

Georgia Department of Natural Resources

205 Butler Street, S.E., East Floyd Tower, Atlanta, Georgia 30334

Lonice C. Barrett, Commissioner

Harold F. Reheis, Director

David Word, Assistant Director

Environmental Protection Division

404/656-4713

March 23, 2001

MEMORANDUM

TO: Erosion and Sedimentation Control Issuing Authorities

FROM: Harold F. Reheis, Director
Environmental Protection Division

RE: DNR Erosion and Sedimentation Rules and Regulations, as amended through 2000 and the Georgia Erosion and Sedimentation Act of 1975, as amended through 2000

Attached is a copy of the Georgia Erosion and Sedimentation Act of 1975 (Act), as amended through 2000. Also, attached is a copy of the Rules of the Georgia Department of Natural Resources (DNR), Environmental Protection Division (EPD), as amended, effective January 1, 2001. These documents are provided for your information and use.

Please note that the amended Act, under 12-7-15(a)(2)(A) states that "The Director or the issuing authority shall assess and collect a minimum penalty of \$250.00 per day for each violation involving the construction of a single-family dwelling by or under contract with the owner for his or her own occupancy; and (B) The Director or the issuing authority shall assess a minimum penalty of \$1000.00 per day for each violation involving land-disturbing activities other than as provided in subparagraph (A)". The Attorney General's office has confirmed that this section requires the local issuing authority to impose these mandatory minimum monetary penalties when such violations are identified.

This is in contrast to the stop work order provisions in 12-7-12(c) of the amended Act. The Attorney General's office has determined that the local issuing authority has the discretion when to issue a stop work order to remedy a violation. However, whenever a local issuing authority chooses to issue such an order, this section requires the issuing authority to adhere to the mandatory stop work order procedures in the Act.

A memorandum from Mr. F. Graham Liles, Jr., Executive Director of the State Soil and Water Conservation Commission (SSWCC), was sent to you on October 18, 2000 regarding the need to adopt an amended soil erosion and sedimentation control ordinance to maintain consistency with the Act. In his memorandum, local issuing authorities were given 90 days to submit a revised ordinance which reflects the 2000 amendments to the Act. Many of you have already submitted your amended ordinance to EPD. Please be advised that if EPD has not received the required amendment for your soil erosion and

Erosion and Sedimentation Control Issuing Authorities
March 23, 2001
Page 2

sedimentation control ordinance by July 1, 2001, EPD intends to rescind the authority previously delegated to you and assume the role of "Issuing Authority" pursuant to 12-7-8(a) of the Act.

In addition, please note that the criminal penalties recommended by the SSWCC are optional, and are not required in local ordinances. EPD will not decertify local governments if they do not have the criminal penalty provisions in their soil erosion and sedimentation control ordinance.

Concerning the NPDES General Permit for storm water discharges associated with construction activity, please be advised that your responsibilities pursuant to the Act have not changed as a result of this permit going into effect on August 1, 2000. As a delegated issuing authority under the Act, you are still required to enforce your local soil erosion and sedimentation control ordinance. The NPDES General Permit has created its own regulatory program which is administered by EPD. Because NPDES is administered by EPD, your local government has no authority or responsibility to enforce the NPDES General Permit. However, in order to help alleviate some of the confusion among the development community concerning these two overlapping programs, EPD encourages local issuing authorities to remind applicants for Land Disturbing Activity Permits within your jurisdiction that their project may also be required to comply with the requirements of the NPDES General Permit. These requirements include the submittal of a Notice of Intent (NOI) to EPD at least seven days prior to initiating construction.

EPD appreciates all of the work done by the local issuing authorities to control erosion at construction sites. The water quality in Georgia's rivers, streams and lakes is dependent upon local issuing authorities and EPD making improvements in how we administer and enforce our erosion control programs. We look forward to our continued partnership in this effort.

If you should have questions about the Act or the Rules, please contact Mr. Terry Green or Ms. Jan Sammons of my staff at 404-675-6240.

HFR:sls

cc: EPD Regional Managers
F. Graham Liles, Jr.
John Hennelly