of any plan shall not be on

1 a lump sum basis; rather, such payment shall be based upon unit prices for specific  
2 quantities of work performed pursuant to the approved erosion and sediment control plan  
3 plus any additional quantities of completed work necessitated by project conditions  
4 affecting erosion and sediment control, including without limitation soil types and weather  
5 conditions. Charges for all maintenance and cleaning of erosion and sediment control  
6 devices shall likewise be paid on a unit price basis.

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

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

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

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

31 (f)(1) There shall be an Erosion and Sediment Control Overview Council which shall  
32 provide guidance on the best management practices for implementing any erosion and  
33 sediment control plan for purposes of this Code section. The council shall be composed  
34 of nine members, including one member who shall be appointed by the Speaker of the  
35 House of Representatives and serve at the pleasure thereof; one member who shall be  
36 appointed by the Lieutenant Governor and serve at the pleasure thereof; and seven  
37 members who shall be appointed by the Governor and serve at the pleasure thereof,

1 including one employee each from the Department of Transportation, the Environmental  
2 Protection Division of the Department of Natural Resources, and the Georgia Regional  
3 Transportation Authority, a professional engineer licensed to practice in this state from a  
4 private engineering consulting firm practicing environmental engineering, two  
5 representatives of the highway contracting industry certified by the Department of  
6 Transportation, and a chairperson. The council shall meet at the call of the chairperson.  
7 Each councilmember shall receive a daily allowance in the amount specified in subsection  
8 (b) of Code Section 45-7-21; provided, however, that any full-time state employee serving  
9 on the council shall draw no compensation but shall receive necessary expenses. The  
10 commissioner is authorized to pay such compensation and expenses from department  
11 funds.

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

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

18 12-7-8.

19 (a)(1) If a county or municipality has enacted ordinances which meet or exceed the  
20 standards, requirements, and provisions of this chapter and the state general permit, except  
21 that the standards, requirements, and provisions of the ordinances for monitoring,  
22 reporting, inspections, design standards, turbidity standards, and education and training  
23 shall not exceed the state general permit requirements, and which are enforceable by such  
24 county or municipality, and if a county or municipality documents that it employs  
25 qualified personnel to implement enacted ordinances, the director may certify such county  
26 or municipality as ~~an~~ a local issuing authority for the purposes of this chapter.

27 (2) A local issuing authority shall regulate both primary and secondary permittees as such  
28 terms are defined in the state general permit. Primary permittees shall be responsible for  
29 installation and maintenance of best management practices where the primary permittee  
30 is conducting land-disturbing activities. Secondary permittees shall be responsible for  
31 installation and maintenance of best management practices where the secondary permittee  
32 is conducting land-disturbing activities. A local issuing authority must review, revise, or  
33 amend its ordinances within 12 months of any amendment to this chapter.

34 (b) The districts or the commission or both shall periodically review the actions of counties  
35 and municipalities which have been certified as local issuing authorities pursuant to  
36 subsection (a) of this Code section. The districts or the commission or both may provide

1 technical assistance to any county or municipality for the purpose of improving the  
2 effectiveness of the county's or municipality's erosion and sedimentation control program.  
3 The districts or the commission shall notify the division and request investigation by the  
4 division if any deficient or ineffective local program is found.

5 (c) The board, on or before December 31, 2003, shall promulgate rules and regulations  
6 setting forth the requirements and standards for certification and the procedures for  
7 decertification of a local issuing authority. The division may periodically review the actions  
8 of counties and municipalities which have been certified as local issuing authorities pursuant  
9 to subsection (a) of this Code section. Such review may include, but shall not be limited to,  
10 review of the administration and enforcement of a governing authority's ordinances and  
11 review of conformance with an agreement, if any, between the district and the governing  
12 authority. If such review indicates that the governing authority of any county or  
13 municipality certified pursuant to subsection (a) of this Code section has not administered  
14 or enforced its ordinances or has not conducted the program in accordance with any  
15 agreement entered into pursuant to subsection (d) ~~(e)~~ of Code Section 12-7-7, the division  
16 shall notify the governing authority of the county or municipality in writing. The governing  
17 authority of any county or municipality so notified shall have 30 days within which to take  
18 the necessary corrective action to retain certification as ~~an~~ a local issuing authority. If the  
19 county or municipality does not take necessary corrective action within 30 days after  
20 notification by the division, the division may revoke the certification of the county or  
21 municipality as ~~an~~ a local issuing authority.

22 (d) The director may determine that the public interest requires initiation of an enforcement  
23 action by the division. Where such a determination is made and the local issuing authority  
24 has failed to secure compliance, the director may implement the board's rules and seek  
25 compliance under provisions of Code Sections 12-7-12 through 12-7-15. For purposes of  
26 this subsection, enforcement actions taken by the division pursuant to Code Sections  
27 12-7-12 through 12-7-15 shall not require prior revocation of certification of the county or  
28 municipality as ~~an~~ a local issuing authority.

29 12-7-9.

30 (a) Applications for permits shall be submitted in accordance with this chapter and the rules  
31 and regulations, ordinances, and resolutions adopted pursuant ~~hereto~~ to this chapter. Such  
32 applications shall be accompanied by the applicant's erosion and sediment control plans and  
33 by such supportive data as will affirmatively demonstrate that the land-disturbing activity  
34 proposed will be carried out in such a manner that the minimum requirements set forth in  
35 Code Section 12-7-6 shall be met. All applications shall contain a certification stating that  
36 the plan preparer or the designee thereof visited the site prior to creation of the plan or that

1 such a visit was not required in accordance with rules and regulations established by the  
2 board.

3 (b) No permit shall be issued to any applicant unless the local issuing authority  
4 affirmatively determines that the plan embracing such activities meets the requirements of  
5 Code Section 12-7-6. All applicable fees shall be paid prior to issuance of the land  
6 disturbance permit by the local issuing authority.

7 (c) Permits shall be issued or denied as soon as practicable after the application therefor has  
8 been filed with the local issuing authority, but in any event not later than 45 days thereafter.

9 12-7-10.

10 Except as otherwise provided by Code Section 12-7-7, immediately upon receipt of an  
11 application for a permit the application and plan for sediment and erosion control shall be  
12 referred to the appropriate district wherein such land-disturbing activities are proposed to  
13 take place, for its review and approval or disapproval concerning the adequacy of the  
14 erosion and sediment control plan proposed by the applicant. A district shall approve or  
15 disapprove a plan within 35 days of receipt. Failure of a district to act within 35 days shall  
16 be considered an approval of the pending plan.

17 12-7-11.

18 (a) Within the time specified by Code Section 12-7-9, the local issuing authority shall issue  
19 or deny the permit. The local issuing authority, upon denial of a permit, shall state its  
20 reasons for the denial, setting forth specifically wherein such application is found to be  
21 deficient. Any land-disturbing activity permitted under this chapter shall be carried out in  
22 accordance with this chapter and the ordinance, resolution, or rules and regulations adopted  
23 and promulgated pursuant ~~hereto~~ to this chapter. The local issuing authority shall specify  
24 on the permit the conditions under which the activity may be undertaken.

25 (b) The permit may be suspended, revoked, or modified by the local issuing authority, as  
26 to all or any portion of the land affected by the plan, upon a finding that the holder or his  
27 or her successor in title is not in compliance with the approved erosion and sediment control  
28 plan or that the holder or his or her successor in title is in violation of this chapter or any  
29 ordinance, resolution, rule, or regulation adopted or promulgated pursuant to this chapter.  
30 A holder of a permit shall notify any successor in title to him or her as to all or any portion  
31 of the land affected by the approved plan of the conditions contained in the permit.

32 12-7-12.

33 (a) ~~Whenever~~ Except as provided in subsection (d) of this Code section, whenever the  
34 director has reason to believe that a violation of any provision of this chapter, any rule or

1 regulation of the board, or any order of the director has occurred in a county or municipality  
2 which is not certified pursuant to subsection (a) of Code Section 12-7-8, the director may  
3 issue an order directed to such violator or violators. The order shall specify the provisions  
4 of this chapter or the rules or regulations or order alleged to have been violated and may  
5 require that land-disturbing activity be stopped until necessary corrective action and  
6 mitigation have been taken or may require that necessary corrective action and mitigation  
7 be taken within a reasonable time to be prescribed in the order. Any order issued by the  
8 director under this Code section shall be signed by the director. Any such order shall  
9 become final unless the person or persons named therein request, in writing, a hearing  
10 pursuant to Code Section 12-7-16.

11 (b) ~~Whenever an~~ Except as provided in subsection (d) of this Code section, whenever a  
12 local issuing authority has reason to believe that a violation of any provision of a local  
13 ordinance or resolution has occurred within the jurisdiction of the local issuing authority,  
14 the local issuing authority may require that land-disturbing activity be stopped until  
15 necessary corrective action and mitigation have been taken or may require that necessary  
16 corrective action and mitigation be taken within a reasonable time.

17 (c) The following procedures shall apply to the issuances of stop work orders:

18 (1) For the first and second violations of the provisions of this chapter, the director or the  
19 local issuing authority shall issue a written warning to the violator. The violator shall have  
20 five days to correct the violation. If the violation is not corrected within five days, the  
21 director or local issuing authority shall issue a stop work order requiring that  
22 land-disturbing activities be stopped until necessary corrective action or mitigation has  
23 occurred; provided, however, that, if the violation presents an imminent threat to public  
24 health or waters of the state, the director or local issuing authority shall issue an immediate  
25 stop work order in lieu of a warning;

26 (2) For a third and each subsequent violation, the director or local issuing authority shall  
27 issue an immediate stop work order; and

28 (3) All stop work orders shall be effective immediately upon issuance and shall be in  
29 effect until the necessary corrective action or mitigation has occurred.

30 (d) When a violation of this chapter in the form of taking action without a permit, failure  
31 to maintain a stream buffer, or significant amounts of sediment, as determined by the local  
32 issuing authority or by the director or his or her designee, have been or are being discharged  
33 into state waters and where best management practices have not been properly designed,  
34 installed, and maintained, a stop work order shall be issued by the local issuing authority  
35 or by the director or his or her designee. All such stop work orders shall be effective  
36 immediately upon issuance and shall be in effect until the necessary corrective action or  
37 mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity

1 on the site with the exception of the installation and maintenance of temporary or permanent  
2 erosion and sediment controls.

3 12-7-13.

4 Whenever, in the judgment of the director, any person has engaged in or is about to engage  
5 in any act or practice which constitutes or would constitute a violation of this chapter, the  
6 rules and regulations adopted pursuant ~~hereto~~ to this chapter, or any order or permit  
7 conditions in a county or municipality which is not certified pursuant to subsection (a) of  
8 Code Section 12-7-8, he or she may make application to the superior court of the county  
9 where such person resides or, if such person is a nonresident of the state, to the superior  
10 court of the county in which the violative act or practice has been or is about to be engaged  
11 in for an order enjoining such act or practice or for an order requiring compliance with this  
12 chapter, the rules and regulations adopted pursuant ~~hereto~~ to this chapter, or the order or  
13 permit condition. Upon a showing by the director that such person has engaged in or is  
14 about to engage in any such violative act or practice, a permanent or temporary injunction,  
15 restraining order, or other order shall be granted without the necessity of showing the lack  
16 of an adequate remedy at law.

17 12-7-14.

18 (a) Notwithstanding any other provision of this chapter to the contrary, upon receipt of  
19 evidence that certain land-disturbing activities occurring in a municipality or county which  
20 is not certified pursuant to subsection (a) of Code Section 12-7-8 are presenting an imminent  
21 and substantial danger to the environment or to the health of humans, the director may bring  
22 an action as provided in Code Section 12-7-13 to restrain immediately any person causing  
23 or contributing to the danger caused by such land-disturbing activities or to take such other  
24 action as may be necessary.

25 (b) If it is not practicable to assure prompt protection of the environment or the health of  
26 humans solely by commencement of such a civil action, the director may issue such  
27 emergency orders as may be necessary to protect the environment or the health of humans  
28 who are or may be affected by such land-disturbing activities. Notwithstanding any other  
29 provision of this chapter, such order shall be immediately effective for a period of not more  
30 than 48 hours, unless the director brings an action under subsection (a) of this Code section  
31 before the expiration of such period. Whenever the director brings such an action within  
32 such period, such order shall be effective for such period of time as may be authorized by  
33 the court pending litigation or thereafter.

12-7-15.

~~(a)(1) Except as provided in paragraph (2) of this subsection, any Any person who violates any provision of this chapter, the rules and regulations adopted pursuant hereto to this chapter, 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 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.~~

~~(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:~~

~~(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~~

~~(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.~~

~~(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.~~

~~(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:~~

~~(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;~~

~~(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;~~

~~(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;~~

~~(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;~~

~~(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~~

~~(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.~~

~~(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.~~

12-7-16.

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.

12-7-17.

~~(a)~~ This chapter shall not apply to the following activities:

(1) Surface mining, as the same is defined in Code Section 12-4-72;

(2) Granite quarrying and land clearing for such quarrying;

(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;

(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

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

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

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

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

31 (8) Any project involving ~~one and one-tenth acres or less~~ than one acre of disturbed area;  
32 provided, however, that this exemption shall not apply to any land-disturbing activity  
33 within a subdivision or planned common development or within 200 feet of the bank of  
34 any state waters, and for purposes of this paragraph, 'state waters' excludes channels and  
35 drainageways which have water in them only during and immediately after rainfall events  
36 and intermittent streams which do not have water in them year round; provided, however,  
37 that any person responsible for a project which involves ~~one and one-tenth acres or less~~

1 less than one acre, which involves land-disturbing activity, and which is within 200 feet  
2 of any such excluded channel or drainageway must prevent sediment from moving beyond  
3 the boundaries of the property on which such project is located and provided, further, that  
4 nothing contained in this chapter shall prevent a city or county which is ~~an~~ a local issuing  
5 authority from regulating any such project which is not specifically exempted by  
6 paragraph (1), (2), (3), (4), (5), (6), (7), (9), or (10) of this ~~subsection~~ Code section;

7 (9) Construction or maintenance projects, or both, undertaken or financed in whole or in  
8 part, or both, by the Department of Transportation, the Georgia Highway Authority, or the  
9 State Road and Tollway Authority; or any road construction or maintenance project, or  
10 both, undertaken by any county or municipality; provided, however, ~~that such projects~~  
11 ~~shall conform to the minimum requirements set forth in Code Section 12-7-6; provided,~~  
12 ~~further,~~ that construction or maintenance projects of the Department of Transportation or  
13 the State Road and Tollway Authority which disturb ~~five~~ one or more contiguous acres of  
14 land shall be subject to the provisions of Code Section 12-7-7.1, except where the  
15 Department of Transportation, the Georgia Highway Authority, or the State Road and  
16 Tollway Authority is a secondary permittee for a project located within a planned common  
17 development under the state general permit, in which case a copy of a notice of intent  
18 under the state general permit shall be submitted to the local issuing authority, the local  
19 issuing authority shall enforce compliance with the minimum requirements set forth in  
20 Code Section 12-7-6 as if a permit had been issued, and violations shall be subject to the  
21 same penalties as violations by permit holders;

22 (10) Any land-disturbing activities conducted by any electric membership corporation or  
23 municipal electrical system or any public utility under the regulatory jurisdiction of the  
24 Public Service Commission, ~~provided that any such land-disturbing activity shall conform~~  
25 ~~to the minimum requirements set forth in Code Section 12-7-6; any utility under the~~  
26 regulatory jurisdiction of the Federal Energy Regulatory Commission, or any agency or  
27 instrumentality of the United States engaged in the generation, transmission, or  
28 distribution of power, except where an electric membership corporation or municipal  
29 electrical system or any public utility under the regulatory jurisdiction of the Public  
30 Service Commission or any agency or instrumentality of the United States engaged in the  
31 generation, transmission, or distribution of power is a secondary permittee for a project  
32 located within a planned common development under the state general permit, in which  
33 case a copy of a notice of intent under the state general permit shall be submitted to the  
34 local issuing authority, the local issuing authority shall enforce compliance with the  
35 minimum requirements set forth in Code Section 12-7-6 as if a permit had been issued,  
36 and violations shall be subject to the same penalties as violations by permit holders; and

37 (11) Public water system reservoirs.

~~(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.~~

12-7-18.

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 ~~thereunder~~ under said article or to pollute any waters of this state as defined ~~thereby in said article.~~

12-7-19.

(a) After December 31, 2006, all 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 their level of involvement with the process, as developed by the commission in consultation with the division and the Stakeholder Advisory Board created pursuant to Code Section 12-7-20.

(b) No less than the following training programs shall be established:

(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 the state to effectively control erosion and sedimentation;

(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;

(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;

(4) An awareness seminar (Level 1) will be established 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

(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 the state.

(c) Trainer and instructor qualifications will be established with the following minimum requirements:

1 (1) Level 1 trainers and instructors shall meet at least the following minimum  
2 requirements and any other requirements as set by the commission;

3 (A) Education: four-year college degree or five years' experience in the field of erosion  
4 and sediment control;

5 (B) Experience: five-years' experience in the field of erosion and sediment control.

6 Where years of experience is used in lieu of the education requirement of subparagraph

7 (A) of this paragraph, a total of ten years' field experience is required;

8 (C) Approval by the commission and the Stakeholder Advisory Board; and

9 (D) Successful completion of the Level 1 trainer and instructor seminar found in  
10 paragraph (5) of subsection (b) of this Code section; and

11 (2) Level 2 trainers and instructors shall meet at least the minimum requirements of a  
12 Level 1 trainer or instructor, any other requirements as set by the commission, and  
13 successful completion of the Level 2 trainer and instructor seminar created under  
14 paragraph (5) of subsection (b) of this Code section.

15 (d) In addition to the requirements of subsection (c) of this Code section, the commission  
16 shall establish and any person desirous of holding certification must obtain a passing grade  
17 as established by the Stakeholder Advisory Board on a final exam covering the material  
18 taught in each mandatory seminar. Final exams may, at the discretion of the commission,  
19 serve in lieu of attendance at the seminar.

20 (e)(1) A certification provided by achieving the requirements established by the  
21 commission shall expire no later than three years after its issuance.

22 (2) A certified individual shall be required to attend and participate in at least four hours  
23 of approved continuing education courses, as established by the commission, every three  
24 years.

25 (3) A certification may be extended or renewed by meeting requirements established by  
26 the commission.

27 (4) Revocation procedures may be established by the commission in consultation with the  
28 division and the Stakeholder Advisory Board.

29 12-7-20.

30 (a) There shall be a Stakeholder Advisory Board to consist of not more than 13 members.

31 (b) Members shall be appointed by the Governor, shall serve at the pleasure thereof, and  
32 shall represent the following interests:

33 (1) The division;

34 (2) The commission;

35 (3) Soil and water conservation districts;

36 (4) The Department of Transportation;

1 (5) Municipal governments;

2 (6) County governments;

3 (7) Public utilities;

4 (8) The engineering and design community;

5 (9) The construction community;

6 (10) The development community;

7 (11) The environmental community;

8 (12) The Erosion and Sediment Control Overview Council; and

9 (13) Educators.

10 (c) The Stakeholder Advisory Board shall elect one of its members as chairperson. The  
11 chairperson shall call all meetings of the Stakeholder Advisory Board.

12 (d) The Stakeholder Advisory Board shall be responsible for working together with the  
13 division and the commission to establish, evaluate, and maintain the education and training  
14 program established pursuant to Code Section 12-7-19, including but not limited to  
15 reviewing course curricula, educational materials, and exam and testing procedures;  
16 evaluating trainer and instructor qualifications; and reviewing audit results performed by  
17 the commission.

18 (e) The Stakeholder Advisory Board may conduct such meetings at such places and at such  
19 times as it may deem necessary or convenient to enable it to exercise fully and effectively  
20 its powers, perform its duties, and accomplish the objectives and purposes of this Code  
21 section. Meetings shall be held on the written notice of the chairperson. The notice of a  
22 meeting shall set forth the date, time, and place of the meeting. Minutes shall be kept of all  
23 meetings.

24 (f) A majority of the members shall constitute a quorum of the Stakeholder Advisory  
25 Board. The powers and duties of the Stakeholder Advisory Board shall be transacted,  
26 exercised, and performed only pursuant to an affirmative vote of a majority of those  
27 members present at a meeting at which a quorum is present.

28 (g) Members of the Stakeholder Advisory Board shall not be entitled to any compensation  
29 for the rendering of their services to the Stakeholder Advisory Board.

30 12-7-21.

31 (a) In furtherance of its efforts to improve the quality of the natural resources of the state,  
32 the board shall appoint a panel of not more than 16 members to study the controls  
33 implemented pursuant to this chapter; the turbidity standards in place in the state; and any  
34 standards or indicators other than turbidity that may be more appropriate to assess the  
35 effectiveness and cost efficiencies of the controls. Members shall serve for terms ending  
36 three years after the date this Code section becomes effective. Such panel shall be

appointed and such study shall commence in the calendar year this Code section becomes effective. Such study shall take into account the physiographic differences of various regions of the state. The panel shall complete its study and shall issue a report regarding such standards, indicators, and controls to the General Assembly not later than three years after the effective date of this Code section. Any changes recommended as a result of such study shall be at least as protective of water quality as those standards and practices set forth in this chapter as of the effective date of this Code section.

(b) The study panel shall elect one of such panel members as chairperson. The chairperson shall call all meetings of the panel.

(c) The panel 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.

(d) A majority of the members shall constitute a quorum of the panel. The powers and duties of the panel 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.

(e) Members of the panel shall not be entitled to any compensation for the rendering of their services to the panel.

(f) The funds necessary for the study and report authorized under this Code section shall come from funds appropriated to or otherwise available to the department.

(g) This Code section shall stand repealed three years after the date it becomes effective.

12-7-22.

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."

## **SECTION 6.**

All laws and parts of laws in conflict with this Act are repealed.