

# Georgia Department of Natural Resources

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Chris Clark, Commissioner  
Environmental Protection Division  
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## MEMORANDUM

**TO:** NonPoint Source Group, Program Coordination Branch Staff, and Local Issuing Authorities

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

**RE:** Minor Land-Disturbing Activity Guidelines

The attached minor land-disturbing guidance document, dated September 2009, has been developed by the Erosion Sedimentation Advisory Council (ESAC). The intent of this document is to clarify minor land-disturbing activities as defined in the Georgia Erosion and Sedimentation Act and the applicable requirements of the NPDES General Permits for Storm Water Discharges Associated with Construction Activity.

Please initiate implementation of these guidelines immediately for all applicable minor land-disturbing activities.

Should there be any questions regarding this memorandum, please contact the appropriate EPD District Office or the Watershed Protection Branch's NonPoint Source Program at (404) 675-6240.

### Attachment

**Cc:** Jim Sommerville  
Linda MacGregor  
Larry Hedges

## **MINOR LAND-DISTURBING ACTIVITIES**

As per O.C.G.A. 12-7-17(3), minor land-disturbing activities are exempt from the Georgia Erosion and Sedimentation Act: ***"Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion."***

The intent of this document is to clarify minor land-disturbing activities as defined in the Georgia Erosion and Sedimentation Act and the applicable requirements of the NPDES General Permits for Storm Water Discharges Associated with Construction Activity, as follows:

- A. The following land-disturbing activities are examples of projects not specifically listed in O.C.G.A. 12-7-17(3) that would be considered minor land-disturbing activities and therefore, exempt from the Georgia Erosion and Sedimentation Act and the applicable buffer requirements for State waters:
  1. Elevated structures such as decks, gazebos, patios, walkways, viewing platforms and/or open picnic shelters, provided:
    - a. No more than 100 square feet of footprint of the elevated structure extends into or over the buffer, with an exception for structures compliant with the Americans with Disability Act (ADA);
    - b. No grading, cutting, filling or similar land-disturbing activities occurring as a part of the site preparation, construction or subsequent development;
    - c. The structure is built on posts, concrete blocks and/or similar supports;
    - d. Permanent protective vegetative cover remains or protective measures (e.g., mulch, gravel) are installed within the footprint of the elevated structure to prevent post-construction soil erosion;
    - e. A natural canopy is left in sufficient quantity to keep shade on the stream bed; and
    - f. No concrete and/or asphalt slabs, pads or foundations constructed or placed as a part of the site preparation, construction or subsequent development.
  2. A pervious ground level walkway approach to a dock and/or similar structure, provided:
    - a. No more than 100 square feet of the constructed walkway extends into the buffer, with an exception for structures compliant with the Americans with Disability Act (ADA);
    - b. No grading, cutting, filling or similar land-disturbing activities occurring as a part of the site preparation, construction or subsequent development;
    - c. No concrete and/or asphalt slabs, pads, supports or foundations constructed or placed as a part of the site preparation, construction or subsequent development; and
    - d. All ground preparation and walkway material placement is completed with the use of hand-held equipment.
  3. Restoration of buffer area after the removal of an existing structure, provided:

- a. No more than 100 square feet of the structure footprint is in the buffer; and
  - b. The buffer area must be replanted with native vegetation.
4. Maintenance or repair of existing structures, the failure of which would result in a threat to human health or State waters, such as sewer lines, water lines, dams, or gas lines. Total disturbance must be less than 100 square feet.
  5. Placement of rock riprap within the buffer not to exceed 100 square feet on any one property, provided:
    - a. The placement of the rip-rap does not result in soil disturbance outside the placement area; and
    - b. No grading, cutting, filling or similar land-disturbing activities occurring as part of the site preparation, construction or subsequent development.
- B. The following land-disturbing activities are examples of projects that are **NOT** considered minor land-disturbing activities and therefore, **NOT** exempt from the Georgia Erosion and Sedimentation Act and the applicable buffer requirements for State waters:
1. Any land-disturbing activity utilizing wheeled or tracked machinery and equipment resulting in soil erosion within the buffer;
  2. Paving with poured or prefab concrete and/or asphalt;
  3. Any project or combination of projects occurring within the same calendar year on the same property resulting in more than 100 square feet of any elevated structures and/or pervious ground level walkways within or extending into the buffer;
  4. Construction of a barbecue pit on a concrete and/or asphalt slab or pad within the buffer;
  5. Construction of a ground level patio within the buffer;
  6. Construction of a swimming pool within the buffer;
  7. Construction of a structural or decorative retaining wall within the buffer;
  8. Construction of a new seawall with land-disturbing activities occurring within the buffer; and
  9. Backfilling any new seawall construction within the buffer.

In addition, O.C.G.A. 12-7-6(b)(15)(A) and O.C.G.A. 12-7-6(b)(16)(A) state that "***No land disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed.*** Once final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed."

Therefore, for **Common Development** construction projects covered under the NPDES General Permit for Storm Water Discharges Associated with Construction Activity (Permit), the exemption for minor land-disturbing activities (O.C.G.A. 12-7-17(3)) within the buffer for State waters would not be applicable for an individual lot(s) until such time as a Notice of Termination (NOT) for the **Common Development** had been submitted in accordance with the Permit.

For **Stand Alone** and **Infrastructure** construction projects covered under the Permit, the exemption for minor land-disturbing activities (O.C.G.A. 12-7-17(3)) would not be applicable for a construction project until such time as a NOT is submitted in accordance with the Permit. However, **for Infrastructure construction projects only**, the installation of **mandatory fences** within the buffer for State waters is allowed prior to submitting a Notice of Termination and is exempt from the applicable buffer requirements.

Compliance with the Georgia Erosion and Sedimentation Act and NPDES General Permits for Storm Water Discharges Associated with Construction Activity does not relieve an individual of any obligation or responsibility for complying with the provisions of any other law or regulations of any Federal, local or additional State authority, nor does it obligate any of the aforementioned to permit this project if they do not concur with its concept of development and control (e.g., placement of rock riprap within the stream channel may require a permit from the United States Army Corps of Engineers).