House Bill 242 (AS PASSED HOUSE AND SENATE)

By: Representatives McCall of the 78th, Day of the 126th, Skipper of the 116th, and Westmoreland of the 86th

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 16 of Title 12 of the Official Code of Georgia Annotated, relating to environmental policy, so as to require the publication of detailed statements of rationale for certain new or amended environmental regulations or other related actions of state government; to provide for certain emergencies; to define certain terms; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 16 of Title 12 of the Official Code of Georgia Annotated, relating to environmental policy, is amended by designating the existing provisions thereof as Article 1 of said chapter.

SECTION 2.

Said chapter is further amended by striking the word "chapter" and inserting "article" in lieu thereof wherever the former term appears in:

(1) Code Section 12-16-1, relating to a short title;

(2) Code Section 12-16-3, relating to definitions;

(3) Code Section 12-16-6, relating to required reconciliation of existing authority;

(4) Code Section 12-16-7, relating to effect of article on federal environmental policy requirements; and

(5) Code Section 12-16-8, relating to director´s guidelines to assist government agencies.

SECTION 3.

Said chapter is further amended by adding a new Article 2 to read as follows:

″ARTICLE 2

12-16-20.

As used in this article, the term:

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

(2) 'Commissioner' means the commissioner of natural resources.

(3) 'Covered action' means the issuance by the department or the division of any state-wide or regional permit or any standard or other policy contemplated by any state environmental law or environmental regulation.

(4) 'Department' means the Department of Natural Resources.

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

(6) 'Environmental regulation' means a rule or regulation promulgated by the board to enforce or implement a state environmental law.

(7) 'State environmental law' means any of the following Acts of the General Assembly, as now or hereafter amended:

(A) Part 3 of Article 2 of Chapter 4 of this title, the 'Georgia Surface Mining Act of 1968';

(B) Article 2 of Chapter 5 of this title, the 'Georgia Water Quality Control Act';

(C) Part 2 of Article 3 of Chapter 5 of this title, the 'Ground-water Use Act of 1972';

(D) Code Section 12-5-31, relating to permits for withdrawal, diversion, or impoundment of surface waters and monitoring, recording, and reporting water withdrawn by certain irrigation systems;

(E) Part 3 of Article 3 of Chapter 5 of this title, the 'Water Well Standards Act of 1985';

(F) Part 5 of Article 3 of Chapter 5 of this title, the 'Georgia Safe Drinking Water Act of 1977';

(G) Part 3 of Article 5 of Chapter 5 of this title, the 'Georgia Safe Dams Act of 1978';

(H) Chapter 7 of this title, the 'Erosion and Sedimentation Act of 1975';

(I) Part 1 of Article 2 of Chapter 8 of this title, the 'Georgia Comprehensive Solid Waste Management Act';

(J) Part 2 of Article 3 of Chapter 8 of this title, the 'Georgia Hazardous Site Response Act';

(K) Article 9 of Chapter 8 of this title, the 'Georgia Hazardous Site Reuse and Redevelopment Act';

(L) Article 1 of Chapter 9 of this title, 'The Georgia Air Quality Act';

(M) Article 2 of Chapter 9 of this title, the 'Georgia Motor Vehicle Emission Inspection and Maintenance Act';

(N) Chapter 12 of this title, the 'Georgia Asbestos Safety Act';

(O) Chapter 13 of this title, the 'Georgia Underground Storage Tank Act';

(P) Chapter 14 of this title, relating to oil or hazardous material spills or releases;

(Q) Chapter 13 of Title 31, the 'Georgia Radiation Control Act'; and

(R) Any Act of the General Assembly empowering and directing the board to comply with federal statutes relating to clean water, clean air, or the environment.

12-16-21.

(a)(1) Prior to the board´s promulgation or amendment of any environmental regulation or the department or division taking any covered action, the board, the department, or the division, as appropriate, shall prepare a detailed statement of rationale:

(A) Whenever the proposed environmental regulation or covered action will exceed or differ from the requirements of any federal regulation, standard, or policy on the same subject; or

(B) Whenever an environmental regulation or a covered action will:

(i) Result in the removal of any specific requirement, prohibition, or duty imposed by an existing environmental regulation, standard, or policy;

(ii) Result in any prohibition, requirement, or duty imposed by an existing environmental regulation, standard, or policy becoming narrower in scope of applicability;

(iii) Decrease or render any requirement imposed by an existing environmental regulation, standard, or policy less stringent or restrictive; or

(iv) Repeal an existing environmental regulation, standard, or policy.

(2) Such statement shall accompany any notice required by Code Section 50-13-4.

(b) The detailed statement of rationale shall state the basis for the regulation or covered action, including the scientific or technical basis, alternative policy considerations, and estimated cost to implement to the department and the regulated community and shall identify any studies, reports, policies, or statements of professional judgment or administrative need relied upon in developing the environmental regulation or covered action.

(c) The scope and level of detail of each detailed statement of rationale shall be determined by the director of the division or the commissioner.

12-16-22.

Any other provision of this article to the contrary notwithstanding, the board may adopt an environmental regulation, and the department or division may take a covered action, without presenting the required statement of rationale if the commissioner or the director

of the division determines that an emergency action is necessary to protect the public health and welfare.

12-16-23.

The provisions of this article are in addition to, and not in lieu of, any applicable provisions for promulgation of rules in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'"

SECTION 4.

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