

Georgia Department of Natural Resources

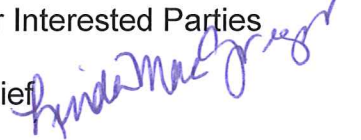
Reply To:
NonPoint Source Program
404/675-6240
FAX: 404/675-6245

Environmental Protection Division, Watershed Protection Branch
4220 International Parkway, Suite 101, Atlanta, Georgia 30354
Linda MacGregor, P.E., Branch Chief
404/675-6232

July 24, 2012

MEMORANDUM

TO: Local Issuing Authorities and Other Interested Parties

FROM: Linda MacGregor, P.E., Branch Chief 
EPD Watershed Protection Branch

SUBJECT: Guidance Document for Determining Buffer Requirements on Ponds, Lakes, Reservoirs, Impounded Structures and Open Waters

The intent of the attached guidance document dated July 2012 is to clarify the buffer requirements on ponds, lakes, reservoirs, impounded structures and other open waters. The State-mandated buffer requirements apply to all State Waters that require a buffer (i.e., have wrested vegetation by normal stream flow or wave action). The attached guidance document is intended to be a supplement to the ***Field Guide for Determining The Presence of State Waters That Require a Buffer***.

Please note that this guidance document is primarily written to assist Local Issuing Authorities with their determinations of State Waters and buffer requirements. However, it is also a tool for plan preparers and environmental consultants to use in the preparation of accurate Erosion, Sedimentation and Pollution Control Plans (ES&PC Plans).

LM:fmc

cc: Brent L. Dykes, Georgia Soil and Water Conservation Commission
Lauren Zdunczyk, Georgia Soil and Water Conservation Commission
John Loughridge, Georgia Soil and Water Conservation Commission, Region 1
Robert Amos, Georgia Soil and Water Conservation Commission, Region 2
Jenny Searl, Georgia Soil and Water Conservation Commission, Region 3
Keegan Malone, Georgia Soil and Water Conservation Commission, Region 4
Luke Crosson, Georgia Soil and Water Conservation Commission, Region 5
Rahn Milligan, Georgia Soil and Water Conservation Commission, Region 6

Guidance Document for Determining Buffer Requirements on Ponds/Lakes/Reservoirs/Impounded Structures/Open Waters

This guidance is based on the Georgia Erosion and Sedimentation Control Rules (Rules), 391-3-7, promulgated under the Georgia Erosion and Sedimentation Act (Act), O.C.G.A. 12-7.

This guidance only addresses the buffer requirements on ponds, lakes, reservoirs, impounded structures and other open waters. The State-mandated buffer requirements apply to all State Waters that require a buffer (i.e., have wrested vegetation by normal stream flow or wave action). This guidance is intended to be a supplement to the *Field Guide for Determining The Presence of State Waters That Require a Buffer*.

Please note that this guidance is primarily written to assist Local Issuing Authorities with their determinations of State Waters and buffer requirements. However, it is also a tool for plan preparers and environmental consultants to use in the preparation of accurate Erosion, Sedimentation and Pollution Control Plans (ES&PC Plans).

Definitions:

Buffer means “the area of land immediately adjacent to the banks of State Waters in its natural state of vegetation, which facilitates, when properly vegetated, the protection of water quality and aquatic habitat” (O.C.G.A. 12-7-3(2)).

State Waters include “any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells and other bodies of surface or subsurface 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” (O.C.G.A. 12-7-3(16)).

Wrested Vegetation means “movement of water that removes soil, debris and vegetation, creating a clear demarcation between water flow and vegetative growth.”

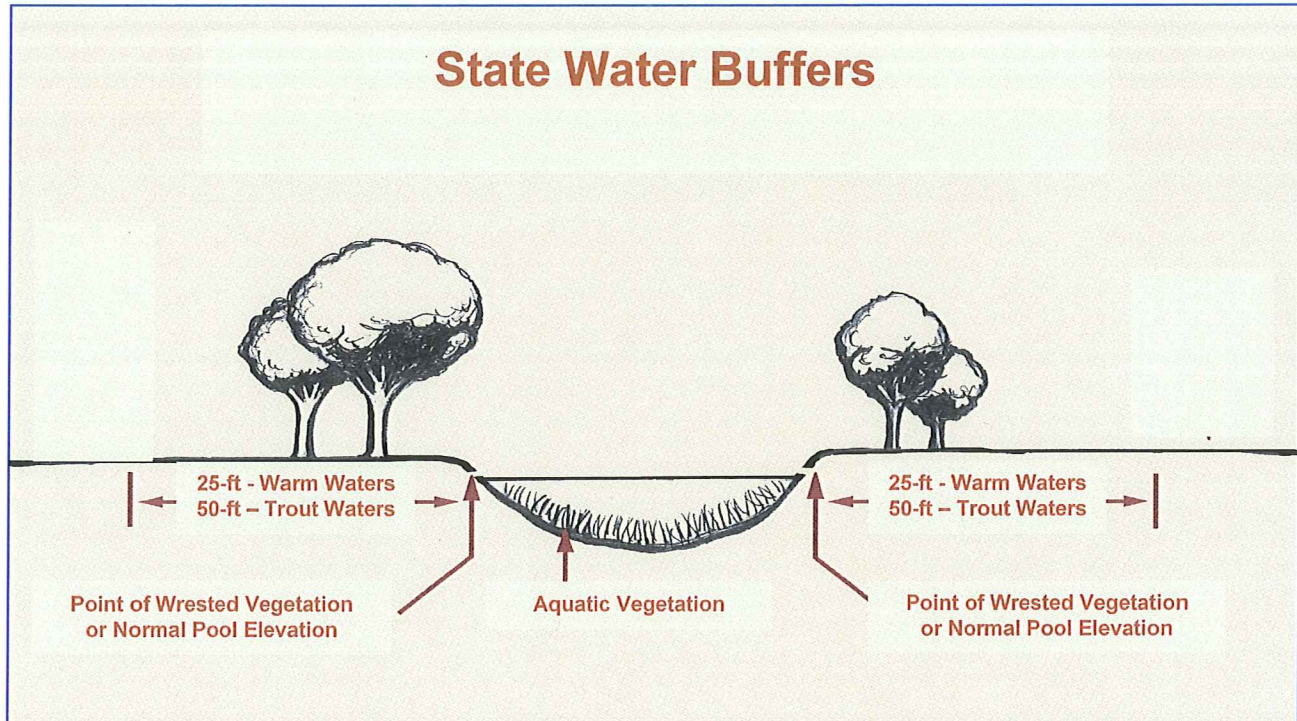
Normal Pool Elevation means “the natural or design elevation of a flow-regulated water body.”

Steps for Determining Buffer Requirements:

Step 1. Walk the site and identify inflow or outflow from the feature. This includes channels, overflow spillways, pipes or other drainage structures.

Step 2. Review existing property lines and proposed property lines.

Step 3. Examine the feature for a point of wrested vegetation or normal pool elevation.



Examples:

If a feature is completely contained upon the property of a single individual, partnership or corporation and there is no inflow/outflow, the feature is not a State Water. The feature will not require a buffer.

(Using the above situation) If a **portion** of the feature is or will be transferred/sold to another individual, partnership or corporation, then the pond will become a State Water. A buffer is required if there is a point of wrested vegetation or normal pool elevation.

If a feature has inflow/outflow and is not contained upon the property of a single individual, partnership or corporation, it is a State Water. A buffer will be required if there is a point of wrested vegetation or normal pool elevation.

If a feature with inflow/outflow has been determined to be a State Water but does **not** have a point of wrested vegetation or normal pool elevation, it will not require a buffer. No point of wrested vegetation could be due to completely vegetated banks and bottoms of the water feature (excluding aquatic vegetation) or a solid bulkhead, seawall or retaining wall.

Sometimes a channel can form within a larger non-buffered feature. If this happens, the channel could require a buffer. Please refer to the *Field Guide for Determining the Presence of State Waters That Require a Buffer*.

Please Note the Following:

- Detention, retention and other water quality/water quantity ponds may be subject to buffer requirements.
- Ponds, lakes and other open waters located within a trout stream watershed may be subject to trout stream buffer requirements (50 foot buffers). Please refer to the Georgia Water Quality Control Rules (391-3-6-.03) for a listing of trout streams and watersheds.
- Draining a pond does not require a buffer variance. However, draining the pond does not eliminate the buffer. The same physical conditions exist; therefore, the feature is still buffered. A buffer variance is required for any encroachments within the buffer, or alterations to the pond (e.g., breaching the dam). Once the pond has been altered, the new buffer will be based on the new conditions of the water feature. For example, instead of a buffered pond, there could be a buffered stream.
- The buffer is 25 or 50 feet as measured horizontally from the point where “vegetation has been wrested by normal stream flow or wave action” or from the point of the “normal pool elevation.”
- Buffer requirements are also included in the NPDES General Permits for Stormwater Discharges from Construction Activities.
- The buffer on coastal marshes is 25 feet as measured horizontally from the DNR jurisdictional line. The DNR, Coastal Resources Division should be contacted for the delineation of the DNR jurisdictional line and guidance involving any land disturbing activity in coastal marsh areas.
- State Waters may also be classified as jurisdictional Waters of the U.S., and may require a U.S. Army Corps of Engineers Section 404 permit under the Federal Clean Water Act.
- Ponds, lakes, reservoirs, impounded structures, open waters and associated buffers must be delineated on the ES&PC Plans. Those features that are State Waters that do not require a buffer may be identified on the plan sheets as “Non-Buffered State Waters.”
- Agricultural **activities**, such as the cultivation and harvesting products of the field or orchard, planting of pasture land, construction of a pond for agricultural purposes, dairy operations, and livestock and poultry operations, are exempt from the buffer requirements (O.C.G.A. 12-7-17(5)). However, the construction of **agricultural buildings** may be subject to the buffer requirements included in the NPDES General Permits for Stormwater Discharges from Construction Activities.
- All determinations should be documented in writing. Photo documentation is strongly recommended.