

# Georgia Department of Natural Resources

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Mark Williams, Commissioner

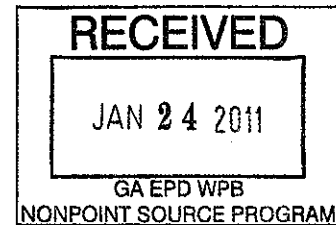
F. Allen Barnes, Director

Environmental Protection Division

404/656-4713

## FILE COPY

January 21, 2011



### MEMORANDUM

**TO:** Local Issuing Authorities and Other Interested Parties

**FROM:** Jim Ussery, P.E., Assistant Director  
Environmental Protection Division

**SUBJECT:** Forestry Land Management Practices/Silvicultural Practices Exemptions

The intent of the attached guidance document dated March 2010 is to clarify the exemptions applicable to forestry land management practices and/or silvicultural practices as defined in the Georgia Erosion and Sedimentation Act (O.C.G.A. § 12-7-17(6)) and the NPDES General Permits for Storm Water Discharges Associated with Construction Activity.

Please implement this guidance document for all applicable forestry land management practices and/or silvicultural practices immediately. If additional information is required, please contact the appropriate EPD District Office or the EPD Watershed Protection Branch at (404) 675-6240.

JU:fmc  
Attachment

cc: Linda MacGregor  
Bert Langley

## EXEMPTION

### Forestry Land Management Practices/Silvicultural Practices

The intent of this document is to define the exemptions applicable to Forestry Land Management Practices and/or Silvicultural Practices as defined in the Georgia Erosion and Sedimentation Act and the NPDES General Permits for Storm Water Discharges Associated with Construction Activity.

As per O.C.G.A. 12-7-17(6), **Forestry Land Management Practices** (including harvesting) are exempt from the Georgia Erosion and Sedimentation Act (GESA). However, "when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs (15) and (16) of subsection (b) of Code Section 12-7-6, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after the completion of such forestry practices."

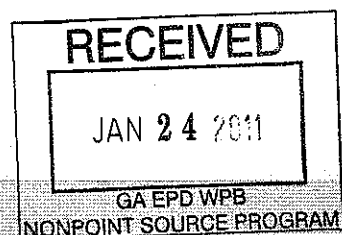
It is important to note that **timber harvesting** encompasses several operations. In addition to cutting trees, timber harvesting typically includes the layout of **access roads, log decks** and **skid trails**.

Access roads (usually 12-16 feet wide) are an essential part of any forestry management operation. There are two types of access roads typically constructed in Georgia: *broad-based dip road* in mountainous and hilly terrain and the *crown and ditch road* in the flatwoods and along major flood plains. Log decks, also called brows and landings, are areas of concentrated equipment and traffic. Skid trails are temporary, nonstructural pathways over forest soil used to drag felled trees or logs to the landing. Specific Best Management Practices for the construction, maintenance and retirement of access roads, log decks and skid trails are detailed in the publication, "**Georgia's Best Management Practices for Forestry.**"

Copies of "Georgia's Best Management Practices for Forestry" are available from the Georgia Forestry Commission (GFC) at P.O. Box 819, Macon, GA 31202 or 1-800-GA-TREES or the website, [www.gatrees.org](http://www.gatrees.org). It is in the best interest of everyone involved in forestry operations to properly plan and manage their operations by consistently following these **voluntary** Best Management Practices to prevent any potential water quality problems.

As per the Federal Clean Water Act, Section 404 (40 CFR Part 232.3), normal, established, ongoing silvicultural practices are exempt from the permitting processing for discharges of dredged or fill material in jurisdictional waters of the U.S. However, baseline provisions as delineated in the publication, "Georgia's Best Management Practices for Forestry," have been mandated to qualify for this exemption.

In addition, **silvicultural practices** are specifically exempt from the requirements of the NPDES General Permits for Storm Water Discharges Associated with Construction Activity (Permits). As defined in the "**National Management Measures to Control Nonpoint Source Pollution Forestry,**" silvicultural practices occur when "... forests are tended, harvested and replaced. Usually defined by, but not limited to, the method of regeneration." *Reforestation can be accomplished artificially or naturally.* Natural **regeneration** (i.e., natural seeds in the soil or



seedling naturally present) and hand planting generally pose less of a threat to water quality than mechanical methods.

"Georgia's Best Management Practices for Forestry" defines **Stream Management Zones** (SMZ) as buffer strips adjacent to State waters that should be managed with special considerations to protect water quality. There is no uniform formula to determine the appropriate width of an SMZ. However, the steeper the slope and more erosive the soil, the wider the SMZ should be. Slope should be determined at 100-ft perpendicular to the streambank. Stream Management Zones should be measured along the ground from the streambank on each side of the stream and not from the centerline of the stream:

Slope Class	Minimum Width (ft) of SMZ on Each Side		
	<i>Perennial</i>	<i>Intermittent</i>	<i>Trout</i>
Slight (< 20%)	40 ft	20 ft	100 ft
Moderate (21% - 40%)	70 ft	35 ft	100 ft
Steep (> 40%)	100 ft	50 ft	100 ft

Forestry Land Management Practices and/or Silvicultural Practices may occur within an SMZ provided that disturbances to soil or ground cover are minimized. Best Management Practices associated with typical silvicultural activities are described in the publication, "Georgia's Best Management Practices for Forestry." However, if silvicultural activities within the buffers (as defined in the Georgia Erosion and Sedimentation Act) result in soil erosion and the movement of sediment, no other land-disturbing activities (except for typical silvicultural activities) and no **construction activities** shall be allowed on the **entire property** upon which the silvicultural activities were conducted for a period of three years after the completion of such silvicultural activities.

Prior to an intended change in land use (e.g., site development), some practices may appear to be similar to those that are part of an ongoing silvicultural activity. However, indicators of an intended change in land use or a non-silvicultural activity **may** include, but are not limited to the following:

- (1) The presence of intensive mechanical site preparation such as shearing, root raking, windrowing debris or "stumping" of the site. In general, tree stumps are only removed to construct access roads and log decks.
- (2) Road construction that is not consistent with the recommended Best Management Practices for silvicultural activities (e.g., location, construction materials and utility). Roads should not be wider than necessary for the transport of typical silvicultural products and access for forest management activities. Road spacing, placement and design standards must be consistent with silvicultural activities (e.g., construction of a cul-de-sac is not a silvicultural activity).

- (3) The presence of surveyed lot lines, utility easements or similar indicators of planned construction activities.
- (4) Lack of a **Forest Management Plan** by the landowner. Plans should include the history of the site (including previous land use), timber harvesting schedules, identification of sensitive areas such as streams and wetlands, regulations and permitting requirements, and reforestation plans.
- (5) Recently dug drainage ditches or stabilized gullies and drainage ditches that have been re-activated.

Land disturbing activities inconsistent with the recommended Best Management Practices for Forestry Land Management Practices and/or Silvicultural Practices may indicate changes in land use or non-silvicultural activities and may **not** be exempt from the Georgia Erosion and Sedimentation Act and NPDES General Permits for Storm Water Discharges Associated with Construction Activity.

The Georgia Forestry Commission should be contacted if technical assistance is required to determine if a land disturbing activity is a **legitimate** silvicultural activity exempt from GESA, local erosion and sedimentation control ordinances, and the Permit requirements.

Please note that if a **plan of development or sale** has been announced (e.g., sign, public notice, sale pitch, advertisement, drawing, zoning request, computer design), but **only** silvicultural activities are occurring on the property, the silvicultural activities remain exempt from the GESA, local erosion and sedimentation control ordinances, and the Permit requirements. Silvicultural clearcutting of trees occurs when "all merchantable trees are harvested over a specified area in one operation" and does not include the removal of tree stumps. During silvicultural activities, tree stumps are only removed to construct access roads and log decks.

However, the removal of tree stumps for site development (i.e., clearing, grading, excavating or filling of land) is a construction activity. Construction activities that result in land disturbance equal to or greater than one acre must comply with the NPDES General Permits for Storm Water Discharges Associated with Construction Activity and the applicable requirements of the GESA and local erosion and sedimentation control ordinances.

Since 1978, the Georgia Forestry Commission has been designated by the Georgia Environmental Protection Division (EPD) as the lead agency to coordinate the **Forestry Water Quality Program**. The program's primary responsibilities include: educating the forestry community about BMPs through training and demonstrations, conducting BMP use and effectiveness monitoring surveys, and investigating and mediating forestry water quality complaints.

As per the attached "**Guidelines for Handling Commercial Forestry Complaints**," potential water quality violations attributed to silvicultural activities, observed by or reported to the EPD, should be reported to the GFC State Coordinator, Frank Green, at (478) 751-3498 or to the appropriate GFC District Coordinator. The GFC District Coordinator will conduct a complaint investigation and, with appropriate coordination, meet with the logger, contractor and/or landowner to resolve any problems. Most complaints are resolved using the attached Georgia Sustainable Forestry Initiative (SFI) Committee Inconsistent Practices Policy.

Complaints that cannot be resolved using the above procedures, are referred back to the GFC State Coordinator for further actions. For example, water quality violations (e.g., temperature, turbidity) resulting from silvicultural activities may be referred to the EPD for enforcement action under the Georgia Water Quality Control Act. In addition, complaints involving stream crossings and/or wetland violations that cannot be resolved by the GFC are normally referred to the U.S. Environmental Protection Agency (EPA) for enforcement action.

Copies of all GFC correspondence and investigations pertaining to commercial forestry complaints are submitted to the appropriate individuals or organizations involved, the individual or organization which originated the complaint, the GFC State Coordinator and the EPD Program Coordination Branch Chief. In addition, the GFC State Coordinator submits quarterly reports to the Georgia Nonpoint Source Management Program.

## **GUIDELINES FOR HANDLING COMMERCIAL FORESTRY COMPLAINTS**

### **Background**

Since assigned the role of lead agency for the forestry portion of the Section 208 statewide water quality management plan in 1978, the Georgia Forestry Commission (GFC), with Section 319(h) grant assistance from EPD, has developed the recommended voluntary program for the implementation of Best Management Practices (BMPs) for forestry activities in Georgia. The GFC has prepared and widely distributed a BMP manual. Through EPD contract, their main roles are providing continuing BMP education programs through the use of displays, demonstration projects, workshops, advice to landowners on forest management and harvesting; monitoring BMP Implementation through the biennial surveys to assess the rate of application and effectiveness of BMPs and identify any needs for improved performance; preparation of reports; and investigation and resolution of forestry complaints. Consultations during complaint investigations have led to greatly increased recognition of and application of forestry BMPs in Georgia, especially among the major corporations.

The GFC program is conducted by a Statewide Coordinator and District Coordinators in each of their ten districts. District Coordinators have routinely handled complaints regarding commercial forestry activities, including site investigations and assessments, evaluation of compliance with appropriate best management practices; consultation with loggers, contractors, or landowners regarding appropriate corrective actions; preparation of letters or reports documenting investigations and appropriate corrective actions; and taken follow-up actions, where necessary. This procedure of working with the logger/landowner/contractor has been successful, and is compatible with GFC's mission which is advisory rather than regulatory.

### **Where to Report Complaints**

Observations or complaints of potential water quality problems caused by

commercial forestry activities such as road construction, timber harvesting, or site preparation may be generated by citizen input to a State agency or observations made by field personnel of a State or local agency. Observations or complaints of potential commercial forestry problems observed by or reported to the EPD central office personnel should be reported or directed to Jim Sommerville, the Program Coordination Branch Chief (404) 463-7600, who will refer complaints to the GFC State Coordinator for action. Complaints to or observations by EPD regional office personnel and all other agencies will be referred or reported to Frank Green, the GFC State Coordinator (478-751-3498) or directly to the appropriate GFC District Coordinator listed on the attached map. The GFC State Coordinator will refer complaints to the appropriate District Coordinator. District Coordinators will advise the State Coordinator of any complaints which are reported directly to them.

#### **Complaint Investigation and Resolution Procedures**

The GFC District Coordinator will conduct an investigation of the complaint and, with appropriate coordination, meet with the logger, contractor, or landowner to resolve any problems. This may involve using the Sustainable Forestry Initiative's Inconsistent Practices Process to resolve the complaint. Most complaints are resolved through this process.

Complaints which cannot be resolved using the above procedures are referred to the GFC State Coordinator for further actions. Further actions may include additional meetings with the logger/landowner, requesting warning letters from EPD or EPA, or requesting enforcement actions. Enforcement actions pursuant to the Georgia Water Quality Control Act may and have been taken for nonpoint source (temperature, turbidity or physical stream destruction) impacts.

Silvicultural complaints involving stream crossing or wetland violations that cannot be resolved by the GFC are normally referred to the U.S. Environmental Protection Agency for enforcement.

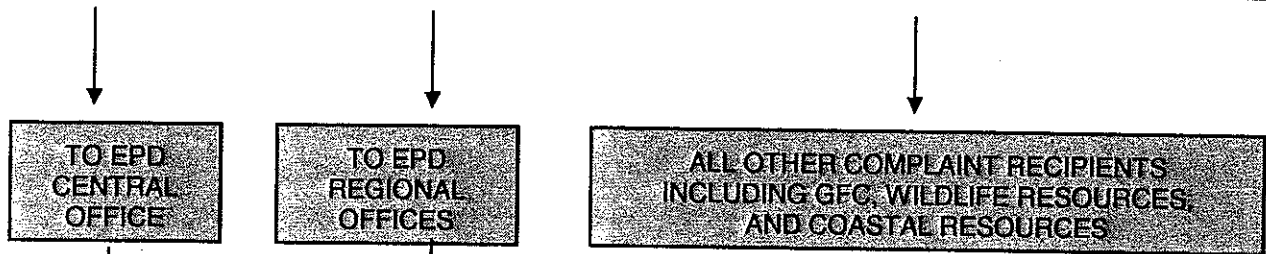
Copies of all GFC correspondence and investigations pertaining to commercial

forestry complaints will be submitted to appropriate individuals or organizations involved, the individual or organization which originated the complaint, the GFC State Coordinator, and the EPD District Manager.

The GFC State Coordinator will submit a quarterly report to the EPD Forestry Nonpoint Source Management Program Manager.



# COMMERCIAL FORESTRY COMPLAINTS



**JIM SUMMERVILLE**  
 EPD NPSMP  
 404-463-7600

QUARTERLY REPORTS

**FRANK GREEN, GFC**  
 STATEWIDE WATER QUALITY COORDINATOR  
 478-751-3498  
 OR  
 GFC DISTRICT WATER QUALITY COORDINATORS  
 (SEE ATTACHED MAP)

DETERMINE FURTHER ACTION  
 FRANK GREEN, GFC  
 STATEWIDE COORDINATOR  
 GFC DISTRICT COORDINATOR  
 EPD DISTRICT MANAGER

GFC DISTRICT COORDINATOR INVESTIGATES COMPLAINT

DISTRICT COORDINATOR MEETS WITH OR DISCUSSES ANY PROBLEMS WITH OWNER, LOGGER, OR OTHERS, AS APPROPRIATE  
 (May involve SFI Inconsistent Practices Process)

RESOLVE PROBLEM

NO  
 REFERED TO EPD DISTRICT MGR FOR ENFORCEMENT ACTION

PROBLEM RESOLVED ?

YES

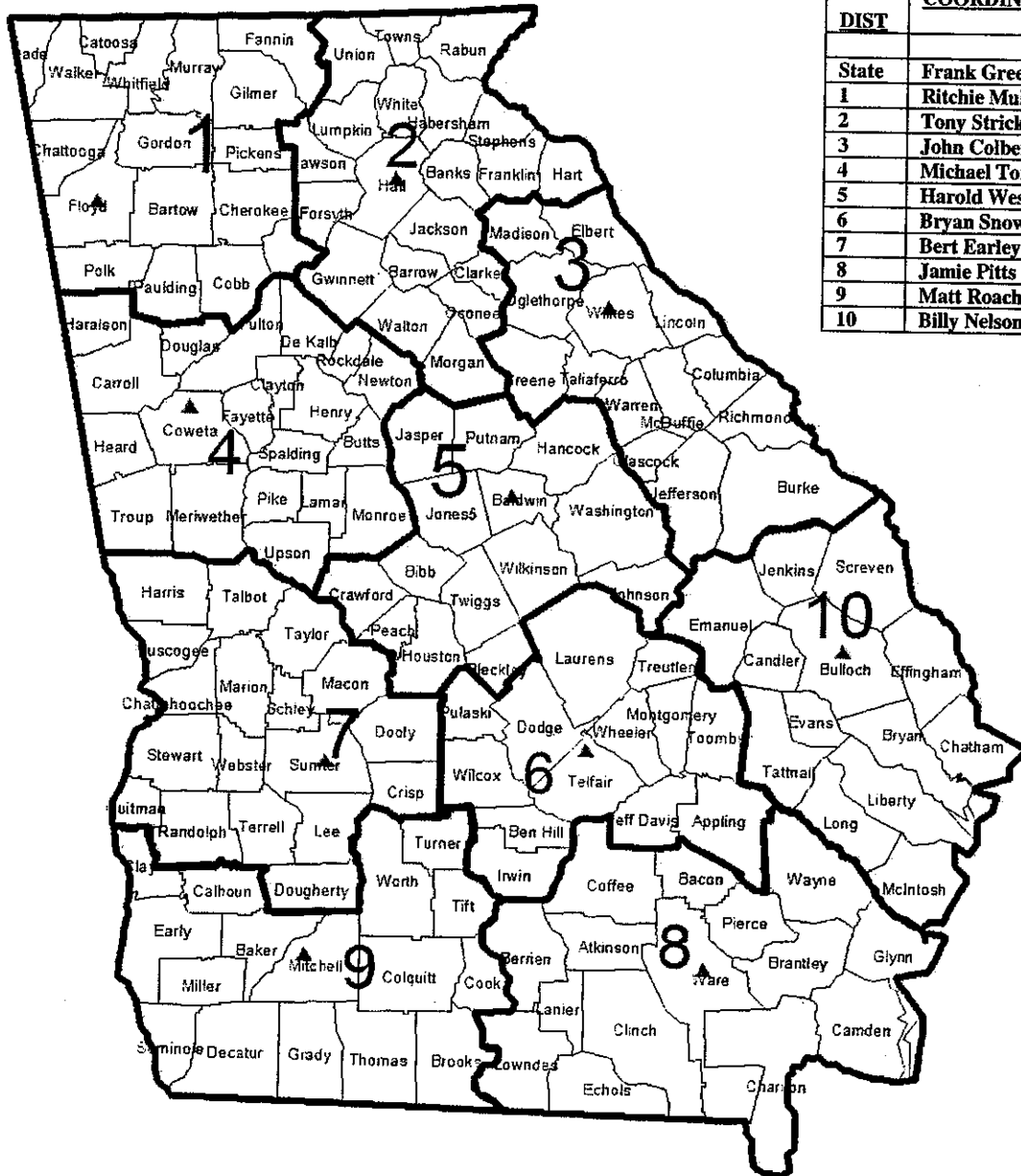
YES

CORRESPONDENCE SENT TO FRANK GREEN AND EPD DISTRICT MANAGERS

## COMMERCIAL FORESTRY COMPLAINT RESOLUTION PROCEDURES

# GEORGIA FORESTRY COMMISSION DISTRICT WATER QUALITY FORESTERS

Revised 01-01-10



<u>DIST</u>	<u>COORDINATOR</u>	<u>TELEPHONE NO.</u>
State	Frank Green	478-751-3498
1	Ritchie Mullen	706-295-6021
2	Tony Strickland	770-356-8770
3	John Colberg	706-595-0347
4	Michael Torbett	770-254-7218
5	Harold West	478-445-5164
6	Bryan Snow	912-526-8680
7	Bert Earley	229-430-5125
8	Jamie Pitts	912-287-4915
9	Matt Roach	229-522-3580
10	Billy Nelson	912-681-0490

**Georgia SFI® Implementation Committee  
INCONSISTENT PRACTICES POLICY**

To establish ***“procedures to address concerns raised by loggers, consulting foresters, employees, unions, the public, or other Program Participants regarding practices that appear inconsistent with the SFI Standard principles and objectives”*** (SFI 2010-2014 Standard 17.3); the Georgia SFI Implementation Committee (SIC) has established a dedicated telephone line to ***“address concerns about apparent nonconforming practices.”*** (SFI2010-2014 Standard 17.3.1).

**General**

The Georgia SIC Coordinator will review calls to the Georgia SIC Inconsistent Practices line. General forest practice questions or issues outside the scope of the SFI Program will be referred to the appropriate agency or organization (GFC, GFA, SWPA, Extension, local authorities, etc.).

All SFI practice calls will be assigned a case number and evaluated for appropriate action. Each SFI Participant will identify a primary contact person for inconsistent practice calls. Calls that identify a SFI Participant or Participants will be forwarded to the contact person(s) for that organization. For calls that do not identify a SFI Participant, a SIC member has been identified in each Georgia Forestry Commission District to act as a local coordinator. Calls regarding unidentified sites will be referred to these Inconsistent Practices (ICP) District Coordinators, who will act on behalf of the Georgia SIC, to try and identify involved parties. In all cases, the Georgia SIC will serve only in a clearinghouse capacity to ensure that complaints are referred to organizations responsible for resolution.

Calls will be handled confidentially, with every effort made to preserve anonymity for the parties involved during the process. However, no guarantees can be made due to state open records laws. To ensure a timely response to the caller, calls are to be processed according to the following:

Action	Time Frame
Call received and case number assigned	24 hours
Call reviewed and forwarded to SFI Participant Contact <u>OR</u> to ICP District Coordinator	48 hours
SFI Participant or ICP District Coordinator investigates and makes report to SIC Coordinator	30 days
SFI Coordinator replies to caller	72 hours
Most complaints should be resolved within 30-days for <b>TOTAL</b> process time of:	<b>36 DAYS</b>
If SFI Participant complaint is not resolved in 30 days, Participant may have an additional 60 days for a <u>total</u> of <b>90 days</b> . SIC Coordinator is to be updated every 30 days. <b>Complaints on SFI Participants not resolved after 90 days will be referred to GA SIC Chair for review and action.</b> Issue may be continued or referred to national process	<b>MAXIMUM 90 DAYS</b>

**\*See also Georgia SIC Inconsistent Practices Process Flow Chart\***

**Record keeping**

The SIC Coordinator will maintain a log of calls received and provide aggregate reporting information as requested by Sustainable Forestry Initiative, Inc. Upon resolution of a call, only the minimum data required for the report will be retained on file. All data will be destroyed after inclusion in the annual report. The SIC call log will only include calls to the Georgia SIC Inconsistent Practices line. Information on calls to other agencies (GFC, GFA, etc.) must be obtained from the agency. (See Below)

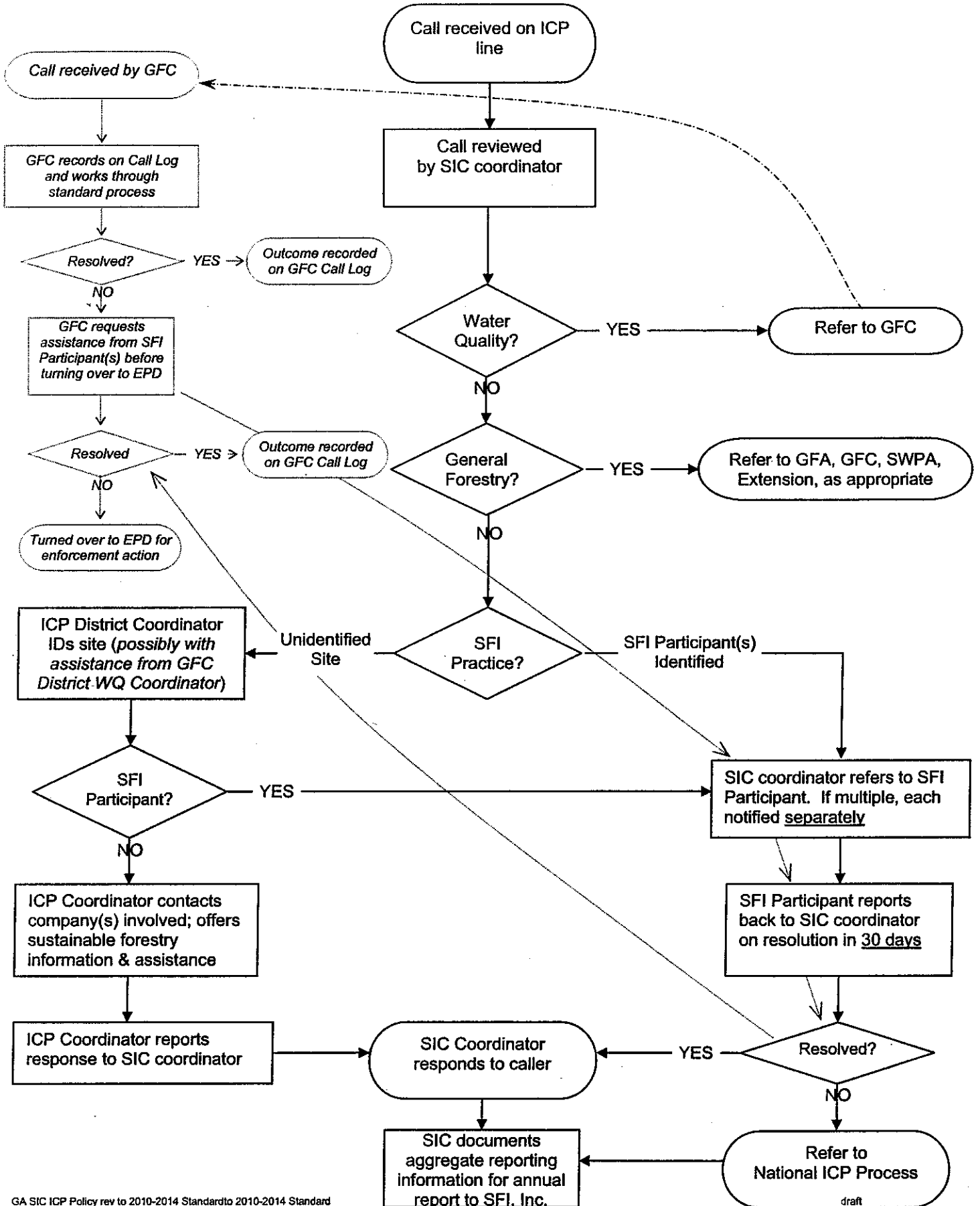
**GFC**

Because the Georgia Forestry Commission (GFC) investigates and mediates water quality and wetland complaints on behalf of the Georgia Department of Natural Resources Environmental Protection Division (EPD) and the US Army Corps of Engineers (COE), calls relative to water quality will be immediately referred to the GFC for resolution through their complaint resolution process.

The GFC has no regulatory authority. In situations where the GFC cannot get satisfactory compliance, cases are turned over to the EPD or COE for further action provided under the Georgia Water Quality Act or Section 404 of the federal Clean Water Act. In order to further encourage the use of Best Management Practices, the Georgia SIC has requested that GFC notify SFI Participants of unsatisfactory complaint resolution in hopes of preventing the need for regulatory action. Calls received from the GFC will be handled through the Georgia Inconsistent Practices Process according to the above time line.

All forestry complaints to GFC are maintained on a call log that is available as a matter of public record. SFI Participants may request the call log periodically to monitor action on, and resolution of, forestry complaints in Georgia.

# Georgia SFI Implementation Committee Inconsistent Practices Process



## SFI INCONSISTENT PRACTICES COORDINATORS

01-01-10

GFC District	GFC District Water Quality Coordinator	SIC Inconsistent Practices District Coordinator
State	Frank Green Off: 478-751-3498 Fax: 478-314-6661 E: fgreen@gfc.state.ga.us	Donna Gallaher Off: 706-542-7691 Fax: 706-542-3342 E: gallaher@smokey.forestry.uga.edu
1	Ritchie Mullen Off: 706-295-6021 Fax: 706- 295-6921 E: rmullen@gfc.state.ga.us	Rome Dist Robert Clarke Off: 706-290-8477 Fax: E: RobertClarke@templeinland.com
2	Tony Strickland Off: 706-356-8770 Fax: 770-356-1193 E: tstrickland@gfc.state.ga.us	Gainesville Dist Paul Overboe Off: 706-629-8634 Fax: 706-629-5675 E: overboepd@bowater.com
3	John Colberg Off: 706-595-0347 Fax: 706-595-8727 E: jcolberg@gfc.state.ga.us	Washington Dist Drew Marczak Off: 706-583-6718 Fax: E: drew.marczak@plumcreek.com
4	Michael Torbett Off: 770-254-7218 Fax: 770-254-7371 E: mtorbett@gfc.state.ga.us	Newnan Dist Winston Savelle Off: 706-663-2291 x107 Fax: 706-663-8411 E: iwsavell@gapac.com
5	Harold West Off: 478-445-5164 Fax: 478-445-2897 E: hwest@gfc.state.ga.us	Milledgeville Dist Kurt Zweizig Off: 478-454-3409 Fax: 478-454-3420 E: timber@tshardwoods.com
6	Bryan Snow Off: 912-526-8680 Fax: 912-526-0365 E: bsnow@gfc.state.ga.us	McRae Dist Steve Worthington Off: 912-367-1543 Fax: 912-367-1528 E: steve.worthington@rayonier.com
7	Bert Earley Off: 229-430-5125 Fax: 229-430-2828 E: bearly@gfc.state.ga.us	Americus Dist Dale Williams Off: 478-472-5397 Fax: 478-472-5314 dale.williams@weyerhaeuser.com
8	Jamie Pitts Off: 912-287-4915 Fax: 912-284-2911 E: jpitts@gfc.state.ga.us	Waycross Dist James Norris Off: 478-676-3013 Fax: 478-676-2012 jamesnorris@gilmanbp.com
9	Matt Roach Off: 229-522-3580 Fax: 229-522-3583 E: mroach@gfc.state.ga.us	Camilla Dist Cheryl George Off: 386-792-0810 Fax: 386-792-0815 E: csgeorge1@hughes.net
10	Billy Nelson Off: 912-681-0490 Fax: 912-871-1719 E: bnelson@gfc.state.ga.us	Statesboro Dist Bill Guthrie Off: 912-966-4351 Fax: 912-966-6024 E: bill.guthrie@weyerhaeuser.com