

CHAPTER 1

THE EROSION AND SEDIMENTATION ACT OF 1975

On April 24, 1975, the Honorable George Busbee, Governor of the State of Georgia, signed into law Act 599, the Erosion and Sedimentation Act of 1975 (O.C.G.A. § 12-7-1 et. seq.) This landmark legislation is **was** the result of over five years of exhausting work, debate and legislative compromise.

With the passage of the Act, Georgia joined the few far-sighted states adopting legislation specifically designed to protect soil and water resources. ~~But, of all the various state laws,~~ Georgia's **E&S Act** shows the greatest concern for local implementation and local enforcement. There ~~now~~ exists in Georgia a mechanism whereby local decision makers can do something about the abuses of soil and water resources. ~~which have troubled them so long.~~

The Erosion and Sedimentation Act of 1975 O.C.G.A. § 12-7-2 states: "It is found that soil erosion and sediment deposition onto lands and into waters within the watersheds of this state are occurring as a result of widespread failure to apply proper soil erosion and sedimentation control practices in land clearing, soil movement and construction activities, and that such erosion and sediment deposition result in pollution of state waters and damage to domestic, agricultural, recreational, fish and wildlife, and other resource uses. It is, therefore, declared to be the policy of this state and the intent of this Act **chapter** to strengthen and extend the present erosion and sediment control **activities and programs of this state and to provide for the establishment and implementation of a state-wide comprehensive soil erosion and sediment control program** to conserve and protect land, water, air and other resources of this state."

~~Numerous studies have been made which indicate the vast amounts of sediment erod-~~



Figure 1-1. - Erosion on this construction site was the result of poor planning.



Figure 1-2. - Advanced gully erosion on an abandoned construction site.

~~ing from our lands. It has been estimated, for example, that approximately 4 billion tons of sediment are eroded in the United States each year (13).~~

Sediment in Georgia comes from many sources including ~~farmland, roadside construction sites and even city streets~~ **agricultural operations, forestry practices, and construction projects.** ~~Studies show sediment yields from agricultural areas can average about seven tons per acre per year (17). Lands undergoing development for roadways and urban and sub-urban development are experiencing losses at a much higher rate. A research project at Cartersville, Georgia, indicated that total area erosion from roadbanks without proper vegetative cover can exceed over 350 tons per acre per year (9).~~

Historically, farm land has been the greatest



Figure 1-3. - Sediment from upstream erosion has severely reduced the capacity of this culvert.



Figure 1-5. - If unchecked, sediment would gradually fill this lake.

source of sediment. The trend was reversed around the midpoint of the century with much idle land or land in row crops planted to perennial grasses or trees. In 2007, the Annual National Resources Inventory conducted by the Natural Resources Conservation Service showed a continuing trend in reduced soil erosion of croplands. Between 1982 and 2007, soil erosion from wind and water on U.S. cropland (on non-Federal land) decreased 43%. In 1982 the the total was 3.06 Billion Tons and in 2007 the total was 1.73 Billion Tons. Records from various waterworks in Georgia tell the effects of this movement. Water analysis at the Atlanta waterworks, for instance, showed that the average turbidity of water taken from the Chattahoochee River dropped from 400 parts per million in the 1930's to less than 40 ppm in the 1950's. It is now reported to be about 25 ppm (17). Similar data was recorded in



Figure 1-4. - Removing sediment from this tennis court was a costly and time consuming operation.

~~Newnan, Columbus, Macon and other cities.~~ Urban development is now a major source of sedimentation and pollutants into waters of the State. The increased impervious cover due to developments also increases runoff and stream flows which cause stream bank erosion, and increases the elevation of the floodplain.

Erosion damage is costly to repair, often requiring regrading or replacement of eroded soil and replacement of damaged pavements and structures. Sediment damages are not only unnecessary but extremely costly. A report shows that on five harbor projects in Michigan, a total of over one million cubic yards of man-induced sediment was removed at a cost of \$2.50-\$4.00 per cubic yard. Yet the establishment of control measures to hold this soil in place would have cost only 10-15 cents per cubic yard (29)!

Georgia's soil and water conservation districts have been charged with performing a vital role in the implementation of Act 599. Since their formation beginning in 1937, the districts have worked toward treating each acre of land in accordance with its capabilities. The districts, and the district supervisors for each county in Georgia can be found on the Georgia Soil and Water Conservation Commission (GSWCC) website at www.gaswcc.org. This has been done on two-thirds of Georgia's 37 million acres with most of the work on agricultural lands. The Manual for Erosion And Sedimentation Act, Control in Georgia however, will deals primarily with

land-disturbing activities in urban and urbanizing areas. It should be remembered that the same methodology and expertise is required in planning for the conservation of soil and water on any lands. **The Manual for Best Management Practices for Georgia Agriculture is available on the Commission website, and the Manual for Forestry BMPs is available from the Georgia Forestry Commission.**

~~It is believed that Act 599 will effectively reduce the major source of water pollution in Georgia. And because two-thirds of the population is located in urban areas covering less than seven percent of the land, this reduction in erosion damage to natural resources will occur in locations most critical to the general health and well-being of the people.~~

PROVISIONS UNDER ACT 599

Act 599 requires that governing authorities of Georgia's 159 counties and ~~537~~ **556** incorporated municipalities adopt comprehensive ordinances governing land-disturbing activities within their boundaries. The ordinances must contain technical principles as provided in the law and procedures for issuance of permits. **All Erosion, Sedimentation & Pollution Control Ordinances must be reviewed and approved by the Environmental Protection Division (EPD) of the Georgia Department of Natural Resources (DNR). A model ES&PC Ordinance can be found on both the Commission and EPD websites www.gapd.org.**

~~There are minimum standards included in the law. Local ordinances may, however, be more stringent than the minimum requirements of the law. Municipalities may specify in their ordinances that the responsibilities of permit issuance, inspection, and enforcement be delegated to the local Planning and Zoning Commission.~~

Local ordinances must meet or exceed the standards, requirements, and provisions of the E&S Act and the state general permit (NPDES). The ordinance may not exceed the NPDES permit requirements for monitoring, reporting, inspections, design standards, turbidity

standards, education and training, and project size thresholds with regard to education and training requirements.

The law could have a significant impact on any area's natural resource base because it requires detailed planning before land-disturbing activities are undertaken. The law requires that erosion and sediment control plans for each non-exempt activity be prepared and submitted with application to the ~~Local unit of government~~ **Issuing Authority (LIA)** for a permit. The plans will then be forwarded to the appropriate Soil and Water Conservation District. **The District shall have 35 days to approve or deny the plan with the reason for denial. With each resubmital of the plan, the 35 days for review starts again.**~~This agreement, in effect, The plan review~~ would bypass District approval if the ~~local unit~~ **LIA** demonstrates that it possesses the capability and expertise to conduct erosion and sediment control plan reviews **and enters into an agreement with the District.**

After a thorough analysis of the plans, they will be returned to the issuing authority with the District's recommendations upon which the issuing authority will issue or deny permits. Should a permit be denied because of a discrepancy in the plans, such discrepancies must be made apparent to the applicant. The law requires that a permit be issued or denied within a period not to exceed 45 days after the plan and applications are submitted. If a permit is denied there are appeal procedures provided for in the Act.

Municipalities and counties failing to have in effect a comprehensive erosion and sediment control program adopted an E&S Ordinance will be subject to rules and regulations developed by the **Georgia EPD**. Environmental Protection Division of the Georgia Department of Natural Resources. This division of state government would then issue permits, perform inspections and become the enforcer for all land-disturbing activities within their boundaries until such time as the local authorities adopt an ordinance. **EPD does not issue a Land Disturbance Permit, the terms of the NPDES permit will apply**

and be enforced by EPD. Coverage under the state general permit will begin fourteen days after submitting a Notice of Intention (NOI), and the required fees to the appropriate EPD office. It is recommended that the applicant read and understand the appropriate NPDES permit.

~~There are several exclusions or exemptions written into the Act. Home gardens and individual home landscaping require no permit nor does the construction of single-family residences for individual owners. Surface mining and granite quarrying are covered by other laws and are exempt, as are all agricultural and forestry practices. Projects carried out under the technical supervision of the USDA Natural Resources Conservation Service are exempt.~~

~~Public utilities regulated by the Public Service Commission are exempt but required to meet State minimum erosion and sedimentation control standards. Also exempted are land-disturbing projects financed in any way by the Department of Transportation or the Georgia Highway and Tollway Authority, as well as any road construction or maintenance project undertaken by any county or municipality, provided they meet~~

~~standards. Also exempted are land-disturbing projects financed in any way by the Department of Transportation or the Georgia Highway and Tollway Authority, as well as any road construction or maintenance project undertaken by any county or municipality, provided they meet State minimum requirements.~~

~~Key exemptions to the permit provisions of the Act are found in the requirements that any land change to 1.1 acres or less will require a permit if they are within 200 feet of state waters.~~

In 2003 the E&S Act was amended requiring all persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity to meet the education and training certification requirements developed by the GSWCC.

To meet the requirements of O.C.G.A. § 12-7-19 the Commission has developed the

following four levels of certification:

- 1 Level 1 awareness seminar, a two hour class which is for sub-contractors.
- 2 Level 1A fundamentals seminar, an eight hour class for persons installing and/or inspecting BMPs.
- 3 Level 1B advanced fundamentals seminar, an eight hour class for regulatory inspectors.
- 4 Level 2 introduction to design seminar, a sixteen hour class for persons designing and/or reviewing ES&PC plans.

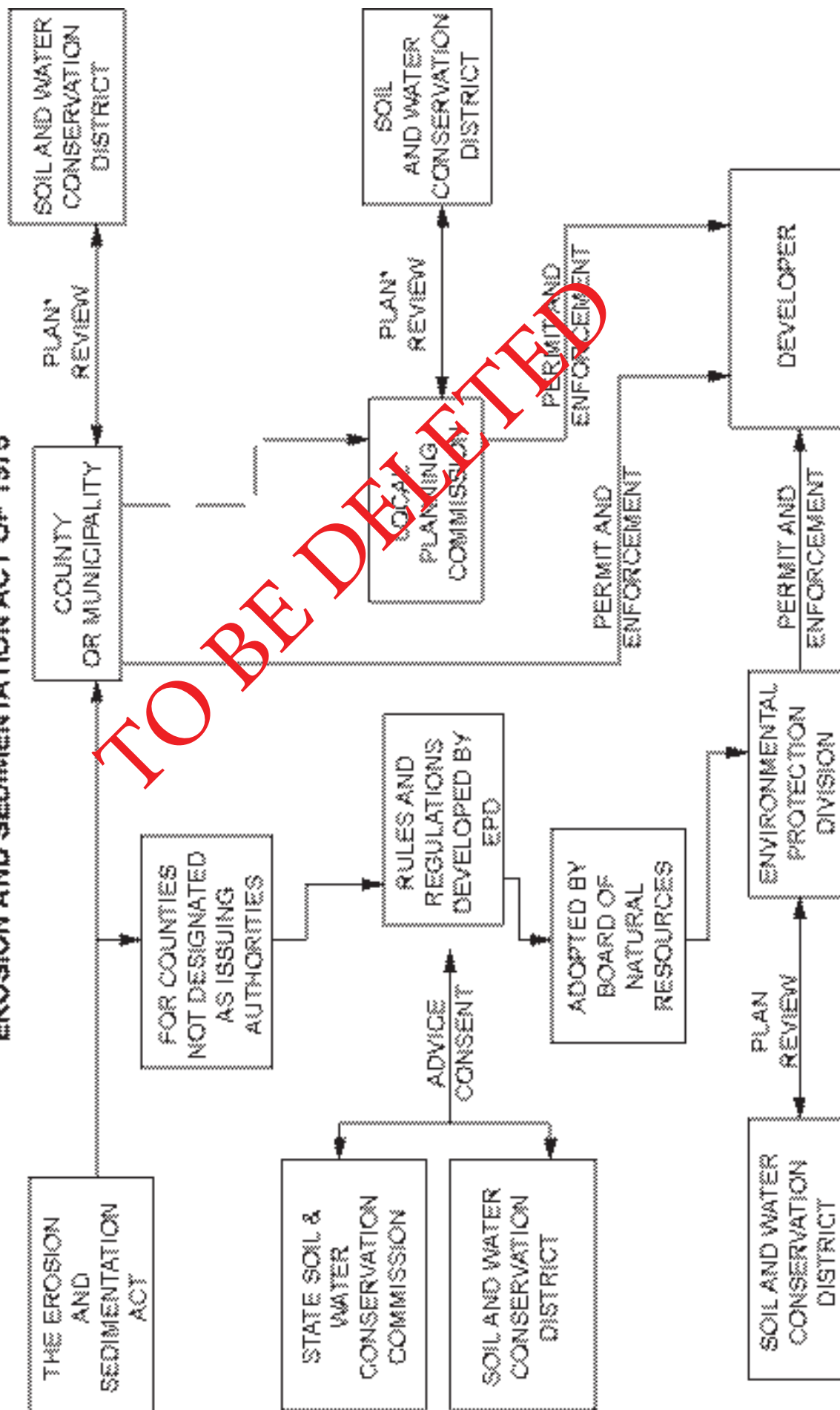
~~At this point it should be repeated that Act 599 provides minimum requirements to be adopted by local units of government. Said units are permitted to strengthen ordinances by elimination of certain exclusions:~~

LAND-DISTURBING ACTIVITY:

"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:

1. clearing
2. dredging
3. grading
4. excavating
5. transporting
6. filling"

AGENCIES AND AUTHORITIES EROSION AND SEDIMENTATION ACT OF 1976



* This step may be bypassed if the local unit of government: (1) Has been certified by the Department of Natural Resources as meeting or exceeding the standards, requirements, and provisions of the Act and (2) Enters into a Memorandum of Agreement with the local District.

EXEMPTIONS FROM THE ACT:

LAND DISTURBING ACTIVITY DOES NOT INCLUDE:

1. Surface mining
2. Granite quarrying
3. Minor land-disturbing activities*
4. ~~Construction of single-family residences — under contract to the owner~~
b. Construction of single-family residences **which disturbs less than 1 acre and is not part of a larger common plan of development project**; provided the activity meets State minimum requirements.
5. Agricultural **operations** ~~and forestry practices~~
6. Forestry practices
7. Any project under the technical supervision of the Natural Resources Conservation Service
8. Projects involving 1-1 acres or less **disturbed and not (if not within 200 feet of state waters) excluding channels, drainageways and intermitteny streams which do not have water in them year round.**
9. Construction or maintenance by the Department of Transportation, Georgia Highway Authority, Georgia Tollway Authority; road construction or maintenance project undertaken by counties or municipalities**~~; provided the activity meets State minimum requirements.~~
10. Projects undertaken by EMCs or municipal electrical systems, or any public utility under the Public Service Commission, ~~provided the activity meets State minimum requirements.~~ **that is not a part of a larger common plan of development**.**
11. Public water system reservoirs.

*Minor land-disturbing guidance document can be found at the GAEPD website www.georgiaepd.org

**coverage under the NPDES permit is not required for discharges of storm water associated with infrastructure construction projects that consist solely of routine maintenance for the original purpose of the facility that is performed to maintain the original line and grade and the hydraulic capacity, as applicable. In order to be eligible for this exemption the project must comply with the following conditions: (1) no mass grading shall occur on the project, (2) the project shall be stabilized by the end of each day with temporary or permanent stabilization measures, (3) the project shall have a duration of less than 120 calendar days, and (4) final stabilization must be implemented at the end of the maintenance project. Maintenance can be defined as work of keeping something in proper condition; or upkeep.

Abandoned sites may exist within the jurisdiction of an LIA where land disturbance has previously taken place on permitted construction projects. Due to various reasons work on the projects may have permanently stopped without the site having undergone final stabilization. The LIA or the owner of such property should contact EPD for the latest regulatory guidance to help ensure the sites are stabilized in compliance with the Act and the NPDES Permits. The LIA or owner of such property should contact GSWCC for technical guidance on implementing the correct BMPs. Common BMP's on such sites include, but not limited to, sediment barriers (perimeter control), sediment storage, temporary and permanent vegetation.

THE MANUAL

This manual has been assembled to provide guidance in the implementation of Act 599. It was written for four specific audiences.

1. The land disturbers: landowners, developers and their consultants, architects, engineers, land surveyors, planners, etc.
2. The enforcers: officials and employees of local units of government charged with responsibility of administering and enforcing the law on a local level and the Environmental Protection Division when it is the issuing authority.
3. The plan reviewers: the Soil and Water Conservation Districts and local issuing authorities.
4. The plan preparers.