



**Two Meter Elevation Map for Coastal Counties with Marshlands**

**PLEASE NOTE THE FOLLOWING:**

- Buffer requirements are included in the General NPDES Permit for Storm Water Discharges Associated with Construction Activities.
- 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 Associated with Construction Activities.
- Contact the DNR, Coastal Resources Division, for guidance involving any land disturbing activity within the marshland itself.
- State waters may also be classified as Waters of the U.S. and may require a U.S. Army Corps of Engineers Section 404 permit.

**CONTACT INFORMATION**

Coastal Resources Division  
 Georgia Department of Natural Resources  
 One Conservation Way  
 Brunswick, GA 31520  
 Phone: 912-264-7218  
<http://coastalgadnr.org/msp/jd>

US Army Corps of Engineers  
 Savannah District  
 Regulatory Division  
 100 W. Oglethorpe Avenue  
 Savannah, GA 31401-3640  
 Phone: 912-652-5347 or  
 1-800-448-2402  
<http://www.sas.usace.army.mil/Regulatory>

Georgia Environmental Protection Division  
 Watershed Protection Branch  
 2 Martin Luther King Jr. Drive  
 Suite 1462 East, Atlanta, Georgia 30334  
 Phone: 404-463-1511.  
[www.epd.georgia.gov](http://www.epd.georgia.gov)

**ADDITIONAL RESOURCES:**

Coastal Marshlands Protection Act  
<http://coastalgadnr.org/sites/uploads/crd/pdf/permitapps2011/CMPAlaw.pdf>

Rules for Erosion and Sedimentation Control  
<http://rules.sos.ga.gov/gac/391-3-7>

Georgia Erosion and Sedimentation Act  
<http://www.lexisnexis.com/hottopics/gacode/Default.asp>

The following documents can be found at  
<http://epd.georgia.gov/erosion-and-sedimentation>:

“Streambank and Shoreline Stabilization Guidance”

Local Issuing Authorities List

“Minor Land Disturbing Guidance”

<http://epd.georgia.gov/erosion-and-sedimentation-forms>

Coastal Marshland Buffer Variance Application

Coastal Marshland Variance by Rule Notification Form

**April 2017**

**Field Guide for Identifying and Permitting Coastal Marshlands That Require a Buffer  
 April 2017**



This guidance addresses the identification and permitting of coastal marshlands (including impoundments) that require a buffer. The State mandated buffer requirements apply to all coastal marshlands as defined in Code Section 12-5-282 (Coastal Marshland Protection Act).

This field guide supersedes any previous manuals, memos, or guidance issued by the Georgia Environmental Protection Division on the identification of coastal marshlands that require a buffer. It does not supersede the requirements of any Rule or Law.



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

The Act defines State waters as “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.” Coastal marshlands meet this definition and therefore are State waters.

**STEPS FOR DETERMINING THE PRESENCE OF MARSHLANDS AND BUFFER REQUIREMENTS ON A SITE**

Please note that this guidance is primarily written to assist Local Issuing Authorities (LIAs) with their determinations of coastal marshlands 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. **Coastal marshlands are buffered if they meet the definition in O.C.G.A. 12-5-282 and are not otherwise exempted.**

**STEP 1** Review the topography of the Erosion, Sedimentation and Pollution Control Plan for features that may indicate the presence of coastal marshlands.

**STEP 2** For any proposed land disturbance activity below the 2 meter elevation (see map for more information) the owner should contact the Georgia Department of Natural Resources (DNR), Coastal Resources Division (CRD) for a jurisdictional determination. If CRD takes jurisdiction, the owner will need to provide EPD and/or the LIA documentation of a CRD verified Jurisdictional Determination (JD) Line. CRD should be contacted by the owner or the owner’s agent to establish the location of the JD Line. Alternately, the owner or owner’s agent may do their own topographical survey or plant survey and present that information to CRD for verification of the JD line. If CRD does not take jurisdiction the owner will need to provide EPD and/or the LIA with written verification.

**STEP 3** The LIA or EPD (if the activity is not regulated by an LIA) should then determine if the proposed activity meets one of the exemptions in the Georgia Erosion and Sedimentation Act (O.C.G.A. 12-7-17). If the activity is not exempt the project will require a buffer variance based on the JD line established by CRD. Coastal marshlands have a 25 foot buffer as measured horizontally from the coastal marshland-upland interface (JD Line), as determined in accordance with Part 4 of Article 4 of Chapter 5 of the Coastal Marshlands Protection Act (CMPA).

**STEP 4** The determination should be documented in writing. Photo documentation and/or a survey plat are strongly recommended. It is the responsibility of the project owner to retain this documentation for permitting purposes.

**STEP 5** If it is determined that a buffer variance is required a buffer variance application or variance by rule notification (with supporting documentation) should be submitted to the Georgia Environmental Protection Division, Watershed Protection Branch, 2 Martin Luther King Jr. Drive, Suite 1462 East, Atlanta, GA 30334, 404-463-1511.

**THE FOLLOWING ACTIVITIES DO NOT REQUIRE A BUFFER VARIANCE. THESE EXEMPTIONS ARE ONLY APPLICABLE TO THE COASTAL MARSHLANDS (O.C.G.A. 12-7-6(b)(17)):**

- Where an alteration within the buffer area has been authorized pursuant to Code Section 12-5-286 (Coastal Marshland Protection Act).
- Maintenance of any currently serviceable structure, landscaping, or hardscaping, including bridges, roads, parking lots, golf courses, golf cart paths, retaining walls, bulkheads, and patios.
- Where a drainage structure or a roadway drainage structure is constructed or maintained.
- On the landward side of any currently serviceable shoreline stabilization structure.
- Maintenance of any manmade storm-water detention basin, golf course pond, or impoundment that is located entirely within the property of a single individual, partnership, or corporation.

- Crossings for utility lines that cause a width of disturbance of not more than 50 feet within the buffer.
- Any land disturbing activity conducted pursuant to and in compliance with a valid and effective land-disturbing permit issued subsequent to April 22, 2014 and prior to December 31, 2015.
- Any lot for which the preliminary plat has been approved prior to December 31, 2015 if roadways, bridges, or water and sewer lines have been extended to such lot prior to December 31, 2015 and if the requirement to maintain a 25 foot buffer would consume at least 18 percent of the high ground of the platted lot otherwise available for development.

**COASTAL MARSHLANDS VARIANCE BY RULE (391-3-7-11(9)) MAY BE USED FOR:**

1. Activities where the area within the buffer is not more than 500 square feet, or
2. Activities that have a “Minor Buffer Impact” as defined in 391-3-7-.01(r) (no additional above ground, man-made materials or structures within the buffer, and maintains the original grade), provided that the total area of buffer impacts is less than 5,000 square feet.

**PLEASE NOTE THAT BANK AND SHORELINE STABILIZATION STRUCTURES ARE NOT ELIGIBLE FOR COVERAGE UNDER THE VARIANCE BY RULE**

**THE VARIANCE BY RULE IS SUBJECT TO THE FOLLOWING REQUIREMENTS:**

- Disturbance of existing buffer vegetation shall be minimized.
- Final stabilization must include a re-vegetation plan as described in the most recent publication of the Division’s “Streambank and Shoreline Stabilization” guidance. Native riparian vegetation is recommended.
- Temporary vegetative measures must be implemented within 14 calendar days following the completion of any soil disturbance and the site shall be stabilized at the end of every day until project completion.
- Proper and full implementation of the erosion control measures in 391-3-7-.11(9)(g)1.ii of the Rules.
- Post construction stormwater management practices should be considered. Best Management practices can be found in the latest edition of the Georgia Stormwater Management

- Manual or the Coastal Supplement to the Georgia Stormwater Management Manual.
- All other applicable federal, state and local laws, rules and ordinances, including erosion and sedimentation control must be fully complied with prior to commencement of project construction.

**THE FOLLOWING INFORMATION MUST BE MAINTAINED ON-SITE UNTIL FINAL STABILIZATION OF THE SITE IS COMPLETE:**

- Site Plan that shows the locations of all structures, impervious surfaces and the boundaries of the area of soil disturbance both inside and outside of the buffer. The exact area and length of the buffer to be impacted shall be accurately and clearly indicated.
- Documentation that adequate erosion control measures are incorporated into the project plans and specifications.

**ANY ACTIVITY THAT DOES NOT MEET THE REQUIREMENTS OF 391-3-7-.11(9)(g) WILL BE CONSIDERED IN VIOLATION OF THE VARIANCE BY RULE**

**VARIANCE BY RULE NOTIFICATION REQUIREMENTS**

Notification of Variance by Rule form must be submitted to the Department of Natural Resources, Environmental Protection Division for review at least 14 days prior to the commencement of land-disturbing activities. Unless notified by the EPD to the contrary, the applicant is authorized to encroach into the buffer 14 days after the notification form is received by the EPD. Notification must be submitted by return receipt mail (or similar service) to both EPD and the Local Issuing Authority (if applicable).

**DEFINITIONS**

- a. “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)).
- b. “Coastal Marshlands” shall have the same meaning as in Code Section 12-5-282.

- c. “Land Disturbing Activity” means any activity which may result in soil erosion and the movement of sediments into State Waters or onto lands within the State, including but not limited to grubbing, dredging, grading, excavation, transporting, and filling of land, but not including those practices to the extent described in O.C.G.A. 12-7-17 (O.C.G.A. 12-7-3(9)).
- d. “Maintenance” means actions necessary or appropriate for retaining or restoring a currently serviceable improvement to the specified operable condition to achieve its maximum useful life. Maintenance includes emergency reconstruction of recently damaged parts of a currently serviceable structure so long as it occurs within a reasonable period of time after damage occurs. Maintenance does not include any modification that changes the character, scope or size of the original design.
- e. “Serviceable” means usable in its current state or with minor maintenance but not so degraded as to essentially require reconstruction.
- f. “State Waters” means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural and 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, except as may be defined in O.C.G.A. 12-7-17(8) or (O.C.G.A. 12-7-3(16)).

