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THIS SUPPLEMENT CONTAINS

Statutes:

All laws specifically codified by the General Assembly of the State of Georgia through the 2025 Regular Session of the General Assembly.

Annotations of Judicial Decisions:

Case annotations reflecting decisions posted to LexisNexis® through May 12, 2025. These annotations will appear in the following traditional reporter sources: Georgia Reports; Georgia Appeals Reports; Southeastern Reporter; Supreme Court Reporter; Federal Reporter; Federal Supplement; Federal Rules Decisions; Lawyers' Edition; United States Reports; and Bankruptcy Reporter.

Annotations of Attorney General Opinions:

Constructions of the Official Code of Georgia Annotated, prior Codes of Georgia, Georgia Laws, the Constitution of Georgia, and the Constitution of the United States by the Attorney General of the State of Georgia posted to LexisNexis® through May 12, 2025.

Other Annotations:

References to:

Emory Bankruptcy Developments Journal.
Emory International Law Review.
Emory Law Journal.
Georgia Journal of International and Comparative Law.
Georgia Law Review.
Georgia State University Law Review.
John Marshall Law Review.
Mercer Law Review.
Georgia State Bar Journal.
Georgia Journal of Intellectual Property Law.
American Jurisprudence, Second Edition.
American Jurisprudence, Pleading and Practice Forms Annotated.
American Jurisprudence, Proof of Facts.
American Jurisprudence, Trials.
Corpus Juris Secundum.
Uniform Laws Annotated.
American Law Reports, First through Seventh Series.
American Law Reports, Federal.

Tables:

In Volume 41, a Table Eleven-A comparing provisions of the 1976 Constitution of Georgia to the 1983 Constitution of Georgia and a Table Eleven-B comparing provisions of the 1983 Constitution of Georgia to the 1976 Constitution of Georgia.

An updated version of Table Fifteen which reflects legislation through the 2025 Regular Session of the General Assembly.

Indices:

A cumulative replacement index to laws codified in the 2025 supplement pamphlets and in the bound volumes of the Code.

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TITLE 12

CONSERVATION AND NATURAL RESOURCES

Chap.

2. Department of Natural Resources, 12-2-1 through 12-2-24.

3. Parks, Historic Areas, Memorials, and Recreation, 12-3-1 through 12-3-715.

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CHAPTER 2

DEPARTMENT OF NATURAL RESOURCES

Article 1

General Provisions

Sec.

12-2-2. Environmental Protection Division; appeal procedures generally; permit applications; inspections.

ARTICLE 1

GENERAL PROVISIONS

12-2-2. Environmental Protection Division; appeal procedures generally; permit applications; inspections.

(a) There is created within the Department of Natural Resources an Environmental Protection Division.

(b) The division shall have a director who shall be both appointed and removed by the Board of Natural Resources with the approval of the Governor. The director shall appoint an assistant director of the division. The director and the assistant director shall be qualified professionals, competent in the field of environmental protection. The director and the assistant director shall be in the unclassified service.

In the event of a vacancy in the office of the director or in his or her absence or if he or she is disabled, the assistant director shall perform all the duties of the director. The director shall be responsible for enforcing the environmental protection laws of Georgia. The director shall hire the personnel for the division and shall supervise, direct, account for, organize, plan, and execute the functions vested in the division.

(c)(1)(A) The director shall issue all orders and shall grant, deny, revoke, or amend all permits or variances provided for in the laws to be enforced by the division. The director shall also issue any certification which is required by any law of this state or the United States to be issued by the director, the Department of Natural Resources, or the State of Georgia relating to pollution control facilities or matters. The director shall develop and implement procedures for timely processing of applications made to the division for issuance or renewal of permits or variances, including but not limited to procedures for expedited review and granting of applications upon payment of a fee in an amount established by the director to offset the cost of expediting, all subject to compliance with requirements of law regarding such applications. Such procedures shall also provide any applicant who has applied to the division for issuance or renewal of a permit or variance with the ability to securely track the status of his or her application, with real time updates, via the division's internet website. The director shall notify all permit or variance applicants within ten days of receipt of the application as to the completeness of the application and, if the director finds the same to be incomplete, what specific additional materials the applicant need submit to make the application complete. The director shall notify applicants within ten days of receipt of a completed application as to the name and address of the person assigned to perform the review and the date, time, and location of the application review. The director shall grant or deny any permit or variance within 90 days after receipt of all required application materials by the division, provided that the director may for any application order not more than one extension of time of not more than 60 days within which to grant or deny the permit or variance.

(B)(i) The director may identify professionals qualified to review certain permit applications in accordance with rules and regulations adopted by the board of the Department of Natural Resources.

(ii) A permit applicant may retain a qualified professional to review an application prior to submittal to the division. If the qualified professional certifies an application as complete, the division shall act expeditiously on the application.

(iii) A qualified professional certifying an application shall be independent of any professional preparing the application.

(iv) The applicant shall directly pay the fees of the qualified professional.

(v) The director may remove the qualified status of a professional if the professional provides a certification for an inaccurate application.

(2)(A) Any person who is aggrieved or adversely affected by any order or action of the director shall, upon petition to the director within 30 days after the issuance of such order or the taking of such action, have a right to a hearing before an administrative law judge of the Office of State Administrative Hearings assigned under Code Section 50-13-40 and acting in place of the Board of Natural Resources. The hearing before the administrative law judge shall be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and the rules and regulations adopted by the board pursuant thereto. Any administrative law judge so assigned shall fully meet and qualify as to all applicable conflict of interest requirements provided for in Section 304(h)(2)(D) of the Federal Water Pollution Control Act of 1972, as amended, and the rules, regulations, and guidelines promulgated thereunder.

(B) In any case involving the grant of a permit, permit amendment, or variance by the director, the filing of such a petition by a person to whom such order or action is not directed shall stay such order or action until such time as the hearing has been held and for ten days after the administrative law judge renders his or her decision on the matter. The petition shall be transmitted to the administrative law judge not more than seven days after the date of filing. The provisions of subsection (c) of Code Section 50-13-41 notwithstanding, the hearing shall be held and the decision of the administrative law judge shall be rendered not later than 90 days after the date of the filing of the petition by such a person unless such period is extended for a time certain by order of the administrative law judge upon consent of all parties; in addition, the administrative law judge may extend the 90 day period for good cause shown for a period not to exceed an additional 60 days.

(C) The provisions of subparagraph (B) of this paragraph notwithstanding, in any case involving the grant of a permit, permit amendment, or variance by the director regarding water withdrawal for farm uses under Code Section 12-5-31 or Code Section 12-5-105, the filing of a petition under subparagraph (A) of this paragraph by any person to whom such order or action is not directed shall not stay such order or action.

(D) The decision of the administrative law judge shall constitute the final decision of the board and any party to the hearing, including the director, shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50.

(3)(A) Persons are "aggrieved or adversely affected," except as set forth in subparagraph (B) of this paragraph, where the challenged action has caused or will cause them injury in fact and where the injury is to an interest within the zone of interests to be protected or regulated by the statutes that the director is empowered to administer and enforce. In the event the director asserts in response to the petition before the administrative law judge that the petitioner is not aggrieved or adversely affected, the administrative law judge shall take evidence and hear arguments on this issue and thereafter make a ruling on this issue before continuing with the hearing. The burden of going forward with evidence on this issue shall rest with the petitioner.

(B) Persons are not aggrieved or adversely affected by the listing of property in the hazardous site inventory in accordance with Code Section 12-8-97 if such property was so listed prior to July 1, 2014, nor are persons aggrieved or adversely affected by an order of the director issued pursuant to Part 2 of Article 3 of Chapter 8 of this title, the "Georgia Hazardous Site Response Act," unless or until the director seeks to recover response costs, enforce the order, or recover a penalty for violation of such order; provided, however, that persons are aggrieved or adversely affected if the director designates property as needing corrective action pursuant to paragraph (8) of subsection (a) of Code Section 12-8-97. Any person aggrieved or adversely affected by any such listing occurring after July 1, 2014, or any such designation shall be entitled to a hearing as provided in Code Section 12-8-73.

(4) Notwithstanding any other law to the contrary, in seeking civil penalties for the violation of those laws to be enforced by the division and where the imposition of such penalties is provided for therein, the director upon written request may cause a hearing to be conducted before an administrative law judge appointed by the Board of Natural Resources for the purpose of determining whether such civil penalties should be imposed in accordance with the law there involved. The hearing before the administrative law judge shall be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and the rules and regulations adopted by the board pursuant thereto. The decision of the administrative law judge shall constitute the final decision of the board and any party to the hearing, including the director, shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50.

(5) Notwithstanding any other law to the contrary, for purposes of establishing criminal violations of the standards, rules, and regulations promulgated by the Board of Natural Resources as provided in this title, the term "standards, rules, and regulations" shall mean those standards, rules, and regulations of the Board of Natural Resources in force and effect on January 1, 2025.

(6) Notwithstanding any other law to the contrary, whenever the division determines that a violation of any provision of this title or any rule or regulation promulgated pursuant to this title relating to those laws to be enforced by the division has occurred, the division shall be required to attempt by conference, conciliation, or persuasion to convince the violator to cease such violation. If the director finds that the public health, safety, or welfare requires emergency action and incorporates a finding to that effect in his or her order, such order may summarily provide for the immediate cessation of any activity constituting such violation. Whether negotiated or directed, such order shall specify the alleged violation and shall prescribe a reasonable time for corrective action to be accomplished. Any order issued pursuant to this subsection shall become final unless the person aggrieved requests a hearing in writing before the director not later than 30 days after such order is served.

(d) Whenever the Constitution and laws of the United States or the State of Georgia require the issuance of a warrant to make an inspection under any law administered by the director, the procedure set forth in paragraphs (1) through (7) of this subsection shall be employed.

(1) The director or any person authorized to make inspections for the division shall make application for an inspection warrant to a person who is a judicial officer within the meaning of Code Section 17-5-21.

(2) An inspection warrant shall be issued only upon cause and when supported by an affidavit particularly describing the place, dwelling, structure, premises, or vehicle to be inspected and the purpose for which the inspection is to be made. In addition, the affidavit shall contain either a statement that consent to inspect has been sought and refused or facts or circumstances reasonably justifying the failure to seek such consent. Cause shall be deemed to exist if either reasonable legislative or administrative standards for conducting a routine or area inspection are satisfied with respect to the particular place, dwelling, structure, premises, or vehicle, or there is reason to believe that a condition of nonconformity exists with respect to the particular place, dwelling, structure, premises, or vehicle.

(3) An inspection warrant shall be effective for the time specified therein, but not for a period of more than 14 days, unless extended or

renewed by the judicial officer who signed and issued the original warrant, upon satisfying himself that such extension or renewal is in the public interest. Such inspection warrant must be executed and returned to the judicial officer by whom it was issued within the time specified in the warrant or within the extended or renewed time. After the expiration of such time, the warrant, unless executed, is void.

(4) An inspection pursuant to an inspection warrant shall be made between 8:00 A.M. and 6:00 P.M. of any day or at any time during operating or regular business hours. An inspection should not be performed in the absence of an owner or occupant of the particular place, dwelling, structure, premises, or vehicle unless specifically authorized by the judicial officer upon a showing that such authority is reasonably necessary to effectuate the purpose of the regulation being enforced. An inspection pursuant to a warrant shall not be made by means of forcible entry, except that the judicial officer may expressly authorize a forcible entry where facts are shown which are sufficient to create a reasonable suspicion of a violation of this title, which, if such violation existed, would be an immediate threat to health or safety, or where facts are shown establishing that reasonable attempts to serve a previous warrant have been unsuccessful. Where prior consent has been sought and refused and a warrant has been issued, the warrant may be executed without further notice to the owner or occupant of the particular place, dwelling, structure, premises, or vehicle to be inspected.

(5) It shall be unlawful for any person to refuse to allow an inspection pursuant to an inspection warrant issued as provided in this subsection. Any person violating this paragraph shall be guilty of a misdemeanor.

(6) Under this subsection, an inspection warrant is an order, in writing, signed by a judicial officer, directed to the director or any person authorized to make inspections for the division, and commanding him or her to conduct any inspection required or authorized by this title or regulations promulgated pursuant to this title.

(7) Nothing in this subsection shall be construed to require an inspection warrant when a warrantless inspection is authorized by law or a permit issued under this title.

(e) Where this title does not otherwise specify the disposition of moneys collected by the division pursuant to an order issued by the director or the disposition of civil penalties collected by the division, such moneys and civil penalties shall be deposited in the state treasury to the credit of the general fund but shall be available for appropriation by the General Assembly to the department for inclusion in the

hazardous waste trust fund continued in existence by subsection (a) of Code Section 12-8-95 in keeping with the legislative intent expressed in subsection (b) of Code Section 12-8-91.

History.

Ga. L. 1972, p. 1015, §§ 17, 1534; Ga. L. 1972, p. 1266, § 1; Ga. L. 1973, p. 344, § 2; Ga. L. 1981, p. 838, § 1; Ga. L. 1984, p. 404, § 1; Ga. L. 1985, p. 1465, § 2; Ga. L. 1991, p. 1738, § 1; Ga. L. 1992, p. 2234, § 1; Ga. L. 1993, p. 500, § 1; Ga. L. 1994, p. 1101, § 1; Ga. L. 1996, p. 319, § 1; Ga. L. 1998, p. 253, § 1; Ga. L. 2000, p. 877, § 1; Ga. L. 2005, p. 818, § 1/SB 190; Ga. L. 2006, p. 237, § 1/SB 191; Ga. L. 2007, p. 127, § 1/HB 463; Ga. L. 2012, p. 622, § 1/SB 427; Ga. L. 2013, p. 171, § 3/HB 320; Ga. L. 2013, p. 274, § 6/HB 226; Ga. L. 2014, p. 817, § 1/SB 333; Ga. L. 2014, p. 819, § 1/HB 904; Ga. L. 2016, p. 432, § 1/HB 840; Ga. L. 2021, p. 105, § 1-1/HB 362; Ga. L. 2021, p. 922, § 12/HB 497; Ga. L. 2022, p. 308, § 1/HB 1233; Ga. L. 2024, p. 429, § 1/HB 244, effective July 1, 2024; Ga. L. 2025, p. 332, § 2-1/SB 96, effective July 1, 2025; Ga. L. 2025, p. 524, § 1/HB 287, effective July 1, 2025.

Amendments.

The 2022 amendment, effective July 1, 2022, substituted "January 1, 2022" for "January 1, 2021" at the end of paragraph (c)(5).

The 2024 amendment, effective July 1, 2024, substituted "January 1, 2024" for "January 1, 2022" at the end of paragraph (c)(5). See Editor's notes for applicability.

The first 2025 amendment, effective July 1, 2025, in subsection (b), removed the paragraph (b)(1) designation, inserted "or her" and "or she" following "his" and "he" in the fourth sentence, and deleted paragraph (b)(2).

"(B) The council shall advise the Governor, the board, and the director as to the efficacy of the state's environmental protection programs, the need for legislation relating to the environment, the need for expansion or reduction of specific environmental programs, and the need for specific changes in the state's environmental protection programs. The council may review and prepare written comments on proposed state plans and on standards, rules, and regulations proposed by the division. Such comments may be submitted to the director, the board, and any other individual or agency deemed appropriate.

"(C) Members of the council shall serve without compensation but shall receive the same expense allowance as that received by members of the General Assembly and the same mileage allowance for the use of a personal car or a travel allowance of actual transportation cost if traveling by public carrier as that received by all other state officials and employees."

The second 2025 amendment, effective July 1, 2025, substituted "January 1, 2025" for "January 1, 2024" at the end of paragraph (c)(5).

Editor's notes.

Ga. L. 2024, p. 429, § 11/HB 244, not codified by the General Assembly, provides that, for purposes of promulgating rules and regulations, the amendment to paragraph (c)(5) became effective April 25, 2024.

Ga. L. 2025, p. 332, § 2-2/SB 96, not codified by the General Assembly, provides: "Any assets of the Environmental Advisory Council existing as of June 30, 2025, shall devolve by operation of law and without further action to the State of Georgia on July 1, 2025. Any liabilities and obligations of the Environmental Advisory Council existing as of June 30, 2025, shall be transferred to and assumed by the State of Georgia, by such instruments as may be required to maintain the same."

Law reviews.

For article with annual survey on administrative law, see 73 Mercer L. Rev. 1 (2021).

JUDICIAL DECISIONS

Failure to exhaust remedies. — Trial court erred by exercising jurisdiction and granting the city summary judgment on the city's claim for declaratory relief be-

cause the city was required to exhaust the city's s administrative remedies and the city's failure to appeal the Environmental Protection Division of the Georgia Department of Natural Resources' (EPD) decision to grant the recycling company a solid waste handling permit deprived the trial court of jurisdiction over the claim. Dunn v. City of Stonecrest, 368 Ga. App. 736, 890 S.E.2d 781, 2023 Ga. App. LEXIS 365 (2023).

Issues of fact in permit dispute required remand to ALJ. — In a dispute over a sewer system operator's most recent National Pollutant Discharge Elimination System (NPDES) permit, because disputes of fact regarding whether the operator's combined sewer overflows had the reasonable potential to cause an excursion above the applicable water quality standard were material to its claim that the 2020 permit was wrongfully issued, the summary determination to the state agency was in error. Columbus Water Works v. Dunn, 369 Ga. App. 397, 893 S.E.2d 788, 2023 Ga. App. LEXIS 468 (2023).

CHAPTER 3

PARKS, HISTORIC AREAS, MEMORIALS, AND RECREATION

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Part 1

General Provisions

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12-3-10. Directing persons to leave parks, historic sites, or recreational areas upon their refusal to observe rules and regulations; prohibited acts generally.

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12-3-233.1. [Repealed] Jekyll Island Citizens Resource Council; purpose; members; meetings; reimbursement for expenses.
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12-3-522. Creation; membership; meetings; expense allowance; perpetual existence; records.
12-3-522.1. [Repealed] Joint operation between Georgia Music Hall of Fame and Georgia Sports Hall of Fame; proposals for accomplishing objectives.
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ARTICLE 1

GENERAL PROVISIONS

PART 1

GENERAL PROVISIONS

12-3-10. Directing persons to leave parks, historic sites, or recreational areas upon their refusal to observe rules and regulations; prohibited acts generally.

(a) As used in this Code section, the term "park, historic site, or recreational area" means a park, historic site, or recreational area which is operated by or for and is under the custody and control of the department.

(b) It shall be unlawful for any person to enter upon any park, historic site, or lands managed by the Department of Natural Resources except when in compliance with all applicable laws and all rules, regulations, and permits adopted pursuant to paragraph (1) of subsection (a) of Code Section 12-3-9.

(c) It shall be unlawful for any person, in any manner, to mark on, deface, injure, displace, dig, excavate, remove, or construct on any real or personal property on any park, historic site, or recreational area, except when done with special written permission granted by the commissioner of natural resources or his authorized representative.

(d) It shall be unlawful for any person to drive a vehicle on any roads in a park, historic site, or recreational area in excess of 35 miles per hour. It shall also be unlawful for any person to drive a vehicle in excess of 15 miles per hour within 200 feet of an intensive-use area in a park, historic site, or recreational area. As used in this subsection, the term "vehicle" means any wheeled conveyance for the transportation of persons or materials. As used in this subsection, the term "intensive-use area" means a picnic area, a beach or pool area, a check-in station, or a camping or cabin area.

(e) With the exceptions of law enforcement and official use by the department, it shall be unlawful for any person to have or use a boat on the waters of any park, historic site, or recreational area in violation of

any prohibition or restriction posted therein by the department. The posting of signs at entrances of a park, historic site, or recreational area designating any prohibitions of, or restrictions on the use of, boats on the waters of that park, historic area, or recreational area shall constitute sufficient notice for the entire park, historic area, or recreational area.

(f) Reserved.

(g) Reserved.

(h) Reserved.

(i) It shall be unlawful for any person to fish in waters of any park, historic site, or recreational area, except for boat fishing between the hours of 7:00 A.M. and sunset and bank or wade fishing between the hours of 7:00 A.M. and 10:00 P.M., unless otherwise prohibited. It shall also be unlawful to fish in waters of any park, historic site, or recreational area which have been closed and posted by the department.

(j) It shall be unlawful to fish commercially or to buy or sell fish caught in the waters of any park, historic site, or recreational area.

(k) It shall be unlawful to fish with any device other than a pole and line or rod and reel in the waters of any park, historic site, or recreational area, except with the written permission of the commissioner of natural resources or his authorized representative.

(l) It shall be unlawful to hunt, trap, or otherwise pursue or catch any wildlife in any park, historic site, or recreational area, unless such activity involves the use of bows and arrows, primitive weapons, rifles, or shotguns and has been approved by prior written permission of the commissioner of natural resources or the commissioner's authorized representative. It shall also be unlawful to shoot into a park, historic site, or recreational area from beyond the boundaries of such park, historic site, or recreational area.

(m) It shall be unlawful for any intoxicated person to enter or remain on any park, historic site, or recreational area. It shall also be unlawful for any person to consume or use alcoholic beverages or intoxicants in any public use area of a park, historic site, or recreational area. As used in this subsection, the term "public use area" shall not include cabins, rooms, trailers, tents, and conference facilities which facilities are rented for exclusive use by one individual or group.

(n) It shall be unlawful for any person to use in any park, historic site, or recreational area any electronic device for the detection of metals, minerals, artifacts, or lost articles or for treasure hunting.

(o)(1) It shall be unlawful for any person to use or possess in any park, historic site, or recreational area any fireworks, explosives, or

firecrackers, unless stored so as not to be readily accessible or unless such use has been approved by prior written permission of the commissioner of natural resources or his or her authorized representative.

(2) It shall be unlawful for any person to use or possess in any park, historic site, or recreational area any weapon or long gun unless such person is a lawful weapons carrier. As used in this paragraph, the terms "weapon," "long gun," and "lawful weapons carrier" shall have the same meanings as provided for in Code Section 16-11-125.1.

(3) It shall be unlawful for any person to use or possess in any park, historic site, or recreational area any bows and arrows, spring guns, air rifles, slingshots, or any other device which discharges projectiles by any means, unless the device is unloaded and stored so as not to be readily accessible or unless such use has been approved within restricted areas by prior written permission of the commissioner of natural resources or his or her authorized representative.

(p) It shall be unlawful to refuse to leave a park, historic site, or recreational area after violating any law or regulation of the Board of Natural Resources promulgated pursuant to Code Section 12-3-9 and after being directed to leave by an authorized representative of the department.

(q) It shall be unlawful for any person to park a vehicle at any place within any park, historic site, or recreational area, including upon the right of way of any county, state, or federal highway which traverses the park, historic site, or recreational area, where signs placed at the direction of the commissioner of natural resources or his official designee prohibit parking or condition the privilege of parking upon the purchase and display of a parking permit. The posting of signs at the entrances of a park, historic site, or recreational area designating the places for which a parking permit is required shall constitute sufficient notice for the entire park, historic site, or recreational area.

(r) Any person who violates any of the provisions of this Code section commits the offense of criminal trespass.

(s)(1) The jurisdiction of the probate courts of the several counties of this state is enlarged and extended so that probate courts, acting by and through the judge or presiding officer, shall have the right and power to receive pleas of guilty and impose sentence upon defendants violating the provisions of this Code section.

(2) When a person is arrested for any violation of the provisions of this Code section, the arresting officer may, at his discretion, choose to issue to the offender a summons to appear before a court of jurisdiction. Every such summons shall show:

(A) That it is issued by authority of the department;

(B) The name of the person summoned or, if the person to be summoned refuses to give his name or the officer serving the summons believes the name given is false or if the officer is for other cause unable to ascertain the correct name of the person to be summoned, a fictitious name plainly identified as such;

(C) The offense with which the person being summoned is charged and the date and location of the alleged offense;

(D) The location of the court and the day and hour at which he is summoned to appear;

(E) That failure to so appear is a violation of Georgia laws and subject to prosecution;

(F) The date the summons is served; and

(G) The name and official designation of the officer serving it.

(3) Personal delivery of the summons to the person charged or, if the violation is for a vehicle parking violation and the vehicle illegally parked is unattended, the placement of the summons on the windshield of the driver's side of the illegally parked vehicle shall constitute due and proper service of the summons.

(4) Every person so summoned shall appear at the place and on the date ordered except in cases where a bond has been posted in lieu of the summons or where the court has granted a continuance.

(5) The officer serving a summons pursuant to this subsection shall, on or before the return date of the summons, deliver a copy thereof to the court before which it is returnable, or to the clerk of such court, and shall file any information and such affidavits as may be required with respect to the alleged offense.

(6) If the person charged shall fail to appear as specified in the summons, the judge having jurisdiction of the offense may issue a warrant ordering the apprehension of the person commanding that he be brought before the court to answer the charge contained within the summons and the charge of his failure to appear as required. The person shall then be allowed to make a reasonable bond to appear on a given date before the court.

History.

Ga. L. 1976, p. 1160, § 2; Ga. L. 1977, p. 1175, § 1; Ga. L. 1982, p. 3, § 12; Ga. L. 1984, p. 374, §§ 1-3; Ga. L. 1986, p. 437, §§ 1, 2; Ga. L. 1991, p. 1007, § 1; Ga. L. 1992, p. 1547, § 1; Ga. L. 1995, p. 945, § 1; Ga. L. 1996, p. 6, § 12; Ga. L. 1998, p. 253, § 2; Ga. L. 1999, p. 81, § 12; Ga. L. 1999, p. 159, § 1; Ga. L. 2006, p. 96, § 1/HB 1490; Ga. L. 2010, p. 963, § 2-2/SB 308; Ga. L. 2012, p. 1074, § 1/SB 319; Ga. L. 2022, p. 74, § 3/SB 319.

Amendments.

The 2022 amendment, effective April 12, 2022, deleted former paragraph (o)(2); redesignated former paragraphs (o)(3) and (o)(4) as present paragraphs (o)(2) and (o)(3), respectively; and, in paragraph (o)(2), substituted "weapon or long gun unless such person is a lawful weapons carrier" for "handgun without a valid weapons carry license issued pursuant to Code Section 16-11-129" at the end of the first sentence, and added the second sentence.

Editor's notes.

Ga. L. 2022, p. 74, § 1/SB 319, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Chairman John Meadows Act.'"

Ga. L. 2022, p. 74, § 2/SB 319, not codified by the General Assembly, provides: "The General Assembly finds and determines that:

"(1) The Second Amendment to the United States Constitution recognizes the right of the people to keep and bear arms and that such right shall not be infringed; and

"(2) The people of this state, to perpetuate the principles of free government, insure justice to all, preserve peace, promote the interest and happiness of the citizen and of the family, and transmit to posterity the enjoyment of liberty, provided that the right of the people to keep and bear arms shall not be infringed but that the General Assembly shall have power to prescribe the manner in which arms may be borne."

Law reviews.

For article, "SB 319: Chairman John Meadows Act," see 39 Georgia St. U.L. Rev. 1 (2022).

ARTICLE 6

MEMORIALS

PART 4

STONE MOUNTAIN MEMORIAL ASSOCIATION

12-3-194.1. Police and legislative powers of association; appointment of peace officers; jurisdiction and venue of park offenses; sale of confederate memorabilia.

(a)(1) The association is empowered to exercise such of the police powers of the state as may be necessary to maintain peace and order and to enforce any and all user and personal conduct restrictions upon the properties and facilities and the persons under its jurisdiction to the extent that such is lawful under the laws of the nation and the state.

(2) In addition to the powers provided in paragraph (1) of this subsection, the association is empowered to exercise the police powers of the state in an area extending not more than 500 yards from the park boundaries adjacent to the entrances and exits, other than entrances or exits adjacent to the corporate limits of a municipality, which are used regularly by patrons attending functions at Stone Mountain Park and in an area extending not more than 500 yards from the tennis center.

(b) The association shall have legislative power to adopt reasonable

ordinances relating to the property, affairs, and administration of Stone Mountain Park for which no provision has been made by general law and which are not inconsistent with the general laws or the Constitution of this state. The association is further authorized to adopt ordinances adopting by reference any or all of the provisions of Chapter 6 of Title 40 in accordance with Code Section 40-6-372. Within the limits of Stone Mountain Park and within the area described in paragraph (2) of subsection (a) of this Code section, the association is authorized to appoint peace officers, who are authorized and empowered to serve and execute warrants and to make arrests for violation of ordinances adopted by the association. Within the limits of Stone Mountain Park and within the area described in paragraph (2) of subsection (a) of this Code section, such peace officers shall have the same authority, powers, and privileges regarding enforcement of laws as peace officers employed by county and municipal police departments of this state. Prosecutions for violations of the ordinances of the association shall be upon citation or upon accusation as provided in Code Sections 15-10-62 and 15-10-63. The association may provide that ordinance violations may be tried upon citations with or without a prosecuting attorney as well as upon accusations in the manner prescribed in Code Section 15-10-63.

(c) For purposes of this Code section, the Magistrate Court of DeKalb County shall have jurisdiction and authority to hear and try those offenses occurring within the limits of Stone Mountain Park which violate the ordinances of the association and to punish violations of such ordinances, all in the manner and to the extent prescribed in Article 4 of Chapter 10 of Title 15. The State Court of DeKalb County shall have jurisdiction and authority to hear and try all cases removed from the Magistrate Court of DeKalb County for jury trial by any defendant charged with one or more violations of the ordinances of the association. The Superior Court of DeKalb County shall have jurisdiction to review all convictions by petition for review to the superior court. The proceedings on such petitions for review shall be governed by Chapter 3 of Title 5. The jurisdiction and authority of the courts of DeKalb County provided for in this Code section shall be in addition to and not in limitation of the jurisdiction and authority of such courts as may be now or hereafter provided.

(d) The Stone Mountain Memorial Association shall continue the practice of stocking, restocking, and sales of confederate memorabilia.

History.

Ga. L. 1963, p. 649, § 1; Code 1981, § 12-3-194.1, enacted by Ga. L. 1985, p. 448, § 1; Ga. L. 1986, p. 10, § 12; Ga. L. 2000, p. 1178, § 1; Ga. L. 2022, p. 767, § 2-5/HB 916.

Amendments.

The 2022 amendment, effective July 1, 2023, in subsection (c), substituted "petition for review" for "certiorari" in the third sentence and added the fourth sentence. See Editor's note for applicability.

Editor's notes.

Ga. L. 2022, p. 767, § 3-1/HB 916, not codified by the General Assembly, makes this Code section applicable to petitions for review filed in superior or state court on or after July 1, 2023.

ARTICLE 7

PUBLIC AUTHORITIES

PART 1

JEKYLL ISLAND—STATE PARK AUTHORITY

12-3-233.1. [Repealed] Jekyll Island Citizens Resource Council; purpose; members; meetings; reimbursement for expenses.

History.

Code 1981, § 12-3-233.1, enacted by Ga. L. 1995, p. 105, § 10; repealed by Ga. L. 2025, p. 332, § 3-1/SB 96, effective July 1, 2025.

Editor's notes.

Ga. L. 2025, p. 332, § 3-2/SB 96, not codified by the General Assembly, provides: "Any assets of the Jekyll Island Citizens Resource Council existing as of June 30, 2025, shall devolve by operation of law and without further action to the State of Georgia on July 1, 2025. Any liabilities and obligations of the Jekyll Island Citizens Resource Council existing as of June 30, 2025, shall be transferred to and assumed by the State of Georgia, by such instruments as may be required to maintain the same."

12-3-236.1. Adoption and enforcement of ordinances and resolutions.

(a) The authority shall have legislative power to adopt reasonable ordinances and resolutions relating to the property, affairs, and government of Jekyll Island, including, without limitation, ordinances and resolutions adopting by reference any or all of the provisions of Chapter 6 of Title 40 in accordance with Code Section 40-6-372, for which no provision has been made by general law and which are not inconsistent with the general laws and Constitution of Georgia. Such ordinances and resolutions shall be enforced by the authority and members of the Uniform Division of the Department of Public Safety. Members of the Uniform Division of the Department of Public Safety are authorized to serve and execute warrants and to make arrests for violation of such ordinances and resolutions and shall, upon and within the limits of Jekyll Island, have the same authority, powers, and privileges regarding enforcement of law as the several sheriffs of this state, which authority, powers, and privileges shall be in addition to and not in limitation of all other powers of members of the Uniform Division of the Department of Public Safety as provided by law. Prosecutions for violations of the ordinances of the authority shall be upon citation or upon accusation as provided in Code Sections 15-10-62 and 15-10-63. The authority may provide that ordinance violations may be tried upon

citations with or without a prosecuting attorney as well as upon accusations in the manner prescribed in Code Section 15-10-63.

(b) For purposes of this Code section, the Magistrate Court of Glynn County shall have jurisdiction and authority to hear and try those cases occurring within the limits of Jekyll Island in which a person is charged with violating an ordinance of the authority and to punish violations of such ordinances, all in the manner and to the extent prescribed in Article 4 of Chapter 10 of Title 15. The State Court of Glynn County shall have jurisdiction and authority to hear and try all cases removed from the Magistrate Court of Glynn County for jury trial by any defendant charged with one or more violations of the ordinances of the authority. The Superior Court of Glynn County shall have jurisdiction to review all convictions by petition for review to the superior court. The proceedings on such petitions for review shall be governed by Chapter 3 of Title 5. The jurisdiction and authority of the courts of Glynn County provided for in this Code section shall be in addition to and not in limitation of the jurisdiction and authority of such courts as may be now or hereafter provided.

History.
Ga. L. 1981, p. 1436, § 1; Ga. L. 1987, p. 1117, § 1; Ga. L. 2022, p. 767, § 2-6/HB 916.
Amendments.
The 2022 amendment, effective July 1, 2023, in subsection (b), substituted "petition for review" for "certiorari" in the third sentence and added the fourth sentence. See Editor's note for applicability.
Editor's notes.
Ga. L. 2022, p. 767, § 3-1/HB 916, not codified by the General Assembly, makes this Code section applicable to petitions for review filed in superior or state court on or after July 1, 2023.

Part 10

Georgia Music Hall of Fame Authority

12-3-520. Short title.

Cross references.
True Origin of Digital Goods Act, § 10-1-930 et seq.
Online marketplace requirements, § 10-1-940 et seq.

12-3-521. Definitions.

As used in this part, the term:

(1) "Authority" means the Georgia Music Hall of Fame Authority.

(2) "Classic Center" means one or more facilities of the Classic Center Authority.

(3) "Classic Center Authority" means the Classic Center Authority for Clarke County, approved March 10, 1988 (Ga. L. 1988, p. 3799), as amended.

(4) "Cost of the project" means the cost of construction; the cost of all lands, properties, rights, easements, and franchises acquired; the cost of all machinery and equipment; financing charges; interest prior to and during construction and for one year after completion of construction; the cost of engineering, architectural, and legal expenses and of plans and specifications and other expenses necessary or incident to determining the feasibility or practicability of the project; administrative expenses; and such other expenses as may be necessary or incident to the financing authorized in this part, the construction of any project, the placing of the same in operation, and the condemnation of property necessary for such construction and operation. Any obligation or expense incurred for any of the foregoing purposes shall be regarded as a part of the cost of the project and may be paid or reimbursed as such out of such bonds or obligations as may be issued by any authority, department, commission, or agency of the State of Georgia.

(5) "Project" means and includes one or a combination of two or more of the following: buildings, facilities, and all structures; electric, gas, steam, water, and sewerage utilities; and improvements of every kind and character deemed by the authority necessary or convenient for its purposes.

History.
Code 1981, § 12-3-521, enacted by Ga. L. 1990, p. 1062, § 1; Ga. L. 2022, p. 660, § 1/HB 1516.

Amendments.
The 2022 amendment, effective July 1, 2022, added paragraphs (2) and (3) and redesignated former paragraphs (2) and (3) as present paragraphs (4) and (5), respectively.

12-3-522. Creation; membership; meetings; expense allowance; perpetual existence; records.

(a) There is created a body corporate and politic to be known as the Georgia Music Hall of Fame Authority which shall be deemed to be an instrumentality of the State of Georgia and a public corporation; and by that name, style, and title such body may contract and be contracted with, bring and defend actions, implead and be impleaded, and complain and defend in all courts of this state. No provision of this part is intended to diminish or impair, nor shall any provision be construed as diminishing or impairing, the rights of any person or entity under any contract with the authority. The members of the authority serving on June 30, 2022, shall continue to serve as members of the authority until their successors are designated and qualified as provided for in subsection (b) of this Code section.

(b)(1) The authority shall consist of nine members. The chairperson of the Georgia Hall of Fame Overview Committee shall be a member

and shall serve an initial term of office of four years. The Governor shall appoint four members who represent the state's music industry and each of the following cities: Athens, Augusta, Macon, and Savannah. Such members shall serve initial terms of office as follows: two members for three years and two members for four years. The Speaker of the House of Representatives shall appoint two members who shall serve initial terms of office as follows: one member for one year and one member for two years. The President of the Senate shall appoint two members who shall serve initial terms of office as follows: one member for one year and one member for two years. After the initial terms of office, members shall serve for a term of four years and until the appointment and qualification of their successors. The Governor, Speaker of the House of Representatives, and President of the Senate are authorized to appoint any elected or appointed state, county, municipal, or school board official or employee, except officials and employees of the legislative or judicial branches of state government, as members of the authority, and any person so appointed is authorized to serve as a member of the authority. All successors shall be appointed in the same manner as original appointments. Vacancies in office shall be filled in the same manner as original appointments. An appointment to fill a vacancy shall be for the unexpired term.

(2) Upon the appointment and qualification of the members as provided for in this subsection, such members shall succeed the members in office on June 30, 2022, and the terms of such members in office on June 30, 2022, shall thereupon expire.

(3) In addition to the members provided for in paragraph (1) of this subsection, the board members of the Classic Center Authority shall appoint one of its members, and the Governor shall appoint one member who represents the Recording Academy or other entity that produces the GRAMMY Awards, to serve as nonvoting ex officio members of the authority.

(c)(1) The authority shall hold a meeting each year in July, and, at each July meeting, the authority shall elect its own officers. Officers shall serve for terms of one year each beginning with their election and qualification and ending with the election and qualification of their respective successors. No person shall hold the same office for more than one consecutive term, and no member of the authority shall hold more than any one office of the authority. No vacancy on the authority shall impair the right of the quorum to exercise all rights and perform all duties of the authority.

(2) The authority is assigned to the Department of Economic Development for administrative purposes only, as specified in Code Section 50-4-3.

(d) Each member of the authority who is not otherwise a state officer or employee shall receive for each day that such member is in attendance at a meeting of the authority a daily expense allowance and reimbursement for transportation costs as provided for in Code Section 45-7-21. Each member of the authority who is otherwise an officer or employee of a state agency or authority may be reimbursed by that agency or authority for meals, transportation, and lodging in the usual manner authorized by law for such officers and employees. The members of the authority shall not receive any duplicate or other compensation for their services as such.

(e) The authority shall have perpetual existence. Any change in name or composition of the authority shall in no way affect the vested rights of any person under this part or impair the obligations of any contracts existing under this part.

(f) The members of the authority shall be accountable in all respects as trustees. The authority shall keep suitable and proper books and records of all receipts, income, and expenditures of every kind and shall submit for inspection all the books, together with the proper statement of the authority's financial position, to the state auditor.

(g) Except for the authorization of the issuance of bonds, the authority may delegate to the executive director such powers and duties as it may deem proper.

(h) The commissioner of economic development shall be the executive director of the authority. The executive director shall appoint such directors, deputies, assistants, and other staff members as may be necessary to manage the operations of the authority and may organize the authority into such divisions, sections, or offices as may be deemed necessary or convenient.

History.
Code 1981, § 12-3-522, enacted by Ga. L. 1990, p. 1062, § 1; Ga. L. 1993, p. 809, § 1; Ga. L. 1998, p. 1386, § 1; Ga. L. 2005, p. 306, §§ 8, 9/SB 125; Ga. L. 2022, p. 660, § 2/HB 1516.

Amendments.
The 2022 amendment, effective July 1, 2022, added the last two sentences in subsection (a) and rewrote subsection (b).

12-3-522.1. [Repealed] Joint operation between Georgia Music Hall of Fame and Georgia Sports Hall of Fame; proposals for accomplishing objectives.

History.
Code 1981, § 12-3-522.1, enacted by Ga. L. 2010, p. 331, § 2/SB 523; Ga. L. 2011, p. 752, § 12/HB 142; repealed by Ga. L. 2022, p. 660, § 3/HB 1516, effective July 1, 2022.

12-3-523. Corporate purpose and general nature of business.

The corporate purpose and general nature of the business of the authority shall be:

(1) Coordinating with the Classic Center Authority and entities dedicated to archiving and collecting music history and artifacts to house the Georgia Music Hall of Fame;

(2) Operating, advertising, and promoting the Georgia Music Hall of Fame; and

(3) Promoting music events throughout the state.

History.

Code 1981, § 12-3-523, enacted by Ga. L. 1990, p. 1062, § 1; Ga. L. 2022, p. 660, § 4/HB 1516.

Amendments.

The 2022 amendment, effective July 1, 2022, substituted "Coordinating with the Classic Center Authority and entities dedicated to archiving and collecting music history and artifacts" for "Constructing and maintaining a facility" in paragraph (1) and deleted "at the facility and" following "events" in paragraph (3).

12-3-524. General powers.

The authority is authorized:

(1) To have a seal and alter it at pleasure;

(2) To acquire, hold, and dispose of personal property for its corporate purposes;

(3) To appoint, select, and employ officers, agents, and employees, including engineering, architectural, and construction experts and fiscal agents; to contract for the services of individuals or organizations not employed full time by the authority who or which are engaged primarily in the rendition of personal services rather than the sale of goods or merchandise, such as, but not limited to, the services of accountants, engineers, architects, consultants, and advisers, and to allow suitable compensation for such services; including the power to contract with the Department of Economic Development or any other department for professional, technical, clerical, and administrative support as may be required and to make provisions for group insurance, retirement, or other employee benefit arrangements, provided that no part-time or contract employees shall participate in group insurance or retirement benefits;

(4) To make contracts and to execute all instruments necessary or convenient, including contracts for construction of projects or contracts with respect to the leasing or use of projects which the authority causes to be subdivided, erected, or acquired;

(5) To plan, survey, subdivide, administer, construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve, equip,

operate, and manage projects as defined in this part, such projects to be located on property owned or leased by the authority or the State of Georgia or under the control and management of the authority. The cost of any such project shall be paid from its income, from the proceeds of revenue anticipation certificates of the authority, or from such proceeds and any loan, gift, or grant from the United States of America or any agency or instrumentality thereof, or the State of Georgia, or any county, municipal corporation, authority, or local government or governing body;

(6) To accept loans or grants, or both, of money, materials, or property of any kind from the United States of America or any agency or instrumentality thereof upon such terms and conditions as the United States of America or such agency or instrumentality may impose;

(7) To borrow money for any of its corporate purposes, to issue negotiable revenue anticipation certificates from earnings of such projects, and to provide for the payment of the same and for the rights of the holders thereof;

(8) To exercise any power which is usually possessed by private corporations performing similar functions and which is not in conflict with the Constitution and laws of this state;

(9) To act as agent for the United States of America or any agency, department, corporation, or instrumentality thereof in any manner within the purposes or powers of the authority;

(10) To adopt, alter, or repeal its own bylaws, rules, and regulations governing the manner in which its business may be transacted and in which the power granted to it may be enjoyed as the authority may deem necessary or expedient in facilitating its business;

(11) To receive and accept loans, gifts, grants, donations, or contributions of property, facilities, or services, with or without consideration, from any person, firm, or corporation or from the State of Georgia or any agency or instrumentality thereof or from any county, municipal corporation, or local government or governing body;

(12) To hold, use, administer, and expend such sum or sums as may hereafter be received as income, as gifts, or as appropriations by authority of the General Assembly for any of the purposes of this authority;

(13) To do all things necessary or convenient to carry out the powers and purposes of the authority;

(14) To acquire, lease (as lessee), purchase, hold, own, and use any franchise or any property, real or personal, tangible or intangible, or

any interest therein; and to sell, lease (as lessor), transfer, or dispose thereof whenever the same is no longer required for purposes of the authority or exchange the same for other property or rights which are useful for the purposes of the authority;

(15) To fix, alter, charge, and collect fares, rates, rentals, and other charges for its facilities and for admission to its grounds at reasonable rates to be determined by the authority;

(16) To contract with the Georgia State Financing and Investment Commission for the construction of the project as provided for in Article 2 of Chapter 17 of Title 50; or to contract with other authorities, departments, or agencies of the State of Georgia for the construction of the project;

(17) To invest and reinvest any or all idle funds or moneys, including, but not limited to, funds held in reserve or debt retirement or received through the issuance of revenue certificates or from contributions, gifts, or grants, which cannot be immediately used for the purpose for which received, such investment to be made in any security or securities which are legal investments for executors or trustees; provided, however, that investments in such securities will at all times be held for and, when sold, used for the purposes for which the money was originally received;

(18) To grant, on an exclusive or nonexclusive basis, the right to use and occupy streets, roads, sidewalks, and other public places for the purpose of rendering utility services, upon such conditions and for such time as the authority may deem wise;

(19) To appoint special advisory committees and panels of citizens to advise the authority of certain issues and to reimburse the individuals appointed for actual expenses incurred in performing their tasks;

(20) To select a site for the housing of a state music hall of fame;

(21) To sell, upon obtaining a license from the Department of Revenue, alcoholic beverages for consumption on the premises only upon property operated and controlled by the authority;

(22) To incorporate one or more nonprofit corporations as subsidiary corporations of the authority for the purpose of carrying out any of the powers of the authority and to accomplish any of the purposes of the authority. Any subsidiary corporations created pursuant to this power shall be created pursuant to Chapter 3 of Title 14, the "Georgia Nonprofit Corporation Code," and the Secretary of State shall be authorized to accept such filings. Upon dissolution of any subsidiary corporation of the authority, any assets shall revert to the authority or to any successor to the authority or, failing such succession, to the

State of Georgia. The authority shall not be liable for the debts or obligations or bonds of any subsidiary corporation or for the actions or omissions to act of any subsidiary corporation unless the authority expressly so consents; and

(23) The authority shall have the power to contract with the Department of Economic Development or any other department for any purpose necessary or incidental to carrying out or performing the duties, responsibilities, or functions of the authority in exercising the power and management of the authority; provided, however, that such contracts shall not delegate the authorization of the issuance of any bonds or other indebtedness of the authority. No part of the funds or assets of the authority shall be distributed to the Department of Economic Development or any other department, authority, or agency of the state unless otherwise provided by law, except that the authority shall be authorized and empowered to pay reasonable compensation for services rendered and to reimburse expenses incurred and except as may be deemed necessary or desirable by the authority to fulfill the purposes of the authority as set forth in this part. Nothing in this paragraph shall be construed as precluding the provision, by the Department of Economic Development, any other department, authority, or agency of the state, or the authority, of joint or complementary services or programs within the scope of their respective powers.

History.
Code 1981, § 12-3-524, enacted by Ga. L. 1990, p. 1062, § 1; Ga. L. 1994, p. 493, § 1; Ga. L. 1998, p. 1386, § 2; Ga. L. 2005, p. 306, §§ 10, 11/SB 125; Ga. L. 2022, p. 660, § 5/HB 1516.

Amendments.
The 2022 amendment, effective July 1, 2022, substituted "housing" for "building" in paragraph (20).

12-3-524.2. Ownership of Music Hall of Fame; compliance with copyright and trademark laws.

(a) At all times, the authority shall maintain ownership of the Music Hall of Fame collection; provided, however, that, upon request, the authority may rotate and share materials of the collection throughout the state.

(b) The collection shall be managed, displayed, promoted, advertised, and procured in compliance with all applicable copyright and trademark laws.

History.
Code 1981, § 12-3-524.2, enacted by Ga. L. 2022, p. 660, § 6/HB 1516.

Effective date.
This Code section became effective July 1, 2022.

ARTICLE 13

VINCE DOOLEY BATTLEFIELD TRUST FUND

Effective date.
This article became effective July 1, 2025.

12-3-710. Short title.

This article shall be known and may be cited as the "Vince Dooley Battlefield Trust Fund Act."

History.
Code 1981, § 12-3-710, enacted by Ga. L. 2025, p. 429, § 1/HB 454, effective July 1, 2025.

12-3-711. Definitions.

As used in this article, the term:

(1) "Conservation easement" shall have the same meaning as set forth in Code Section 44-10-2.

(2) "Department" means the Department of Natural Resources.

(3) "Fund" means the Vince Dooley Battlefield Trust Fund.

(4) "Matching contributions" means cash and the value of any contribution due to a bargain sale or the donation of land or interest therein made by the landowner as part of a project proposal.

(5) "Organization" means a not for profit charitable corporation or trust authorized to do business in this state which is involved in the acquisition and management of interests in land for historic preservation purposes and which has tax exempt status as a public charity under the Internal Revenue Code of 1986.

(6) "Program" means the Vince Dooley Battlefield Trust Fund Program.

(7) "Project proposal" means any application seeking money from the Vince Dooley Battlefield Trust Fund Program.

(8) "State agency" means the State of Georgia or any department, division, board, bureau, commission, or other agency of the executive branch of state government which has a mission to preserve, protect, or conserve natural, historical, or cultural resources.

History.
Code 1981, § 12-3-711, enacted by Ga. L. 2025, p. 429, § 1/HB 454, effective July 1, 2025.

12-3-712. Creation of trust fund; expenditure; accounting.

(a)(1) The state treasurer shall establish a separate trust fund in the state treasury that shall be known as the Vince Dooley Battlefield Trust Fund, consisting of annual appropriations by the General Assembly to the fund, public or private grants, gifts, donations, or contributions dedicated to the fund for battlefield preservation, and moneys from any other source, including local, state, or federal program funds dedicated to the fund for battlefield preservation.

(2) The state treasurer shall invest the money held in the fund in the same manner in which state funds are invested as authorized by the State Depository Board pursuant to Article 3 of Chapter 17 of Title 50. Interest earned by the money held in the fund shall be accounted for separately and shall be credited to the fund to be disbursed as other moneys in the fund.

(b) Moneys held in the fund shall be expended by the department solely as provided in this article.

(c) The department shall prepare an accounting of the funds expended pursuant to this article during the most recently completed fiscal year to be provided to the Office of Planning and Budget, the House Budget and Research Office, and the Senate Budget and Evaluation Office by January 1 of each year.

History. Code 1981, § 12-3-712, enacted by Ga. L. 2025, p. 429, § 1/HB 454, effective July 1, 2025.

12-3-713. Administration of fund; matching contributions; eligible costs; grants.

(a) There is established the Vince Dooley Battlefield Trust Fund Program to be administered by the department. In administering the program, the department shall, each fiscal year, make available money from the Vince Dooley Battlefield Trust Fund for matching grants to any organization or state agency having a project proposal which has been reviewed and approved by the department.

(b) The department shall make available money from the fund solely for the purpose of awarding grants to organizations or state agencies for the fee simple purchase of, or purchase of permanent protective interests in, any Georgia battlefield listed in the following reports:

(1) The Report on the Nation's Civil War Battlefields by the Civil War Sites Advisory Commission (Civil War Sites Advisory Commission/National Parks Service, 1993, as amended); or

(2) The Report to Congress on the Historic Preservation of Revolutionary War and War of 1812 Sites in the United States by the

American Battlefield Protection Program of the National Park Service (United States Department of the Interior/National Park Service, 2007, as amended).

(c) Organizations seeking grant funding shall be required to provide at least $1.00 in matching contributions for each $1.00 received from the fund for the project proposal. Unless the applicant is a state agency, no state funds shall be included in determining the amount of such matching contributions.

(d) Eligible costs for which money from the fund may be allocated include acquisition of land and any improvements thereon or permanent protective interests, such as perpetual conservation easements, and costs associated with such acquisitions, including the cost of any appraisals, environmental reports, surveys, title searches and title insurance, and other closing costs.

(e) Grants from the fund shall not exceed 50 percent of the appraised value of the land or permanent protective interest therein.

(f) Grants from the fund may be awarded for prospective purchases or for acquisitions on which the applicant has closed. In the latter case, the applicant shall demonstrate that:

(1) The closing occurred no more than 12 months prior to the date of application for the grant; and

(2) An identifiable threat to the resource or compelling need for preservation existed at the time of the purchase.

(g) Money from the fund, in an amount not to exceed 5 percent of total moneys held by the fund, shall be made available to the department for costs incurred in administering the program each fiscal year.

History. Code 1981, § 12-3-713, enacted by Ga. L. 2025, p. 429, § 1/HB 454, effective July 1, 2025.

12-3-714. Guidelines for applications, evaluations, and awards from fund.

The department shall establish guidelines for applications, evaluations, and awards from the fund in consultation with relevant battlefield preservation interests. In awarding grants, the department shall give primary consideration to the following factors:

(1) Significance of the battlefield that is the subject of the project proposal;

(2) Degree to which the property or interest therein to be acquired falls within the core and study areas of the battlefield, as described in the relevant report of the American Battlefield Protection Program;

(3) Proximity of the property to other protected lands;

(4) Threats to the integrity of features associated with the relevant battle;

(5) The financial capacity of the applicant to complete the project; and

(6) The administrative capacity of the applicant to maintain and manage the property in a manner that is consistent with public interests, such as recreation, research, heritage tourism promotion, and orderly community development.

History.
Code 1981, § 12-3-714, enacted by Ga. L. 2025, p. 429, § 1/HB 454, effective July 1, 2025.

12-3-715. Perpetual conservation easement.

(a) Any organization making an acquisition of property or interest therein pursuant to this article shall grant to the department or other holder a perpetual conservation easement placing restrictions on the use or development of the property. In cases where the easement is granted to a holder other than the department, all terms and conditions of the easement shall accomplish the perpetual preservation of the property. Such other holder shall demonstrate to the department that it has the capacity and expertise to manage and enforce the terms of the easement.

(b) Nothing in this Code section shall preclude the subsequent transfer or assignment by a state agency or other holder of any property interest acquired pursuant to this article to the State of Georgia or to the United States of America to be incorporated into a national park, national forest, national wildlife refuge, or other national conservation area in accordance with 54 U.S.C. Section 10010, 16 U.S.C. Section 551, the Fish and Wildlife Act of 1956 (16 U.S.C. Section 742a et seq.), or 16 U.S.C. Section 1131, as amended and applicable. The department shall facilitate transfers and assignments of any such interests.

History.
Code 1981, § 12-3-715, enacted by Ga. L. 2025, p. 429, § 1/HB 454, effective July 1, 2025.

U.S. Code.

Section 10010 of Title 54 of the United States Code, referred to in subsection (b), is the codification of the National Park Service.

Section 51 of Title 15 of the United States Code, referred to in subsection ((b), is the codification of the national forest system.

Section 1131 of Title 16 of the United States Code, referred to in subsection (b), is the codification of the National Wilderness Preservation System.

CHAPTER 5

WATER RESOURCES

Article 2

Control of Water Pollution and Surface-Water Use

Sec.
12-5-31. Regulated riparian rights to surface waters for general or farm use; permits for withdrawal, diversion, or impoundment; coordination with water plans; metering of farm use; interbasin transfers; appeal procedures.

Article 3

Wells and Drinking Water

PART 2

GROUND-WATER USE GENERALLY

Sec.
12-5-105. Regulated reasonable use of ground water for farm use; permits to withdraw, obtain, or utilize; metering; related procedures.
12-5-108. Delegated authority; permit for consumptive use of water or expansion.

RESEARCH REFERENCES

ALR.
Equitable Apportionment Among States as Applied to Water Resources, 73 A.L.R. Fed.3d 7.

ARTICLE 2

CONTROL OF WATER POLLUTION AND SURFACE-WATER USE

12-5-20. Short title.

RESEARCH REFERENCES

ALR.
What is State Law Comparable to Clean Water Act, 33 U.S.C.A. §§ 1251 et seq., in Context of Citizen Suit Provisions of §§ 1365(a) and 1319(g), 87 A.L.R. Fed. 3d Art. 1.

12-5-30. Permits for construction, modification, or operation of facilities which discharge pollutants into waters; permits for discharge of dredged or fill material into waters and wetlands; participation in National Pollution Discharge Elimination System.

JUDICIAL DECISIONS

Issues of fact in permit dispute required remand to ALJ. — In a dispute over a sewer system operator's most recent National Pollutant Discharge Elimination System (NPDES) permit, because disputes of fact regarding whether the operator's combined sewer overflows had the reasonable potential to cause an excursion above the applicable water quality standard were material to its claim that

the 2020 permit was wrongfully issued, the summary determination to the state agency was in error. Columbus Water Works v. Dunn, 369 Ga. App. 397, 893 S.E.2d 788, 2023 Ga. App. LEXIS 468 (2023).

12-5-31. Regulated riparian rights to surface waters for general or farm use; permits for withdrawal, diversion, or impoundment; coordination with water plans; metering of farm use; interbasin transfers; appeal procedures.

(a) For purposes of this Code section, the term:

(1) "Director" means the director of the Environmental Protection Division of the Department of Natural Resources, or his designee.

(2) "Diversion" means a turning aside or altering of the natural course of surface waters.

(3) "Farm uses" means irrigation of any land used for general farming, forage, aquaculture, pasture, turf production, orchards, or tree and ornamental nurseries; provisions of water supply for farm animals, poultry farming, or any other activity conducted in the course of a farming operation. Farm uses shall also include the processing of perishable agricultural products and the irrigation of recreational turf, except in the Chattahoochee River watershed upstream from Peachtree Creek, where irrigation of recreational turf shall not be considered a farm use.

(4) "Impoundment" means the storing or retaining of surface water by whatever method or means.

(5) "Surface water(s) of the state" or "surface water(s)" means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs producing in excess of 100,000 gallons per day, and all other bodies of surface water, natural or artificial, lying within or forming a part of the boundaries of the state which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

(6) "Withdrawal" means the taking away of surface water from its natural course.

(b)(1) No person shall make any withdrawal, diversion, or impoundment of any of the surface waters of the state for whatever use without obtaining a permit from the director; provided, however, that no permit shall be required for:

(A) Any such withdrawal which does not involve more than 100,000 gallons per day on a monthly average;

(B) Any such diversion which does not reduce the flow of the surface waters at the point where the watercourse, prior to diver-

sion, leaves the person's or persons' property or properties on which the diversion occurred, by more than 100,000 gallons per day on a monthly average;

(C) Any such diversion accomplished as part of construction for transportation purposes which does not reduce the flow of surface waters in the diverted watercourse by more than 150,000 gallons per day on a monthly average; or

(D) Any such impoundment which does not reduce the flow of the surface waters immediately downstream of the impoundment by more than 100,000 gallons per day on a monthly average.

(2) No permit shall be required for a reduction of flow of surface waters during the period of construction of an impoundment, including the initial filling of the impoundment, or for farm ponds or farm impoundments constructed and managed for the sole purpose of fish, wildlife, recreation, or other farm uses.

(3)(A) Notwithstanding any other provision of this Code section to the contrary, a permit for the withdrawal or diversion of surface waters for farm uses shall be issued by the director to any person when the applicant submits an application which provides reasonable proof that the applicant's farm use of surface waters occurred prior to July 1, 1988, and when any such application is submitted prior to July 1, 1991. If submitted prior to July 1, 1991, an application for a permit to be issued based upon farm uses of surface waters occurring prior to July 1, 1988, shall be granted for the withdrawal or diversion of surface waters at a rate of withdrawal or diversion equal to the greater of the operating capacity in place for withdrawal or diversion on July 1, 1988, or, when measured in gallons per day on a monthly average for a calendar year, the greatest withdrawal or diversion capacity during the five-year period immediately preceding July 1, 1988. If submitted after July 1, 1991, or, regardless of when submitted, if it is based upon a withdrawal or diversion of surface waters for farm uses occurring or proposed to occur on or after July 1, 1988, an application shall be subject to evaluation and classification pursuant to subsections (e), (f), and (g) of this Code section, but a permit based upon such evaluation and classification shall be issued to ensure the applicant's right to a reasonable use of such surface waters. Any permit issued pursuant to this paragraph shall be conditioned upon the requirement that the permittee shall provide, on forms prescribed by the director, information relating to a general description of the lands and number of acres subject to irrigation and the permit; a description of the general type of irrigation system used; the source of withdrawal water such as river, stream, or impoundment; and pump information, including rated capacity, pump location, and power information.

(B) Permits applied for under this paragraph on or after April 20, 2006, for farm use in the Flint River basin shall have a term of 25 years and shall be automatically renewed at the original permitted capacity unless an evaluation by the division indicates that renewal at the original capacity would have unreasonable adverse effects upon other water uses. The division may renew the original permit at a lower capacity, but such capacity shall be based on the reasonable use of the permittee and evaluation of the resource.

(C) A permittee may apply to have a permit issued under this paragraph modified, amended, transferred, or assigned to subsequent owners of the lands which are the subject of such permit; provided, however, that:

(i) The division shall receive written notice of any such transfer or assignment;

(ii) Any modification in or amendment to the use or capacity conditions contained in the permit or in the lands which are the subject of such permit shall require the permittee to submit an application for review and approval by the director consistent with this Code section; and

(iii) The permittee may commence withdrawing water under the modified, amended, transferred, or assigned permit on the effective date stated on the revised permit for farm use.

(D) Nothing in this paragraph shall be construed as a repeal or modification of Code Section 12-5-46.

(c) To obtain a permit pursuant to this Code section, the applicant must establish that the proposed withdrawal, diversion, or impoundment of surface waters is consistent with this article.

(d) All permit applications filed with the director under this Code section shall contain the name and address of the applicant or, in the case of a corporation, the address of its principal business office in this state; the date of filing; the source of the water supply; the quantity of water applied for; the use to be made of the water and any limitation thereon; the place of use; the location of the withdrawal, diversion, or impoundment; for those permits which indicate an increase in water usage, except for permits solely for agricultural use, a water conservation plan approved by the director and prepared based on guidelines issued by the director; and such other information as the director may deem necessary; provided, however, that any required information already provided the director by the applicant in the context of prior dealings with the division, which information is still correct, may be incorporated into the application by adequate reference to same. The

director shall collect and disseminate such technical information as the director deems appropriate to assist applicants in the preparation of water conservation plans.

(e) Subject to subsection (g) of this Code section, the Board of Natural Resources shall by rule or regulation establish a reasonable system of classification for application in situations involving competing uses, existing or proposed, for a supply of available surface waters. Such classifications shall be based upon but not necessarily limited to the following factors:

(1) The number of persons using the particular water source and the object, extent, and necessity of their respective withdrawals, diversions, or impoundments;

(2) The nature and size of the water source;

(3) The physical and chemical nature of any impairment of the water source adversely affecting its availability or fitness for other water uses;

(4) The probable severity and duration of such impairment under foreseeable conditions;

(5) The injury to public health, safety, or welfare which would result if such impairment were not prevented or abated;

(6) The kinds of businesses or activities to which the various uses are related and the economic consequences;

(7) The importance and necessity of the uses, including farm uses, claimed by permit applicants and the extent of any injury or detriment caused or expected to be caused to other water uses;

(8) Diversion from or reduction of flows in other watercourses in accordance with Article 8 of this chapter or any state-wide water plan provided pursuant thereto;

(9) The prior investments of any person in lands, and plans for the usage of water in connection with such lands which plans have been submitted to the director within a reasonable time after July 1, 1977, or, if for farm uses, after July 1, 1988; provided, however, that the granting of such permit shall not have unreasonably adverse effects upon other water uses in the area, including potential as well as present use; and

(10) The varying circumstances of each case.

(f) In the event two or more competing applicants or users qualify equally under subsection (e) of this Code section, the director is authorized to grant permits to applicants or modify the existing permits of users for use of specified quantities of surface waters on a prorated or

other reasonable basis in those situations where such action is feasible; provided, however, the director shall give preference to an existing use over an initial application.

(g) The division shall take into consideration the extent to which any withdrawals, diversions, or impoundments are reasonably necessary, in the judgment of the director, to meet the applicant's needs and shall grant a permit which shall meet those reasonable needs; provided, however, that the granting of such permit shall not have unreasonably adverse effects upon other water uses in the area, including but not limited to public use, farm use, and potential as well as present use; and provided, further, that the director shall grant a permit to any permit applicant who on July 1, 1977, has outstanding indebtedness in the form of revenue certificates or general obligation bonds which are being amortized through the sale of surface water, the permitted quantity of which shall be at least in an amount consistent with that quantity for which the revenue certificates or general obligation bonds were issued.

(h) Except for applications filed pursuant to paragraph (3) of subsection (b) of this Code section, permits may be granted for any period of time not less than ten years, unless the applicant requests a shorter period of time, nor more than 50 years. The director may base the duration of such permits on any reasonable system of classification based upon but not necessarily limited to such factors as source of supply and type of use. In evaluating any application for a permit for the use of water, the director shall evaluate the condition of the water supply to assure that the supply is adequate to meet the multiple needs of the citizens of the state as can reasonably be projected for the term of the permit and ensure that the issuance of such permit is based upon water development and conservation plans for the applicant and for the region in accordance with Article 8 of this chapter. Such water development and conservation plans for the applicant and for the region shall promote the conservation and reuse of water within the state, guard against a shortage of water within the state, promote the efficient use of the water resource, and be consistent with the public welfare of the state, in accordance with Article 8 of this chapter. The board shall promulgate regulations for implementation of this subsection, including provisions for review of such permits periodically or upon a substantial reduction in average annual volume of the water resource which adversely affects water supplies to determine that the permittee continues in compliance with the conditions of the permit and that the plan continues to meet the overall supply requirements for the term of the permit. Regional water plans shall be developed in accordance with Article 8 of this chapter. Such regional plans shall include water development, conservation, and sustainable use and shall be based upon detailed scientific analysis of the water source, the projected future condition of the resource, current demand, and estimated future demands on the resource, in accordance with Article 8 of this chapter.

(i) A permittee may seek modification of any of the terms of an issued permit. The director may approve the proposed modification if the permittee establishes that a change in conditions has resulted in a need by the permittee of more water than is allowed under the existing permit, or that the proposed modification would result in a more efficient utilization of water than is possible under the existing permit, or that a proposed change in conditions would result in a need by the permittee of more water than is allowed under the existing permit. Any such modification shall be consistent with the health and safety of the citizens of this state and with this article. In any administrative review proceeding resulting from an action of the director under this subsection, the burden of proof in establishing that the requisite criteria have been met shall be upon the person seeking such modification.

(j) A permittee may seek renewal of a permit issued pursuant to this Code section from the director at any time within six months prior to the date of expiration of the permit. Except as otherwise specified in this Code section, all permit renewal applications shall be treated in the same manner as the initial permit application.

(k) The director may revoke, suspend, or modify a permit issued pursuant to this Code section as follows:

(1) For any material false statement in an application for a permit to initiate, modify, or continue a use of surface waters, or for any material false statement in any report or statement of fact required of the permittee pursuant to this Code section or pursuant to the conditions contained in a permit granted under this Code section, the director may revoke the user's permit, in whole or in part, permanently or temporarily;

(2) For any willful violation of the conditions of a permit granted pursuant to this Code section, the director may revoke the user's permit, in whole or in part, permanently or temporarily;

(3) For violation of any provision of this Code section, the director may revoke the permit, in whole or in part, for a period not to exceed one year;

(4) For nonuse of the water supply (or a significant portion thereof) allowed by the permit for a period of two consecutive years or more, the director may revoke the permit permanently, in whole or in part, unless the permittee can reasonably demonstrate that his nonuse was due to extreme hardship caused by factors beyond his control, except that this paragraph shall not apply to farm use permits issued pursuant to paragraph (3) of subsection (b) of this Code section after initial use has commenced;

(5) The director may revoke a permit permanently, in whole or in part, with the written consent of the permittee;

(6) The director may suspend or modify a permit, except farm use permits, if he should determine through inspection, investigation, or otherwise that the quantity of water allowed under the permit is greater than that needed by the permittee for the particular use upon which the application for permit was based or would prevent other applicants from reasonable use of surface waters, including farm uses;

(6.1) The director may permanently revoke any permit under this Code section for farm use within the Flint River Basin applied for on or after April 20, 2006, if initial use for the purpose indicated on the permit application, as measured by a flow meter approved by the division, has not commenced within two years of the date of issuance of the permit unless the permittee can reasonably demonstrate that his or her nonuse was due to financial hardship or circumstances beyond his or her control;

(7) The director may suspend or modify a farm use permit if he should determine through inspection, investigation, or otherwise that the quantity of water allowed under the permit would prevent other applicants from reasonable use of surface waters for farm use; and

(8) Consistent with the considerations set forth in subsection (g) of this Code section, the director may revoke, suspend, or modify a permit for any other good cause consistent with the health and safety of the citizens of this state and with this article.

In the event of modification, suspension, or revocation of a permit, the director shall serve written notice of such action on the permit holder and shall set forth in such notice the reason for such action.

(l) Emergency period of water shortage:

(1) Whenever it clearly appears to the director from specific facts shown by affidavits of residents of the affected area of this state that an emergency period of water shortage exists within such area, so as to place in jeopardy the health or safety of the citizens of such area or to threaten serious harm to the water resources of the area, he may by emergency order impose such restrictions on one or more permits previously issued pursuant to this Code section as may be necessary to protect adequately such citizens or water resources; provided, however, such order shall not be issued until an effort has been made to give written notice of the proposed action by certified mail or statutory overnight delivery to the permittee or permittees to be affected. Such written notice shall allow such permittee or permittees five days from the date of mailing of the notice to appear before the director in opposition to the proposed action. The director may impose such restrictions based upon any reasonable system of classification

established by the Board of Natural Resources through rule or regulation. Such system of classification shall be based upon but not necessarily limited to those factors set forth in subsection (e) of this Code section;

(2) The director shall specify in such order any change in the conditions of the permit, any suspension of the permit, or any other restriction on withdrawal, diversion, or impoundment of surface waters for the duration of the emergency water shortage and shall serve same on the person by hand delivery or certified mail or statutory overnight delivery. Except as to farm uses, any such change, suspension, or other restriction shall be effective immediately upon receipt of such order by the permittee, his agent for service of process, or any agent or employee of the permittee who receives the notification at the permittee's principal place of business in the state. Any permittee, other than a farm use permittee, to whom such order is directed shall comply therewith immediately. Upon application to a hearing officer appointed by the Board of Natural Resources of this state, a permittee, including a farm use permittee, shall be afforded a hearing within 20 days of receipt of such notice by the hearing examiner in accordance with subsection (c) of Code Section 12-2-2. Farm use permittees may continue to make use of water to their permitted capacity during the appeal process, but failure to timely request a hearing in accordance with subsection (c) of Code Section 12-2-2 shall waive such right;

(3) During emergency periods of water shortage, the director shall give first priority to providing water for human consumption and second priority to farm use;

(4) The importance and necessity of water for industrial purposes are in no way modified or diminished by this Code section;

(4.1) The use of surface water by any permanent facility car wash shall be deemed not to be outdoor water use for purposes of any outdoor watering restrictions if the facility:

(A) Is connected to a sanitary sewer system of a political subdivision or local government authority or recycles used wash water; and

(B) Is certified by the division as meeting or exceeding applicable best management practices for car washing facilities, which the Board of Natural Resources shall provide by rules and regulations not later than October 1, 2008. Such certification shall expire annually and may be issued or renewed upon compliance with such best management practices and payment of a $50.00 fee to the division. The provisions of this subparagraph shall apply on and after the effective date of such board rules and regulations;

(4.2) The use of surface water for any swimming pool shall be deemed not to be outdoor water use for purposes of any outdoor watering restrictions if failure to maintain the swimming pool would create unsafe, unsanitary, or unhealthy conditions affecting the public health or welfare; and

(5) Upon expiration of the emergency period of water shortage, as determined by the director, the director shall immediately notify each affected permittee, in writing, of such expiration, and the permittees shall thereafter be authorized to operate under the permit as issued prior to the emergency period of water shortage.

(m) For all permits, including without limitation farm use permits, issued under this Code section, whenever required to carry out the objectives of this Code section, including but not limited to determining whether or not any person is in violation of any provision of this Code section or any rule or regulation promulgated pursuant to this Code section; encouraging or ensuring compliance with any provision of this Code section or any rule or regulation promulgated pursuant to this Code section; determining whether or not any person is in violation of any permit condition; or establishing a data bank on the usage of surface waters in a particular area or areas of this state, the director may by order, permit, or otherwise, in writing, require any person holding a permit under this Code section, or any other person who the director reasonably believes is withdrawing, diverting, or impounding surface waters in violation of the permitting requirements of this Code section, to:

(1) Establish and maintain records;

(2) Make reports;

(3) Install, use, and maintain monitoring equipment or methods; and

(4) Provide such other information as the director may reasonably require.

Notwithstanding the foregoing provisions of this subsection, any demand for such information by the director, which information has already been provided to the director by such person in the context of prior dealings with the division, and which is still correct, may be satisfied by adequate reference to same.

(m.1)(1) The division shall have the duty of implementing a program of measuring farm uses of water in order to obtain clear and accurate information on the patterns and amounts of such use, which information is essential to proper management of water resources by the state and useful to farmers for improving the efficiency and effectiveness of their use of water, meeting the requirements of subsections (b) and (m) of this Code section, and improving water conservation.

(2) The division:

(A) May conduct its duties with division staff and may contract with other persons to conduct any of its duties;

(B) May receive and use state appropriations, gifts, grants, or other sources of funding to carry out its duties;

(C) Shall develop a priority system for the installation of devices for measurement of farm uses of water at the points of those withdrawals for which a permit was issued as of July 1, 2003. The division may refine the priority system from time to time based on the amount of funding received by the division, considerations regarding cost effectiveness, new technical information, changes in resource use or conditions, or other factors as deemed relevant by the director;

(D) Shall, on behalf of the state, contract for the purchase and installation of that subset of water-measuring devices according to the priority system required by this Code section, and no charge shall be made to the permittee for such costs. If no contractor is available, the division may use trained and certified staff to perform installations, and no charge shall be made to the permittee for such costs;

(E) Shall, at monthly intervals, read an appropriate proportion of water-measuring devices installed for measuring farm use of surface water and compile the collected data for use in meeting the purposes in paragraph (1) of this subsection, and the division shall communicate in advance with private property owners to establish reasonable times for such readings. In the event that a permittee's water-measuring devices are selected for monthly readings, the permittee may choose to perform those readings and transmit that information to the division; and

(F) Shall issue an annual progress report on the status of water-measuring device installation.

(3) Any person whose permit for agricultural water use was issued before July 1, 2003, and who desires to install a water-measuring device at no cost to the state may do so, provided that the permittee shall have an acceptable type of water-measuring device installed and placed in operation at each point of permitted withdrawal and the permittee shall notify the division in writing once the installation has occurred. The division shall approve or disapprove the installation within 60 days of the date of notification.

(4) Any person who desires to commence a farm use of water for which a permit is issued after July 1, 2003, shall not commence such use prior to receiving approval from the division that such person has

installed an acceptable type of water-measuring device installed at each point of permitted withdrawal. The permittee shall be responsible for all such costs.

(5) Employees, contractors, or agents of the division are authorized to enter upon private property at reasonable times and upon reasonable notice to conduct the duties of the division under this subsection.

(6) Regarding all permits for which a water-measuring device is installed, regardless of when the permit was issued, the division shall contract for the annual reading of such water-measuring devices. The division shall require each contractor conducting such annual readings to transmit complete and accurate data required by the division to the division annually.

(7) The division shall audit a subset of reported water-measuring device readings submitted by permittees for the purpose of understanding and improving the accuracy of such readings.

(8) The division shall contract for any maintenance, repair, or replacement of water-measuring devices installed pursuant to this Code section where maintenance, repair, or replacement is required to ensure that such water-measuring devices accurately reflect the amount of water used, and no charge shall be made to the permittee for such costs. The division shall also have the authority to undertake repairs or replacements of water-measuring devices when such repairs or replacements are necessary to maintain compliance with water use regulations, and no charge shall be made to the permittee for such costs.

(9) If the division determines that the permittee or the permittee's employees, tenants, licensees, or agents have willfully dismantled, sold, relocated, or removed any water-measuring device installed pursuant to this Code section, the permittee may be subject to enforcement action by the division, including but not limited to imposition of civil penalties.

(10) Any reports of amounts of use for recreational purposes under this Code section shall be compiled separately from amounts reported for all other farm uses.

(n) In the consideration of applications for permits which if granted would authorize the withdrawal and transfer of surface waters across natural basins, the director shall be bound by any factors related thereto under Article 8 of this chapter or any state-wide water plan provided pursuant thereto and the following requirements:

(1) The director shall give due consideration to competing existing uses and applications for permits which would not involve interbasin transfers of surface water and, subject to subsection (e) of this Code

section, shall endeavor to allocate a reasonable supply of surface waters to such users and applicants; and

(2) The director shall provide a press release regarding the proposed issuance of all permits authorizing such interbasin transfer of surface waters to newspapers of general circulation in all areas of the state which would be affected by such issuance. The press release shall be provided at least seven days before the issuance of these permits. If the director should determine that sufficient public interest warrants a public hearing on the issuance of these permits, he or she shall cause such a hearing to be held somewhere in the area affected prior to the issuance of these permits.

(o)(1) Except as otherwise provided in subsection (l) of this Code section for emergency orders, any person who is aggrieved or adversely affected by any order or action of the director pursuant to this Code section shall, upon petition within 30 days after the issuance of such order or the taking of such action, have a right to a hearing before an administrative law judge appointed by the Board of Natural Resources. The hearing before the administrative law judge shall be conducted in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and the rules and regulations adopted by the board pursuant thereto. Any administrative law judge so appointed by the board shall fully meet and qualify as to all applicable conflict of interest requirements provided for in Section 304(h)(2)(D) of the Federal Water Pollution Control Act of 1972, as amended, and the rules, regulations, and guidelines promulgated thereunder. The decision of the administrative law judge shall constitute the final decision of the board. Any party to the hearing, including the director, shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50, including the right to seek judicial review in the superior court of the county of the applicant's or permittee's residence.

(2) Persons are "aggrieved or adversely affected" where the challenged action has caused or will cause them injury in fact and where the injury is to an interest within the zone of interests to be protected or regulated by the statutes that the director is empowered to administer and enforce. In the event the director asserts in response to the petition before the administrative law judge that the petitioner is not aggrieved or adversely affected, the administrative law judge shall take evidence and hear arguments on this issue and thereafter make a ruling on this issue before continuing with the hearing. The burden of going forward with evidence on this issue shall rest with the petitioner.

(p) In addition to the other provisions of this Code section, there shall be established three categories of farm use surface water withdrawal

permits: active, inactive, and unused. The rules and regulations implementing this subsection shall provide without limitation for the following:

(1) An active farm use surface water withdrawal permit means one that has been acted upon and used for allowable purposes;

(2) An inactive farm use surface water withdrawal permit means one where the permit holder has requested inactive status in order to retain ownership of the permit for possible future use or reuse. Inactive permits shall be retained by the permit holder without modification;

(3) An unused farm use surface water withdrawal permit means one that has never been used for allowable purposes. Unused permits expire after two years unless changed to active or inactive status by notification to the director. Unused permits shall not be transferred or assigned to subsequent owners of the lands as provided in paragraph (3) of subsection (b) of this Code section;

(4) An inactive farm use surface water withdrawal permit shall be reclassified to an active permit when the permit holder has given the director 60 days' written notice and paid any applicable fees in accordance with paragraph (3) of subsection (b) of this Code section; and

(5) The director shall, via certified mail, return receipt requested, contact, or cause to be contacted, any person who holds a permit that the director has determined is unused. The notification shall include the permit identification and information regarding the classifications and procedures for changing classifications. The permit holder shall have 120 days to respond after which the director shall issue a second notice via certified mail, return receipt requested. Two years after the date on which the director first notified the permit holder via certified mail, return receipt requested, of the unused status determination of the permit, the director shall revoke the permit if the permit holder has not requested that the unused permit be reclassified as inactive or active.

History.

Ga. L. 1977, p. 368, § 3; Ga. L. 1982, p. 3, § 12; Ga. L. 1982, p. 2304, § 1; Ga. L. 1983, p. 3, § 9; Ga. L. 1984, p. 22, § 12; Ga. L. 1984, p. 404, § 2; Ga. L. 1988, p. 1694, § 1; Ga. L. 1994, p. 863, § 2; Ga. L. 1995, p. 706, § 2; Ga. L. 2000, p. 1589, § 3; Ga. L. 2001, p. 4, § 12; Ga. L. 2003, p. 813, § 2; Ga. L. 2006, p. 237, §§ 2, 3/SB 191; Ga. L. 2007, p. 739, § 3/SB 200; Ga. L. 2008, p. 322, § 1/SB 466; Ga. L. 2008, p. 644, § 4-2/SB 342; Ga. L. 2008, p. 814, § 2/HB 1281; Ga. L. 2010, p. 732, § 5/SB 370; Ga. L. 2012, p. 775, § 12/HB 942; Ga. L. 2018, p. 974, § 2/SB 451; Ga. L. 2019, p. 1056, § 12/SB 52; Ga. L. 2025, p. 244, § 1/HB 143, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, added "and" at the end of division (b)(3)(C)(ii), substituted a period for "; and" at the end of division (b)(3)(C)(iii), and deleted division (b)(3)(C)(iv); in subsection (m.1), substituted "If no contractor

is available, the division may use trained and certified staff to perform installations, and no charge shall be made to the permittee for such costs;" for "However, when the division assesses the site or attempts to install such water measuring devices and finds that the site lacks withdrawal or irrigation infrastructure, the division shall document such withdrawal or irrigation infrastructure conditions and notify the permittee in writing that a state funded water measuring device or devices could not be installed and that a device or devices are still required. After the expiration of five years, such permittee shall be responsible for having an acceptable type of water measuring device installed and placed into operation and all associated costs. The permittee shall notify the division in writing once the installation has occurred. The division shall approve or disapprove the installation within 60 days of the date of notification;" at the end of subparagraph (m.1)(2)(D), deleted "by the commission" following "installed" in paragraph (m.1)(4), and added the last sentence in paragraph (m.1)(8).

12-5-43. Administrative hearings.

RESEARCH REFERENCES

ALR.

What is State Law Comparable to Clean Water Act, 33 U.S.C.A. §§ 1251 et seq., in Context of Citizen Suit Provisions of §§ 1365(a) and 1319(g), 87 A.L.R. Fed. 3d Art. 1.

ARTICLE 3

WELLS AND DRINKING WATER

PART 2

GROUND-WATER USE GENERALLY

12-5-105. Regulated reasonable use of ground water for farm use; permits to withdraw, obtain, or utilize; metering; related procedures.

(a) Notwithstanding any provisions of Code Section 12-5-95, 12-5-96, or 12-5-97 to the contrary, a permit to withdraw, obtain, or utilize ground waters for farm uses, as that term is defined by paragraph (5.1) of Code Section 12-5-92, shall be issued by the director to any person when the applicant submits an application which provides reasonable proof that the applicant's farm use of ground water occurred prior to July 1, 1988, and when such application is submitted prior to July 1, 1991. If submitted prior to July 1, 1991, an application for a permit to be issued based upon farm uses of ground water occurring prior to July 1, 1988, shall be granted for the withdrawal of ground water at a rate of withdrawal equal to the greater of the operating capacity in place for withdrawal on July 1, 1988, or, when measured in gallons per day on a monthly average for a calendar year, the greatest withdrawal capacity during the five-year period immediately preceding July 1, 1988. If submitted after July 1, 1991, or, regardless of when submitted, if it is

based upon a withdrawal of ground water for farm uses occurring or proposed to occur on or after July 1, 1988, an application shall be subject to evaluation and classification pursuant to Code Sections 12-5-96 and 12-5-97, but a permit based upon such evaluation and classification shall be issued to ensure the applicant's right to a reasonable use of such ground water. Applications under this Code section submitted on or after April 20, 2006, for farm use within the Flint River basin shall be assessed a nonrefundable application fee in the amount of $250.00 per application. Any permit issued pursuant to this Code section shall be further conditioned upon the requirement that the permittee shall provide, on forms prescribed by the director, information relating to a general description of the lands and number of acres subject to irrigation and the permit; the name and address of the permittee; a description of the general type of irrigation system used; well construction; and pump information, including rated capacity, pump setting depth, and power information.

(b) Notwithstanding any provisions of Code Section 12-5-95, 12-5-96, or 12-5-97 to the contrary, permits to withdraw, obtain, or utilize ground waters for farm uses, as that term is defined in paragraph (5.1) of Code Section 12-5-92, whether for new withdrawals or under subsection (a) of this Code section, shall be governed as follows:

(1) Permits applied for under this Code section on or after April 20, 2006, for farm use within the Flint River basin shall have a term of 25 years and shall be automatically renewed at the original permitted capacity unless an evaluation by the division indicates that renewal at the original capacity would have unreasonable adverse effects upon other water uses. The division may renew the original permit at a lower capacity, but such capacity shall be based on the reasonable use of the permittee and evaluation of the resource;

(2) A permittee may apply to have a permit issued under this Code section modified, amended, transferred, or assigned to subsequent owners of the lands which are the subject of such permit; provided, however, that:

(A) The division shall receive written notice of any such transfer or assignment;

(B) Any modification in or amendment to the use or capacity conditions contained in the permit or in the lands which are the subject of such permit shall require the permittee to submit an application for review and approval by the director consistent with the requirements of this part; and

(C) The permittee may commence withdrawing water under the modified, amended, transferred, or assigned permit on the effective date stated on the revised permit for farm use;

(3) Permits for farm use, after initial use has commenced, shall not be revoked, in whole or in part, for nonuse; except that the director may permanently revoke any permit under this Code section for farm use within the Flint River Basin applied for on or after April 20, 2006, if initial use for the purpose indicated on the permit application, as measured by a flow meter approved by the division has not commenced within two years of the date of issuance of the permit unless the permittee can reasonably demonstrate that his or her nonuse was due to financial hardship or circumstances beyond his or her control;

(4) The director may suspend or modify a permit for farm use if he or she should determine through inspection, investigations, or otherwise that the quantity of water allowed would prevent other applicants from reasonable use of ground water beneath their property for farm use;

(5) During emergency periods of water shortage, the director shall give first priority to providing water for human consumption and second priority to farm use; and

(6) The importance and necessity of water for industrial purposes are in no way modified or diminished by this Code section.

(b.1)(1) The division shall have the duty of implementing a program of measuring farm uses of water in order to obtain clear and accurate information on the patterns and amounts of such use, which information is essential to proper management of water resources by the state and useful to farmers for improving the efficiency and effectiveness of their use of water, meeting the requirements of subsections (b) and (b.1) of this Code section, and improving water conservation.

(2) The division:

(A) May conduct its duties with division staff and may contract with other persons to conduct any of its duties;

(B) May receive and use state appropriations, gifts, grants, or other sources of funding to carry out its duties;

(C) Shall develop a priority system for the installation of devices for measurement of farm uses of water at the points of those withdrawals for which a permit was issued as of July 1, 2003. The division may refine the priority system from time to time based on the amount of funding received by the division, considerations regarding cost effectiveness, new technical information, changes in resource use or conditions, or other factors as deemed relevant by the director;

(D) Shall, on behalf of the state, contract for the purchase and installation of that subset of water-measuring devices according to

the priority system required by this Code section, and no charge shall be made to the permittee for such costs. If no contractor is available, the division may use trained and certified staff to perform installations, and no charge shall be made to the permittee for such costs;

(E) Shall, at monthly intervals, read an appropriate proportion of water-measuring devices installed for measuring farm use of ground water and compile the collected data for use in meeting the purposes in paragraph (1) of this Code section, and the division shall communicate in advance with private property owners to establish reasonable times for such readings. In the event that a permittee's water-measuring devices are selected for monthly readings, the permittee may choose to perform those readings and transmit that information to the division; and

(F) Shall issue an annual progress report on the status of water-measuring device installation.

(3) Any person whose permit for agricultural water use was issued before July 1, 2003, and who desires to install a water-measuring device at no cost to the state may do so, provided that the permittee shall have an acceptable type of water-measuring device installed and placed in operation at each point of permitted withdrawal and the permittee shall notify the division in writing once the installation has occurred. The division shall approve or disapprove the installation within 60 days of the date of notification.

(4) Any person who desires to commence a farm use of water for which a permit is issued after July 1, 2003, shall not commence such use prior to receiving approval from the division that such person has installed an acceptable type of water-measuring device installed by the commission at each point of permitted withdrawal. The permittee shall be responsible for all such costs.

(5) Regarding all permits for which a water-measuring device is installed, regardless of when the permit was issued, the division shall contract for the annual reading of such water-measuring devices. The division shall require each contractor conducting such annual readings to transmit complete and accurate data required by the division to the division annually.

(6) The division shall audit a subset of reported water-measuring device readings submitted by permittees for the purpose of understanding and improving the accuracy of such readings.

(7) Employees, contractors, or agents of the division are authorized to enter upon private property at reasonable times and upon reasonable notice to conduct the duties of the division under this subsection.

(8) The division shall contract for any maintenance, repair, or replacement of water-measuring devices installed pursuant to this Code section where maintenance, repair, or replacement is required to ensure that such water-measuring devices accurately reflect the amount of water used, and no charge shall be made to the permittee for such costs. The division shall also have the authority to undertake repairs or replacements of water-measuring devices when such repairs or replacements are necessary to maintain compliance with water use regulations, and no charge shall be made to the permittee for such costs.

(9) If the division determines that the permittee or the permittee's employees, tenants, licensees, or agents have willfully dismantled, sold, relocated, or removed any water-measuring device installed pursuant to this Code Section, the permittee may be subject to enforcement action by the division, including but not limited to imposition of civil penalties.

(10) Any reports of amounts of use for recreational purposes under this part shall be compiled separately from amounts reported for all other farm uses.

(c) Nothing in this Code section shall be construed as a repeal or modification of Code Section 12-5-104.

(d) In addition to the other provisions of this Code section, there shall be established three categories of farm use ground-water withdrawal permits: active, inactive, and unused. The rules and regulations implementing this subsection shall provide without limitation for the following:

(1) An active farm use ground-water withdrawal permit means one that has been acted upon and used for allowable purposes;

(2) An inactive farm use ground-water withdrawal permit means one where the permit holder has requested inactive status in order to retain ownership of the permit for possible future use or reuse. Inactive permits shall be retained by the permit holder without modification;

(3) An unused farm use ground-water withdrawal permit means one that has never been used for allowable purposes. Unused permits expire after two years unless changed to active or inactive status by notification to the director. Unused permits shall not be transferred or assigned to subsequent owners of the lands as provided in paragraph (1) of subsection (b) of this Code section;

(4) An inactive farm use ground-water withdrawal permit shall be reclassified to active when the permit holder has given the director 60 days' written notice and paid any applicable fees in accordance with subsection (a) of this Code section; and

(5) The director shall, via certified mail, return receipt requested, contact, or cause to be contacted, any person who holds a permit that the director has determined is unused. The notification shall include the permit identification and information regarding the classifications and procedures for changing classifications. The permit holder shall have 120 days to respond after which the director shall issue a second notice via certified mail, return receipt requested. Two years after the date on which the director first notified the permit holder via certified mail, return receipt requested, of the unused status determination of the permit, the director shall revoke the permit if the permit holder has not requested that the unused permit be reclassified as inactive or active.

History.

Ga. L. 1972, p. 976, § 13; Ga. L. 1973, p. 1273, § 26; Ga. L. 1982, p. 2306, § 1; Ga. L. 1988, p. 1694, § 8; Ga. L. 2003, p. 813, § 3; Ga. L. 2006, p. 237, § 4/SB 191; Ga. L. 2010, p. 732, § 6/SB 370; Ga. L. 2018, p. 974, § 4/SB 451; Ga. L. 2019, p. 1056, § 12/SB 52; Ga. L. 2025, p. 244, § 2/HB 143, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, added "and" at the end of subparagraph (b)(2)(B); deleted "and" at the end of subparagraph (b)(2)(C); deleted subparagraph (b)(2)(D); substituted "If no contractor is available, the division may use trained and certified staff to perform installations, and no charge shall be made to the permittee for such costs;" for "However, when the division assesses the site or attempts to install such water measuring devices and finds that the site lacks the withdrawal or irrigation infrastructure, the division shall document such withdrawal or irrigation infrastructure conditions and notify the permittee in writing that a state funded water measuring device or devices could not be installed and that a device or devices are still required. After the expiration of five years, such permittee shall be responsible for having an acceptable type of water measuring device installed and placed into operation and all associated costs. The permittee shall notify the division in writing once the installation has occurred. The division shall approve or disapprove the installation within 60 days of the date of notification;" in subparagraph (b.1)(2)(D); and added the last sentence in paragraph (b.1)(8).

12-5-108. Delegated authority; permit for consumptive use of water or expansion.

(a) Notwithstanding any other provision of law to the contrary, a person to whom the division has delegated authority to provide water for consumptive use within the coastal aquifers of the state may obtain a permit from the division for consumptive use of water or expansion of existing services and facilities for consumptive use of water without a letter of concurrence from any local government or other public entity which has the power to provide water for consumptive use, provided that the following conditions are met:

(1) Said local government or other public entity lacks the capability or permitted capacity to provide the water service requested in writing by a person seeking such service within a period of 18 months from the date of such request; and

(2) Said person with delegated authority has the capability and permitted ground water capacity to provide water service as requested by such person seeking such service within a period of 18 months from the date of such request.

(b) This Code section shall stand repealed on January 1, 2029.

History.
Code 1981, § 12-5-108, enacted by Ga. L. 2024, p. 788, § 1/HB 1146, effective May 6, 2024.

Effective date.
This Code section became effective May 6, 2024.

ARTICLE 7

COSTS OF OIL SPILL RESPONSE

12-5-501. Liability for removal costs or damages; exceptions.

RESEARCH REFERENCES

ALR.
What Settlement Agreements May Give Rise to Action for Contribution Under CERCLA § 113(f)(3)(B), 42 U.S.C.A. § 9613(f)(3)(B), 84 A.L.R. Fed. 3d Art. 1.

CHAPTER 6

FOREST RESOURCES AND OTHER PLANT LIFE

Article 1

Forest Resources

PART 2

PRACTICE OF PROFESSIONAL FORESTRY

Sec.
12-6-49.2. Suspension of registered forester license.

ARTICLE 1
FOREST RESOURCES

PART 1
STATE FORESTRY COMMISSION

12-6-21. Uncontrolled fire as constituting a public nuisance; duties and liabilities of person or entity responsible.

RESEARCH REFERENCES

ALR.

Recovery of Cost of Fire Suppression and Investigation Under State and Local Laws, 80 A.L.R.7th 2.

Recovery of cost of fire suppression and investigation under state and local laws, 80 A.L.R.7th 2.

PART 2
PRACTICE OF PROFESSIONAL FORESTRY

12-6-49.2. Suspension of registered forester license.

(a) The board shall not suspend the license of any registered forester because he or she has been certified by any entity of the federal government for nonpayment or default or breach of a repayment or service obligation under any federal educational loan, loan repayment, or service conditional scholarship program.

(b) The board shall not deny the application for renewal of any applicant or licensee because he or she has been certified by any entity of the federal government for nonpayment or default or breach of a repayment or service obligation under any federal educational loan, loan repayment, or service conditional scholarship program.

History.

Code 1981, § 12-6-49.2, enacted by Ga. L. 1998, p. 1094, § 5; Ga. L. 2019, p. 462, § 1-5/SB 214; Ga. L. 2024, p. 120, § 2-5/HB 985, effective June 30, 2024.

Amendments.

The 2024 amendment, effective June 30, 2024, deleted subsection (a)

CHAPTER 7

CONTROL OF SOIL EROSION AND SEDIMENTATION

Sec.
12-7-7.1. Erosion and sediment control plan prepared; completion; implementation.
12-7-19. Education and training requirements; required programs; instructor qualifications; expiration of certification.
12-7-20. [Reserved] Creation of Stakeholder Advisory Board; responsibilities; procedures.

12-7-1. Short title.

JUDICIAL DECISIONS

Remand required for trial court to reconsider bond. — In a suit to halt development of an electric vehicle manufacturing facility based on alleged violations of local zoning laws, the trial court erred in imposing a bond without considering the merits of all of plaintiffs' claims as at least one claim related to environmental regulations and might have merit based on the current record. Clay v. State, 370 Ga. App. 482, 897 S.E.2d 886, 2024 Ga. App. LEXIS 43 (2024).

12-7-7. Permit or notice of intent required for land-disturbing activities; approval of application and issuance of permit; denial of permit; bond requirement.

JUDICIAL DECISIONS

Remand required for trial court to reconsider bond. — In a suit to halt development of an electric vehicle manufacturing facility based on alleged violations of local zoning laws, the trial court erred in imposing a bond without considering the merits of all of plaintiffs' claims as at least one claim related to environmental regulations and might have merit based on the current record. Clay v. State, 370 Ga. App. 482, 897 S.E.2d 886, 2024 Ga. App. LEXIS 43 (2024).

12-7-7.1. Erosion and sediment control plan prepared; completion; implementation.

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

(b)(1) In addition to the requirements of Code Section 12-7-6, the Department of Transportation or the State Road and Tollway Authority after July 1, 2003, shall not contract for land-disturbing activity on any construction or maintenance project that will disturb one or more contiguous acres of land until an erosion and sediment

control plan for such project has been prepared and accepted pursuant to this Code section.

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

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

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

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

(e)(1) Through the services of independent consultants, contractors, or subcontractors, or by its own forces, the Department of Transportation shall monitor the water quality and inspect the installation and maintenance of the best management practices in accordance

with the plan. All such consultants, contractors, or subcontractors shall be prequalified by the Department of Transportation as a responsible bidder for the inspection of such best management practices and shall have the necessary expertise to determine that such practices are being installed and maintained in accordance with the plan. The division shall assist the Department of Transportation in developing the prequalification approval process for purposes of this subsection.

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

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

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

(f)(1) There shall be an Erosion and Sediment Control Overview Council which shall approve the Manual for Erosion and Sediment Control in Georgia prior to publication by the commission. In addition, the council shall provide guidance on the best management practices for implementing any erosion and sediment control plan for purposes of this Code section. The council shall be composed of nine members, including one member of the House of Representatives who shall be appointed by the Speaker of the House of Representatives and serve at the pleasure thereof; one member of the Senate who shall be appointed by the President of the Senate and serve at the pleasure thereof; and seven members who shall be appointed by the Governor and serve at the pleasure thereof, including one employee each from the Department of Transportation, the Environmental Protection Division of the Department of Natural Resources, and the State Road and Tollway Authority, a professional engineer licensed to practice in this state from a private engineering consulting firm

practicing environmental engineering, one representative of the highway contracting industry certified by the Department of Transportation, one representative of the electric utility industry, and a chairperson. The council shall meet as necessary to approve any subsequent changes or updates to the manual prior to its implementation. Such meetings shall be held at the call of the chairperson. Each council member shall receive a daily allowance in the amount specified in subsection (b) of Code Section 45-7-21; provided, however, that any full-time state employee serving on the council shall draw no compensation but shall receive necessary expenses. The commissioner is authorized to pay such compensation and expenses from department funds.

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

(3) The Erosion and Sediment Control Overview Council shall establish, evaluate, and maintain the education and training programs established pursuant to Code Section 12-7-19, including, but not limited to, reviewing course curricula, educational materials, and exam and testing procedures; evaluating trainer and instructor qualifications; and reviewing audit results performed by the commission.

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

History.

Code 1981, § 12-7-7.1, enacted by Ga. L. 2000, p. 1673, § 1; Ga. L. 2001, p. 1251, § 2-1; Ga. L. 2001, Ex. Sess., p. 317, § 2; Ga. L. 2003, p. 224, § 5; Ga. L. 2015, p. 35, § 4/HB 397; Ga. L. 2025, p. 332, § 4-1/SB 96, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, in paragraph (f)(1), substituted "President of the Senate" for "Lieutenant Governor" in the third sentence, deleted "prior to December 1, 2015, to approve the most current version of the manual and at all other times" following "meet" in the fourth sentence; substituted "The Erosion and Sediment Control Overview Council" for "The council" in the first sentence of paragraph (f)(2); and added paragraph (f)(3).

12-7-19. Education and training requirements; required programs; instructor qualifications; expiration of certification.

(a)(1) Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification require-

ments, dependent on his or her level of involvement with the process, as developed by the commission in accordance with this Code section and in consultation with the division and the Erosion and Sediment Control Overview Council created pursuant to Code Section 12-7-7.1.

(2) On or after May 14, 2007, for each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the commission present on site whenever land-disturbing activities are conducted on that site. A project site shall herein be defined as any land disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.

(3) Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this chapter.

(4) If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of this Code section, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall have until December 31, 2007, to meet those educational requirements specified in paragraph (4) of subsection (b) of this Code section and shall not be required to meet any educational requirements that exceed those specified in said paragraph.

(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 this 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 does not exceed two hours in duration and which provides information

regarding the erosion and sediment control practices and processes in the state and which will include an overview of the systems, laws, and roles of the participants; and

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

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

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

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

(B) Experience: five-years' experience in the field of erosion and sediment control. Where years of experience is used in lieu of the education requirement of subparagraph (A) of this paragraph, a total of ten years' field experience is required;

(C) Approval by the commission and the Erosion and Sediment Control Overview Council; and

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

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

(d) In addition to the requirements of subsection (c) of this Code section, the commission shall establish and any person desirous of holding certification must obtain a passing grade, as established by the Erosion and Sediment Control Overview Council, on a final exam covering the material taught in each mandatory seminar; provided, however, that there shall be no final exam requirement for purposes of paragraph (4) of subsection (b) of this Code section. Final exams may, at the discretion of the commission, serve in lieu of attendance at the seminar. Any person shall be authorized to administer a final examination for any seminar for which he or she was the instructor.

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

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

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

(4) Revocation procedures may be established by the commission in consultation with the division and the Erosion and Sediment Control Overview Council.

History.
Code 1981, § 12-7-19, enacted by Ga. L. 2003, p. 224, § 5; Ga. L. 2007, p. 127, § 3/HB 463; Ga. L. 2025, p. 332, § 4-2/SB 96, effective July 1, 2025.
Amendments.
The 2025 amendment, effective July 1, 2025, substituted "the Erosion and Sediment Control Overview Council created pursuant to Code Section 12-7-7.1" for "the Stakeholder Advisory Board created pursuant to Code Section 12-7-20" near the end of paragraph (a)(1); substituted "this Code section" for "Code Section 12-7-19" in paragraph (a)(4); and substituted "the Erosion and Sediment Control Overview Council and" for "the Stakeholder Advisory Board and" in subparagraph (c)(1)(C), in the first sentence of subsection (d), and in paragraph (e)(4).

12-7-20. [Reserved] Creation of Stakeholder Advisory Board; responsibilities; procedures.

History.
Code 1981, § 12-7-20, enacted by Ga. L. 2003, p. 224, § 5; repealed by Ga. L. 2025, p. 332, § 4-3/SB 96, effective July 1, 2025.
Editor's notes.
Ga. L. 2025, p. 332, § 4-3/SB 96 reserved the designation of this Code section, effective July 1, 2025.

CHAPTER 8

WASTE MANAGEMENT

Article 2

Solid Waste Management

PART 1

GENERAL PROVISIONS

Sec.

12-8-22. (Effective until January 1, 2026.) Definitions.
12-8-22. (Effective January 1, 2026.) Definitions.
12-8-23. (Effective until January 1, 2026.) Powers and duties of board.
12-8-23. (Effective January 1, 2026.) Powers and duties of board.
12-8-24. (Effective until January 1, 2026.) Permits for solid waste or special solid waste handling, disposal, or thermal treatment technology facility; inspection of solid waste generators.
12-8-24. (Effective January 1, 2026.) Permits for solid waste handling, disposal, or thermal treatment technology facility; inspection of solid waste generators.
12-8-25.3. (Effective until January 1, 2026.) Further restrictions on sites within significant ground-water recharge area

Sec.
or near military air space used as bombing range.
12-8-25.3. (Effective January 1, 2026.) Further restrictions on sites within significant groundwater recharge area or near military air space used as bombing range.
12-8-26. (Effective until January 1, 2026.) Public meetings on site selection; notice; decision.
12-8-26. (Effective January 1, 2026.) Public meetings on site selection; notice; decision.
12-8-27.1. (Effective until January 1, 2026.) Solid Waste Trust Fund.
12-8-27.1. (Effective January 1, 2026.) Solid Waste Trust Fund.
12-8-31.1. (Effective until January 1, 2026.) Local, multijurisdictional, or regional solid waste plans; reporting by cities and counties; annual reporting requirements for landfill owners and operators.
12-8-31.1. (Effective January 1, 2026.) Local, multijurisdictional, or regional solid waste management plans; reporting by cities and counties; annual reporting requirements for landfill owners and operators.
12-8-33. Recycling Market Development Council.
12-8-39. (Effective until January 1, 2026.) Cost reimbursement fees; surcharges; exempt contracts; reporting.
12-8-39. (Effective January 1, 2026.) Cost reimbursement fees; surcharges; exempt contracts; reporting.
12-8-40.1. Tire disposal restrictions; fees.

Article 3

Hazardous Waste

PART 2

HAZARDOUS SITE RESPONSE

12-8-94. (For effective date, see note.) Powers and duties of director.
12-8-95. Hazardous Waste Trust Fund; appropriations; accounting.
12-8-95.1. Hazardous waste management fees and hazardous substance reporting fees.
12-8-97. Hazardous site inventory.

ARTICLE 1

GENERAL PROVISIONS

12-8-2. Dumping sanitary sewer, kitchen, or toilet wastes in storm or sanitary sewers prohibited; forfeiture of involved vehicles.

Law reviews.

For annual survey on commercial transportation, see 73 Mercer L. Rev. 47 (2021).

ARTICLE 2
SOLID WASTE MANAGEMENT

PART 1
GENERAL PROVISIONS

12-8-22. (Effective until January 1, 2026.) Definitions.

As used in this article, the term:

(1) "Affected county" means, in addition to the county in which a facility is or is proposed to be located, each county contiguous to the host county and each county and municipality within a county that has a written agreement with the facility to dispose of solid waste.

(1.1) "Biomedical waste" means pathological waste, biological waste cultures and stocks of infectious agents and associated biologicals, contaminated animal carcasses (body parts, their bedding, and other wastes from such animals), sharps, chemotherapy waste, discarded medical equipment and parts, not including expendable supplies and materials which have not been decontaminated, as further defined in Rule 391-3-4-.15 of the board as such rule existed on January 1, 2006, and other such waste materials.

(2) "Board" means the Board of Natural Resources of the State of Georgia.

(3) "Certificate" means a document issued by a college or university of the University System of Georgia or other organization approved by the director stating that the operator has met the requirements of the board for the specified operator classification of the certification program.

(4) "Closure" means a procedure approved by the division which provides for the cessation of waste receipt at a solid waste disposal site and for the securing of the site in preparation for postclosure.

(4.1) "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial wastes.

(5) "Composting" means the controlled biological decomposition of organic matter into a stable, odor-free humus.

(5.1) "Construction or demolition waste" means waste building materials and rubble resulting from construction, remodeling, repair, or demolition operations on pavements, houses, commercial buildings, and other structures. Such waste includes but is not limited to

waste containing asbestos, wood, bricks, metal, concrete, wallboard, paper, cardboard, and other nonputrescible wastes associated with construction and demolition activities which have a low potential for ground-water contamination. Inert waste landfill materials approved by the board for disposal in landfills permitted by rule and regulation are also included in this definition if disposed in a construction or demolition waste landfill.

(6) "Contaminant" means any physical, chemical, biological, or radiological substance or matter.

(7) "Director" means the director of the Environmental Protection Division of the Department of Natural Resources.

(8) "Disposal facility" means any facility or location where the final deposition of solid waste occurs and includes but is not limited to landfilling and solid waste thermal treatment technology facilities.

(9) "Division" means the Environmental Protection Division of the Department of Natural Resources.

(9.1) "Feedstock" means raw material that is used in a machine or industrial process.

(10) "Financial responsibility mechanism" means a mechanism designed to demonstrate that sufficient funds will be available to meet specific environmental protection needs of solid waste handling facilities. Available financial responsibility mechanisms include but are not limited to insurance, trust funds, surety bonds, letters of credit, personal bonds, certificates of deposit, financial tests, and corporate guarantees as defined in 40 C.F.R. Part 264 Subpart H — Financial Requirements.

(10.1) "Gasification to fuels and chemicals" means a process through which recovered materials or other nonrecycled feedstock is heated and converted into a fuel-gas mixture in an oxygen-deficient atmosphere, and such mixture is converted into fuel, including ethanol and transportation fuel, chemicals, or other chemical feedstocks.

(10.2) "Gasification to fuels and chemicals facility" means a facility that collects, separates, stores, or converts nonrecycled feedstock into fuels, chemicals, or other valuable final or intermediate products using a gasification to fuels and chemicals process. Such term shall not include a waste handling facility or solid waste thermal treatment facility.

(11) "Generator" means any person in Georgia or in any other state who creates solid waste.

(12) "Hazardous constituent" means any substance listed as a hazardous constituent in regulations promulgated pursuant to the

federal act by the administrator of the United States Environmental Protection Agency which are in force and effect on February 1, 2004, codified as Appendix VIII to 40 C.F.R. Part 261 — Identification and Listing of Hazardous Waste.

(12.1) "Industrial solid waste" means solid waste generated by manufacturing or industrial processes or operations that is not a hazardous waste regulated under Part 1 of Article 3 of this chapter, the "Georgia Hazardous Waste Management Act." Such waste includes, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer and agricultural chemicals; food and related products and by-products; inorganic chemicals; iron and steel products; leather and leather products; nonferrous metal and foundry products; organic chemicals; plastics and resins; pulp and paper; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textiles; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

(13) "Label" means a code label described in paragraphs (3) and (4) of subsection (b) of Code Section 12-8-34.

(14) "Landfill" means an area of land on which or an excavation in which solid waste is placed for permanent disposal and which is not a land application unit, surface impoundment, injection well, or compost pile.

(15) "Leachate collection system" means a system at a landfill for collection of the leachate which may percolate through the waste and into the soils surrounding the landfill.

(15.1) "Litter" has the meaning provided by Code Section 16-7-42.

(16) "Manifest" means a form or document used for identifying the quantity and composition and the origin, routing, and destination of special solid waste during its transportation from the point of generation, through any intermediate points, to the point of disposal, treatment, or storage.

(17) "Materials recovery facility" means a solid waste handling facility that provides for the extraction from solid waste of recoverable materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials.

(17.1) "Multijurisdictional solid waste management plan" means a comprehensive solid waste plan adopted pursuant to Code Section 12-8-31.1 covering two or more jurisdictions.

(18) "Municipal solid waste" means any solid waste derived from households, including garbage, trash, and sanitary waste in septic

tanks and means solid waste from single-family and multifamily residences, hotels and motels, bunkhouses, campgrounds, picnic grounds, and day use recreation areas. The term includes yard trimmings, construction or demolition waste, and commercial solid waste but does not include solid waste from mining, agricultural, or silvicultural operations or industrial processes or operations.

(19) "Municipal solid waste disposal facility" means any facility or location where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including commercial or industrial solid waste, and includes, but is not limited to, municipal solid waste landfills and municipal solid waste thermal treatment technology facilities.

(20) "Municipal solid waste landfill" means a disposal facility where any amount of municipal solid waste, whether or not mixed with or including commercial waste, industrial waste, nonhazardous sludges, or small quantity generator hazardous waste, is disposed of by means of placing an approved cover thereon.

(20.1) "Nonrecycled feedstock" means one or more of the following materials, derived from nonrecycled materials, that has been processed so that it may be used as a feedstock in a gasification to fuels and chemicals facility, but excluding coal refuse and scrap tires:

(A) Post-use plastics; or

(B) Materials for which the Environmental Protection Agency has made a nonwaste determination under 40 C.F.R. Section 241.3(c) or that are otherwise determined not to constitute waste.

(21) "Operator" means the person stationed on the site who is in responsible charge of and has direct supervision of daily field operations of a municipal solid waste disposal facility to ensure that the facility operates in compliance with the permit.

(22) "Person" means the State of Georgia or any other state or any agency or institution thereof and any municipality, county, political subdivision, public or private corporation, solid waste authority, special district empowered to engage in solid waste management activities, individual, partnership, association, or other entity in Georgia or any other state. This term also includes any officer or governing or managing body of any municipality, political subdivision, solid waste authority, special district empowered to engage in solid waste management activities, or public or private corporation in Georgia or any other state. This term also includes employees, departments, and agencies of the federal government.

(22.1) "Post-use plastics" means recovered plastics, derived from any source, that are not being used for their originally intended

purpose and that might otherwise become waste if not processed at a pyrolysis or gasification to fuels and chemicals facility or recycled, and the term includes plastics that may contain incidental contaminants or impurities such as paper labels or metal rings.

(23) "Postclosure" means a procedure approved by the division to provide for long-term financial assurance, monitoring, and maintenance of a solid waste disposal site to protect human health and the environment.

(24) "Private industry solid waste disposal facility" means a disposal facility which is operated exclusively by and for a private solid waste generator for the purpose of accepting solid waste generated exclusively by said private solid waste generator.

(24.1) "Pyrolysis" means a process through which post-use plastics are heated, in an oxygen-free environment, until melted and thermally decomposed, then cooled, condensed, and converted into oil, diesel, gasoline, home heating oil, or other liquid fuel; gasoline or diesel blendstock; chemicals or chemical feedstock; waxes or lubricants; or other similar raw materials or intermediate or final products.

(24.2) "Pyrolysis facility" means a facility that collects, separates, stores, or converts post-use plastics into fuels or other valuable final or intermediate products using a pyrolysis process. Pyrolysis facilities shall not be considered solid waste handling facilities or solid waste thermal treatment facilities.

(25) "Recovered materials" means those materials which have known use, reuse, or recycling potential; can be feasibly used, reused, or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing.

(26) "Recovered materials processing facility" means a facility engaged solely in the storage, processing, recycling, and resale or reuse of recovered materials. Such facility shall not be considered a solid waste handling facility; provided, however, that any solid waste generated by such facility shall be subject to all applicable laws and regulations relating to such solid waste.

(27) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials, intermediates, or products which can be used as a substitute for products not derived by such processes.

(27.1) "Regional landfill or regional solid waste disposal facility" means a facility owned by a county, municipality, authority, or special

district empowered to engage in solid waste management activities, or any combination thereof, which serves two or more or any combination of counties, municipalities, or special solid waste districts.

(27.2) "Regional solid waste management plan" means a comprehensive solid waste plan adopted pursuant to Code Section 12-8-31.1 covering two or more counties and may include one or more municipal corporations within those counties.

(28) "Retreadable casing" means a scrap tire suitable for retreading.

(29) "Rigid plastic bottle" means any rigid plastic container with a neck that is smaller than the container body with a capacity of 16 ounces or more and less than five gallons.

(30) "Rigid plastic container" means any formed or molded part comprised predominantly of plastic resin, having a relatively inflexible finite shape or form, and intended primarily as a single-service container with a capacity of eight ounces or more and less than five gallons.

(31) "Scrap tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

(32) Reserved.

(33) "Solid waste" means any garbage or refuse; sludge from a waste-water treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material including solid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and community activities, but does not include recovered materials; post-use plastics and nonrecycled feedstock that are subsequently processed using a pyrolysis or gasification to fuels and chemicals process; solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. Section 1342; or source, special nuclear, or by-product material as defined by the federal Atomic Energy Act of 1954, as amended (68 Stat. 923).

(34) "Solid waste handling" means the storage, collection, transportation, treatment, utilization, processing, or disposal of solid waste or any combination of such activities, but does not include recovered materials processing or pyrolysis or gasification to fuels and chemicals processes, or the holding of post-use plastics or nonrecycled feedstock at a pyrolysis facility or gasification to fuels and chemicals facility prior to processing at the facility where those materials are being held to ensure production is not interrupted.

(35) "Solid waste handling facility" means any facility the primary purpose of which is the storage, collection, transportation, treatment, utilization, processing, or disposal, or any combination thereof, of solid waste, but does not include recovered materials processing facilities or pyrolysis or gasification to fuels and chemicals facilities.

(36) "Solid waste thermal treatment technology" means any solid waste handling facility the purpose of which is to reduce the amount of solid waste to be disposed of through a process of combustion, with or without the process of waste to energy.

(37) "Special solid waste" means any solid waste not otherwise regulated under Part 1 of Article 3 of this chapter, known as the "Georgia Hazardous Waste Management Act," and regulations promulgated under such part originating or produced from or by a source or generator not subject to regulation under Code Section 12-8-24.

(38) "Tire" means a continuous solid or pneumatic rubber covering designed for encircling the wheel of a motor vehicle and which is neither attached to the motor vehicle nor a part of the motor vehicle as original equipment.

(38.1) "Tire carrier" means any person engaged in collecting or transporting tires, other than new tires.

(39) "Tire retailer" means any person, other than a used motor vehicle parts dealer licensed in accordance with Chapter 47 of Title 43, engaged in the business of selling new replacement tires or used tires.

(40) "Tire retreader" means any person actively engaged in the business of retreading scrap tires by scarifying the surface to remove the old surface tread and attaching a new tread to make a usable tire.

(40.1) "Used tire" means a tire which has a minimum of 2/32 inch of road tread and which is still suitable for its original purpose but is no longer new. A tire retailer shall inventory and market used tires in substantially the same fashion as a new tire and be able to provide satisfactory evidence to the division that a market for the tire exists and the tire is in fact being marketed as a used tire. A used tire shall not be considered solid waste.

(41) "Waste to energy facility" means a solid waste handling facility that provides for the extraction and utilization of energy from municipal solid waste through a process of combustion.

(42) "Yard trimmings" means leaves, brush, grass clippings, shrub and tree prunings, discarded Christmas trees, nursery and greenhouse vegetative residuals, and vegetative matter resulting from landscaping development and maintenance other than mining, agricultural, and silvicultural operations.

History.
Code 1981, § 12-8-22, enacted by Ga. L. 1990, p. 412, § 1; Ga. L. 1992, p. 2234, § 2; Ga. L. 1992, p. 3259, § 2; Ga. L. 1992, p. 3276, § 1; Ga. L. 1993, p. 91, § 12; Ga. L. 1993, p. 399, §§ 3, 4; Ga. L. 2005, p. 1247, §§ 3-6/SB 122; Ga. L. 2006, p. 275, § 3-1/HB 1320; Ga. L. 2012, p. 775, § 12/HB 942; Ga. L. 2013, p. 274, § 1/HB 226; Ga. L. 2018, p. 760, § 1/HB 785.
Delayed effective date.
Code Section 12-8-22 is set out twice in this Code. This version is effective until January 1, 2026. For version effective January 1, 2026, see the following version.

12-8-22. (Effective January 1, 2026.) Definitions.

As used in this article, the term:

(1) "Affected county" means, in addition to the county in which a facility is or is proposed to be located, each county contiguous to the host county and each county and municipality within a county that has a written agreement with the facility to dispose of solid waste.

(1.1) "Biomedical waste" means pathological waste, biological waste cultures and stocks of infectious agents and associated biologicals, contaminated animal carcasses (body parts, their bedding, and other wastes from such animals), sharps, chemotherapy waste, discarded medical equipment and parts, not including expendable supplies and materials which have not been decontaminated, as further defined in Rule 391-3-4-.15 of the board as such rule existed on January 1, 2006, and other such waste materials.

(2) "Board" means the Board of Natural Resources of the State of Georgia.

(3) "Certificate" means a document issued by a college or university of the University System of Georgia or other organization approved by the director stating that the operator has met the requirements of the board for the specified operator classification of the certification program.

(4) "Closure" means a procedure approved by the division which provides for the cessation of waste receipt at a solid waste disposal site and for the securing of the site in preparation for postclosure.

(4.1) "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial wastes.

(5) "Composting" means the controlled biological decomposition of organic matter into a stable, odor-free humus.

(5.1) "Construction or demolition waste" means waste building materials and rubble resulting from construction, remodeling, repair, or demolition operations on pavements, houses, commercial buildings, and other structures. Such waste includes but is not limited to

waste containing asbestos, wood, bricks, metal, concrete, wallboard, paper, cardboard, and other nonputrescible wastes associated with construction and demolition activities which have a low potential for ground-water contamination. Inert waste landfill materials approved by the board for disposal in landfills permitted by rule and regulation are also included in this definition if disposed in a construction or demolition waste landfill.

(6) "Contaminant" means any physical, chemical, biological, or radiological substance or matter.

(7) "Director" means the director of the Environmental Protection Division of the Department of Natural Resources.

(8) "Disposal facility" means any facility or location where the final deposition of solid waste occurs and includes but is not limited to landfilling and solid waste thermal treatment technology facilities.

(9) "Division" means the Environmental Protection Division of the Department of Natural Resources.

(9.1) "Feedstock" means raw material that is used in a machine or industrial process.

(10) "Financial responsibility mechanism" means a mechanism designed to demonstrate that sufficient funds will be available to meet specific environmental protection needs of solid waste handling facilities. Available financial responsibility mechanisms include but are not limited to insurance, trust funds, surety bonds, letters of credit, personal bonds, certificates of deposit, financial tests, and corporate guarantees as defined in 40 C.F.R. Part 264 Subpart H — Financial Requirements.

(10.1) "Gasification to fuels and chemicals" means a process through which recovered materials or other nonrecycled feedstock is heated and converted into a fuel-gas mixture in an oxygen-deficient atmosphere, and such mixture is converted into fuel, including ethanol and transportation fuel, chemicals, or other chemical feedstocks.

(10.2) "Gasification to fuels and chemicals facility" means a facility that collects, separates, stores, or converts nonrecycled feedstock into fuels, chemicals, or other valuable final or intermediate products using a gasification to fuels and chemicals process. Such term shall not include a waste handling facility or solid waste thermal treatment facility.

(11) "Generator" means any person in Georgia or in any other state who creates solid waste.

(12) "Hazardous constituent" means any substance listed as a hazardous constituent in regulations promulgated pursuant to the

federal act by the administrator of the United States Environmental Protection Agency which are in force and effect on February 1, 2004, codified as Appendix VIII to 40 C.F.R. Part 261 — Identification and Listing of Hazardous Waste.

(12.1) "Industrial solid waste" means solid waste generated by manufacturing or industrial processes or operations that is not a hazardous waste regulated under Part 1 of Article 3 of this chapter, the "Georgia Hazardous Waste Management Act." Such waste includes, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer and agricultural chemicals; food and related products and by-products; inorganic chemicals; iron and steel products; leather and leather products; nonferrous metal and foundry products; organic chemicals; plastics and resins; pulp and paper; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textiles; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

(13) "Label" means a code label described in paragraphs (3) and (4) of subsection (b) of Code Section 12-8-34.

(14) "Landfill" means an area of land on which or an excavation in which solid waste is placed for permanent disposal and which is not a land application unit, surface impoundment, injection well, or compost pile.

(15) "Leachate collection system" means a system at a landfill for collection of the leachate which may percolate through the waste and into the soils surrounding the landfill.

(15.1) "Litter" has the meaning provided by Code Section 16-7-42.

(16) "Manifest" means a form or document used for identifying the quantity and composition and the origin, routing, and destination of solid waste during its transportation from the point of generation, through any intermediate points, to the point of disposal, treatment, or storage.

(17) "Materials recovery facility" means a solid waste handling facility that provides for the extraction from solid waste of recoverable materials, materials suitable for use as a fuel or soil amendment, or any combination of such materials.

(17.1) "Multijurisdictional solid waste management plan" means a comprehensive solid waste plan adopted pursuant to Code Section 12-8-31.1 covering two or more jurisdictions.

(18) "Municipal solid waste" means any solid waste derived from households, including garbage, trash, and sanitary waste in septic

tanks and means solid waste from single-family and multifamily residences, hotels and motels, bunkhouses, campgrounds, picnic grounds, and day use recreation areas. The term includes yard trimmings, construction or demolition waste, and commercial solid waste but does not include solid waste from mining, agricultural, or silvicultural operations or industrial processes or operations.

(19) "Municipal solid waste disposal facility" means any facility or location where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including commercial or industrial solid waste, and includes, but is not limited to, municipal solid waste landfills and municipal solid waste thermal treatment technology facilities.

(20) "Municipal solid waste landfill" means a disposal facility where any amount of municipal solid waste, whether or not mixed with or including commercial waste, industrial waste, nonhazardous sludges, or small quantity generator hazardous waste, is disposed of by means of placing an approved cover thereon.

(20.1) "Nonrecycled feedstock" means one or more of the following materials, derived from nonrecycled materials, that has been processed so that it may be used as a feedstock in a gasification to fuels and chemicals facility, but excluding coal refuse and scrap tires:

(A) Post-use plastics; or

(B) Materials for which the Environmental Protection Agency has made a nonwaste determination under 40 C.F.R. Section 241.3(c) or that are otherwise determined not to constitute waste.

(21) "Operator" means the person stationed on the site who is in responsible charge of and has direct supervision of daily field operations of a municipal solid waste disposal facility to ensure that the facility operates in compliance with the permit.

(22) "Person" means the State of Georgia or any other state or any agency or institution thereof and any municipality, county, political subdivision, public or private corporation, solid waste authority, special district empowered to engage in solid waste management activities, individual, partnership, association, or other entity in Georgia or any other state. This term also includes any officer or governing or managing body of any municipality, political subdivision, solid waste authority, special district empowered to engage in solid waste management activities, or public or private corporation in Georgia or any other state. This term also includes employees, departments, and agencies of the federal government.

(22.1) "Post-use plastics" means recovered plastics, derived from any source, that are not being used for their originally intended

purpose and that might otherwise become waste if not processed at a pyrolysis or gasification to fuels and chemicals facility or recycled, and the term includes plastics that may contain incidental contaminants or impurities such as paper labels or metal rings.

(23) "Postclosure" means a procedure approved by the division to provide for long-term financial assurance, monitoring, and maintenance of a solid waste disposal site to protect human health and the environment.

(24) "Private industry solid waste disposal facility" means a disposal facility which is operated exclusively by and for a private solid waste generator for the purpose of accepting solid waste generated exclusively by said private solid waste generator.

(24.1) "Pyrolysis" means a process through which post-use plastics are heated, in an oxygen-free environment, until melted and thermally decomposed, then cooled, condensed, and converted into oil, diesel, gasoline, home heating oil, or other liquid fuel; gasoline or diesel blendstock; chemicals or chemical feedstock; waxes or lubricants; or other similar raw materials or intermediate or final products.

(24.2) "Pyrolysis facility" means a facility that collects, separates, stores, or converts post-use plastics into fuels or other valuable final or intermediate products using a pyrolysis process. Pyrolysis facilities shall not be considered solid waste handling facilities or solid waste thermal treatment facilities.

(25) "Recovered materials" means those materials which have known use, reuse, or recycling potential; can be feasibly used, reused, or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing.

(26) "Recovered materials processing facility" means a facility engaged solely in the storage, processing, recycling, and resale or reuse of recovered materials. Such facility shall not be considered a solid waste handling facility; provided, however, that any solid waste generated by such facility shall be subject to all applicable laws and regulations relating to such solid waste.

(27) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials, intermediates, or products which can be used as a substitute for products not derived by such processes.

(27.1) "Regional landfill or regional solid waste disposal facility" means a facility owned by a county, municipality, authority, or special

district empowered to engage in solid waste management activities, or any combination thereof, which serves two or more or any combination of counties, municipalities, or special solid waste districts.

(27.2) "Regional solid waste management plan" means a comprehensive solid waste plan adopted pursuant to Code Section 12-8-31.1 covering two or more counties and may include one or more municipal corporations within those counties.

(28) "Retreadable casing" means a scrap tire suitable for retreading.

(29) "Rigid plastic bottle" means any rigid plastic container with a neck that is smaller than the container body with a capacity of 16 ounces or more and less than five gallons.

(30) "Rigid plastic container" means any formed or molded part comprised predominantly of plastic resin, having a relatively inflexible finite shape or form, and intended primarily as a single-service container with a capacity of eight ounces or more and less than five gallons.

(31) "Scrap tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

(32) Reserved.

(33) "Solid waste" means any garbage or refuse; sludge from a waste-water treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material including solid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and community activities, but does not include recovered materials; post-use plastics and nonrecycled feedstock that are subsequently processed using a pyrolysis or gasification to fuels and chemicals process; solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. Section 1342; or source, special nuclear, or by-product material as defined by the federal Atomic Energy Act of 1954, as amended (68 Stat. 923).

(34) "Solid waste handling" means the storage, collection, transportation, treatment, utilization, processing, or disposal of solid waste or any combination of such activities, but does not include recovered materials processing or pyrolysis or gasification to fuels and chemicals processes, or the holding of post-use plastics or nonrecycled feedstock at a pyrolysis facility or gasification to fuels and chemicals facility prior to processing at the facility where those materials are being held to ensure production is not interrupted.

(35) "Solid waste handling facility" means any facility the primary purpose of which is the storage, collection, transportation, treatment, utilization, processing, or disposal, or any combination thereof, of solid waste, but does not include recovered materials processing facilities or pyrolysis or gasification to fuels and chemicals facilities.

(36) "Solid waste thermal treatment technology" means any solid waste handling facility the purpose of which is to reduce the amount of solid waste to be disposed of through a process of combustion, with or without the process of waste to energy.

(37) Reserved.

(38) "Tire" means a continuous solid or pneumatic rubber covering designed for encircling the wheel of a motor vehicle and which is neither attached to the motor vehicle nor a part of the motor vehicle as original equipment.

(38.1) "Tire carrier" means any person engaged in collecting or transporting tires, other than new tires.

(39) "Tire retailer" means any person, other than a used motor vehicle parts dealer licensed in accordance with Chapter 47 of Title 43, engaged in the business of selling new replacement tires or used tires.

(40) "Tire retreader" means any person actively engaged in the business of retreading scrap tires by scarifying the surface to remove the old surface tread and attaching a new tread to make a usable tire.

(40.1) "Used tire" means a tire which has a minimum of 2/32 inch of road tread and which is still suitable for its original purpose but is no longer new. A tire retailer shall inventory and market used tires in substantially the same fashion as a new tire and be able to provide satisfactory evidence to the division that a market for the tire exists and the tire is in fact being marketed as a used tire. A used tire shall not be considered solid waste.

(41) "Waste to energy facility" means a solid waste handling facility that provides for the extraction and utilization of energy from municipal solid waste through a process of combustion.

(42) "Yard trimmings" means leaves, brush, grass clippings, shrub and tree prunings, discarded Christmas trees, nursery and greenhouse vegetative residuals, and vegetative matter resulting from landscaping development and maintenance other than mining, agricultural, and silvicultural operations.

History.

Code 1981, § 12-8-22, enacted by Ga. L. 1990, p. 412, § 1; Ga. L. 1992, p. 2234, § 2; Ga. L. 1992, p. 3259, § 2; Ga. L. 1992, p. 3276, § 1; Ga. L. 1993, p. 91, § 12; Ga. L. 1993, p. 399, §§ 3, 4; Ga. L. 2005, p.

1247, §§ 3-6/SB 122; Ga. L. 2006, p. 275, § 3-1/HB 1320; Ga. L. 2012, p. 775, § 12/HB 942; Ga. L. 2013, p. 274, § 1/HB 226; Ga. L. 2018, p. 760, § 1/HB 785; Ga. L. 2025, p. 634, § 1/HB 351, effective January 1, 2026.

Delayed effective date.

Code Section 12-8-22 is set out twice in this Code. This version is effective January 1, 2026. For version effective until January 1, 2026, see the preceding version.

Amendments.

The 2025 amendment, effective January 1, 2026, deleted "special" following "destination of" in paragraph (16) and rewrote paragraph (37).

12-8-23. (Effective until January 1, 2026.) Powers and duties of board.

In the performance of its duties the board shall have and may exercise the power to:

(1) Adopt, promulgate, modify, amend, and repeal rules and regulations to implement and enforce the provisions of this part as the board may deem necessary to provide for the control and management of solid waste to protect the environment and the health of humans. Such rules and regulations may be applicable to the state as a whole or may vary from area to area or may vary by waste characteristics, as may be appropriate to facilitate the accomplishment of the provisions, purposes, and policies of this part. The rules and regulations may include, but shall not be limited to, the following:

(A) Rules and regulations governing and controlling solid waste handling, including measures to ensure that solid waste management practices are regulated, governed, and controlled in the public interest;

(B) Rules and regulations prescribing the procedure to be followed in applying for permits and requiring the submission of such plans, specifications, verifications, and other pertinent information deemed relevant in connection with the issuance of such permits;

(C) Rules and regulations concerning the establishment of permits by rule;

(D) Rules and regulations establishing the use of a manifest during the generation and handling of special solid waste;

(E) Rules and regulations governing and controlling the handling of special solid waste and biomedical waste;

(F) Rules and regulations establishing criteria and a system of priorities for the distribution of any state funds as may be made available through a grant-in-aid program to assist financially local governmental agencies or authorities in the planning, implementing, maintaining, or operating of solid waste handling systems

which are consistent with local and regional solid waste management plans;

(G) Rules and regulations establishing procedures and requirements for the postclosure care of all solid waste disposal facilities, including but not limited to corrective action of releases, groundwater monitoring, and maintenance of final cover;

(H) Rules and regulations establishing the criteria for approval, time periods for coverage, and other terms and conditions for the demonstration of financial responsibility required by this part and for the implementation of financial responsibility instruments;

(I) Rules and regulations establishing qualifications for municipal solid waste disposal facility operators and certification of such operators through colleges or universities of the University System of Georgia or other organizations as may be determined acceptable by the board;

(J) Rules and regulations regulating the generation, collection, processing, and disposal of scrap tires and the collection, inventory, and marketing of used tires and governing the investigation and cleanup of sites where scrap tires have been disposed regardless of the date when such disposal occurred; and

(K) Rules and regulations further defining what shall or shall not constitute "recovered materials"; and

(2) Take all necessary steps to ensure the effective enforcement of this part.

History.
Code 1981, § 12-8-23, enacted by Ga. L. 1990, p. 412, § 1; Ga. L. 1992, p. 3259, § 3; Ga. L. 1992, p. 3276, § 2; Ga. L. 2013, p. 274, § 2/HB 226.

Delayed effective date.
Code Section 12-8-23 is set out twice in this Code. This version is effective until January 1, 2026. For version effective January 1, 2026, see the following version.

12-8-23. (Effective January 1, 2026.) Powers and duties of board.

In the performance of its duties the board shall have and may exercise the power to:

(1) Adopt, promulgate, modify, amend, and repeal rules and regulations to implement and enforce the provisions of this part as the board may deem necessary to provide for the control and management of solid waste to protect the environment and the health of humans. Such rules and regulations may be applicable to the state as a whole or may vary from area to area or may vary by waste characteristics, as may be appropriate to facilitate the accomplishment of the provisions, purposes, and policies of this part. The rules

and regulations may include, but shall not be limited to, the following:

(A) Rules and regulations governing and controlling solid waste handling, including measures to ensure that solid waste management practices are regulated, governed, and controlled in the public interest;

(B) Rules and regulations prescribing the procedure to be followed in applying for permits and requiring the submission of such plans, specifications, verifications, and other pertinent information deemed relevant in connection with the issuance of such permits;

(C) Rules and regulations concerning the establishment of permits by rule;

(D) Reserved;

(E) Rules and regulations governing and controlling the handling of biomedical waste;

(F) Rules and regulations establishing criteria and a system of priorities for the distribution of any state funds as may be made available through a grant-in-aid program to assist financially local governmental agencies or authorities in the planning, implementing, maintaining, or operating of solid waste handling systems which are consistent with local and regional solid waste management plans;

(G) Rules and regulations establishing procedures and requirements for the postclosure care of all solid waste disposal facilities, including but not limited to corrective action of releases, groundwater monitoring, and maintenance of final cover;

(H) Rules and regulations establishing the criteria for approval, time periods for coverage, and other terms and conditions for the demonstration of financial responsibility required by this part and for the implementation of financial responsibility instruments;

(I) Rules and regulations establishing qualifications for municipal solid waste disposal facility operators and certification of such operators through colleges or universities of the University System of Georgia or other organizations as may be determined acceptable by the board;

(J) Rules and regulations regulating the generation, collection, processing, and disposal of scrap tires and the collection, inventory, and marketing of used tires and governing the investigation and cleanup of sites where scrap tires have been disposed regardless of the date when such disposal occurred; and

(K) Rules and regulations further defining what shall or shall not constitute "recovered materials"; and

(2) Take all necessary steps to ensure the effective enforcement of this part.

History.

Code 1981, § 12-8-23, enacted by Ga. L. 1990, p. 412, § 1; Ga. L. 1992, p. 3259, § 3; Ga. L. 1992, p. 3276, § 2; Ga. L. 2013, p. 274, § 2/HB 226; Ga. L. 2025, p. 634, § 2/HB 351, effective January 1, 2026.

Delayed effective date.

Code Section 12-8-23 is set out twice in this Code. This version is effective January 1, 2026. For version effective until January 1, 2026, see the preceding version.

Amendments.

The 2025 amendment, effective January 1, 2026, in subparagraph (1)(D), substituted "Reserved" for "Rules and regulations establishing the use of a manifest during the generation and handling of special solid waste;"; and deleted "special solid waste and" following "handling of" in subparagraph (1)(E).

12-8-24. (Effective until January 1, 2026.) Permits for solid waste or special solid waste handling, disposal, or thermal treatment technology facility; inspection of solid waste generators.

(a) No person shall engage in solid waste or special solid waste handling in Georgia or construct or operate a solid waste handling facility in Georgia, except those individuals exempted from this part under Code Section 12-8-30.10, without first obtaining a permit from the director authorizing such activity.

(b)(1) No permit for a biomedical waste thermal treatment technology facility shall be issued by the director unless the applicant for such facility demonstrates to the director that a need exists for the facility for waste generated in Georgia by showing that there is not presently in existence within the state sufficient disposal facilities for biomedical waste being generated or expected to be generated within the state. For purposes of this part, "biomedical waste thermal treatment technology facility" means any facility that exists for the purpose of reducing the amount of biomedical waste disposed of through a process of combustion, with or without the process of converting such waste to energy.

(2) Paragraph (1) of this subsection shall not apply to any biomedical waste thermal treatment technology facility which is operated exclusively by a private biomedical waste generator on property owned by the private biomedical waste generator for the purpose of accepting biomedical waste exclusively from the private biomedical waste generator so long as the operation of the biomedical waste thermal treatment technology facility does not adversely affect the public health or the environment. After commencement of operation

by a private biomedical waste generator of a biomedical waste thermal treatment technology facility which is permitted by but not included in a local or regional solid waste management plan, amendment of the local or regional solid waste management plan shall be required for any biomedical waste which is no longer to be disposed of by the private biomedical waste generator in its own biomedical waste thermal treatment technology facility prior to any substantial reduction in the amount of biomedical waste produced by the private biomedical waste generator and accepted by its own biomedical waste thermal treatment technology facility or the closure of such facility.

(c) On or after March 30, 1990, any permit for the transportation of municipal solid waste from a jurisdiction generating solid waste to a municipal solid waste disposal facility located in another county shall be conditioned upon the jurisdiction generating solid waste developing and being actively involved in, by July 1, 1992, a strategy for meeting the state-wide goal of waste reduction by July 1, 1996.

(d) If the director determines that such activity will result in any violation of this part or any rule or regulation promulgated pursuant to this part, he shall deny the permit; otherwise, he shall issue the permit, specifying on the permit the conditions under which such activity shall be conducted; provided, however, that a public hearing shall be held by the governing authority of the county or municipality in which the municipal solid waste or special solid waste handling shall occur not less than two weeks prior to the issuance of any permit under this Code section and notice of such hearing shall be posted at the proposed site and advertised in a newspaper of general circulation serving the county or counties in which the proposed activity will be conducted at least 30 days prior to such hearing.

(e)(1)(A) Reserved.

(B) The director may suspend, modify, or revoke any permit issued pursuant to this Code section if the holder of the permit is found to be in violation of any of the permit conditions or any order of the director or fails to perform solid waste handling in accordance with this part or rules promulgated under this part.

(C)(i) The director may modify any permit issued pursuant to this Code section in accordance with rules promulgated by the board. All modifications of existing permits shall be classified by the board as either major or minor modifications.

(ii) All modifications of existing permits to allow vertical or horizontal expansion of existing disposal facilities, except a facility operated by a utility regulated by the Public Service Commission, shall be classified as major permit modifications and shall not be granted by the director sooner than three years

from the date any such facility commenced operation; provided, however, that a permit may be modified by the director to allow a vertical or horizontal expansion one time within three years from the date the facility commenced operation so long as the capacity of the facility is not increased more than 10 percent.

(iii) All modifications of permits for existing municipal solid waste disposal facilities for the addition at such facility of a recovered materials processing facility shall be classified as minor permit modifications, provided the location of such facility complies with the same buffer requirements applicable to the disposal facility. Such materials shall be reported at the disposal facility separately from waste materials destined for disposal. Operators of such disposal facilities may report to the Department of Community Affairs on an annual basis the total amounts of such materials diverted from landfill disposal.

(iv) The disposal facility permit holder shall provide written notification to the chief elected official of the jurisdiction in which the facility is located at least 30 days prior to starting any recovered materials processing facility. This notification shall include an indication of whether or not the ten-year demonstrated capacity of the landfill will be reduced. The permit holder shall comply with all applicable local zoning ordinances. If necessary to satisfy local solid waste planning and reporting requirements, disposal facility operators may be required by the county, municipality, or solid waste management authority for the jurisdiction in which the disposal facility is located to report the total amounts of such materials diverted from landfill disposal.

(2) Prior to the granting of any major modification of an existing solid waste handling permit by the director, a public hearing shall be held by the governing authority of the county or municipality in which the municipal solid waste facility or special solid waste handling facility requesting the modification is located not less than two weeks prior to the issuance of any permit under this Code section and notice of such hearing shall be posted at the site of such facility and advertised in a newspaper of general circulation serving the county or counties in which such facility is located at least 30 days prior to such hearing.

(3) Except as otherwise provided in this part, major modifications shall meet the siting and design standards applicable to new permit applications in effect on the date the modification is approved by the director; provided, however, that a facility may be granted a variance by the director from those standards when vertically expanded unless such variance is inconsistent with federal laws and regulations;

provided, further, that the director shall not grant a variance from the provisions of subparagraph (B), (C), (D), or (E) of paragraph (4) of this subsection.

(4) No vertical expansions shall be approved under this subsection unless:

(A) The owner or operator demonstrates compliance with all standards not varied by the director;

(B) The owner or operator has installed a surface and groundwater monitoring system approved by the division under currently promulgated rules and has submitted the initial sampling results to the division;

(C) The owner or operator has implemented or installed a methane gas monitoring program or system approved by the division under currently promulgated rules and has submitted the initial sampling results to the division;

(D) The owner or operator has a closure and postclosure care plan approved by the division under currently promulgated rules;

(E) Where noncompliance with the standards for surface water, ground water, or methane gas has been determined, the owner or operator has a schedule and corrective action plan approved by the division for returning the site to compliance within six months of the director's approval of the corrective action plan. If the owner or operator cannot demonstrate that the site can be returned to compliance within said six-month period, the director shall not issue a permit to expand the site vertically but shall order the facility to prepare a final closure plan, including the cessation of waste receipt within six months of the final effective date of the order; and

(F) Where noncompliance with the standards for surface water, ground water, or methane gas may be determined and the permit has not been transferred to another person, the owner or operator has a remedial modification plan providing for the evacuation of all previously disposed waste from a permitted, unlined expansion site and redisposal of such waste into a conforming facility with a composite liner and leachate collection system. If noncompliance is determined, the director shall order the owner or operator to prepare a corrective action plan, which must be approved by the division, and such corrective action must be completed within the compliance time frame determined by the division. If the owner or operator cannot demonstrate that the site can be returned to compliance within such division compliance time frame, the director shall order the facility to prepare a final closure plan, including

the cessation of waste receipt within 12 months of the final effective date of the order.

(5) Modifications for vertical expansions issued under this Code section may be restricted in duration, but in no case shall be effective for municipal solid waste landfills not having liners and leachate collection systems, other than those landfills restricted to construction or demolition waste.

(6) The owner or operator of any site not having a liner and leachate collection system which is vertically expanded and which subsequently fails to demonstrate compliance with all applicable surface water, ground-water, or methane gas standards shall demonstrate to the satisfaction of the director, through a corrective action plan, that the site has been or can be returned to compliance within six months of the director's approval of the corrective action plan. If the owner or operator fails to demonstrate to the satisfaction of the director that compliance has been attained or can be attained, the director shall notify the owner or operator, ordering cessation of the acceptance of waste for disposal, remediation of noncompliance, and implementation of the final closure plan, to include a final date for closure.

(f) In the event of the modification, suspension, amendment, or revocation of a permit, the director shall serve written notice of such action on the permit holder and shall set forth in such notice the reason for such action.

(g) Prior to the issuance of any permit for a solid waste handling facility or the granting of any major modification of an existing solid waste handling permit, the director shall require written verification to be furnished by the applicant that the proposed facility complies with local zoning or land use ordinances, if any; and after July 1, 1992, that the proposed facility is consistent with the local, multijurisdictional, or regional solid waste management plan developed in accordance with standards promulgated pursuant to this part subject to the provisions of Code Section 12-8-31.1 and that the host jurisdiction and all jurisdictions generating solid waste destined for the applicants' facility can demonstrate that they are part of an approved solid waste plan developed in accordance with standards promulgated pursuant to this part and are actively involved in and have a strategy for meeting the state-wide goal of waste reduction by July 1, 1996. Prior to the issuance of any permit for a solid waste handling facility or the granting of any major modification of an existing solid waste handling permit that will handle solid waste from jurisdictions outside Georgia, the out-of-state solid waste generating jurisdictions shall provide documentation that they have a strategy for and are actively involved in meeting planning requirements and a waste reduction goal that are substantially

equivalent to the planning requirements and waste reduction goal contained in this part.

(h) No permit for a disposal facility shall be issued to any regional solid waste management authority created under Part 2 of this article, the "Regional Solid Waste Management Authorities Act," until local and regional solid waste management plans consistent with this part have been developed for all jurisdictions participating in such authority and such plans are found to be consistent with the state solid waste management plan pursuant to subsection (d) of Code Section 12-8-31.1.

(i) No permit shall be issued for a new solid waste thermal treatment technology facility unless the applicant meets or exceeds standards adopted by the board which shall be consistent with and at least as stringent as the Federal New Source Performance Standards for new municipal waste combustors outlined in regulations pursuant to the federal Clean Air Act, 42 U.S.C. Section 1857, et seq., as amended, and 42 U.S.C. Section 7401, et seq., as amended.

(j) The director or his designee is authorized to inspect any generator in Georgia to determine whether that generator's solid waste is acceptable for the intended handling facility. The division may require any generator in Georgia to cease offering solid waste for handling if such solid waste is not acceptable under standards promulgated by the board, and the division may prohibit the handling of such solid waste until waste management procedures acceptable to the division are developed. Such prohibition shall continue in effect until the waste management procedure for handling is approved in writing by the division. Any generator or handler in Georgia which does not comply with a prohibition made under this subsection shall be in violation of this part.

(k) Any inert waste landfill which, as of January 1, 2014, has been certified by a professional engineer registered in accordance with Chapter 15 of Title 43 as being in full compliance with all permit by rule requirements established in the rules and regulations of the division as they existed on January 1, 2012, may continue to operate under such permit by rule requirements.

History.

Code 1981, § 12-8-24, enacted by Ga. L. 1990, p. 412, § 1; Ga. L. 1991, p. 462, § 1; Ga. L. 1992, p. 3276, §§ 4, 5; Ga. L. 1993, p. 399, §§ 5, 6; Ga. L. 1994, p. 1922, § 1; Ga. L. 1995, p. 10, § 12; Ga. L. 1997, p. 1081, § 1; Ga. L. 2000, p. 1641, § 1; Ga. L. 2005, p. 1247, § 7/SB 122; Ga. L. 2010, p. 235, § 1/HB 1059; Ga. L. 2013, p. 171, § 1/HB 320.

Delayed effective date.

Code Section 12-8-24 is set out twice in this Code. This version is effective until January 1, 2026. For version effective January 1, 2026, see the following version.

JUDICIAL DECISIONS

Error in imposing duty to investigate. — In an action challenging the propriety of a decision revoking a permit to build a solid waste landfill, the superior court did not ignore or impermissibly overrule the administrative law judge's factual findings but reversed the administrative law judge because it erred as a matter of law in imposing upon the Environmental Protection Division of the Georgia Department of Natural Resources an investigatory duty to investigate and confirm consistency. Board of Commrs. v. Brantley County Development, 372 Ga. App. 603, 905 S.E.2d 685, 2024 Ga. App. LEXIS 335 (2024).

12-8-24. (Effective January 1, 2026.) Permits for solid waste handling, disposal, or thermal treatment technology facility; inspection of solid waste generators.

(a) No person shall engage in solid waste handling in Georgia or construct or operate a solid waste handling facility in Georgia, except those individuals exempted from this part under Code Section 12-8-30.10, without first obtaining a permit from the director authorizing such activity.

(b)(1) No permit for a biomedical waste thermal treatment technology facility shall be issued by the director unless the applicant for such facility demonstrates to the director that a need exists for the facility for waste generated in Georgia by showing that there is not presently in existence within the state sufficient disposal facilities for biomedical waste being generated or expected to be generated within the state. For purposes of this part, "biomedical waste thermal treatment technology facility" means any facility that exists for the purpose of reducing the amount of biomedical waste disposed of through a process of combustion, with or without the process of converting such waste to energy.

(2) Paragraph (1) of this subsection shall not apply to any biomedical waste thermal treatment technology facility which is operated exclusively by a private biomedical waste generator on property owned by the private biomedical waste generator for the purpose of accepting biomedical waste exclusively from the private biomedical waste generator so long as the operation of the biomedical waste thermal treatment technology facility does not adversely affect the public health or the environment. After commencement of operation by a private biomedical waste generator of a biomedical waste thermal treatment technology facility which is permitted by but not included in a local or regional solid waste management plan, amendment of the local or regional solid waste management plan shall be required for any biomedical waste which is no longer to be disposed of by the private biomedical waste generator in its own biomedical waste thermal treatment technology facility prior to any substantial reduction in the amount of biomedical waste produced by the private

biomedical waste generator and accepted by its own biomedical waste thermal treatment technology facility or the closure of such facility.

(c) Reserved.

(d) If the director determines that such activity will result in any violation of this part or any rule or regulation promulgated pursuant to this part, the director shall deny the permit; otherwise, the director shall issue the permit, specifying on the permit the conditions under which such activity shall be conducted; provided, however, that a public hearing shall be held by the governing authority of the county or municipality in which the municipal solid waste handling shall occur not less than two weeks prior to the issuance of any permit under this Code section and notice of such hearing shall be posted at the proposed site and advertised in a newspaper of general circulation serving the county or counties in which the proposed activity will be conducted at least 30 days prior to such hearing.

(e)(1)(A) Reserved.

(B) The director may suspend, modify, or revoke any permit issued pursuant to this Code section if the holder of the permit is found to be in violation of any of the permit conditions or any order of the director or fails to perform solid waste handling in accordance with this part or rules promulgated under this part.

(C)(i) The director may modify any permit issued pursuant to this Code section in accordance with rules promulgated by the board. All modifications of existing permits shall be classified by the board as either major or minor modifications.

(ii) All modifications of existing permits to allow vertical or horizontal expansion of existing disposal facilities, except a facility operated by a utility regulated by the Public Service Commission, shall be classified as major permit modifications and shall not be granted by the director sooner than three years from the date any such facility commenced operation; provided, however, that a permit may be modified by the director to allow a vertical or horizontal expansion one time within three years from the date the facility commenced operation so long as the capacity of the facility is not increased more than 10 percent.

(iii) All modifications of permits for existing municipal solid waste disposal facilities for the addition at such facility of a recovered materials processing facility shall be classified as minor permit modifications, provided the location of such facility complies with the same buffer requirements applicable to the disposal facility. Such materials shall be reported at the disposal facility separately from waste materials destined for disposal.

Operators of such disposal facilities may report to the Department of Community Affairs on an annual basis the total amounts of such materials diverted from landfill disposal.

(iv) The disposal facility permit holder shall provide written notification to the chief elected official of the jurisdiction in which the facility is located at least 30 days prior to starting any recovered materials processing facility. This notification shall include an indication of whether or not the ten-year demonstrated capacity of the landfill will be reduced. The permit holder shall comply with all applicable local zoning ordinances. If necessary to satisfy local solid waste planning and reporting requirements, disposal facility operators may be required by the county, municipality, or solid waste management authority for the jurisdiction in which the disposal facility is located to report the total amounts of such materials diverted from landfill disposal.

(2) Prior to the granting of any major modification of an existing solid waste handling permit by the director, a public hearing shall be held by the governing authority of the county or municipality in which the municipal solid waste facility requesting the modification is located not less than two weeks prior to the issuance of any permit under this Code section and notice of such hearing shall be posted at the site of such facility and advertised in a newspaper of general circulation serving the county or counties in which such facility is located at least 30 days prior to such hearing.

(3) Except as otherwise provided in this part, major modifications shall meet the siting and design standards applicable to new permit applications in effect on the date the modification is approved by the director; provided, however, that a facility may be granted a variance by the director from those standards when vertically expanded unless such variance is inconsistent with federal laws and regulations; provided, further, that the director shall not grant a variance from the provisions of subparagraph (B), (C), (D), or (E) of paragraph (4) of this subsection.

(4) No vertical expansions shall be approved under this subsection unless:

(A) The owner or operator demonstrates compliance with all standards not varied by the director;

(B) The owner or operator has installed a surface and groundwater monitoring system approved by the division under currently promulgated rules and has submitted the initial sampling results to the division;

(C) The owner or operator has implemented or installed a

methane gas monitoring program or system approved by the division under currently promulgated rules and has submitted the initial sampling results to the division;

(D) The owner or operator has a closure and postclosure care plan approved by the division under currently promulgated rules;

(E) Where noncompliance with the standards for surface water, ground water, or methane gas has been determined, the owner or operator has a schedule and corrective action plan approved by the division for returning the site to compliance within six months of the director's approval of the corrective action plan. If the owner or operator cannot demonstrate that the site can be returned to compliance within said six-month period, the director shall not issue a permit to expand the site vertically but shall order the facility to prepare a final closure plan, including the cessation of waste receipt within six months of the final effective date of the order; and

(F) Where noncompliance with the standards for surface water, ground water, or methane gas may be determined and the permit has not been transferred to another person, the owner or operator has a remedial modification plan providing for the evacuation of all previously disposed waste from a permitted, unlined expansion site and redisposal of such waste into a conforming facility with a composite liner and leachate collection system. If noncompliance is determined, the director shall order the owner or operator to prepare a corrective action plan, which must be approved by the division, and such corrective action must be completed within the compliance time frame determined by the division. If the owner or operator cannot demonstrate that the site can be returned to compliance within such division compliance time frame, the director shall order the facility to prepare a final closure plan, including the cessation of waste receipt within 12 months of the final effective date of the order.

(5) Modifications for vertical expansions issued under this Code section may be restricted in duration, but in no case shall be effective for municipal solid waste landfills not having liners and leachate collection systems, other than those landfills restricted to construction or demolition waste.

(6) The owner or operator of any site not having a liner and leachate collection system which is vertically expanded and which subsequently fails to demonstrate compliance with all applicable surface water, ground-water, or methane gas standards shall demonstrate to the satisfaction of the director, through a corrective action plan, that the site has been or can be returned to compliance within

six months of the director's approval of the corrective action plan. If the owner or operator fails to demonstrate to the satisfaction of the director that compliance has been attained or can be attained, the director shall notify the owner or operator, ordering cessation of the acceptance of waste for disposal, remediation of noncompliance, and implementation of the final closure plan, to include a final date for closure.

(f) In the event of the modification, suspension, amendment, or revocation of a permit, the director shall serve written notice of such action on the permit holder and shall set forth in such notice the reason for such action.

(g)(1) The director shall require that an applicant for any permit for a solid waste handling facility or any major modification of an existing solid waste handling permit submit to the division written verification from an authorized official of the host local government for the facility or proposed facility or major modification that is no more than 36 months old from the date of application that:

(A) Identifies the type of facility or proposed facility;

(B) Describes the location of such facility or proposed facility by tax parcel identification number or legal description;

(C) Expressly states that the facility or proposed facility complies with local zoning or land use ordinances or that there are no such local zoning or land use ordinances; and

(D) States that the facility or proposed facility is consistent with the local, multijurisdictional, or regional solid waste management plan developed and adopted by the host local government in accordance with the provisions of Code Section 12-8-31.1.

(2) For purposes of paragraph (1) of this subsection, written verification may be executed by an administrative official or employee of the host local government only if that person has been authorized to provide the written verification by ordinance or resolution of the governing authority. In the absence of such authorization, written verification shall be executed by the chief elected official of the governing authority of the host local government.

(3) Such written verification from the host local government shall constitute a determination that the facility or proposed facility or major modification is consistent with the applicable requirements of subsection (e) of Code Section 12-8-31.1.

(h) No permit for a disposal facility shall be issued to any regional solid waste management authority created under Part 2 of this article, the "Regional Solid Waste Management Authorities Act," until local and

regional solid waste management plans consistent with this part have been developed for all jurisdictions participating in such authority and are consistent with the state solid waste management plan described in subsection (c) of Code Section 12-8-31.

(i) No permit shall be issued for a new solid waste thermal treatment technology facility unless the applicant meets or exceeds standards adopted by the board which shall be consistent with and at least as stringent as the Federal New Source Performance Standards for new municipal waste combustors outlined in regulations pursuant to the federal Clean Air Act, 42 U.S.C. Section 1857, et seq., as amended, and 42 U.S.C. Section 7401, et seq., as amended.

(j) The director or his designee is authorized to inspect any generator in Georgia to determine whether that generator's solid waste is acceptable for the intended handling facility. The division may require any generator in Georgia to cease offering solid waste for handling if such solid waste is not acceptable under standards promulgated by the board, and the division may prohibit the handling of such solid waste until waste management procedures acceptable to the division are developed. Such prohibition shall continue in effect until the waste management procedure for handling is approved in writing by the division. Any generator or handler in Georgia which does not comply with a prohibition made under this subsection shall be in violation of this part.

(k) Any inert waste landfill which, as of January 1, 2014, has been certified by a professional engineer registered in accordance with Chapter 15 of Title 43 as being in full compliance with all permit by rule requirements established in the rules and regulations of the division as they existed on January 1, 2012, may continue to operate under such permit by rule requirements.

History.

Code 1981, § 12-8-24, enacted by Ga. L. 1990, p. 412, § 1; Ga. L. 1991, p. 462, § 1; Ga. L. 1992, p. 3276, §§ 4, 5; Ga. L. 1993, p. 399, §§ 5, 6; Ga. L. 1994, p. 1922, § 1; Ga. L. 1995, p. 10, § 12; Ga. L. 1997, p. 1081, § 1; Ga. L. 2000, p. 1641, § 1; Ga. L. 2005, p. 1247, § 7/SB 122; Ga. L. 2010, p. 235, § 1/HB 1059; Ga. L. 2013, p. 171, § 1/HB 320; Ga. L. 2025, p. 634, § 3/HB 351, effective January 1, 2026.

Delayed effective date.

Code Section 12-8-24 is set out twice in this Code. This version is effective January 1, 2026. For version effective until January 1, 2026, see the preceding version.

Amendments.

The 2025 amendment, effective January 1, 2026, deleted "or special solid waste" following "engage in solid waste" in subsection (a); substituted "Reserved" for "On or after March 30, 1990, any permit for the transportation of municipal solid waste from a jurisdiction generating solid waste to a municipal solid waste disposal facility located in another county shall be conditioned upon the jurisdiction generating solid waste developing and being actively involved in, by July 1, 1992, a strategy for meeting the state-wide goal of waste reduction by July 1, 1996"; in subsection (d), substituted "the director" for "he" in two places and deleted "or special

solid waste" following "municipal solid waste"; deleted "or special solid waste handling facility" following "waste facility" in paragraph (e)(2); rewrote subsection (g); and, in subsection (h), substituted "authority and are consistent with the state solid waste management plan described in subsection (c) of Code Section 12-8-31" for "authority and such plans are found to be consistent with the state solid waster management plan pursuant to subsection (d) of Code Section 12-8-31.1."

12-8-25.3. (Effective until January 1, 2026.) Further restrictions on sites within significant ground-water recharge area or near military air space used as bombing range.

(a) Notwithstanding the provisions of Code Section 12-8-25.2, no permit shall be issued for a municipal solid waste landfill which accepts solid waste generated from outside the county in which such landfill is located or, in the case of a regional landfill, from outside any of the counties or special districts empowered to engage in solid waste management activities constituting such region if any part of such site is within any area that has been designated by the director as a significant ground-water recharge area.

(b) In addition to the provisions of subsection (a) of this Code section, in the case of a regional municipal solid waste landfill where any part of such site is within any area that has been designated by the director as a significant ground-water recharge area, no permit shall be issued for such regional landfill unless the boundaries of the counties or special districts empowered to engage in solid waste management activities are contiguous and such counties or special districts have entered into a joint contract for the collection and disposal of solid waste.

(c) No permit or modification of an existing permit shall be issued for land application of untreated municipal sewage sludge located in an area designated by Hydrologic Atlas 18 prepared by the Department of Natural Resources as a significant ground-water recharge area including, but not limited to, those areas designated as probable areas of thick soils.

(d)(1) Notwithstanding any other provision of law or any administrative regulation or action to the contrary, no permit shall be issued for a municipal solid waste landfill within two miles of a federally restricted military air space which is used for a bombing range. The provisions of this subsection shall apply to all permit applications pending on or after July 1, 1997, and to all permits denied prior to such date which are the subject of an appeal or judicial review pending on such date.

(2) This subsection shall not prohibit or prevent any municipal solid waste landfill that was permitted and operational on July 1,

1997, from expanding its operation into an area outlined in paragraph (1) of this subsection.

History.
Code 1981, § 12-8-25.3, enacted by Ga. L. 1990, p. 412, § 1; Ga. L. 1995, p. 1025, § 1; Ga. L. 1997, p. 928, § 1; Ga. L. 2020, p. 25, § 1/SB 123.

Delayed effective date.
Code Section 12-8-25.3 is set out twice in this Code. This version is effective until January 1, 2026. For version effective January 1, 2026, see the following version.

12-8-25.3. (Effective January 1, 2026.) Further restrictions on sites within significant ground-water recharge area or near military air space used as bombing range.

(a) Reserved.

(b) Reserved.

(c) No permit or modification of an existing permit shall be issued for land application of untreated municipal sewage sludge located in an area designated by Hydrologic Atlas 18 prepared by the Department of Natural Resources as a significant ground-water recharge area including, but not limited to, those areas designated as probable areas of thick soils.

(d)(1) Notwithstanding any other provision of law or any administrative regulation or action to the contrary, no permit shall be issued for a municipal solid waste landfill within two miles of a federally restricted military air space which is used for a bombing range. The provisions of this subsection shall apply to all permit applications pending on or after July 1, 1997, and to all permits denied prior to such date which are the subject of an appeal or judicial review pending on such date.

(2) This subsection shall not prohibit or prevent any municipal solid waste landfill that was permitted and operational on July 1, 1997, from expanding its operation into an area outlined in paragraph (1) of this subsection.

History.
Code 1981, § 12-8-25.3, enacted by Ga. L. 1990, p. 412, § 1; Ga. L. 1995, p. 1025, § 1; Ga. L. 1997, p. 928, § 1; Ga. L. 2020, p. 25, § 1/SB 123; Ga. L. 2025, p. 634, § 4/HB 351, effective January 1, 2026.

Delayed effective date.
Code Section 12-8-25.3 is set out twice in this Code. This version is effective January 1, 2026. For version effective until January 1, 2026, see the preceding version.

Amendments.
The 2025 amendment, effective January 1, 2026, substituted "Reserved" for the former provisions of subsection (a), which read: "Notwithstanding the provisions of Code Section 12-8-25.2, no permit shall be issued for a municipal solid waste landfill which accepts solid waste generated from outside the county in which such landfill is located or, in the case of a regional landfill, from outside any of the counties or special districts empowered to engage in solid waste management activities constituting such region if any part of such site is within any area that has been designated by the director as a significant

ground-water recharge area"; and substituted "Reserved" for "In addition to the provisions of subsection (a) of this Code section, in the case of a regional municipal solid waste landfill where any part of such site is within any area that has been designated by the director as a significant ground-water recharge area, no permit shall be issued for such regional landfill unless the boundaries of the counties or special districts empowered to engage in solid waste management activities are contiguous and such counties or special districts have entered into a joint contract for the collection and disposal of solid waste".

12-8-26. (Effective until January 1, 2026.) Public meetings on site selection; notice; decision.

(a) Any county, municipality, group of counties, or authority beginning a process to select a site for a municipal solid waste disposal facility must first call at least one public meeting to discuss waste management needs of the local government or region and to describe the process of siting facilities to the public. Notice of this meeting shall be published within a newspaper of general circulation serving such county or municipality at least once a week for two weeks immediately preceding the date of such meeting. A regional solid waste management authority created under Part 2 of this article must hold at least one meeting within each jurisdiction participating in such authority, and notice for these meetings must be published within a newspaper of general circulation serving each such jurisdiction at least once a week for two weeks immediately preceding the date of such meeting.

(b) The governing authority of any county or municipality taking action resulting in a publicly or privately owned municipal solid waste disposal facility siting decision shall cause to be published within a newspaper of general circulation serving such county or municipality a notice of the meeting at which such siting decision is to be made at least once a week for two weeks immediately preceding the date of such meeting. Such notice shall state the time, place, and purpose of the meeting and the meeting shall be conducted by the governing authority taking the action. A siting decision shall include, but is not limited to, such activities as the final selection of property for landfilling and the execution of contracts or agreements pertaining to the location of municipal solid waste disposal facilities within the jurisdiction, but shall not include zoning decisions.

History.

Code 1981, § 12-8-26, enacted by Ga. L. 1990, p. 412, § 1; Ga. L. 1992, p. 3276, § 7.

Delayed effective date.

Code Section 12-8-26 is set out twice in this Code. This version is effective until January 1, 2026. For version effective January 1, 2026, see the following version.

12-8-26. (Effective January 1, 2026.) Public meetings on site selection; notice; decision.

(a) Any county, municipality, group of counties, or government authority beginning a process to select a site on which such county, municipality, group of counties, or government authority intends to own or operate a municipal solid waste disposal facility must first call at least one public meeting to discuss waste management needs of the local government or region and to describe the process of siting facilities to the public. Notice of this meeting shall be published within a newspaper of general circulation serving such county or municipality at least 14 days and again at least seven days immediately preceding the date of such meeting. A regional solid waste management authority created under Part 2 of this article must hold at least one meeting within each jurisdiction participating in such authority, and notice for these meetings must be published within a newspaper of general circulation serving each such jurisdiction at least 14 days and again at least seven days immediately preceding the date of such meeting.

(b) Before a host local government verifies in writing that a proposed new public or private municipal solid waste disposal facility or a major modification expanding the permit boundaries of an existing facility is consistent with the local, multijurisdictional, or regional solid waste management plan adopted by the host local government and local zoning or land use ordinances, as required by subsection (g) of Code Section 12-8-24, the governing authority of the host local government shall comply with the notice and meeting requirements set forth in this part. Prior to issuing written verification, such governing authority shall cause a notice of the meeting at which the public will be informed of the proposed new facility or major modification expanding the permit boundaries of an existing facility to be published in a newspaper of general circulation serving such local government. The meeting notice shall be published at least 14 days and again at least seven days preceding the date of such meeting. The meeting notice shall identify the governing authority of the host local government jurisdiction that will conduct the meeting and shall include the time, place, and purpose of the meeting. During the meeting on the proposed new facility or major modification expanding the permit boundaries of an existing facility, the governing authority of the host local government shall inform the public of:

(1) The location of the proposed new facility or major modification expanding the permit boundaries of an existing facility;

(2) The type of facility and operations proposed; and

(3) The process by which such governing authority shall provide the written verification described in subsection (g) of Code Section 12-8-24.

History.

Code 1981, § 12-8-26, enacted by Ga. L. 1990, p. 412, § 1; Ga. L. 1992, p. 3276, § 7; Ga. L. 2025, p. 634, § 5/HB 351, effective January 1, 2026.

Delayed effective date.

Code Section 12-8-26 is set out twice in this Code. This version is effective January 1, 2026. For version effective until January 1, 2026, see the preceding version.

Amendments.

The 2025 amendment, effective January 1, 2026, in subsection (a), inserted "government" and substituted "site on which such county, municipality, group of counties, or government authority intends to own or operate a municipal" for "site for a municipal" in the first sentence, and substituted "14 days and again at least seven days" for "once a week for two weeks" in the second and third sentences; and rewrote subsection (b).

12-8-27.1. (Effective until January 1, 2026.) Solid Waste Trust Fund.

(a)(1) The state treasurer shall establish a separate trust fund in the state treasury that shall be known as the Solid Waste Trust Fund to which all funds within the solid waste trust fund previously established by this subsection shall be transferred. The director shall serve as trustee of the Solid Waste Trust Fund.

(2) The state treasurer shall invest the money held in the Solid Waste Trust Fund in the same manner in which state funds are invested as authorized by the State Depository Board pursuant to Article 3 of Chapter 17 of Title 50. Interest earned by the money held in the trust fund shall be accounted for separately and shall be credited to the trust fund to be disbursed as other moneys in the trust fund.

(b) Under the authority granted and subject to the conditions imposed by Article III, Section IX, Paragraph VI(r) of the Constitution of Georgia, for the period beginning on July 1, 2022, and ending on June 30, 2032, all of the money collected pursuant to subsection (h) of Code Section 12-8-40.1 shall be annually appropriated to the Solid Waste Trust Fund established by subsection (a) of this Code section and such funds shall not lapse as otherwise required by Article III, Section IX, Paragraph IV(c) of the Constitution of Georgia. Each annual appropriation shall be made through the General Appropriations Act and shall include all of the money collected from such source during the most recently completed fiscal year.

(c) All of the money appropriated to the Solid Waste Trust Fund pursuant to subsection (b) of this Code section shall be dedicated for use only for the following purposes:

(1) To take whatever emergency action is necessary or appropriate to assure that the public health or safety is not threatened whenever there is a release or substantial threat of a release of contaminants from a disposal facility;

(2) To take preventive or corrective actions where the release of contaminants presents an actual or potential threat to human health or the environment and where the owner or operator has not been identified or is unable or unwilling to perform corrective action, including but not limited to closure and postclosure care of a disposal facility and provisions for providing alternative water supplies;

(3) To take such actions as may be necessary to monitor and provide postclosure care of any disposal facility, including preventive and corrective actions, without regard to the identity or solvency of the owner thereof, commencing five years after the date of completing closure;

(4) To take such actions as may be necessary to implement the provisions of a scrap tire management program in this state, particularly as may be related to the cleanup of scrap tire disposal piles and facilities, regulation of tire carriers and other handlers, and disbursement of grants and loans to cities, counties, and other persons as may be necessary to implement fully the provisions of this part; and

(5) To fulfill any purpose provided in subsection (c) of Code Section 12-8-37.1.

(d) The director shall prepare an accounting of the funds expended pursuant to this Code section during the most recently completed fiscal year to be provided to the Office of Planning and Budget, the House Budget and Research Office, and the Senate Budget and Evaluation Office by January 1 of each year.

(e)(1) If the director determines that a solid waste or special solid waste handling facility has been abandoned, that the owner or operator thereof has become insolvent, or that for any other reason there is a demonstrated unwillingness or inability of the owner or operator to maintain, operate, or close the facility, to carry out postclosure care of the facility, or to carry out corrective action required as a condition of a permit to the satisfaction of the director, the director may implement the applicable financial responsibility mechanisms. The proceeds from any applicable financial responsibility mechanisms shall be deposited into the Solid Waste Trust fund.

(2) The determination of whether there has been an abandonment, default, or other refusal or inability to perform and comply with closure, postclosure, or corrective action requirements shall be made by the director.

History.

Code 1981, § 12-8-27.1, enacted by Ga. L. 1990, p. 412, § 1; Ga. L. 1992, p. 3259, § 5; Ga. L. 1992, p. 3276, § 9; Ga. L. 2013, p. 171, § 2/HB 320; Ga. L. 2013, p. 274, § 3/HB 226; Ga. L. 2021, p. 761, § 2/HB 511.

Delayed effective date.

Code Section 12-8-27.1 is set out twice in this Code. This version is effective until

January 1, 2026. For version effective January 1, 2026, see the following version.

12-8-27.1. (Effective January 1, 2026.) Solid Waste Trust Fund.

(a)(1) The state treasurer shall establish a separate trust fund in the state treasury that shall be known as the Solid Waste Trust Fund to which all funds within the solid waste trust fund previously established by this subsection shall be transferred. The director shall serve as trustee of the Solid Waste Trust Fund.

(2) The state treasurer shall invest the money held in the Solid Waste Trust Fund in the same manner in which state funds are invested as authorized by the State Depository Board pursuant to Article 3 of Chapter 17 of Title 50. Interest earned by the money held in the trust fund shall be accounted for separately and shall be credited to the trust fund to be disbursed as other moneys in the trust fund.

(b) Under the authority granted and subject to the conditions imposed by Article III, Section IX, Paragraph VI(r) of the Constitution of Georgia, for the period beginning on July 1, 2022, and ending on June 30, 2032, all of the money collected pursuant to subsection (h) of Code Section 12-8-40.1 shall be annually appropriated to the Solid Waste Trust Fund established by subsection (a) of this Code section and such funds shall not lapse as otherwise required by Article III, Section IX, Paragraph IV(c) of the Constitution of Georgia. Each annual appropriation shall be made through the General Appropriations Act and shall include all of the money collected from such source during the most recently completed fiscal year.

(c) All of the money appropriated to the Solid Waste Trust Fund pursuant to subsection (b) of this Code section shall be dedicated for use only for the following purposes:

(1) To take whatever emergency action is necessary or appropriate to assure that the public health or safety is not threatened whenever there is a release or substantial threat of a release of contaminants from a disposal facility;

(2) To take preventive or corrective actions where the release of contaminants presents an actual or potential threat to human health or the environment and where the owner or operator has not been identified or is unable or unwilling to perform corrective action, including but not limited to closure and postclosure care of a disposal facility and provisions for providing alternative water supplies;

(3) To take such actions as may be necessary to monitor and provide postclosure care of any disposal facility, including preventive

and corrective actions, without regard to the identity or solvency of the owner thereof, commencing five years after the date of completing closure;

(4) To take such actions as may be necessary to implement the provisions of a scrap tire management program in this state, particularly as may be related to the cleanup of scrap tire disposal piles and facilities, regulation of tire carriers and other handlers, and disbursement of grants and loans to cities, counties, and other persons as may be necessary to implement fully the provisions of this part; and

(5) To fulfill any purpose provided in subsection (c) of Code Section 12-8-37.1.

(d) The director shall prepare an accounting of the funds expended pursuant to this Code section during the most recently completed fiscal year to be provided to the Office of Planning and Budget, the House Budget and Research Office, and the Senate Budget and Evaluation Office by January 1 of each year.

(e)(1) If the director determines that a solid waste handling facility has been abandoned, that the owner or operator thereof has become insolvent, or that for any other reason there is a demonstrated unwillingness or inability of the owner or operator to maintain, operate, or close the facility, to carry out postclosure care of the facility, or to carry out corrective action required as a condition of a permit to the satisfaction of the director, the director may implement the applicable financial responsibility mechanisms. The proceeds from any applicable financial responsibility mechanisms shall be deposited into the Solid Waste Trust fund.

(2) The determination of whether there has been an abandonment, default, or other refusal or inability to perform and comply with closure, postclosure, or corrective action requirements shall be made by the director.

History.

Code 1981, § 12-8-27.1, enacted by Ga. L. 1990, p. 412, § 1; Ga. L. 1992, p. 3259, § 5; Ga. L. 1992, p. 3276, § 9; Ga. L. 2013, p. 171, § 2/HB 320; Ga. L. 2013, p. 274, § 3/HB 226; Ga. L. 2021, p. 761, § 2/HB 511; Ga. L. 2025, p. 634, § 6/HB 351, effective January 1, 2026.

Delayed effective date.

Code Section 12-8-27.1 is set out twice in this Code. This version is effective January 1, 2026. For version effective until January 1, 2026, see the preceding version.

Amendments.

The 2025 amendment, effective January 1, 2026, deleted "or special solid waste" following "solid waste" near the beginning of paragraph (e)(1).

12-8-31.1. (Effective until January 1, 2026.) Local, multijurisdictional, or regional solid waste plans; reporting by cities and counties; annual reporting requirements for landfill owners and operators.

(a)(1) Each city and county in Georgia shall develop or be included in a comprehensive solid waste management plan. Said plan may be developed independently as a local plan or jointly with other jurisdictions as a multijurisdictional or regional solid waste plan.

(2)(A) The Department of Community Affairs under the provisions of Chapter 13 of Title 50 shall promulgate solid waste planning guidance that a city or county may use to update or amend such city's or county's solid waste plan.

(B) Any city or county that proposes to update or amend its solid waste management plan shall publish notice of such proposed action in the county legal organ or the city's or county's Internet website, as applicable, at least two weeks prior to adopting such update or amendment to its plan in accordance with subsection (c) of this Code section.

(b) The local, multijurisdictional, or regional solid waste plan and plan updates shall, at a minimum, provide for the assurance of adequate solid waste handling capability and capacity within the planning area for at least ten years from the date of completion of the plan which shall specifically include an adequate collection and disposal capability; shall enumerate the solid waste handling facilities as to size and type; and shall identify those sites which are not suitable for solid waste handling facilities based on environmental and land use factors.

(c) To be included as part of a local, multijurisdictional, or regional solid waste plan, each city and county included as part of the plan shall adopt the plan and any plan updates by local ordinance or resolution.

(d) Each city and county may report annually to the Department of Community Affairs on the status of solid waste management in the jurisdiction. Such reports may be individual or collective in nature or, in lieu of local reports, a regional report may be filed by any of the several regional commissions for political jurisdictions within their region. The annual report may include but not be limited to:

(1) The amount of solid waste collected, processed, and disposed of in the area;

(2) The progress on the reduction in solid waste, as evidenced by the solid waste received at disposal facilities in the planning area since the previous reporting period and total cumulative progress made toward meeting the waste reduction goals of the state;

(3) The remaining permitted capacity of disposal facilities;

(4) Recycling and composting activities in existence;

(5) Public information and education activities during the reporting period; and

(6) Any other pertinent information as may be required.

(e) After July 1, 1992, no permit, grant, or loan shall be issued for any municipal solid waste disposal facility or any solid waste handling equipment or recycling equipment used in conjunction therewith in a county or region which is not consistent with a local, multijurisdictional, or regional solid waste management plan. Each application for a permit, grant, or loan issued after July 1, 1992, shall include the following:

(1) Certification that the facility for which a permit is sought complies with local land use and zoning requirements, if any;

(2) Verification that the facility for which a permit is sought meets the ten-year capacity needs identified in the local, multijurisdictional, or regional solid waste management plan; and

(3) Demonstration that the host jurisdiction and all jurisdictions generating solid waste destined for the applicant's facility are part of an approved solid waste management plan or updated plan developed consistent with standards promulgated pursuant to this part, and are actively involved in, and have a strategy for, meeting the state-wide goal for reduction of solid waste disposal.

(f) This Code section shall not apply to:

(1) Any solid waste disposal facility which is operated exclusively by a private solid waste generator on property owned by the private solid waste generator for the purpose of accepting solid waste exclusively from the private solid waste generator so long as the operation of the solid waste disposal facility does not adversely affect the public health or the environment. After commencement of operation by a private solid waste generator of a solid waste disposal facility which is permitted but not included in a local or regional solid waste management plan, an amendment into a local or regional solid waste management plan shall be required for any solid waste which is to be no longer disposed of by the private solid waste generator in its own solid waste disposal facility prior to any substantial reduction in the amount of solid waste accepted by the solid waste disposal facility or its closure; or

(2) Any privately owned solid waste handling facility seeking a permit or major modification of an existing permit where the host local governing authority has failed to make a good faith effort, as

determined by the Department of Community Affairs, to develop and adopt a local solid waste management plan or to be included in a multijurisdictional or regional solid waste management plan; provided, however, that the permit applicant continues to be obligated to demonstrate that all generating jurisdictions from which waste will be received are part of an approved solid waste management plan developed in accordance with planning guidance promulgated pursuant to this part and have a strategy to meet and are actively engaged in meeting the state-wide goal of reducing waste.

(g) Effective July 1, 1991, it shall be the responsibility of the owner or operator of each municipal solid waste disposal facility to keep an accurate written record of all amounts of solid waste measured in tons received at the facility. Measurement in tons of solid waste received shall be accomplished by one or more of the following methods:

(1) The provision of stationary or portable scales at the disposal facility for weighing incoming waste;

(2) Implementation of contractual or other arrangements for the use of scales at a location other than the disposal facility for weighing all waste destined for disposal at the facility; or

(3) Implementation of contractual or other arrangements for the use of scales at a location other than the disposal facility to weigh representative samples of the solid waste received at the disposal facility on a basis which is sufficiently frequent to estimate accurately the amount of solid waste received at the disposal facility.

(h) The provisions of subsection (d) of this Code section notwithstanding, each public or private owner or operator of a municipal solid waste landfill shall report annually to the Department of Community Affairs on the status of solid waste management for each municipal solid waste landfill it owns or operates in this state. The annual report for each such landfill shall include but not be limited to:

(1) The amount of solid waste collected, processed, and disposed of at such landfill;

(2) The remaining permitted capacity of the landfill;

(3) Recycling and composting activities in existence at such landfill; and

(4) Any other pertinent information as may be required by the Department of Community Affairs.

History.

Code 1981, § 12-8-31.1, enacted by Ga. L. 1990, p. 412, § 1; Ga. L. 1992, p. 3276, § 12; Ga. L. 1993, p. 399, § 8; Ga. L. 2008, p. 181, §§ 13, 19/HB 1216; Ga. L. 2011, p. 312, § 1/SB 157.

Delayed effective date.
Code Section 12-8-31.1 is set out twice in this Code. This version is effective until January 1, 2026. For version effective January 1, 2026, see the following version.

12-8-31.1. (Effective January 1, 2026.) Local, multijurisdictional, or regional solid waste management plans; reporting by cities and counties; annual reporting requirements for landfill owners and operators.

(a)(1) Each city and county in Georgia shall develop or be included in a comprehensive solid waste management plan. Said plan may be developed independently as a local plan or jointly with other jurisdictions as a multijurisdictional or regional solid waste plan.

(2) Any city or county that proposes to update or amend its solid waste management plan shall publish notice of such proposed action in the county legal organ or the city's or county's website, as applicable, at least two weeks prior to adopting such update or amendment to its plan in accordance with subsection (c) of this Code section.

(b) The local, multijurisdictional, or regional solid waste plan and plan updates shall, at a minimum, provide for the assurance of adequate solid waste handling capability and capacity within the planning area for at least ten years from the date of completion of the plan which shall specifically include an adequate collection and disposal capability; shall enumerate the solid waste handling facilities as to size and type; and shall identify those sites which are not suitable for solid waste handling facilities based on environmental and land use factors.

(c) To be included as part of a local, multijurisdictional, or regional solid waste plan, each city and county included as part of the plan shall adopt the plan and any plan updates by local ordinance or resolution.

(d) Each city and county may report annually to the division on the status of solid waste management in the jurisdiction or may post such reports on its website. Such reports may be individual or collective in nature or, in lieu of local reports, a regional report may be filed by any of the several regional commissions for political jurisdictions within their region. The annual report may include but not be limited to:

(1) The amount of solid waste collected, processed, and disposed of in the area;

(2) The progress on the reduction in solid waste, as evidenced by the solid waste received at disposal facilities in the planning area since the previous reporting period and total cumulative progress made toward meeting the waste reduction goals of the state;

(3) The remaining permitted capacity of disposal facilities;

(4) Recycling and composting activities in existence;

(5) Public information and education activities during the reporting period; and

(6) Any other pertinent information as may be required.

(e) Each application for a permit, major modification, grant, or loan shall include the following:

(1) Certification that the facility for which a permit or major modification is sought complies with local land use or zoning requirements, if any;

(2) Verification that the facility for which a permit, major modification, grant, or loan is sought is consistent with the applicable local, multijurisdictional, or regional solid waste management plan; and

(3) Demonstration that the host local government has adopted a solid waste management plan in accordance with the requirements of subsection (c) of this Code section.

(f) This Code section shall not apply to any solid waste disposal facility which is operated exclusively by a private solid waste generator on property owned by the private solid waste generator for the purpose of accepting solid waste exclusively from the private solid waste generator so long as the operation of the solid waste disposal facility does not adversely affect the public health or the environment. After commencement of operation by a private solid waste generator of a solid waste disposal facility which is permitted but not included in a local or regional solid waste management plan, an amendment into a local or regional solid waste management plan shall be required for any solid waste which is to be no longer disposed of by the private solid waste generator in its own solid waste disposal facility prior to any substantial reduction in the amount of solid waste accepted by the solid waste disposal facility or its closure.

(g) It shall be the responsibility of the owner or operator of each municipal solid waste disposal facility to keep an accurate written record of all amounts of solid waste measured in tons received at the facility. Measurement in tons of solid waste received shall be accomplished by one or more of the following methods:

(1) The provision of stationary or portable scales at the disposal facility for weighing incoming waste;

(2) Implementation of contractual or other arrangements for the use of scales at a location other than the disposal facility for weighing all waste destined for disposal at the facility; or

(3) Implementation of contractual or other arrangements for the use of scales at a location other than the disposal facility to weigh representative samples of the solid waste received at the disposal facility on a basis which is sufficiently frequent to estimate accurately the amount of solid waste received at the disposal facility.

(h) The provisions of subsection (d) of this Code section notwithstanding, each public or private owner or operator of a municipal solid waste landfill shall report annually to the division on the status of solid waste management for each municipal solid waste landfill it owns or operates in this state. The annual report for each such landfill shall include but not be limited to:

(1) The amount of solid waste collected, processed, and disposed of at such landfill;

(2) The remaining permitted capacity of the landfill;

(3) Quantities of material recycled and composted annually at such landfill; and

(4) Any other pertinent information as may be required by the division.

History.

Code 1981, § 12-8-31.1, enacted by Ga. L. 1990, p. 412, § 1; Ga. L. 1992, p. 3276, § 12; Ga. L. 1993, p. 399, § 8; Ga. L. 2008, p. 181, §§ 13, 19/HB 1216; Ga. L. 2011, p. 312, § 1/SB 157; Ga. L. 2025, p. 634, § 7/HB 351, effective January 1, 2026.

Delayed effective date.

Code Section 12-8-31.1 is set out twice in this Code. This version is effective January 1, 2026. For version effective until January 1, 2026, see the preceding version.

Amendments.

The 2025 amendment, effective January 1, 2026, rewrote paragraph (a)(2); in subsection (d), substituted "division" for "Department of Community Affairs" and inserted "or may post such reports on it website" in the first sentence; rewrote subsections (e) and (f); in subsection (g), substituted "It shall" for "Effective July 1, 1991, it shall" at the beginning; and, in subsection (h), substituted "division" for "Department of Community Affairs" in the first sentence and in paragraph (h)(4), and substituted "Quantities of material recycled and composted annually" for "Recycling and composting activities in existence" in paragraph (h)(3).

12-8-33. Recycling Market Development Council.

(a) Effective July 1, 1990, there is created a 15 member Recycling Market Development Council to be appointed as follows:

(1) Seven members appointed by the Governor representing the paper, glass, aluminum, plastic, tire, and ferrous and nonferrous metals industries and trade associations which are active in recycling;

(2) One member who is an elected or appointed municipal official to be appointed by the Governor;

(3) One member who is an elected or appointed member of a county governing authority to be appointed by the Governor;

(4) One member appointed by the Speaker of the House of Representatives;

(5) One member appointed by the President of the Senate; and

(6) One representative each from the Department of Administrative Services; the Department of Economic Development; the Department of Community Affairs; and the Department of Natural Resources.

(b) The council shall meet as necessary and shall determine what actions, if any, are needed to facilitate the development and expansion of markets for recovered materials in Georgia and shall prepare an annual report with recommendations to the Governor and General Assembly. The council shall not be required to distribute copies of the annual report to the members of the General Assembly but shall notify the members of the availability of the annual report in the manner which it deems to be most effective and efficient.

(c) The council shall function for a period of five years from its establishment, at which time it shall either be reauthorized or shall stand abolished.

History.

Code 1981, § 12-8-33, enacted by Ga. L. 1990, p. 412, § 1; Ga. L. 1992, p. 3276, § 13; Ga. L. 2004, p. 690, § 11; Ga. L. 2004, p. 1036, § 11; Ga. L. 2023, p. 264, § 1/SB 95, effective July 1, 2023.

Amendments.

The 2023 amendment, effective July 1, 2023, inserted "tire," in paragraph (a)(1).

Editor's notes.

Ga. L. 2023, p. 264, § 3/SB 95, not codified by the General Assembly, provides: "In accordance with the requirements of Article III, Section IX, Paragraph VI(r) of the Constitution of Georgia, this Act shall not become law unless it receives the requisite two-thirds' majority vote in both the Senate and the House of Representatives and the amount of the funds dedicated by this Act do not equal or exceed 1 percent of the previous fiscal year's state revenues subject to appropriations."

12-8-39. (Effective until January 1, 2026.) Cost reimbursement fees; surcharges; exempt contracts; reporting.

(a) Effective January 1, 1992, each city or county which operates a municipal solid waste disposal facility is authorized and required to impose a cost reimbursement fee upon each ton of municipal solid waste or the volume equivalent of a ton, as determined by rules of the division, for each ton of municipal solid waste received at a municipal solid waste disposal facility regardless of its source. The fee imposed may be equal to, or a portion of, the true cost of providing solid waste management services on a per ton or volume equivalent as determined pursuant to

the forms, rules, and procedures developed by the Department of Community Affairs.

(b) A minimum of $1.00 per ton or volume equivalent of the cost reimbursement fee specified in this Code section which is received by the city or county, if implemented after March 30, 1990, shall be paid into a local restricted account and shall be used for solid waste management purposes only.

(c) Effective January 1, 1992, when a municipal solid waste disposal facility is operated as a joint venture by more than one city or county or combination thereof, by a special solid waste district, or by an authority, the cost reimbursement fee specified in this Code section shall be imposed by the joint operators, district, or authority and the cost reimbursement fee received shall be administered as outlined in subsection (b) of this Code section and shall be remitted into a restricted account established by the participating local governments.

(d)(1)(A) Until June 30, 2019, when a municipal solid waste disposal facility is operated by private enterprise, the host local government is authorized and required to impose a surcharge of $1.00 per ton or volume equivalent, in addition to any other negotiated charges or fees which shall be imposed by and paid to the host local government for the facility. Except as otherwise provided in subparagraph (B) of this paragraph, effective July 1, 2019, when a municipal solid waste disposal facility is owned by private enterprise, the host local government is authorized and required to impose a surcharge of $2.50 per ton or volume equivalent, in addition to any other negotiated charges or fees which shall be imposed by and paid to the host local government for the facility.

(B) When a municipal solid waste disposal facility is operated by private enterprise, the host local government is authorized and required to impose a surcharge of $1.00 per ton or volume equivalent for construction or demolition waste, inert waste, or nonmetallic waste resulting from the shredding of motor vehicles or household appliances, in addition to any other negotiated charges or fees which shall be imposed by and paid to the host local government for the facility.

(C) Any contract in existence on September 1, 2020, shall be exempt from the provisions of this subsection until such time as the contract is renewed, replaced, extended, amended, or otherwise changed.

(2)(A) At least 20 percent of the surcharges collected pursuant to this subsection shall be expended for the following purposes:

(i) To offset the impact of the facility;

(ii) Public education efforts for solid waste management, hazardous waste management, and litter control;

(iii) The cost of solid waste management;

(iv) Administration of the local or regional solid waste management plan;

(v) Repair of damage to roads and highways associated with the facility;

(vi) Enhancement of litter control programs;

(vii) Ground-water and air monitoring and protection associated with the location of the facility;

(viii) Remediation and monitoring of closed or abandoned facilities within the jurisdiction of the host local government;

(ix) Infrastructure improvements associated with the facility;

(x) Allocation of such funds in any fiscal year to a reserve fund designated for use for the above purposes in future fiscal years; and

(xi) For the acquisition of property and interests in property adjacent to or in reasonable proximity to the facility upon a determination by the host local government that such acquisition will serve beautification, environmental, buffering, or recreational purposes such as will ameliorate the impact of the facility.

(B) Those surcharges not expended or allocated as provided for in subparagraph (A) of this paragraph may be used for other governmental expenses to the extent not required to meet the above or other solid waste management needs.

(3) Host local governments may negotiate for and obtain by contract surcharges higher than those set forth in this subsection; furthermore, nothing in this subsection shall reduce any such surcharge in existence on July 1, 2019.

(e) Owners or operators of any solid waste disposal facility other than an inert waste landfill as defined in regulations promulgated by the board or a private industry solid waste disposal facility shall assess and collect on behalf of the division from each disposer of waste a surcharge of 75¢ per ton of solid waste disposed. Two percent of said surcharge collected may be retained by the owner or operator of any solid waste disposal facility collecting said surcharge to pay for costs associated with collecting said surcharge. Surcharges assessed and collected on behalf of the division shall be paid to the division not later than the first day of July of each year for the preceding calendar year.

Any facility permitted exclusively for the disposal of construction or demolition waste that conducts recycling activities for construction or demolition materials shall receive a credit toward the surcharge listed above per ton of material recycled at the facility.

(f) Reserved.

(g) Unless the requirement for the surcharge required by subsection (e) of this Code section is reimposed by the General Assembly, no such surcharge shall be collected after June 30, 2032. The director shall make an annual report to the House Committee on Natural Resources and Environment and the Senate Natural Resources and the Environment Committee regarding the status of the activities funded by the Hazardous Waste Trust Fund.

(h) The division shall advertise to the public the surcharges imposed pursuant to subsection (e) of this Code section in accordance with rules promulgated by the board.

History.

Code 1981, § 12-8-39, enacted by Ga. L. 1990, p. 412, § 1; Ga. L. 1992, p. 2234, § 4; Ga. L. 1992, p. 3276, §§ 15, 16; Ga. L. 2002, p. 927, § 1; Ga. L. 2011, p. 283, § 2/HB 274; Ga. L. 2012, p. 775, § 12/HB 942; Ga. L. 2013, p. 856, § 1/HB 276; Ga. L. 2018, p. 228, § 1/HB 792; Ga. L. 2019, p. 261, § 1/HB 220; Ga. L. 2020, p. 25, § 2/SB 123; Ga. L. 2021, p. 761, § 4/HB 511; Ga. L. 2025, p. 691, § 9/SB 40, effective July 1, 2025.

Delayed effective date.

Code Section 12-8-39 is set out twice in this Code. This version is effective until January 1, 2026. For version effective January 1, 2026, see the following version.

Amendments.

The 2025 amendment, effective July 1, 2025, substituted "demolition waste, inert waste, or nonmetallic waste resulting from the shredding of motor vehicles or household appliances" for "demolition waste or inert waste" in subparagraph (d)(1)(B). See Editor's notes for applicability.

Editor's notes.

Ga. L. 2025, p. 691, § 10/SB 40, not codified by the General Assembly, provides, in part, that the act shall apply to all transactions occurring on and after July 1, 2025.

12-8-39. (Effective January 1, 2026.) Cost reimbursement fees; surcharges; exempt contracts; reporting.

(a) Effective January 1, 1992, each city or county which operates a municipal solid waste disposal facility is authorized and required to impose a cost reimbursement fee upon each ton of municipal solid waste or the volume equivalent of a ton, as determined by rules of the division, for each ton of municipal solid waste received at a municipal solid waste disposal facility regardless of its source. The fee imposed may be equal to, or a portion of, the true cost of providing solid waste management services on a per ton or volume equivalent as determined pursuant to the forms, rules, and procedures developed by the Department of Community Affairs.

(b) A minimum of $1.00 per ton or volume equivalent of the cost reimbursement fee specified in this Code section which is received by the city or county, if implemented after March 30, 1990, shall be paid into a local restricted account and shall be used for solid waste management purposes only.

(c) Effective January 1, 1992, when a municipal solid waste disposal facility is operated as a joint venture by more than one city or county or combination thereof, by a solid waste district, or by an authority, the cost reimbursement fee specified in this Code section shall be imposed by the joint operators, district, or authority and the cost reimbursement fee received shall be administered as outlined in subsection (b) of this Code section and shall be remitted into a restricted account established by the participating local governments.

(d)(1)(A) Until June 30, 2019, when a municipal solid waste disposal facility is operated by private enterprise, the host local government is authorized and required to impose a surcharge of $1.00 per ton or volume equivalent, in addition to any other negotiated charges or fees which shall be imposed by and paid to the host local government for the facility. Except as otherwise provided in subparagraph (B) of this paragraph, effective July 1, 2019, when a municipal solid waste disposal facility is owned by private enterprise, the host local government is authorized and required to impose a surcharge of $2.50 per ton or volume equivalent, in addition to any other negotiated charges or fees which shall be imposed by and paid to the host local government for the facility.

(B) When a municipal solid waste disposal facility is operated by private enterprise, the host local government is authorized and required to impose a surcharge of $1.00 per ton or volume equivalent for construction or demolition waste, inert waste, or nonmetallic waste resulting from the shredding of motor vehicles or household appliances, in addition to any other negotiated charges or fees which shall be imposed by and paid to the host local government for the facility.

(C) Any contract in existence on September 1, 2020, shall be exempt from the provisions of this subsection until such time as the contract is renewed, replaced, extended, amended, or otherwise changed.

(2)(A) At least 20 percent of the surcharges collected pursuant to this subsection shall be expended for the following purposes:

(i) To offset the impact of the facility;

(ii) Public education efforts for solid waste management, hazardous waste management, and litter control;

(iii) The cost of solid waste management;

(iv) Administration of the local or regional solid waste management plan;

(v) Repair of damage to roads and highways associated with the facility;

(vi) Enhancement of litter control programs;

(vii) Ground-water and air monitoring and protection associated with the location of the facility;

(viii) Remediation and monitoring of closed or abandoned facilities within the jurisdiction of the host local government;

(ix) Infrastructure improvements associated with the facility;

(x) Allocation of such funds in any fiscal year to a reserve fund designated for use for the above purposes in future fiscal years; and

(xi) For the acquisition of property and interests in property adjacent to or in reasonable proximity to the facility upon a determination by the host local government that such acquisition will serve beautification, environmental, buffering, or recreational purposes such as will ameliorate the impact of the facility.

(B) Those surcharges not expended or allocated as provided for in subparagraph (A) of this paragraph may be used for other governmental expenses to the extent not required to meet the above or other solid waste management needs.

(3) Host local governments may negotiate for and obtain by contract surcharges higher than those set forth in this subsection; furthermore, nothing in this subsection shall reduce any such surcharge in existence on July 1, 2019.

(e) Owners or operators of any solid waste disposal facility other than an inert waste landfill as defined in regulations promulgated by the board or a private industry solid waste disposal facility shall assess and collect on behalf of the division from each disposer of waste a surcharge of 75¢ per ton of solid waste disposed. Two percent of said surcharge collected may be retained by the owner or operator of any solid waste disposal facility collecting said surcharge to pay for costs associated with collecting said surcharge. Surcharges assessed and collected on behalf of the division shall be paid to the division not later than the first day of July of each year for the preceding calendar year. Any facility permitted exclusively for the disposal of construction or demolition waste that conducts recycling activities for construction or

demolition materials shall receive a credit toward the surcharge listed above per ton of material recycled at the facility.

(f) Reserved.

(g) Unless the requirement for the surcharge required by subsection (e) of this Code section is reimposed by the General Assembly, no such surcharge shall be collected after June 30, 2032. The director shall make an annual report to the House Committee on Natural Resources and Environment and the Senate Natural Resources and the Environment Committee regarding the status of the activities funded by the Hazardous Waste Trust Fund.

(h) The division shall advertise to the public the surcharges imposed pursuant to subsection (e) of this Code section in accordance with rules promulgated by the board.

History.

Code 1981, § 12-8-39, enacted by Ga. L. 1990, p. 412, § 1; Ga. L. 1992, p. 2234, § 4; Ga. L. 1992, p. 3276, §§ 15, 16; Ga. L. 2002, p. 927, § 1; Ga. L. 2011, p. 283, § 2/HB 274; Ga. L. 2012, p. 775, § 12/HB 942; Ga. L. 2013, p. 856, § 1/HB 276; Ga. L. 2018, p. 228, § 1/HB 792; Ga. L. 2019, p. 261, § 1/HB 220; Ga. L. 2020, p. 25, § 2/SB 123; Ga. L. 2021, p. 761, § 4/HB 511; Ga. L. 2025, p. 634, § 8/HB 351, effective January 1, 2026; Ga. L. 2025, p. 691, § 9/SB 40, effective July 1, 2025.

Delayed effective date.

Code Section 12-8-39 is set out twice in this Code. This version is effective January 1, 2026. For version effective until January 1, 2026, see the preceding version.

Amendments.

The first 2025 amendment, effective January 1, 2026, deleted "special" following "by a" in the middle of subsection (c).

The second 2025 amendment, effective July 1, 2025, substituted "demolition waste, inert waste, or nonmetallic waste resulting from the shredding of motor vehicles or household appliances" for "demolition waste or inert waste" in subparagraph (d)(1)(B). See Editor's notes for applicability.

Editor's notes.

Ga. L. 2025, p. 691, § 10/SB 40, not codified by the General Assembly, provides, in part, that the Act shall apply to all transactions occurring on and after July 1, 2025.

12-8-40.1. Tire disposal restrictions; fees.

(a) Effective July 1, 1990, each city, county, or solid waste management authority shall have the right to impose certain restrictions on scrap tires originating in or which may ultimately be disposed of in its area of jurisdiction. These restrictions may include but are not limited to:

(1) A ban on the disposal of scrap tires at solid waste disposal facilities within its control; and

(2) A requirement that scrap tires be recycled, shredded, chopped, or otherwise processed in an environmentally sound manner prior to disposal at solid waste disposal facilities owned or operated by the city, county, or authority.

(b) After December 31, 1994, no person may dispose of scrap tires in a solid waste landfill unless the scrap tires are shredded, chopped, or chipped in accordance with standards established by the board and:

(1) The director finds that the reuse or recycling of scrap tires is not economically feasible;

(2) The scrap tires are received from a municipal solid waste collector holding a valid solid waste collection permit under authority of this part and who transports fewer than ten scrap tires at any one time; or

(3) The scrap tires are received from a person transporting fewer than five scrap tires in combination with the person's own solid waste for disposal.

(c)(1) No person shall collect or transport any tires, other than new tires, unless the person:

(A) Obtains a tire carrier permit issued by the division; and

(B) Displays on each vehicle used to collect or transport tires a decal issued by the division; provided, however, that this subparagraph shall not apply to a common carrier that collects tires exclusively from outside this state and transports them directly to a scrap tire processor or end user within this state.

(2) As a condition of holding a permit to collect or transport tires, each permitted person shall:

(A) Report to the division in such manner and with such frequency as the division shall require the number of tires transported and the manner of disposition;

(B) Maintain financial assurance in accordance with subsection (l) of this Code section;

(C) Submit such other data as is determined by the board to be reasonably necessary to protect public health and the environment; and

(D) Pay to the division a nominal fee for each decal issued.

(c.1) No person shall process scrap tires unless the person has a scrap tire processing permit issued by the division. For purposes of this subsection, the term "process scrap tires" means any method, system, or other treatment designed to change the physical form, size, or chemical content of scrap tires for beneficial use.

(d) Subsection (c) of this Code section shall not apply to:

(1) A municipal solid waste collector holding a valid solid waste collection permit under authority of this part whose primary business is the collection of municipal solid waste;

(2) A private individual transporting no more than ten of the individual's own tires or a private individual transporting more than ten tires if such individual can provide proof of purchase with receipt for such tires;

(3) A company transporting the company's own tires to a scrap tire processor or end user or for proper disposal;

(4) A tire retailer transporting its own used tires if such dealer can provide proof of purchase with receipt for all used tires being transported and a document verifying the origin, route, and destination of such used tires;

(5) Any person transporting tires collected as part of an organized site cleanup activity; and

(6) The United States, the State of Georgia, any county, municipality, or public authority.

(e) After July 1, 1992, any person who generates scrap tires shall:

(1) Notify the division of such activities, requesting the issuance of an identification number, which number shall be used on scrap tire shipment manifests;

(2) Have the scrap tires collected and transported by persons in compliance with subsection (c) of this Code section;

(3) Maintain receipts indicating the disposition of the scrap tires;

(4) Maintain receipts indicating the permit number and name of the tire carrier to whom the tires were given;

(5) Maintain receipts indicating the disposal site or processing facility where the scrap tires were taken including the date of such disposal and the number of scrap tires; and

(6) Provide such other information as the board shall require and for such period of time as the board deems appropriate.

(f) No person may store more than 25 scrap tires anywhere in this state. Any person storing in excess of 25 scrap tires shall be deemed to be in violation of this part.

(g) Subsection (f) of this Code section shall not apply to any of the following:

(1) A solid waste disposal site permitted by the division if the permit authorizes the storage of scrap tires prior to their disposal;

(2) A tire retailer or a publicly owned vehicle maintenance facility with not more than 1,500 scrap tires in storage;

(3) A tire retreader with not more than 3,000 scrap tires in storage

so long as the scrap tires are of the type the retreader is actively retreading;

(4) A licensed used motor vehicle parts dealer, a registered secondary metals recycler, or a privately owned vehicle maintenance facility that operates solely for the purpose of servicing a commercial vehicle fleet with not more than 500 scrap tires in storage; and

(5) A scrap tire processor approved by the division so long as the number of scrap tires in storage do not exceed the quantity approved by the division

if all of the scrap tires are secured in a locked enclosure or are otherwise adequately secured in a manner suitable to prevent unauthorized access; provided, however, that the division may grant a waiver of the enclosure requirement if the person requesting the waiver can definitively show a significant and unique economic hardship which impairs such person's ability to continue operating his or her business.

(g.1) Subsection (f) of this Code section shall not apply to a farm with not more than 100 scrap tires in storage or in use for agricultural purposes. In addition, the division may grant waivers to allow the storage or use of more than 100 scrap tires for agricultural purposes if such storage or use does not pose a threat to human health or the environment.

(h)(1)(A) A fee is imposed upon the sale of all new replacement tires in this state at a rate of $1.00 per tire sold. The fee shall be imposed on and collected by distributors at the time the distributor sells a new replacement tire to any person.

(B) Each distributor shall remit the fees and any required reports not less than quarterly on such forms as may be prescribed by the division.

(C) The division is authorized to contract with the Department of Revenue to, and the Department of Revenue is authorized to, collect such fees on behalf of the division.

(D) All fees received shall be deposited into the state treasury to the account of the general fund in accordance with the provisions of Code Section 45-12-92.

(E) As used in this subsection, the term "distributor" means any person that:

(i) Produces or manufactures new replacement tires in this state;

(ii) Imports a new replacement tire into this state for sale, use, or consumption in this state; or

(iii) Makes the first sale in this state of any new replacement tire imported into this state before the new replacement tire has been received by any other person in this state.

(2) In collecting, reporting, and paying the fees due under this subsection, each distributor shall be allowed the following deductions, but only if the amount due was not delinquent at the time of payment:

(A) A deduction of 3 percent of the first $3,000.00 of the total amount of all fees reported due on such report; and

(B) A deduction of one-half of 1 percent of that portion exceeding $3,000.00 of the total amount of all fees reported due on such report.

(3) The tire fees authorized in this subsection shall cease to be collected on June 30, 2032. The director shall make an annual report to the House Committee on Natural Resources and Environment and the Senate Natural Resources and the Environment Committee regarding the status of the activities funded by the Solid Waste Trust Fund.

(i)(1) The division may abate any threat or potential threat to public health or the environment created or which could be created by scrap tires or other scrap tire materials by removing or processing the scrap tires or other scrap tire materials. Before taking any action to abate the threat or potential threat, the division shall give any person having the care, custody, or control of the scrap tires or materials or owning the property upon which the scrap tires or materials are located notice of the division's intentions and order the responsible party to abate the threat or potential threat in a manner approved by the division. Such order shall be issued in accordance with Code Section 12-8-30.

(2) If the responsible party is unable or unwilling to comply with such order or if no person who has contributed or is contributing to the scrap tires or scrap tire materials which are to be abated can be found, the director may undertake cleanup of the site utilizing funds from the solid waste trust fund.

(3) The division or its contractors may enter upon the property of any person at such time and in such manner as deemed necessary to effectuate the necessary corrective action to protect human health and the environment.

(4) Neither the State of Georgia nor the solid waste trust fund established in Code Section 12-8-27.1 shall be liable for any loss of business, damages, or taking of property associated with the corrective action.

(5) The division may bring an action or proceeding against the property owner or the person having possession, care, custody, or control of the scrap tires or other scrap tire materials to enforce the corrective action order issued under Code Section 12-8-30 and recover any reasonable and necessary expenses incurred by the division for corrective action, including administrative and legal expenses. The division's certification of expenses shall be prima-facie evidence that the expenses are reasonable and necessary. Notwithstanding any other provision of this subsection, any generator of scrap tires who is identified as being a contributor to the materials which are the object of the abatement and who can document that he or she has fully complied with this part and all rules promulgated pursuant to this part in disposing of such scrap tires shall not be liable for any of the cost of recovery actions of the abatement.

(6) Nothing in this part shall affect the right of any municipality or county to abate or clean up scrap tires or scrap tire materials which are a threat or potential threat to human health or the environment. The division may reimburse such local governments for such actions in accordance with procedures approved by the board.

(j) Except for the purposes of scrap tire corrective actions, the provisions of this Code section do not apply to:

(1) Tires with a rim size less than 12 inches;

(2) Tires from:

(A) Any device moved exclusively by human power; or

(B) Any device used exclusively for agricultural purposes, except a farm truck; or

(3) A retreadable casing while under the control of a tire retreader or while being delivered to a retreader.

(k) The director shall be authorized to order the cessation of operation of any tire carrier or scrap tire processor who is found not to be operating in compliance with this part or rules adopted pursuant to this part and the seizure of all property used in such unlawful operations; provided, however, that the tire carrier or scrap tire processor shall be afforded a hearing within 48 hours before an administrative law judge of the Department of Natural Resources upon such order of the director.

(l)(1) A surety bond shall be provided to the director by a tire carrier or scrap tire processor prior to issuance of a permit to ensure compliance with the provisions of this part.

(2) The bond required in this subsection shall be:

(A) Conditioned upon compliance with this part, any rules

adopted pursuant to this part, and the carrier's or processor's permit; and

(B) In such amount as determined by the director necessary to ensure compliance, but in any event not less than $10,000.00 nor greater than $20,000.00.

(3) Such bond shall be payable to the director and issued by an insurance company authorized to issue such bonds in this state.

(4) Upon a determination by the director that a tire carrier or scrap tire processor has failed to meet the provisions of this part, rules promulgated pursuant to this part, or its permit, the director may, after written notice of such failure:

(A) Forfeit or draw that amount of such bond that the director determines necessary to correct the violation;

(B) Expend such amount for such purposes; and

(C) Require the replacement of that amount of such bond forfeited or drawn upon.

(5) Any moneys received by the director in accordance with paragraph (4) of this subsection shall be deposited into the solid waste trust fund established in Code Section 12-8-27.1.

History.

Code 1981, § 12-8-40.1, enacted by Ga. L. 1990, p. 412, § 1; Ga. L. 1992, p. 3259, § 7; Ga. L. 1993, p. 399, §§ 11-14; Ga. L. 1997, p. 1081, § 4; Ga. L. 1999, p. 780, § 1; Ga. L. 2005, p. 1247, §§ 9, 10, 11, 12/SB 122; Ga. L. 2008, p. 287, § 1/SB 399; Ga. L. 2011, p. 283, § 3/HB 274; Ga. L. 2013, p. 274, § 5/HB 226; Ga. L. 2013, p. 856, § 2/HB 276; Ga. L. 2014, p. 230, § 1/HB 908; Ga. L. 2019, p. 261, § 2/HB 220; Ga. L. 2020, p. 25, § 3/SB 123; Ga. L. 2021, p. 761, § 5/HB 511; Ga. L. 2023, p. 264, § 2/SB 95, effective July 1, 2023.

Amendments.

The 2023 amendment, effective July 1, 2023, rewrote paragraph (h)(1), which read: "A fee is imposed upon the retail sale of all new replacement tires in this state of $1.00 per tire sold. The fee shall be collected by retail dealers at the time the retail dealer sells a new replacement tire to the ultimate consumer; provided, however, that a Georgia tire distributor who sells tires to retail dealers must collect such fees from any retail dealer who does not have a valid scrap tire generator identification number issued by the division. The fee and any required reports shall be remitted not less than quarterly on such forms as may be prescribed by the division. The division is authorized to contract with the Department of Revenue to, and the Department of Revenue is authorized to, collect such fees on behalf of the division. All fees received shall be deposited into the state treasury to the account of the general fund in accordance with the provisions of Code Section 45-12-92.", and deleted "or retailer" following "each distributor" in paragraph (h)(2).

Editor's notes.

Ga. L. 2023, p. 264, § 3/SB 95, not codified by the General Assembly, provides: "In accordance with the requirements of Article III, Section IX, Paragraph VI(r) of the Constitution of Georgia, this Act shall not become law unless it receives the requisite two-thirds' majority vote in both the Senate and the House of Representatives and the amount of the funds dedicated by this Act do not equal or exceed 1 percent of the previous fiscal year's state revenues subject to appropriations."

ARTICLE 3
HAZARDOUS WASTE

PART 1
HAZARDOUS WASTE MANAGEMENT

12-8-62. Definitions.

RESEARCH REFERENCES

ALR.
What Settlement Agreements May Give Rise to Action for Contribution Under CERCLA § 113(f)(3)(B), 42 U.S.C.A. § 9613(f)(3)(B), 86 A.L.R. Fed. 3d Art. 1.

12-8-68. Requirement of financial responsibility for persons operating or maintaining hazardous waste storage, treatment, or disposal facility; hazardous waste facility trust fund.

RESEARCH REFERENCES

ALR.
What Settlement Agreements May Give Rise to Action for Contribution Under CERCLA § 113(f)(3)(B), 42 U.S.C.A. § 9613(f)(3)(B), 86 A.L.R. Fed. 3d Art. 1.

PART 2
HAZARDOUS SITE RESPONSE

12-8-90. Short title.

RESEARCH REFERENCES

ALR.
What Settlement Agreements May Give Rise to Action for Contribution Under CERCLA § 113(f)(3)(B), 42 U.S.C.A. § 9613(f)(3)(B), 86 A.L.R. Fed. 3d Art. 1.

12-8-94. (For effective date, see note.) Powers and duties of director.

(a) In addition to the powers and duties specified in Code Section 12-8-65, the director shall have and may exercise the following powers and duties:

(1) To make determinations, in accordance with procedures and criteria established by the board, as to whether property requires corrective action pursuant to the provisions of paragraph (8) of subsection (a) of Code Section 12-8-97;

(2) To ensure that corrective action is taken for releases of hazard-

ous wastes, hazardous constituents, or hazardous substances into the environment that pose a present or future danger to human health or the environment;

(3) To collect fees for hazardous waste management activities and hazardous substance reporting;

(4) To administer the hazardous waste trust fund and expend the principal and interest of such trust fund;

(5) To appoint a hazardous waste trust fund advisory committee and to consult with that committee in developing rules and regulations regarding criteria for compilation of the hazardous site inventory, site priorities, uses of the fund, cleanup standards, and deed notations. At a minimum, the director shall appoint to the committee four representatives from local government, four representatives from business and industry, and four representatives from other interested parties. Upon promulgation of rules and regulations in accordance with this part, the director shall no longer be required to consult with the committee; provided, however, that the director shall consult with the committee from time to time as necessary to adopt, promulgate, modify, amend, or repeal rules and regulations in accordance with this part; and

(6) The director shall have the authority to perfect, foreclose, negotiate, settle, release or cancel any lien filed under subsection (e) of Code Section 12-8-96, where such action is in the best interest of the state.

(b) The powers and duties described in subsection (a) of this Code section may be exercised and performed by the director through such duly authorized agents and employees as the director deems necessary and proper.

History.

Code 1981, § 12-8-94, enacted by Ga. L. 1992, p. 2234, § 5; Ga. L. 1993, p. 500, § 5; Ga. L. 1994, p. 483, § 4; Ga. L. 1997, p. 1050, § 2.

Delayed effective date.

The second 1994 amendment, by Ga. L. 1994, p. 1101, in subsection (a), deleted "and" from the end of paragraph (4), substituted "; and" for the period at the end of paragraph (5), and added a paragraph (6) which would read: "To request the Georgia State Financing and Investment Commission for the issuance of public debt to fund corrective action pursuant to this part; provided, however, that any moneys recovered from persons found to be legally liable for such corrective action shall be used to reduce any such public debt incurred." Ga. L. 1994, p. 1101, § 6, provided that the amendment to this Code section by that Act "shall become effective only upon the effective date of a duly ratified amendment to the Constitution authorizing the state to incur indebtedness to fund activities associated with the investigation, detoxification, removal, and disposal of any hazardous wastes, hazardous constituents, or hazardous substances at certain sites." As of May 2025, no vote had been taken on the constitutional amendment, and this Code section does not reflect the amendment by that Act.

12-8-95. Hazardous Waste Trust Fund; appropriations; accounting.

(a)(1) The state treasurer shall establish a separate trust fund in the state treasury that shall be known as the Hazardous Waste Trust Fund to which all funds within the hazardous waste trust fund previously established by this subsection shall be transferred. The director shall serve as trustee of the Hazardous Waste Trust Fund.

(2) The state treasurer shall invest the money held in the Hazardous Waste Trust Fund in the same manner in which state funds are invested as authorized by the State Depository Board pursuant to Article 3 of Chapter 17 of Title 50. Interest earned by the money held in the trust fund shall be accounted for separately and shall be credited to the trust fund to be disbursed as other moneys in the trust fund.

(a.1) Under the authority granted and subject to the conditions imposed by Article III, Section IX, Paragraph VI(r) of the Constitution of Georgia:

(1) For the period beginning on July 1, 2022, and ending on June 30, 2032, all of the money collected pursuant to subsection (e) of Code Section 12-8-39; and

(2) For the period beginning on July 1, 2023, and ending on June 30, 2032, all of the money collected pursuant to subsection (a) of Code Section 12-8-95.1

shall be annually appropriated to the Hazardous Waste Trust Fund established by subsection (a) of this Code section and such funds shall not lapse as otherwise required by Article III, Section IX, Paragraph IV(c) of the Constitution of Georgia. Each annual appropriation shall be made through the General Appropriations Act and shall include all of the money collected from such source during the most recently completed fiscal year.

(b) All of the money appropriated to the Hazardous Waste Trust Fund pursuant to subsection (a.1) of this Code section shall be dedicated for use only for the following purposes expended by the director as follows:

(1) For activities associated with the investigation, detoxification, removal, and disposal of any hazardous wastes, hazardous constituents, or hazardous substances at sites where corrective action is necessary to mitigate a present or future danger to human health or the environment;

(2) For emergency actions the director considers necessary to protect public health, safety, or the environment whenever there is a

release of hazardous wastes, hazardous constituents, or hazardous substances;

(3) For activities of the division associated with the administration of this part, including reviewing and overseeing investigations, corrective action, and other actions by federal agencies required under this article and supporting the reduction of hazardous waste and pollution prevention activities by federal agencies;

(4) In accordance with rules promulgated by the board, for financing of the state and local share of the costs associated with the investigation, remediation, and postclosure care and maintenance of sites placed on the National Priority List pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, or sites placed on the hazardous site inventory pursuant to Code Section 12-8-97; provided, however, that the director shall ensure that beginning July 1, 2003, and annually in each following year, an amount equal to at least one-half of the sum of annual collections made pursuant to subsection (e) of Code Section 12-8-39 shall be available to be used for the purposes of this paragraph; provided, further, that if a county or municipal corporation has been or is the owner of or operator of such site, not less than $500,000.00 of such costs shall be paid from the Hazardous Waste Trust Fund; and

(5) For activities administered by the director associated with pollution prevention, including reduction of hazardous wastes generated in this state.

(b.1) The director shall prepare an accounting of the funds expended pursuant to this Code section during the most recently completed fiscal year to be provided to the Office of Planning and Budget, the House Budget and Research Office, and the Senate Budget and Evaluation Office by January 1 of each year.

(c) The director may require the demonstration of financial responsibility as a condition of an order requiring corrective action for the release of hazardous wastes, hazardous constituents, or hazardous substances.

(d) If the director determines that corrective action has not been carried out as required by a condition of an order of the director to the reasonable satisfaction of the director, the director may implement the applicable financial responsibility instruments. The proceeds from any applicable financial responsibility instruments shall be deposited in the hazardous waste trust fund.

(e) In any case where a person is in bankruptcy, reorganization, or other arrangement pursuant to the federal Bankruptcy Code or where,

with reasonable diligence, jurisdiction in any state court or any federal court cannot be obtained over a person likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this Code section may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the person if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

(f) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this Code section. Nothing in this subsection shall be construed to limit any other state or federal statutory, contractual, or common-law liability of a guarantor to a person including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under Section 107 or 111 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, or any other applicable law.

History.

Code 1981, § 12-8-95, enacted by Ga. L. 1992, p. 2234, § 5; Ga. L. 2002, p. 415, § 12; Ga. L. 2002, p. 927, § 3; Ga. L. 2004, p. 631, § 12; Ga. L. 2013, p. 856, § 3/HB 276; Ga. L. 2021, p. 761, § 7/HB 511; Ga. L. 2023, p. 562, § 1/HB 31, effective July 1, 2023.

Amendments.

The 2023 amendment, effective July 1, 2023, rewrote subsection (a.1), which read: "Under the authority granted and subject to the conditions imposed by Article III, Section IX, Paragraph VI(r) of the Constitution of Georgia, for the period beginning on July 1, 2022, and ending on June 30, 2032, all of the money collected pursuant to subsection (e) of Code Section 12-8-39 shall be annually appropriated to the Hazardous Waste Trust Fund established by subsection (a) of this Code section and such funds shall not lapse as otherwise required by Article III, Section IX, Paragraph IV(c) of the Constitution of Georgia. Each annual appropriation shall be made through the General Appropriations Act and shall include all of the money collected from such source during the most recently completed fiscal year."

Editor's notes.

Ga. L. 2023, p. 562, § 3/HB 32, not codified by the General Assembly, provides: "In accordance with the requirements of Article III, Section IX, Paragraph VI(r) of the Constitution of Georgia, this Act shall not become law and shall stand automatically repealed if it does not receive the requisite two-thirds' majority vote in both the Senate and the House of Representatives or the amount of the funds dedicated by this Act would cause the total amount appropriated pursuant to such constitutional provision to equal or exceed 1 percent of the previous fiscal year's state revenues subject to appropriations."

12-8-95.1. Hazardous waste management fees and hazardous substance reporting fees.

(a) The division is authorized and directed to charge and collect the fees for hazardous waste management activities and hazardous substance reporting fees as provided in this subsection. As used in this Code section, the term "hazardous waste" shall not include any material excluded by 40 C.F.R. Part 261 of the Code of Federal Regulations. Every large quantity generator and every small quantity generator shall pay the greater of $115.00 per calendar year or the total of the hazardous waste management fees, and every person who is required to report pursuant to Section 313 of Title III of the federal Superfund Amendments and Reauthorization Act of 1986 shall pay the annual hazardous substance reporting fees, imposed as follows:

(1) Every large quantity generator of hazardous waste shall pay an annual fee of $23.00 per ton for hazardous waste shipped off site for disposal or incineration, $18.40 per ton for hazardous waste shipped off site for treatment or storage, and $10.35 per ton for hazardous waste shipped off site for treatment by being burned for energy recovery in accordance with rules and regulations promulgated pursuant to Part 1 of this article; provided, however, that no large quantity generator shall be liable for off-site hazardous waste management fees exceeding $75,000.00 in any calendar year. In no event shall any person be liable for an off-site hazardous waste management fee on any hazardous waste for which an off-site hazardous waste management fee has previously been paid;

(2) Every large quantity generator of hazardous waste shall pay an annual fee of $11.50 per ton for hazardous waste disposed of or incinerated on site, $4.60 per ton for hazardous waste treated or stored on site, and $2.90 per ton for hazardous waste treated on site by being burned for energy recovery in accordance with rules and regulations promulgated pursuant to Part 1 of this article; provided, however, that no large quantity generator shall be liable for on-site hazardous waste management fees for disposal or incineration, treatment or storage, or treatment by burning for energy recovery in any calendar year exceeding the following amounts and according to the following schedule:

(A) Twenty-five thousand dollars for such payments due on July 1, 1993, and on July 1, 1994;

(B) Fifty thousand dollars for such payments, excluding payments for the on-site treatment of waste water which is a hazardous waste, due on July 1, 1995, and on July 1, 1996;

(C) Seventy-five thousand dollars for such payments, excluding

payments for the on-site treatment of waste water which is a hazardous waste, due on and after July 1, 1997;

(D) One thousand five hundred dollars for waste water which is a hazardous waste which is treated on site for payments due on July 1, 1995;

(E) Three thousand dollars for waste water which is a hazardous waste treated on site for payments due on July 1, 1996; and

(F) Seven thousand five hundred dollars for waste water which is a hazardous waste treated on site for payments due on and after July 1, 1997.

For the purposes of this paragraph, a generator who generates waste water which is a hazardous waste shall not be required to count such hazardous waste in determining its status as a large quantity generator, a small quantity generator, or a conditionally exempt small quantity generator. For the purposes of this paragraph, dilution of waste water that is a hazardous waste shall be considered treatment subject to the fees established by this paragraph. A large quantity generator which pays fees for the off-site management of hazardous waste under paragraph (1) of this subsection for a hazardous waste which was previously managed on site shall not pay the applicable on-site management fee for that hazardous waste;

(3) Every person who receives hazardous waste generated outside this state shall pay an annual fee of $23.00 per ton for hazardous waste disposed of or incinerated, $18.40 per ton for hazardous waste treated or stored, and $10.35 per ton for hazardous waste treated by being burned for energy recovery in accordance with rules and regulations promulgated pursuant to Part 1 of this article; provided, however, that no person shall be liable for importation fees exceeding $75,000.00 per out-of-state generator in any calendar year. In no case shall any person who receives hazardous waste from any person outside this state and who pays an importation fee on such waste pursuant to this paragraph be liable for the off-site hazardous waste management fees required by paragraph (1) of this subsection. Persons who receive hazardous waste generated outside this state are not required to pay the fees required by this paragraph for those wastes generated by conditionally exempt small quantity generators which are located outside this state. For the purposes of this paragraph, a "conditionally exempt small quantity generator" means a generator who generates 220 pounds or less of hazardous waste in one month, as provided by rules promulgated by the board in accordance with this article; and

(4) Each person who is required to report pursuant to Section 313 of Title III of the federal Superfund Amendments and Reauthoriza-

tion Act of 1986 shall pay to the division an annual hazardous substance reporting fee as follows:

(A) A facility with no reported release shall pay no fee;

(B) A facility with a reported release of less than 1,000 pounds during the calendar year shall pay a fee of $575.00 for that calendar year;

(C) A facility with a reported release equal to or greater than 1,000 pounds but less than 10,000 pounds during the calendar year shall pay a fee of $1,150.00 for that calendar year; and

(D) A facility with a reported release equal or greater than 10,000 pounds during the calendar year shall pay a fee of $1,725.00 for that calendar year.

(b) All hazardous waste and hazardous substance fees required by subsection (a) of this Code section shall be paid to the division for transfer into the state treasury for appropriation thereafter to the Hazardous Waste Trust Fund in accordance with subsection (a.1) of Code Section 12-8-95. The division shall collect such fees until the unencumbered principal balance of such trust fund equals or exceeds $25 million, at which time no hazardous waste or hazardous substance fees shall be levied until the balance in that fund is less than or equal to an unencumbered balance of $12.5 million, in which case the levy and collection of hazardous waste fees shall resume at the beginning of the next calendar year following the year in which such unencumbered balance occurs. The director shall provide written notice to all large quantity generators and hazardous waste treatment, storage, and disposal facilities and all persons who are required to report pursuant to Section 313 of Title III of the federal Superfund Amendments and Reauthorization Act of 1986 at such time as the director receives notice that the unencumbered principal balance of the fund equals or exceeds $25 million or is equal to or less than $12.5 million.

(c) All hazardous waste fees levied under this Code section shall be based on the amounts of hazardous waste managed or imported within the preceding calendar year. Such fees for the period July 1, 1992, through December 31, 1992, shall be paid to the division not later than July 1, 1993. All subsequent hazardous waste fees shall be paid not later than the first day of July of each year for the preceding calendar year.

(d) All hazardous substance fees levied under this Code section shall be based on the hazardous substances reported for the preceding calendar year. All hazardous substance fees shall be paid not later than the first day of July of each year for the preceding calendar year.

(e) Persons who make payments of fees levied by this Code section later than 30 days after the due date specified in subsection (c) of this

Code section shall pay a penalty of 15 percent of the balance due and shall pay interest on the unpaid balance at the rate imposed by law for delinquent taxes due to the state. Delinquent fees may be collected in a civil action instituted in the name of the director. In addition to the 15 percent penalty and the interest that may be collected along with the delinquent fees as provided in this subsection, the director shall be entitled to collect all costs, including administrative costs, and legal expenses incurred by the state in connection with its collection efforts.

(f) Hazardous waste which is generated by any of the following means is exempted from the fees required by this Code section:

(1) Corrective action required by an order, permit, or approved closure plan issued pursuant to Part 1 of this article;

(2) Voluntary corrective action required by any person in accordance with applicable laws and regulations; and

(3) Response actions required under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

(g) The following persons shall not be required to pay the hazardous substance reporting fees required by this Code section:

(1) Persons who report pursuant to Section 313 of Title III of the federal Superfund Amendments and Reauthorization Act of 1986 only for substances not designated as regulated substances pursuant to rules and regulations of the board; and

(2) Persons who report pursuant to Section 313 of Title III of the federal Superfund Amendments and Reauthorization Act of 1986 only for petroleum fuels, lubricants, and hydraulic fluids and components thereof that are designated as regulated substances pursuant to rules and regulations of the board.

(h) Unless fee requirements established in this Code section are reimposed by the General Assembly, no such fees shall be levied after July 1, 2027.

(i) In accordance with rules promulgated by the board pursuant to paragraph (6) of subsection (b) of Code Section 12-8-93, the director is authorized to grant a waiver of a portion of the hazardous waste management fees and hazardous substance reporting fees provided by subsection (a) of this Code section not to exceed a 25 percent reduction per year for a maximum of three years for any company as an incentive upon the recommendation of the director of the Pollution Prevention Assistance Division made in conjunction with programs and activities designed to encourage industries in the state to reduce their generation of wastes, including but not limited to programs established to

recognize and reward pollution performance and environmental improvement.

(j) Beginning July 1, 2003, and continuing annually thereafter, federal agencies shall pay the hazardous waste management fees required by this Code section provided an amount not less than the sum of all fees collected from federal agencies is appropriated annually to the department and used in accordance with subsection (b) of Code Section 12-8-91 and used for the purposes set forth in paragraph (3) of subsection (b) of Code Section 12-8-95.

History.

Code 1981, § 12-8-95.1, enacted by Ga. L. 1992, p. 2234, § 5; Ga. L. 1993, p. 500, § 6; Ga. L. 1994, p. 483, § 5; Ga. L. 1996, p. 993, § 2; Ga. L. 1997, p. 564, § 2; Ga. L. 2002, p. 927, § 4; Ga. L. 2013, p. 856, § 4/HB 276; Ga. L. 2018, p. 228, § 2/HB 792; Ga. L. 2019, p. 261, § 3/HB 220; Ga. L. 2022, p. 250, § 1/HB 893; Ga. L. 2023, p. 562, § 2/HB 31, effective July 1, 2023.

Amendments.

The 2022 amendment, effective July 1, 2022, substituted "July 1, 2027" for "July 1, 2022" at the end of subsection (h).

The 2023 amendment, effective July 1, 2023, in subsection (b), substituted "state treasury for appropriation thereafter to the Hazardous Waste Trust Fund in accordance with subsection (a.1) of Code Section 12-8-95" for "state treasury to the credit of the general fund" at the end of the first sentence and substituted "balance of such trust fund" for "balance of the hazardous waste trust fund" in the second sentence.

Editor's notes.

Ga. L. 2023, p. 562, § 3/HB 32, not codified by the General Assembly, provides: "In accordance with the requirements of Article III, Section IX, Paragraph VI(r) of the Constitution of Georgia, this Act shall not become law and shall stand automatically repealed if it does not receive the requisite two-thirds' majority vote in both the Senate and the House of Representatives or the amount of the funds dedicated by this Act would cause the total amount appropriated pursuant to such constitutional provision to equal or exceed 1 percent of the previous fiscal year's state revenues subject to appropriations."

12-8-96.1. Liability for cleanup costs; punitive damages; action for recovery of costs and damages; claims for contribution.

RESEARCH REFERENCES

ALR.

What Settlement Agreements May Give Rise to Action for Contribution Under CERCLA § 113(f)(3)(B), 42 U.S.C.A. § 9613(f)(3)(B), 86 A.L.R. Fed. 3d Art. 1.

12-8-96.2. Limitation of liability of corrective action contractors.

RESEARCH REFERENCES

ALR.

Enforceability and interpretation of limitation of liability clauses in design professional contracts, 78 A.L.R.7th 6.

12-8-97. Hazardous site inventory.

(a) Beginning on July 1, 1994, the division shall compile and update as necessary an inventory of all known or suspected sites where hazardous wastes, hazardous constituents, or hazardous substances have been disposed of or released in quantities deemed reportable by rules or regulations of the board. At least annually, beginning July 1, 1994, the division shall send a copy of the inventory with the sites listed by county to the clerk of each superior court of the state, who shall place and maintain the most current copy of the inventory in the room or rooms in which the deed records of the county are kept. This inventory shall be called the hazardous site inventory. The inventory shall include:

(1) The name of the property or another description identifying the site;

(2) The location of the site;

(3) The name of the owner of the site at the time of the site's inclusion in the inventory;

(4) A general description of the type and quantity of hazardous wastes, hazardous constituents, or hazardous substances known or suspected to be at the site;

(5) A general description of possible or known threats to human health or the environment posed by the site;

(6) The status of any cleanup activities conducted by any person;

(7) A relative priority for cleanup;

(8) If a site is determined, in accordance with rules and regulations promulgated by the board, to require corrective action, a designation that corrective action is needed and a summary of needed actions;

(9) If a site is considered not capable of posing or is no longer posing an environmental or human health hazard, a designation that no further action is required; and

(10) The status of any actions contesting a determination that corrective action is needed.

The division shall also publish in print or electronically annually a report of the fees collected and the funds appropriated to the hazardous waste trust fund and an accounting of all disbursements from such trust fund.

(b) After July 1, 1993, the property owner of any site listed on the inventory which is designated as having a known release and which is designated as needing corrective action shall include the following

notice in any deed, mortgage, deed to secure debt, lease, rental agreement, or other instrument given or caused to be given by the property owner which creates an interest in or grants a use of the property:

"This property has been listed on the state's hazardous site inventory and has been designated as needing corrective action due to the presence of hazardous wastes, hazardous constituents, or hazardous substances regulated under state law. Contact the property owner or the Georgia Environmental Protection Division for further information concerning this property. This notice is provided in compliance with the Georgia Hazardous Site Response Act."

(c) After July 1, 1993, each property owner who owns a site listed on the inventory which is designated as having a known release and which is designated as needing corrective action shall cause to be prepared an affidavit of such fact in recordable form as set forth in subsection (c) of Code Section 44-2-20 and shall file such affidavit with the clerk of the superior court of each county in which the real property or any part thereof lies. Such affidavit shall be recorded in the clerk's deed records pursuant to Code Section 44-2-20. Such affidavit shall include a statement that the property has been listed on the state's hazardous site inventory and has been designated as needing corrective action due to the presence of hazardous wastes, hazardous constituents, or hazardous substances regulated under state law. Such affidavit shall be filed with the clerk within 45 days after receipt of notice by the property owner that the director has designated the property as needing corrective action; provided, however, that neither the affidavit required by this subsection or the notice required by subsection (b) of this Code section shall be required until any contest under subsection (f) of this Code section has been resolved adversely to the property owner.

(d) After July 1, 1993, each property owner who owns real property upon which hazardous wastes, hazardous constituents, or hazardous substances have been disposed of or released in amounts exceeding reportable quantities shall, within 30 days of receipt of knowledge by the property owner of the release or disposal, notify the division in writing on such forms as may be provided by the director. This notification shall include the location, type, quantity, and date of such disposal or release, if known, and a summary of actions taken to investigate, clean up, or remediate the site. Such notification shall include a quadrangle map prepared in accordance with the National Geodetic Survey or a Georgia State Plane Coordinate System pursuant to Article 2 of Chapter 4 of Title 44 that clearly indicates the location of the disposal or release; provided, however, that any property owner that has notified the United States Environmental Protection Agency under Section 103(c) of the federal Comprehensive Environmental Response,

Compensation, and Liability Act of 1980, as amended, may satisfy this notification requirement by submitting a copy of the 103(c) notice together with such quadrangle map.

(e) The provisions of this Code section shall not be applicable to emissions regulated under Article 1 of Chapter 9 of this title, "The Georgia Air Quality Act," point source discharges regulated under Article 2 of Chapter 5 of this title, the "Georgia Water Quality Control Act," or sites regulated solely by Chapter 13 of this title, the "Georgia Underground Storage Tank Act," or substances regulated under Chapter 12 of this title, the "Georgia Asbestos Safety Act."

(f) The director shall provide a property owner with written notice of any determination to designate property as needing corrective action, including a statement concerning the requirements of subsections (b) and (c) of this Code section. The requirements of subsections (b) and (c) of this Code section shall be stayed by the filing of a petition for a hearing in accordance with Code Section 12-8-73 within 30 days of the issuance of the director's written notice of the director's determination to designate property as needing corrective action.

History.

Code 1981, § 12-8-97, enacted by Ga. L. 1992, p. 2234, § 5; Ga. L. 1993, p. 91, § 12; Ga. L. 1993, p. 500, § 8; Ga. L. 2010, p. 838, § 10/SB 388; Ga. L. 2022, p. 674, § 2/SB 581.

Amendments.

The 2022 amendment, effective July 1, 2022, substituted "National Geodetic Survey or a Georgia State Plane Coordinate System" for "National Ocean Survey/ National Geodetic Survey or a Georgia Coordinate System" in the third sentence in subsection (d).

CHAPTER 9

PREVENTION AND CONTROL OF AIR POLLUTION

Article 2

Motor Vehicle Emission Inspection and Maintenance

Sec.

12-9-57. Effect of federal Clean Air Act requirements; repeal of article.

ARTICLE 1

AIR QUALITY

12-9-1. Short title.

Law reviews.
For article with annual survey on administrative law, see 73 Mercer L. Rev. 1 (2021).

12-9-2. Declaration of public policy.

Law reviews.
For article with annual survey on administrative law, see 73 Mercer L. Rev. 1 (2021).

ARTICLE 2

MOTOR VEHICLE EMISSION INSPECTION AND MAINTENANCE

12-9-57. Effect of federal Clean Air Act requirements; repeal of article.

This article shall remain of force and effect only so long as the federal Clean Air Act, 42 U.S.C. Section 7401, et seq., as amended, requires the State of Georgia to maintain and enforce the inspection plan and program provided for in this article in order to reduce the ambient air levels of ozone or carbon monoxide which exceed the levels specified by the National Ambient Air Quality Standards for such pollutants specified by the United States Environmental Protection Agency pursuant to said act. Upon the effective date of an amendment to the federal Clean Air Act which allows the State of Georgia to discontinue the maintenance and enforcement of the inspection program provided for in this article without the imposition of sanctions against the State of Georgia such as the loss of federal funds for sewage treatment plants, transportation projects, air quality improvement projects, a moratorium on development within any area of the state, or other substantial penalty, this article shall be repealed.

History.
Code 1981, § 12-9-57, enacted by Ga. L. 1992, p. 918, § 2; Ga. L. 1996, p. 336, § 12.

Editor's notes.
Ga. L. 1992, p. 918, § 2/HB 1440, provided that this article shall be repealed upon the effective date of an amendment to the federal Clean Air Act allowing the state to discontinue the maintenance and enforcement of the inspection program. As of May 2024, there had been no such amendment to the federal Clean Air Act.

CHAPTER 13

UNDERGROUND STORAGE TANKS

12-13-9. Establishing financial responsibility; claims against guarantor; Underground Storage Tank Trust Fund.

RESEARCH REFERENCES

ALR.
What Settlement Agreements May Give Rise to Action for Contribution Under CERCLA § 113(f)(3)(B), 42 U.S.C.A. § 9613(f)(3)(B), 86 A.L.R. Fed. 3d Art. 1.

CHAPTER 14

OIL OR HAZARDOUS MATERIAL SPILLS OR RELEASES

12-14-1. Definitions.

RESEARCH REFERENCES

ALR.
What Settlement Agreements May Give Rise to Action for Contribution Under CERCLA § 113(f)(3)(B), 42 U.S.C.A. § 9613(f)(3)(B), 86 A.L.R. Fed. 3d Art. 1.

CHAPTER 16

ENVIRONMENTAL POLICY AND REGULATIONS

ARTICLE 1

ENVIRONMENTAL POLICY

12-16-1. Short title.

RESEARCH REFERENCES

ALR.
What Settlement Agreements May Give Rise to Action for Contribution Under CERCLA § 113(f)(3)(B), 42 U.S.C.A. § 9613(f)(3)(B), 86 A.L.R. Fed. 3d Art. 1.