

The House Committee on Natural Resources and Environment offers the following substitute to HB 285:

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 provide for the effect of such provisions on the practice of land
12 surveyors in performing certain tasks related to soil erosion and sedimentation control; to
13 repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

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

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

23 **SECTION 2.**

24 Title 12 of the Official Code of Georgia Annotated, relating to conservation and natural
25 resources, is amended in subsection (a) of Code Section 12-5-23, relating to powers and

1 duties of the Board of Natural Resources and the director of the Environmental Protection
 2 Division of the Department of Natural Resources as to control of water pollution and
 3 surface-water use generally, by striking "and" at the end of paragraph (3), striking the period
 4 and inserting "; and" in lieu thereof at the end of paragraph (4), and adding a new paragraph
 5 (5) to read as follows:

6 "(5)(A) By December 31, 2003, the board shall promulgate rules and regulations which
 7 establish a fee system designed to offset the costs of the state-wide implementation of
 8 the National Pollution Discharge Elimination System general permit or permits for
 9 storm-water runoff from construction activities as is now in effect or as may be
 10 amended or reissued in the future pursuant to the state's authority to implement the
 11 same through federal delegation under the Federal Water Pollution Control Act, as
 12 amended, 33 U.S.C. Section 1251, et seq., and subsection (f) of Code Section 12-5-30.
 13 (B) Fees established by the board under this paragraph shall be no less than that which
 14 is required to properly administer Chapter 7 of this title, provided that such fees shall
 15 not exceed \$80.00 per acre of land-disturbing activity as defined in Code Section
 16 12-7-3."

17 SECTION 3.

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

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

29 SECTION 4.

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

34 "(g) It is declared to be the public policy of this state, in furtherance of its responsibility
 35 to protect the public health, safety, and well-being of its citizens and to protect and enhance

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

22 **SECTION 5.**

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

25 "CHAPTER 7

26 12-7-1.

27 This chapter shall be known and may be cited as the 'Erosion and Sedimentation Act of
 28 1975.'

29 12-7-2.

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

1 state waters and damage to domestic, agricultural, recreational, fish and wildlife, and other
 2 resource uses. It is therefore declared to be the policy of this state and the intent of this
 3 chapter to strengthen and extend the present erosion and sediment control activities and
 4 programs of this state and to provide for the establishment and implementation of a
 5 state-wide comprehensive soil erosion and sediment control program to conserve and
 6 protect the land, water, air, and other resources of this state.

7 12-7-3.

8 As used in this chapter, the term:

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

10 (2) 'Buffer' means the area of land immediately adjacent to the banks of state waters in
 11 its natural state of vegetation, which facilitates the protection of water quality and aquatic
 12 habitat.

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

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

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

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

19 (7) 'Drainage structure' means a device composed of a virtually nonerodible material
 20 such as concrete, steel, plastic, or other such material that conveys water from one place
 21 to another by intercepting the flow and carrying it to a release point for storm-water
 22 management, drainage control, or flood control purposes.

23 (8) 'Erosion and sediment control plan' or 'plan' means a plan for the control of soil
 24 erosion and sediment resulting from a land-disturbing activity.

25 ~~(9) 'Issuing authority' means the governing authority of any county or municipality which
 26 is certified pursuant to subsection (a) of Code Section 12-7-8 and the division in those
 27 instances where an application for a permit is submitted to the division.~~

28 ~~(10) 'Land-disturbing activity' means any activity which may result in soil erosion from
 29 water or wind and the movement of sediments into state water or onto lands within the
 30 state, including, but not limited to, clearing, dredging, grading, excavating, transporting,
 31 and filling of land but not including agricultural practices as described in paragraph (5)
 32 of Code Section 12-7-17.~~

33 (9.1) 'Larger common plan of development or sale' means a contiguous area where
 34 multiple separate and distinct construction activities are occurring under one plan of
 35 development or sale. For purposes of this paragraph, 'plan' means an announcement;
 36 piece of documentation such as a sign, public notice or hearing, sales pitch,

1 advertisement, drawing, permit application, zoning request, or computer design; or
 2 physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating
 3 that construction activities may occur on a specific plot.

4 (10) 'Local issuing authority' means the governing authority of any county or
 5 municipality which is certified pursuant to subsection (a) of Code Section 12-7-8.

6 (10.1) 'Operator' means the party or parties that have:

7 (A) Operational control of construction project plans and specifications, including the
 8 ability to make modifications to those plans and specifications; or

9 (B) Day-to-day operational control of those activities that are necessary to ensure
 10 compliance with a storm-water pollution prevention plan for the site or other permit
 11 conditions, such as a person authorized to direct workers at a site to carry out activities
 12 required by the storm-water pollution prevention plan or to comply with other permit
 13 conditions.

14 (11) 'Person' means any individual, partnership, firm, association, joint venture, public
 15 or private corporation, trust, estate, commission, board, public or private institution,
 16 utility, cooperative, state agency, municipality or other political subdivision of this state,
 17 any interstate body, or any other legal entity.

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

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

25 ~~(13)~~(14) 'Soil and water conservation district approved plan' means an erosion and
 26 sediment control plan approved in writing by a soil and water conservation district.

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

33 ~~(14)~~(16) 'State waters' includes any and all rivers, streams, creeks, branches, lakes,
 34 reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or
 35 subsurface water, natural or artificial, lying within or forming a part of the boundaries of
 36 the state, which are not entirely confined and retained completely upon the property of
 37 a single individual, partnership, or corporation.

1 12-7-4.

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

12 12-7-5.

13 The board, by appropriate rules and regulations, shall adopt the procedures governing
 14 land-disturbing activities which are conducted in those counties and municipalities which
 15 do not have in effect an ordinance conforming to this chapter. Such rules and regulations
 16 shall be developed by the division in consultation with the commission and shall contain
 17 provisions which meet those minimum requirements set forth in Code Section 12-7-6.

18 12-7-6.

19 (a)(1) Best management practices as set forth in subsection (b) of this Code section shall
 20 be required for all land-disturbing activities. Proper design, installation, and maintenance
 21 of best management practices shall constitute a complete defense to any action by the
 22 director or to any other allegation of noncompliance with paragraph (2) of this subsection
 23 or any substantially similar terms contained in a permit for the discharge of storm water
 24 issued pursuant to subsection (f) of Code Section 12-5-30. As used in this subsection, the
 25 terms 'proper design' and 'properly designed' mean designed ~~to control soil erosion and~~
 26 ~~sedimentation for all rainfall events up to and including a 25 year rainfall event~~ in
 27 accordance with the hydraulic design specifications contained in the 'Manual for Erosion
 28 and Sediment Control in Georgia' specified in subsection (b) of this Code section.

29 (2) A discharge of storm-water runoff from disturbed areas where best management
 30 practices have not been properly designed, installed, and maintained shall constitute a
 31 separate violation of any land-disturbing permit issued by a local issuing authority ~~or by~~
 32 ~~the division~~ or of any state general permit ~~for construction activities~~ issued by the
 33 division pursuant to subsection (f) of Code Section 12-5-30 for each day on which such
 34 discharge results in the turbidity of receiving waters being increased by more than 25
 35 nephelometric turbidity units for waters supporting warm water fisheries or by more than

1 ten nephelometric turbidity units for waters classified as trout waters. The turbidity of the
2 receiving waters shall be measured in accordance with guidelines to be issued by the
3 director. This paragraph shall not apply to any land disturbance associated with the
4 construction of single-family homes which are not part of a larger common plan of
5 development or sale unless the planned disturbance for such construction is equal to or
6 greater than five acres.

7 (3) Failure properly to design, install, or maintain best management practices shall
8 constitute a violation of any land-disturbing permit issued by a local issuing authority ~~or~~
9 ~~by the division~~ or of any state general permit ~~for construction activities~~ issued by the
10 division pursuant to subsection (f) of Code Section 12-5-30 for each day on which such
11 failure occurs.

12 (4) The director may require, in accordance with regulations adopted by the board,
13 reasonable and prudent monitoring of the turbidity level of receiving waters into which
14 discharges from land-disturbing activities occur.

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

23 (1) Stripping of vegetation, regrading, and other development activities shall be
24 conducted in such a manner so as to minimize erosion;

25 (2) Cut and fill operations must be kept to a minimum;

26 (3) Development plans must conform to topography and soil type, so as to create the
27 lowest practicable erosion potential;

28 (4) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;

29 (5) The disturbed area and the duration of exposure to erosive elements shall be kept to
30 a practicable minimum;

31 (6) Disturbed soil shall be stabilized as quickly as practicable;

32 (7) Temporary vegetation or mulching shall be employed to protect exposed critical
33 areas during development;

34 (8) Permanent vegetation and structural erosion control measures must be installed as
35 soon as practicable;

36 (9) To the extent necessary, sediment in run-off water must be trapped by the use of
37 debris basins, sediment basins, silt traps, or similar measures until the disturbed area is

1 stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to
2 a condition of continuous compliance with the requirements of this chapter;

3 (10) Adequate provisions must be provided to minimize damage from surface water to
4 the cut face of excavations or the sloping surfaces of fills;

5 (11) Cuts and fills may not endanger adjoining property;

6 (12) Fills may not encroach upon natural watercourses or constructed channels in a
7 manner so as to adversely affect other property owners;

8 (13) Grading equipment must cross flowing streams by the means of bridges or culverts,
9 except when such methods are not feasible, provided, in any case, that such crossings
10 must be kept to a minimum;

11 (14) Land-disturbing activity plans for erosion and sedimentation control shall include
12 provisions for treatment or control of any source of sediments and adequate
13 sedimentation control facilities to retain sediments on site or preclude sedimentation of
14 adjacent waters beyond the levels specified in subsection (a) of this Code section;

15 (15) Except as provided in paragraph (16) of this subsection, there is established a 25
16 foot buffer along the banks of all state waters, as measured horizontally from the point
17 where vegetation has been wrested by normal stream flow or wave action, except where
18 the director determines to allow a variance that is at least as protective of natural
19 resources and the environment, where otherwise allowed by the director pursuant to Code
20 Section 12-2-8, or where a drainage structure or a roadway drainage structure must be
21 constructed, provided that adequate erosion control measures are incorporated in the
22 project plans and specifications and are implemented; provided, however, that buffers of
23 at least 25 feet established pursuant to Part 6 of Article 5 of Chapter 5 of this title shall
24 remain in force unless a variance is granted by the director as provided in this paragraph.
25 The following requirements shall apply to any such buffer:

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

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

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

13 (i) Stream crossings for water lines; or

14 (ii) Stream crossings for sewer lines; and

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

31 (A) No land-disturbing activities shall be conducted within a buffer and a buffer shall
 32 remain in its natural, undisturbed, state of vegetation until all land-disturbing activities
 33 on the construction site are completed. Once the final stabilization of the site is
 34 achieved, a buffer may be thinned or trimmed of vegetation as long as a protective
 35 vegetative cover remains to protect water quality and aquatic habitat and a natural
 36 canopy is left in sufficient quantity to keep shade on the stream bed; provided, however,
 37 that any person constructing a single-family residence, when such residence is

1 constructed by or under contract with the owner for his or her own occupancy, may thin
 2 or trim vegetation in a buffer at any time as long as protective vegetative cover remains
 3 to protect water quality and aquatic habitat and a natural canopy is left in sufficient
 4 quantity to keep shade on the stream bed; ~~and~~

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

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

17 (i) Stream crossings for water lines; or

18 (ii) Stream crossings for sewer lines.

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

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

26 12-7-7.

27 (a) No land-disturbing activities shall be conducted in this state, except those
 28 land-disturbing activities provided for in Code Section 12-7-17, without the ~~property owner~~
 29 ~~where the land-disturbing activity will occur~~ operator first securing ~~the~~ a permit from a local
 30 issuing authority or providing notice of intent to the division as required by this Code
 31 section.

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

34 (1) The application for such permit shall be made to and the permit shall be issued by the
 35 governing authority of the county wherein such land-disturbing activities are to occur, in
 36 the event that such activities will occur outside the corporate limits of a municipality; ~~and~~

1 (2) In those instances where such activities will occur within the corporate limits of any
 2 municipality, the application for such permit shall be made to and the permit shall be
 3 issued by the governing authority of the municipality in which such land-disturbing
 4 activities are to occur; and

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

6 (c) In those counties and municipalities which are not certified pursuant to subsection (a)
 7 of Code Section 12-7-8, ~~the application for such permit shall be made to and the permit shall~~
 8 ~~be issued by the division~~ the terms of the state general permit shall apply, those terms shall
 9 be enforced by the division, and no individual land-disturbing activity permit under this
 10 Code section will be required; provided, however, that notice of intent shall be submitted
 11 to the division prior to commencement of any land-disturbing activities under the state
 12 general permit in any of such uncertified counties or municipalities.

13 (d)(1) Fees assessed pursuant to paragraph (5) of subsection (a) of Code Section 12-5-23
 14 shall be calculated and paid by the primary permittee as defined in the state general permit
 15 for each acre of land-disturbing activity included in the planned development or each
 16 phase of development.

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

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

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

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

14 ~~(f) No permit may be issued pursuant to subsection (b) or (c) of this Code section unless~~
 15 ~~the applicant provides a statement by the tax collector or tax commissioner of the county~~
 16 ~~in which the property for which the permit is requested lies and by the official responsible~~
 17 ~~for the collection of municipal taxes in the municipality within which such property lies, if~~
 18 ~~applicable, certifying that all ad valorem taxes levied against the property and due and~~
 19 ~~owing have been paid.~~

20 12-7-7.1.

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

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

30 (2) Through its own forces or by means of the acquisition of professional service pursuant
 31 to the provisions of Chapter 22 of Title 50, the Department of Transportation or the State
 32 Road and Tollway Authority shall be responsible for the preparation of an erosion and
 33 sediment control plan for any construction or maintenance project as required by
 34 paragraph (1) of this subsection. Any consultant providing such professional service shall
 35 be prequalified by the Department of Transportation as a responsible bidder for the design
 36 of erosion and sediment control plans. The division shall assist the Department of

1 Transportation in developing the prequalification approval process for purposes of this
2 subsection.

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

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

14 (2) The contractor for a construction or maintenance project subject to this Code section
15 shall be responsible for implementing the plan on the awarded project. Payment to any
16 contractor under any contract for implementing any part or all of any plan shall not be on
17 a lump sum basis; rather, such payment shall be based upon unit prices for specific
18 quantities of work performed pursuant to the approved erosion and sediment control plan
19 plus any additional quantities of completed work necessitated by project conditions
20 affecting erosion and sediment control, including without limitation soil types and weather
21 conditions. Charges for all maintenance and cleaning of erosion and sediment control
22 devices shall likewise be paid on a unit price basis.

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

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

35 (3) If deficiencies in the plan or installation or maintenance of best management practices
36 are discovered during the inspection, the Department of Transportation or the State Road
37 and Tollway Authority shall determine the appropriate corrective action. Further, the

1 Department of Transportation or State Road and Tollway Authority may require the
2 consultant to amend the plan or the contractor to change its procedures by change order
3 or supplemental agreement in order to institute such changes as may be necessary to
4 correct any errors or deficiencies in the plan, the implementation of the plan, or the
5 maintenance of the best management practices.

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

10 (f)(1) There shall be an Erosion and Sediment Control Overview Council which shall
11 provide guidance on the best management practices for implementing any erosion and
12 sediment control plan for purposes of this Code section. The council shall be composed
13 of nine members, including one member who shall be appointed by the Speaker of the
14 House of Representatives and serve at the pleasure thereof; one member who shall be
15 appointed by the Lieutenant Governor and serve at the pleasure thereof; and seven
16 members who shall be appointed by the Governor and serve at the pleasure thereof,
17 including one employee each from the Department of Transportation, the Environmental
18 Protection Division of the Department of Natural Resources, and the Georgia Regional
19 Transportation Authority, a professional engineer licensed to practice in this state from a
20 private engineering consulting firm practicing environmental engineering, two
21 representatives of the highway contracting industry certified by the Department of
22 Transportation, and a chairperson. The council shall meet at the call of the chairperson.
23 Each councilmember shall receive a daily allowance in the amount specified in subsection
24 (b) of Code Section 45-7-21; provided, however, that any full-time state employee serving
25 on the council shall draw no compensation but shall receive necessary expenses. The
26 commissioner is authorized to pay such compensation and expenses from department
27 funds.

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

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

34 12-7-8.

35 (a)(1) If a county or municipality has enacted ordinances which meet or exceed the
36 standards, requirements, and provisions of this chapter and the state general permit, except

1 that the standards, requirements, and provisions of the ordinances for monitoring,
 2 reporting, inspections, design standards, turbidity standards, and education and training
 3 shall not exceed the state general permit requirements, and which are enforceable by such
 4 county or municipality, and if a county or municipality documents that it employs
 5 qualified personnel to implement enacted ordinances, the director may certify such county
 6 or municipality as ~~an~~ a local issuing authority for the purposes of this chapter.

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

14 (b) The districts or the commission or both shall periodically review the actions of counties
 15 and municipalities which have been certified as local issuing authorities pursuant to
 16 subsection (a) of this Code section. The districts or the commission or both may provide
 17 technical assistance to any county or municipality for the purpose of improving the
 18 effectiveness of the county's or municipality's erosion and sedimentation control program.
 19 The districts or the commission shall notify the division and request investigation by the
 20 division if any deficient or ineffective local program is found.

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

1 (d) The director may determine that the public interest requires initiation of an enforcement
 2 action by the division. Where such a determination is made and the local issuing authority
 3 has failed to secure compliance, the director may implement the board's rules and seek
 4 compliance under provisions of Code Sections 12-7-12 through 12-7-15. For purposes of
 5 this subsection, enforcement actions taken by the division pursuant to Code Sections
 6 12-7-12 through 12-7-15 shall not require prior revocation of certification of the county or
 7 municipality as ~~an~~ a local issuing authority.

8 12-7-9.

9 (a) Applications for permits shall be submitted in accordance with this chapter and the rules
 10 and regulations, ordinances, and resolutions adopted pursuant ~~hereto~~ to this chapter. Such
 11 applications shall be accompanied by the applicant's erosion and sediment control plans and
 12 by such supportive data as will affirmatively demonstrate that the land-disturbing activity
 13 proposed will be carried out in such a manner that the minimum requirements set forth in
 14 Code Section 12-7-6 shall be met. All applications shall contain a certification stating that
 15 the plan preparer or the designee thereof visited the site prior to creation of the plan or that
 16 such a visit was not required in accordance with rules and regulations established by the
 17 board.

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

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

24 12-7-10.

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

32 12-7-11.

33 (a) Within the time specified by Code Section 12-7-9, the local issuing authority shall issue
 34 or deny the permit. The local issuing authority, upon denial of a permit, shall state its

1 reasons for the denial, setting forth specifically wherein such application is found to be
 2 deficient. Any land-disturbing activity permitted under this chapter shall be carried out in
 3 accordance with this chapter and the ordinance, resolution, or rules and regulations adopted
 4 and promulgated pursuant ~~hereto~~ to this chapter. The local issuing authority shall specify
 5 on the permit the conditions under which the activity may be undertaken.

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

13 12-7-12.

14 (a) ~~Whenever~~ Except as provided in subsection (d) of this Code section, whenever the
 15 director has reason to believe that a violation of any provision of this chapter, any rule or
 16 regulation of the board, or any order of the director has occurred in a county or municipality
 17 which is not certified pursuant to subsection (a) of Code Section 12-7-8, the director may
 18 issue an order directed to such violator or violators. The order shall specify the provisions
 19 of this chapter or the rules or regulations or order alleged to have been violated and may
 20 require that land-disturbing activity be stopped until necessary corrective action and
 21 mitigation have been taken or may require that necessary corrective action and mitigation
 22 be taken within a reasonable time to be prescribed in the order. Any order issued by the
 23 director under this Code section shall be signed by the director. Any such order shall
 24 become final unless the person or persons named therein request, in writing, a hearing
 25 pursuant to Code Section 12-7-16.

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

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

- 33 (1) For the first and second violations of the provisions of this chapter, the director or the
 34 local issuing authority shall issue a written warning to the violator. The violator shall have
 35 five days to correct the violation. If the violation is not corrected within five days, the
 36 director or local issuing authority shall issue a stop work order requiring that

1 land-disturbing activities be stopped until necessary corrective action or mitigation has
 2 occurred; provided, however, that, if the violation presents an imminent threat to public
 3 health or waters of the state, the director or local issuing authority shall issue an immediate
 4 stop work order in lieu of a warning;

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

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

9 (d) When a violation of this chapter in the form of taking action without a permit, failure
 10 to maintain a stream buffer, or significant amounts of sediment, as determined by the local
 11 issuing authority or by the director or his or her designee, have been or are being discharged
 12 into state waters and where best management practices have not been properly designed,
 13 installed, and maintained, a stop work order shall be issued by the local issuing authority
 14 or by the director or his or her designee. All such stop work orders shall be effective
 15 immediately upon issuance and shall be in effect until the necessary corrective action or
 16 mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity
 17 on the site with the exception of the installation and maintenance of temporary or permanent
 18 erosion and sediment controls.

19 12-7-13.

20 Whenever, in the judgment of the director, any person has engaged in or is about to engage
 21 in any act or practice which constitutes or would constitute a violation of this chapter, the
 22 rules and regulations adopted pursuant ~~hereto~~ to this chapter, or any order or permit
 23 conditions in a county or municipality which is not certified pursuant to subsection (a) of
 24 Code Section 12-7-8, he or she may make application to the superior court of the county
 25 where such person resides or, if such person is a nonresident of the state, to the superior
 26 court of the county in which the violative act or practice has been or is about to be engaged
 27 in for an order enjoining such act or practice or for an order requiring compliance with this
 28 chapter, the rules and regulations adopted pursuant ~~hereto~~ to this chapter, or the order or
 29 permit condition. Upon a showing by the director that such person has engaged in or is
 30 about to engage in any such violative act or practice, a permanent or temporary injunction,
 31 restraining order, or other order shall be granted without the necessity of showing the lack
 32 of an adequate remedy at law.

33 12-7-14.

34 (a) Notwithstanding any other provision of this chapter to the contrary, upon receipt of
 35 evidence that certain land-disturbing activities occurring in a municipality or county which

1 is not certified pursuant to subsection (a) of Code Section 12-7-8 are presenting an imminent
 2 and substantial danger to the environment or to the health of humans, the director may bring
 3 an action as provided in Code Section 12-7-13 to restrain immediately any person causing
 4 or contributing to the danger caused by such land-disturbing activities or to take such other
 5 action as may be necessary.

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

15 12-7-15.

16 ~~(a)(1) Except as provided in paragraph (2) of this subsection, any Any person who~~
 17 ~~violates any provision of this chapter, the rules and regulations adopted pursuant hereto~~
 18 ~~to this chapter, or any permit condition or limitation established pursuant to this chapter~~
 19 ~~or who negligently or intentionally fails or refuses to comply with any final or emergency~~
 20 ~~order of the director issued as provided in this chapter shall be liable for a civil penalty not~~
 21 ~~to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this chapter,~~
 22 ~~notwithstanding any provision in any city charter to the contrary, municipal courts shall~~
 23 ~~be authorized to impose a penalty not to exceed \$2,500.00 for each violation.~~
 24 ~~Notwithstanding any limitation of law as to penalties which can be assessed for violations~~
 25 ~~of county ordinances, any magistrate court or any other court of competent jurisdiction~~
 26 ~~trying cases brought as violations of this chapter under county ordinances approved under~~
 27 ~~this chapter shall be authorized to impose penalties for such violations not to exceed~~
 28 ~~\$2,500.00 for each violation. Each day during which the violation or failure or refusal to~~
 29 ~~comply continues shall be a separate violation.~~

30 ~~(2) The following penalties shall apply to land-disturbing activities performed in violation~~
 31 ~~of any provision of this chapter, any rules and regulations adopted pursuant hereto, or any~~
 32 ~~permit condition or limitation established pursuant to this chapter:~~

33 ~~(A) The director or the issuing authority shall assess and collect a minimum penalty of~~
 34 ~~\$250.00 per day for each violation involving the construction of a single-family dwelling~~
 35 ~~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

1 initiated by the director under this chapter shall be provided and conducted in accordance
2 with subsection (c) of Code Section 12-2-2. The hearing and review procedure provided in
3 this Code section is to the exclusion of all other means of hearings or review.

4 12-7-17.

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

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

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

8 (3) Such minor land-disturbing activities as home gardens and individual home
9 landscaping, repairs, maintenance work, fences, and other related activities which result
10 in minor soil erosion;

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

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

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

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

10 (8) Any project involving ~~one and one-tenth acres or less~~ than one acre of disturbed area;
 11 provided, however, that this exemption shall not apply to any land-disturbing activity
 12 within a larger common plan of development or sale with a planned disturbance of equal
 13 to or greater than one acre or within 200 feet of the bank of any state waters, and for
 14 purposes of this paragraph, 'state waters' excludes channels and drainageways which have
 15 water in them only during and immediately after rainfall events and intermittent streams
 16 which do not have water in them year round; provided, however, that any person
 17 responsible for a project which involves ~~one and one-tenth acres or less~~ less than one acre,
 18 which involves land-disturbing activity, and which is within 200 feet of any such excluded
 19 channel or drainageway must prevent sediment from moving beyond the boundaries of the
 20 property on which such project is located and provided, further, that nothing contained in
 21 this chapter shall prevent a city or county which is ~~an~~ a local issuing authority from
 22 regulating any such project which is not specifically exempted by paragraph (1), (2), (3),
 23 (4), (5), (6), (7), (9), or (10) of this ~~subsection~~ Code section;

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

1 requirements set forth in Code Section 12-7-6 as if a permit had been issued, and
 2 violations shall be subject to the same penalties as violations by permit holders;

3 (10) Any land-disturbing activities conducted by any electric membership corporation or
 4 municipal electrical system or any public utility under the regulatory jurisdiction of the
 5 Public Service Commission, ~~provided that any such land-disturbing activity shall conform~~
 6 ~~to the minimum requirements set forth in Code Section 12-7-6; any utility under the~~
 7 regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television
 8 system as defined in Code Section 36-18-1, or any agency or instrumentality of the United
 9 States engaged in the generation, transmission, or distribution of power; except where an
 10 electric membership corporation or municipal electrical system or any public utility under
 11 the regulatory jurisdiction of the Public Service Commission, any utility under the
 12 regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television
 13 system as defined in Code Section 36-18-1, or any agency or instrumentality of the United
 14 States engaged in the generation, transmission, or distribution of power is a secondary
 15 permittee for a project located within a larger common plan of development or sale under
 16 the state general permit, in which case the local issuing authority shall enforce compliance
 17 with the minimum requirements set forth in Code Section 12-7-6 as if a permit had been
 18 issued, and violations shall be subject to the same penalties as violations by permit
 19 holders; and

20 (11) ~~Public water system reservoirs~~ Any public water system reservoir, except in any
 21 case where an existing impoundment built for hydroelectric power generation when at full
 22 level is within a distance of five miles downstream from the dam of such public water
 23 system reservoir.

24 ~~(b) Where subsection (a) of this Code section requires compliance with the minimum~~
 25 ~~requirements set forth in Code Section 12-7-6, issuing authorities shall enforce compliance~~
 26 ~~with the minimum requirements as if a permit had been issued and violations shall be~~
 27 ~~subject to the same penalties as violations by permit holders.~~

28 12-7-18.

29 No provision of this chapter shall authorize any person to violate Article 2 of Chapter 5 of
 30 this title, the 'Georgia Water Quality Control Act,' or the rules and regulations promulgated
 31 and approved ~~thereunder~~ under said article or to pollute any waters of this state as defined
 32 ~~thereby~~ in said article.

33 12-7-19.

34 (a) After December 31, 2006, all persons involved in land development design, review,
 35 permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet

1 the education and training certification requirements, dependent on their level of
 2 involvement with the process, as developed by the commission in consultation with the
 3 division and the Stakeholder Advisory Board created pursuant to Code Section 12-7-20.

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

5 (1) A fundamentals seminar (Level 1) will be established which provides sufficient
 6 training to all participants as to the applicable laws, requirements, processes, and latest
 7 means and methods recognized by the state to effectively control erosion and
 8 sedimentation;

9 (2) An advanced fundamentals seminar (Level 1) will be established which provides
 10 additional details of installation and maintenance of best management practices for both
 11 regulatory and nonregulatory inspectors and others;

12 (3) An introduction to design seminar (Level 2) will be established which provides
 13 required training to design and review a successful erosion, sedimentation, and pollution
 14 control plan;

15 (4) An awareness seminar (Level 1) will be established which provides information
 16 regarding the erosion and sediment control practices and processes in the state and which
 17 will include an overview of the systems, laws, and roles of the participants; and

18 (5) A trainer and instructor seminar will be established for both Level 1 and Level 2
 19 trainers and instructors which will provide the minimum training as to applicable laws and
 20 best management practices and design of erosion, sedimentation, and pollution control
 21 plans in the state.

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

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

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

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

29 Where years of experience is used in lieu of the education requirement of subparagraph
 30 (A) of this paragraph, a total of ten years' field experience is required;

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

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

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

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

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

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

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

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

15 12-7-20.

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

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

19 (1) The division;

20 (2) The commission;

21 (3) Soil and water conservation districts;

22 (4) The Department of Transportation;

23 (5) Municipal governments;

24 (6) County governments;

25 (7) Public utilities;

26 (8) The engineering and design community;

27 (9) The construction community;

28 (10) The development community;

29 (11) The environmental community;

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

31 (13) Educators.

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

34 (d) The Stakeholder Advisory Board shall be responsible for working together with the
 35 division and the commission to establish, evaluate, and maintain the education and training
 36 program established pursuant to Code Section 12-7-19, including but not limited to

1 reviewing course curricula, educational materials, and exam and testing procedures;
2 evaluating trainer and instructor qualifications; and reviewing audit results performed by
3 the commission.

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

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

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

16 12-7-21.

17 (a) In furtherance of its efforts to improve the quality of the natural resources of the state,
18 the board shall appoint a panel of not more than 16 members to study the controls
19 implemented pursuant to this chapter; the turbidity standards in place in the state; and any
20 standards or indicators other than turbidity that may be more appropriate to assess the
21 effectiveness and cost efficiencies of the controls. Members shall serve for terms ending
22 three years after the date this Code section becomes effective. Such panel shall be
23 appointed and such study shall commence in the calendar year this Code section becomes
24 effective. Such study shall take into account the physiographic differences of various
25 regions of the state. The panel shall complete its study and shall issue a report regarding
26 such standards, indicators, and controls to the General Assembly not later than three years
27 after the effective date of this Code section. Any changes recommended as a result of such
28 study shall be at least as protective of water quality as those standards and practices set forth
29 in this chapter as of the effective date of this Code section.

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

32 (c) The panel may conduct such meetings at such places and at such times as it may deem
33 necessary or convenient to enable it to exercise fully and effectively its powers, perform its
34 duties, and accomplish the objectives and purposes of this Code section. Meetings shall
35 be held on the written notice of the chairperson. The notice of a meeting shall set forth the
36 date, time, and place of the meeting. Minutes shall be kept of all meetings.

1 (d) A majority of the members shall constitute a quorum of the panel. The powers and
2 duties of the panel shall be transacted, exercised, and performed only pursuant to an
3 affirmative vote of a majority of those members present at a meeting at which a quorum is
4 present.

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

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

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

10 12-7-22.

11 In order to achieve efficiencies and economies for both the division and the regulated
12 community by the use of electronic filing for certain application and reporting requirements
13 of this chapter and National Pollution Discharge Elimination System permits, the division
14 and the Pollution Prevention Assistance Division of the department shall jointly work
15 toward implementing such an electronic filing and reporting system as soon as practicable
16 and allowable under federal regulations.

17 12-7-23.

18 (a) Nothing in this chapter shall be construed as excluding any registered land surveyor in
19 this state from such land surveying practices as may be incidental to the practice of his or
20 her profession, including without limitation any and all associated reports; hydrological
21 studies; soil erosion and sedimentation control plans; site plans; overall concept layout
22 plans; water and sanitary sewer plans and layouts; plan and profile sheets; street grades;
23 storm-water basins; water distribution systems; sanitary sewer systems; detail sheets for
24 erosion control and specific materials such as sewer manholes, base, and paving; detention
25 pond facilities; water quality facilities; analysis of surface-water runoff; pipe sizing; storm
26 sewer design; open channel design; basic fluid mechanics; calculation and design of storm
27 vessels transmitting storm water; and design of storm water management to include storm
28 water detention and retention facilities.

29 (b) Nothing in this chapter shall be construed so as to limit or exclude registered land
30 surveyors within any county or municipality or consolidated government of this state from
31 such land surveying or related practices as may be incidental to any land subdivision. For
32 purposes of this subsection, 'subdivision' means division of a tract or parcel of land into two
33 or more lots, building sites, or other divisions for the purpose of sale, legacy, a new street,
34 or a change in existing streets and includes resubdivision. Such term shall also include the

1 process of opening of a new street or road where appropriate to the context; the process of
2 subdividing; or a tract, parcel, or other area of land subdivided.
3 (c) Nothing in this chapter shall exclude registered land surveyors in this state from the
4 preparation of erosion and sediment control plans for the control of soil erosion and
5 sediment resulting from a land-disturbing activity, storm-water management reports,
6 drainage plans, and associated hydrology incidental to a tract or parcel of land subdivided.
7 (d) The provisions of subsections (a), (b), and (c) of this Code section notwithstanding,
8 registered land surveyors shall be subject to the requirements of Code Section 12-7-19."

9 **SECTION 6.**

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