

WHEN IS A LAND DISTURBING PERMIT REQUIRED?

Who is covered by this law?

Anyone involved in land-disturbing activity. The State defines a land disturbing activity as:

"Any activity which may result in soil erosion from water or wind and the movement of sediments into state water or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in paragraph (5) of Code Section [12-7-17](#)."

A few activities are exempted:

- Surface mining and granite quarrying (they are covered by our mining acts)
- Minor activities: home gardens, landscaping, etc
- Construction of a single family residence that is less than 1 acre and not part of a larger plan ([buffer requirements](#) still apply)
- Agricultural operations
- Projects under the supervision of Natural Resources Conservation Service of USDA
- DOT projects including those they finance in part or in whole
- Georgia Highway Authority
- Public water system reservoirs



The following have partial exemptions See [12-7-17](#) for details

- Forestry land management practices
- Any project involving less than one acre of disturbed area
- State Road and Tollway Authority
- Utility companies

Who is responsible for enforcing the law?

The Department of Natural Resources' Environmental Protection Division (EPD) is the state agency responsible for enforcing the law. EPD may delegate their duties to local issuing authorities.

What is a local issuing authority?

Local issuing authorities are county and city governments that have been certified. In areas where there is a local issuing authority, permit applications are submitted to

them. They are responsible for the inspection and enforcement of their permits.

How does a local government become certified as a local issuing authority?

A local must have three things in place in order to be certified:

- Local ordinances in regard to land-disturbing activities
- Ability to enforce such ordinances
- Qualified personnel to monitor and enforce permits

What must the ordinances include?

The ordinances must meet or exceed the requirements of this law and the state general permit, except for certain requirements that cannot be exceeded:

- Monitoring
- Reporting
- Inspections
- Design standards
- Turbidity standards
- Education/training requirements

EPD has provided a [model ordinance](#) to assist local governments in developing their ordinances. You will need Adobe Reader® (this is available free) to view the document.

Ordinances must be reviewed, revised, or amended within 12 months of any amendment to the State law.

What permit do I need to obtain for my land-disturbing activity covered under this law?

You will need to apply to the local issuing authority in the area where the activity will occur or directly to EPD if no local issuing authority exists for a National Pollutant Discharge Elimination System (NPDES) permit. This permit was incorporated into the Erosion and Sedimentation Act by the recent legislation. It links sedimentation and erosion control to the Georgia Water Quality Control Act.

What must my application include and what is the process for approval?

Your application must include:

- Erosion and sedimentation control plan (including your Best Management Practices)
- Supportive data that demonstrate that the land-disturbing activity will be performed in such a manner as to meet the minimum requirements of the law
- Certification that the plan preparer or designee has visited the site prior to the creation of the plan (added by the recent legislation)

The process:

- Completed application and fees are submitted to the local issuing authority or EPD, in lieu of local issuing authority

- It may take up to 45 days for approval/denial
- The application will be referred to the Soil and Water Conservation district in the area to determine the adequacy of the erosion and sedimentation plan
 - The district only has 35 days to review the plan, if a decision has not been rendered within 35 days the plan is considered approved by the district

If your application is denied, the local issuing authority has to indicate where the application is deficient. Conditions may be added to your permit; the local issuing authority must specify on the permit the conditions under which such activity can occur. Your permit can be suspended, revoked, or modified (all or in part) if you are found to be noncompliant.

What is the fee for the permit and what is the money used for?

The permit fee is \$80/disturbed acre. In areas with local issuing authorities half of the fees will be retained by them and the other half will be sent to EPD. The fee is to fund this law.

Besides the revocation of the permit are there any other penalties for violations?

- If an applicant has two or more violations or previous permits within the previous three years a new permit will not be issued.
- A prior offender may have to post a bond up to \$3,000/acre of proposed land-disturbing activity.
- For permit holders that do not incorporate or maintain Best Management Practices and a violation occurs there is a maximum fine of \$2,500/day for each violation. Each day that a violation occurs is considered a separate violation.
- Injunctions and stop work orders may be issued

What is a stop work order?

When the EPD or local issuing authority finds a violation they can require the violator to cease work until corrective actions or mitigation has occurred. See the section on Stop Work Orders under major changes to the law for more information.

What are Best Management Practices? Does the law specify which practices must be incorporated?

Erosion and sedimentation Best Management Practices (BMP) is a set of practices approved to control/prevent erosion and sedimentation from land-disturbing activities. The [Manual of Erosion and Sediment Control of Georgia](#) outlines the BMPs that should be incorporated into your operation. In addition, the law establishes 16 other BMPs that should be included (12-7-6). Local regulations may have more stringent BMPs than those stated in the State law. So remember to check the local ordinances in the county/city that the activity will occur to ensure that their BMPs are in your erosion and sedimentation plan.

The incorporation and maintenance of BMPs is your only defense against violations.

What are the buffer requirements that single family developments on less than one acre must adhere to?



The scenic and ecological benefits of buffers, Boggs Creek, North Georgia. Courtesy Krista Jones

A vegetative buffer is required along all stream banks. For most streams, a 25 foot buffer is required, but for trout streams a 50 foot buffer must be maintained. An exemption to this buffer requirement was added to allow stream crossing for water and sewer lines, however there are specific guidelines to be followed in order to protect the stream. (See [12-7-6](#))



Lack of riparian buffers likely contributed to bank erosion in Weaver Creek, Georgia. Courtesy Krista Jones

What constitutes a violation?

- Action without a permit
- Failure to maintain stream buffers
- Significant amounts of sediment has been or are being discharges into State waters
- Turbidity standards exceeded
 - Greater than 25 nephelometric turbidity units for waters supporting warm water fisheries
 - Greater than 10 nephelometric turbidity units for trout waters