

ATLANTA REGIONAL COMMISSION
METROPOLITAN RIVER PROTECTION ACT
RULES AND REGULATIONS

These Rules and Regulations are adopted by the Atlanta Regional Commission pursuant to the Metropolitan River Protection Act. They repeal and replace all earlier versions. All applications for certificates under the Act received by the Atlanta Regional Commission on or after April 23, 2003 shall be reviewed according to these Rules and Regulations.

I. Definition of Certain Terms Used in These Rules and Regulations

- A. The terms “applicant,” “board,” “certificate,” “director,” “flood plain,” “governing authority,” “impoundment,” “land-disturbing activity,” “major stream,” “owner,” “person,” “political subdivision,” “public notice,” “stream corridor,” “tributary,” and “watercourse” shall have the same meaning as the definitions in subsections (1), (3), (5), (6), (7), (8), (9), (10), (11), (12), (13), (15), (17), (16), (18) and (19) of Official Code of Georgia Annotated (“Code”) Section 12-5-441.
- B. For the Atlanta Region, the term “Center” shall mean the Atlanta Regional Commission (the “Commission”), which is the regional development center identified in subsection (4) of Code Section 12-5-441.
- C. The term “Chattahoochee Corridor Plan” or the term “Plan” in this document, shall mean the comprehensive plan, as defined in subsection (14) of Code Section 12-5-441, and consists of the following documents adopted by the Commission, copies of which are on file at the offices of the Commission:
 - 1. A document entitled Chattahoochee Corridor Plan, as last amended by the Commission on September 23, 1998; and
 - 2. A set of twenty-three (23) maps entitled “Land Vulnerability” as amended by the Commission on June 22, 1983, and pertaining to that portion of the stream corridor between Buford Dam and the Atlanta Water Intake Facility located near Peachtree Creek; and
 - 3. A set of twenty-four (24) maps entitled “Land Vulnerability” adopted by the Commission on September 23, 1998, and pertaining to that portion of the stream corridor between the Atlanta Water Intake Facility located near Peachtree Creek and the downstream limits of the Atlanta Region.

All have been certified by the Commission’s Director and transmitted to the local governing authorities in the stream corridor in the Atlanta Region.

- D. The term “Atlanta Region” shall mean the “area” defined in Code Section 50-8-80 which currently includes the following counties: Cherokee, Clayton, Cobb, DeKalb, Douglas, Fayette, Fulton, Gwinnett, Henry and Rockdale.

- E. The term “days” shall mean calendar days except where otherwise specified.
- F. The term “description of such land” shall mean a legal description and/or surveyed boundaries, including all easements, of the area under review and the area under review shall coincide with the legal description and/or surveyed boundaries.
- G. The term “vegetation plan” shall mean a plan showing the location, extent, and types of existing vegetation or clusters of vegetation. At a minimum, the information shall include the following vegetation types, if present: barren land, open fields, pines, mixed pines and hardwoods, and hardwoods.
- H. The term “site plan” shall mean a plan to scale showing the location of each structure and the location of all impervious surfaces.
- I. The term “impervious surface” is defined in the Plan.
- J. The term “clearing” is defined in the Plan.
- K. The term “substantial change” shall mean any deviation from a certified land or water use when such deviation:

- (a) requires the issuance by the local governing authority or its authorized agent of an additional written instrument, other than a letter of clarification, which has the effect of amending the original certificate; or

- (b) has the effect of increasing the amount of land disturbance or impervious surface in any vulnerability category from the amount previously certified, except:

- (1) that a transfer of pre-existing or certified land disturbance from a more restrictive vulnerability category to a less restrictive vulnerability category on a one-square-foot for one-square-foot basis shall not constitute a substantial change. In the case of a transfer above, the aggregate amount of pre-existing or certified land disturbance and impervious surface in all categories on the pre-existing property or certified review area will not increase, and

- (2) applications previously certified under current Plan standards and approved for less than the maximum amounts of land disturbance and impervious surface allowed in any category on the total certified area may be increased to the allowed maximums for all previously certified categories if the applications remain consistent with all other applicable terms and standards; or

- (c) is a change in the nature or type of land use (including but not limited to a change that requires rezoning) or an increase in the intensity of use.

- L. The term “single-family detached residential use” shall mean a building designed for, or occupied exclusively by, one family as a residence, on a lot containing not more than one such principal building per lot.
- M. The term “application for a certificate” shall mean any information required for a complete application and the application form used by the Commission to initiate a review under the Metropolitan River Protection Act as that form may be amended from time to time by the Commission’s Director.
- N. The term ‘approved erosion control plan’ shall mean a plan approved under the requirements of the Georgia Erosion and Sedimentation Act of 1975, as amended.
- O. The term “flowing stream” shall mean any stream that is portrayed on the most current United States Geologic Survey 7.5 minute quadrangle for the affected area.
- P. The term “all flowing streams in the drainage basin of any tributary” shall mean all flowing streams within the drainage basin of any flowing stream within the Atlanta Region which enters the watercourse within the stream corridor.
- Q. The term “stream buffer zone” shall mean that land which extends for a distance of fifty (50) horizontal feet from the bank of the watercourse or thirty-five (35) horizontal feet from the banks of all other flowing streams within the Atlanta Region within the stream corridor.
- R. The term “land disturbance” shall mean land-disturbing activity.
- S. The term “Chattahoochee Corridor” shall have the same meaning as “stream corridor” in subsection (17) of Code Section 12-5-441.
- T. Land designated as “Chattahoochee River flood plain” shall mean the natural land surface that was below the one hundred- (100-) year flood elevations shown in the Flood Profiles of the most recent floodplain study for the Chattahoochee River approved by the United States Federal Emergency Management Agency for each Corridor jurisdiction.
- U. Land designated as “standard project flood plain” shall mean the natural land surface that was below the 500-year flood elevations shown in the Flood Profiles of the most recent floodplain study for the Chattahoochee River approved by the United States Federal Emergency Management Agency for each Corridor jurisdiction.

- V. The term “flood plain elevation” means the elevation, in feet above mean sea level or other specified units and data, below which any surface or volume is subject to being flooded with a probable frequency of at least once every one hundred (100) years, as shown in the one hundred- (100-) year flood elevation profiles shown in the Flood Profiles of the most recent floodplain study for the Chattahoochee River approved by the United States Federal Emergency Management Agency for each Corridor jurisdiction.
- W. The term “flood hazard zone” appears on the Commission’s Land Vulnerability Maps pertaining to that portion of the stream corridor between Buford Dam and the Atlanta Water Intake Facility located near Peachtree Creek but it has no further significance in these Rules and Regulations.
- X. The term “single-family detached dwelling” shall mean a building designed for, or occupied exclusively by, one family as a residence, on a lot containing not more than one such principal building per lot.
- Y. The term “single-family detached residential subdivision” shall mean a subdivision, or portion thereof, designated exclusively for residences consisting of single-family detached dwellings.

II. Revision of the Commission’s Chattahoochee Corridor Plan

- A. Prior to any future revision of the Chattahoochee Corridor Plan, the Commission shall do the following:
 - 1. Consult with interest groups in the Chattahoochee Corridor;
 - 2. Consult with and seek the assistance of the staff of each local governing authority where the land to be affected lies;
 - 3. Hold a public hearing on the proposed revision in each county in which any land to be affected lies;
 - 4. Cause notice of the time and place of each such public hearing to be published once a week for two weeks prior to the hearing(s) in one or more newspapers of general circulation in each county in which land to be affected lies; and
 - 5. Adopt the revision at a regular or special meeting of the Commission.
- B. Copies of the Plan currently in effect shall be reasonably available for public inspection during normal business hours at the offices of the Commission.

III. Revision of the Commission’s Rules and Regulations

- A. Prior to any future revision of the Commission’s Rules and Regulations pursuant to the Chattahoochee Corridor Plan and the Metropolitan Protection Act, the Commission shall do the following:
 - 1. Consult with and seek the assistance of the staff of each local governing authority where the land to be affected lies;
 - 2. Cause notice of the proposed revision to be published at least once in one or more newspapers of general circulation in each county in which any land to be affected lies; and
 - 3. Adopt the revision at a regular or special meeting of the Commission.
- B. Copies of the Rules and Regulations currently in effect shall be reasonably available for public inspection during normal business hours at the offices of the Commission.
- C. Copies of the Rules and Regulations currently in effect shall be provided to the Georgia Senate Natural Resources Committee and the Georgia House of Representatives Natural Resources and Environment Committee.

IV. Commission Charge for Review of Any Application for a Certificate under the Metropolitan River Protection Act

- A. As authorized in Subsection (4) of Code Section 12-5-443, the Commission charges the following fees for review of an application for a certificate:

<u>IN ACRES</u>		
<u>More Than</u>	<u>But Not More Than</u>	<u>Fee</u>
0	5	\$ 500
5	25	\$2,000
25	50	\$6,000
50	Unlimited	\$7,500

Except that a single-family detached dwelling or an addition to such a dwelling will be charged a \$250 fee for review of an application for a certificate.

- B. A cashier’s check or money order (no cash or personal checks will be accepted) in the appropriate amount payable to “Atlanta Regional Commission” by the applicant or the applicant’s agent shall be included when the application is transmitted to the Commission by the local governing authority.

- C. The Commission shall deposit the check or money order to its account as soon as the review is initiated.
 - D. If an application for a certificate is withdrawn from review under Section V.I. of these Rules and Regulations, the Commission shall not refund the fee.
 - E. Any subsequent or new review of an application shall require payment of a fee as if no previous review had been initiated.
 - F. If a public agency is the applicant, a fee shall not be required.
- V. Commission Review of Application for Certificates under the Metropolitan River Protection Act
- A. The Commission shall review an application for a certificate upon the written request of the chief elected official of the governing authority of the political subdivision involved, or upon the request of the official's designee, or upon the written request of the applicant with the written consent of the chief elected official of the governing authority or the official's designee.
 - B. Any application for a certificate shall include such detailed information on the proposed land or water use as the governing authority shall reasonably request and as required by the Plan and the Commission's Rules and Regulations adopted pursuant to the Metropolitan River Protection Act.
 - C. The applicant, with the concurrence of the local governing authority, may select either the Phased Review process or the Single Step Review process for single-family detached residential subdivisions. For any other land-disturbing activity, the Single Step Review process must be used. The information required for each is as follows:
 - 1. Single-Step Applications

Single-step applications shall include the following information together with information required by the local governing authority:

 - a. A description of such land in the application and any additional land in the project;
 - b. The name, mailing address and daytime telephone number of the owner of record of the land in the application;
 - c. The owner of record's written consent to the review of the land in the application if the owner is not the applicant; provided that where obtaining such written consent is impractical, then, in lieu of such consent, evidence that such owner or owners have been notified in

writing in a timely fashion may be submitted. Such evidence may consist of a copy of the notice together with proof that the same was sent by certified mail or other method providing proof of receipt;

- d. The name, mailing address and daytime telephone number of the applicant or the applicant's designee, if the designee is to act for the applicant in the review;
- e. A narrative description of the proposed land or water use(s);
- f. A vegetation plan;
- g. A site plan;
- h. A check or money order as described in Section IV of these Rules and Regulations;
- i. An approved erosion control plan;
- j. A plan or plans showing: the location of all easements, rights-of-way, utilities, drainage structures and boundaries of lots or other sub-areas; the location and extent of the floodplain and of each vulnerability category of land; the topography of the land;
- k. A table listing the amount of land-disturbing activity and impervious surface to be permitted in each vulnerability category in each lot, road right-of-way, or other subarea of the land included in the application. The areas of land-disturbing activity shall include all areas required and approved by the responsible local official for the construction of septic tanks, septic tank drainfields, sewers, drainage structures and other infrastructure; for the storage of equipment and materials; and for all other proposed land-disturbing activity;
- l. Reserved;
- m. A land-disturbance plan showing the existing topography at no greater than 5-foot contour intervals, and the location, extent and type of all land-disturbing activity. The land-disturbance plan shall include a plan and time schedule for erosion and sedimentation control which shall first be reviewed and approved by the local government official or office responsible for erosion and/or drainage control, who shall be identified on the land-disturbance plan. If the land-disturbance plan includes septic tank construction, the plans for such construction, including drain field siting, shall first be reviewed, approved and signed by the local government official or office responsible for septic tank approval;

- n. A grading plan showing all movement of earth about, onto or off of the land included in the application;
 - o. If the applicant proposes adjustments pursuant to Part 2.A.3.c. of the Plan, then the application shall also include such additional information as the Commission's Director may reasonably require;
 - p. If an applicant proposes any additional impervious surface(s) to that which already exist(s) on the land included in the application, then the application shall also include an as-built drawing showing all existing impervious surfaces and their locations and affixed with the stamp of an engineer, surveyor, landscape architect or other professional registered in the State of Georgia and authorized to perform such work.
2. Phased Applications for Single-Family Detached Residential Subdivisions Only
- a. For purposes of Commission review, Step 1 of a phased or two-step application (for single-family detached residential subdivisions only) shall include all of the information required by the local governing authority and all of the information required in Section V.C.1. of these Rules and Regulations, except the information required in Section V.C.1.g. (site plan for each lot), Section V.C.1.m. (land-disturbance plan for each lot) and Section V.C.1.n. (grading plan for each lot) of these Rules and Regulations. Instead of the site, land-disturbance and grading plans, the application shall include a concept plan showing the approximate size, location and type of all structures and impervious surfaces;
 - b. For purposes of subsequent review by the local governing authority (for lot-by-lot/unit-by-unit review within a single-family detached residential subdivision which has been legally certified following a Step 1 review by the Commission), Step 2 of a two-step application (i.e., each lot) shall include the information required in Sections V.C.1.g. (site plan), V.C.1.m. (land-disturbance plan) and V.C.1.n. (grading plan) of these Rules and Regulations and any other such information as the local governing authority may require;
 - c. The local governing authority may issue a Step 2 certificate without further review by the Commission only if the Step 2 application is fully consistent with the material submitted to the Commission for review in Step 1. Any other Step 2 application not fully consistent with the material previously submitted in Step 1 will be treated as a substantial change pursuant to Section VIII.B. of these Rules and Regulations. Within ten (10) days after issuance of a Step 2 certificate, the local

governing authority shall send to the Commission a copy of the certificate, the Step 2 application and all information included with the Step 2 application.

- D. If the application and accompanying information are determined by the Commission's Director not to be complete, the Commission's Director shall return the application and accompanying information to the submitter with an explanation as to why the Commission's Director considers them not to be complete. An information copy will be sent to the applicant.
- E. If the application and accompanying information are determined by the Commission's Director to be complete:
 - 1. The Commission's Director will acknowledge receipt of the review to the chief elected official of the submitting (or consenting) governing authority. An information copy will be sent to the applicant and to the owner.
 - 2. The application and accompanying information shall become a pending review file and shall be reasonably available for public inspection during normal business hours at the offices of the Commission.
 - 3. The Commission's Director shall immediately initiate staff review of the application for a certificate and the other required information to determine whether or not there appear to be inconsistencies between the Plan and the proposed land-disturbing activity. The Commission's Director may conduct an independent investigation in making such determination.
- F. Within ten (10) days after initiation of staff review pursuant to Section V.E.3 of these Rules and Regulations, the Commission's Director shall make one of the following preliminary findings and transmit the preliminary finding in writing to the chief elected official of the submitting (or consenting) local governing authority (with an information copy to the applicant and to the owner), potentially affected public agencies, as determined by the Commission's Director, and afford those so notified opportunity to review and comment on the application and preliminary finding. For comments, if any, from those so notified to be considered by the Commission's Director, the comments must be received in writing by the Commission's Director within ten (10) calendar days following transmittal of such notice. The possible preliminary findings are:
 - 1. The Commission's Director may find that there appear to be no inconsistencies between the Plan and the proposed land-disturbing activity.
 - 2. The Commission's Director may find that the proposed land-disturbing activity appears to comply with Part 1.B.9. of the Plan and that, while apparently not consistent with the Plan in all respects, the proposed land-disturbing activity appears to provide a level of land and water resource protection equivalent to an application consistent with the Plan.

3. The Commission's Director may find that there appear to be inconsistencies between the Plan and the proposed land-disturbing activity proposed by the application and, if the proposed land-disturbing activity appears to comply with Part 1.B.9. of the Plan, that the proposed land-disturbing activity does not appear to provide a level of land and water resource protection equivalent to an application consistent with the Plan. In this case, the Commission's Director may:
 - a. Recommend modification of the application in such manner as to be consistent with the Plan; or
 - b. If the proposed land-disturbing activity complies with Part 1.B.9. of the Plan, recommend modification of the application in such manner that the application as so modified, while not consistent with the Plan in all respects, will provide a level of land and water protection equivalent to an application consistent with the Plan.
- G. Within ten (10) calendar days after making a preliminary finding pursuant to Section V.F. of these Rules and Regulations, and after consideration of comments received, if any, pursuant to Section V.F. of these Rules and Regulations, the Commission's Director shall make one of the following findings and transmit the finding in writing to the chief elected official of the submitting (or consenting) local governing authority (with an information copy to the applicant and to the owner):
1. The Commission's Director may find on behalf of the Commission that there are no inconsistencies between the Plan and the proposed land-disturbing activity.
 2. The Commission's Director may find on behalf of the Commission that the proposed land-disturbing activity complies with Part 1.B.9. of the Plan and that, while not consistent with the Plan in all respects, the proposed land-disturbing activity appears to provide a level of land and water resource protection equivalent to an application consistent with the Plan.
 3. The Commission's Director may find on behalf of the Commission that there appear to be inconsistencies between the Plan and the land-disturbing activity proposed by the application and, if the proposed land-disturbing activity appears to comply with Part 1.B.9. of the Plan, that the proposed land-disturbing activity does not appear to provide a level of land and water protection equivalent to an application consistent with the Plan. In the case of Finding Nos. 1 and 2, the review shall be complete and no further action by the Commission shall be required.

- H. In the case of Finding No. 3 in Section V.G. of these Rules and Regulations:
1. The Commission's Director shall work with the local governing authority's designee within ten (10) calendar days following such finding to seek the applicant's agreement to modify the application:
 - a. So that it will be consistent with the Plan, or
 - b. So that, while not consistent with the Plan in all respects, the proposed land-disturbing activity will provide a level of land and water protection equivalent to an application consistent with the Plan. This option is available only if the proposed land-disturbing activity complies with Part I.B.9. of the Plan.
 2. If the local governing authority's designee obtains the applicant's agreement in writing to modify the application pursuant to Section V.H.1. of these Rules and Regulations and provides a copy of said agreement to the Commission, the review shall be complete and no further action by the Commission shall be required.
 3. If the local governing authority's designee is unable to obtain the applicant's agreement in writing to modify the application pursuant to Section V.H.1. of these Rules and Regulations, the application shall be placed on the agenda of the next regular or special meeting of the Commission following notice to the local governing authority, the applicant and the owner, and consideration by the appropriate standing committee of the Commission. At such meeting, the Commission shall make one of the following findings:
 - a. The Commission may find that there are no inconsistencies between the Plan and the proposed land-disturbing activity.
 - b. The Commission may find that the proposed land-disturbing activity complies with Part I.B.9. of the Plan and that, while not consistent with the Plan in all respects, the proposed land-disturbing activity will provide a level of land and water resource protection equivalent to an application consistent with the Plan.
 - c. The Commission may find that there are inconsistencies between the Plan and the land-disturbing activity proposed by the application and, if the proposed land-disturbing activity complies with Part I.B.9. of the Plan, that the proposed land-disturbing activity does not provide a level of land and water resource protection equivalent to an application consistent with the Plan. In this case, pursuant to Code Section 12-5-445 the Commission may:

- i. Recommend modification of the application in such manner as to be consistent with the Plan; or
- ii. If the proposed land-disturbing activity complied with Part I.B.9. of the Plan, recommend modification of the application in such manner that the application as so modified, while not consistent with the Plan in all respects, will provide a level of land and water resource protection equivalent to an application consistent with the Plan.

The Commission may make such other findings and/or recommendations as it deems appropriate pursuant to Code Section 50-8-94.

- I. An application may be withdrawn from Commission review by the written request of the chief elected official of the submitting (or consenting) governing authority or by the official's designee or by the applicant or the applicant's agent through the local governing authority at any time prior to final action under Section V. of these Rules and Regulations.
- J. Should the local governing authority request that the Commission reconsider its recommendation at a public hearing, the Commission shall hold such hearing within thirty (30) calendar days after receipt by the Commission's Director of the request in writing from the local governing authority. Notice stating the time and place of the public hearing shall be mailed at least five (5) calendar days prior to the hearing to the local governing authority, notified agencies, the applicant and the owner. Notice of the hearing shall be published one time at least five (5) calendar days in advance in a newspaper of general circulation in the county in which the affected land lies. The Commission shall make its final determination with respect to such recommendations within thirty (30) calendar days after such public hearing and the Commission's Director shall promptly transmit the final determination to the chief elected official of the submitting local governing authority, notified agencies, the applicant and the owner.

VI. Buffer Areas of All Flowing Streams in the Drainage Basin of any Tributary

- A. Within thirty (30) days following adoption or subsequent amendment pursuant to Subsection (a) of Code Section 12-5-453 by each local governing authority of an ordinance or regulations governing use of all land which is in the drainage basin of any tributary, each governing authority shall provide the Commission with a copy of its ordinance or regulations.
- B. Pursuant to Subsection (b) of Code Section 12-5-453, the Commission shall review these ordinances and/or regulations to ensure that they include the following minimum standards established in Subsection (a) of Code Section 12-5-453:

1. Buffer areas of adequate width along all flowing streams in the drainage basin of any tributary, in which areas there will be no land-disturbing activity; and
2. Soil erosion and sediment control regulations consistent with the Erosion and Sedimentation Act of 1975, as amended (Chapter 7 of Title 12 of the Official Code of Georgia Annotated).

In conducting its review the Commission shall consult with the appropriate Soil and Water Conservation Authorities.

- C. In order for the Commission to comply with Subsection (b) of Code Section 12-5-453, beginning January 1, 1984, each local governing authority shall provide the Commission with a copy of its enforcement actions, if any.
- D. For those lands brought under the jurisdiction of the Metropolitan River Protection Act as of July 1, 1998, in order for the Commission to comply with Subsection (b) of Code Section 12-5-453, beginning March 1, 1999, each affected local governing authority shall provide the Commission with a copy of its enforcement actions, if any.
- E. Copies of these ordinances and/or regulations and enforcement actions shall be reasonably available for public inspection during normal business hours at the offices of the Commission.
- F. If a governing authority apparently fails to adopt a required ordinance or regulation or adopts an ordinance or regulation which does not appear to include the above minimum standards or apparently fails to enforce its ordinance or regulation, as required by Subsection (b) of Code Section 12-5-453, the Commission's Director shall give written notice to the governing authority of the Commission's Director's intent to recommend that the Commission request that the Director of the Environmental Protection Division of the Georgia Department of Natural Resources undertake enforcement of erosion and sediment control regulations in the affected drainage basin(s).

The governing authority so notified shall have thirty (30) calendar days from the date of the Commission's Director's notification to remedy the apparent deficiency or demonstrate that no deficiency exists and provide written documentation of such action or contention to the Commission.

If within thirty (30) calendar days the governing authority so notified does not demonstrate to the Commission's Director's satisfaction that no deficiency exists or that it has adopted, amended or enforced the ordinance or regulation as required, the Commission's Director shall recommend that the Commission request the Director of the Environmental Protection Division of the Georgia Department of Natural Resources to assume enforcement of erosion and sediment control regulations in the affected drainage basin(s).

VII. Land-Disturbing Activity Without a Certificate or in Violation of a Certificate or the Act

- A. If the Commission's Director has reason to believe that any person may be carrying out any land-disturbing activity in or on the stream corridor without a certificate or in violation of the terms and conditions of a certificate issued pursuant to the Metropolitan River Protection Act, or in any respect in violation of the Metropolitan River Protection Act, the Commission's Director shall so notify the chief elected official of the local governing authority of the political subdivision in which such activity is believed to be taking place and shall consult with the local governing authority staff or the official's designee to recommend appropriate action(s) to remedy the apparent violation. In order to expedite the investigation, the Commission's Director's notification to the governing authority shall be by telephone followed by a hand-delivered letter with a copy to the Director of the Environmental Protection Division of the Georgia Department of Natural Resources. The Commission's Director's letter shall so state if the apparent violation may require immediate enforcement action.
- B. If the Commission's Director's notification and letter to the local governing authority states that immediate enforcement action may be required, the governing authority so notified shall inform the Commission in writing, within three (3) working days of receipt of the Commission's Director's letter, of any enforcement action initiated to secure cessation of the apparent violation. The local governing authority shall send a copy of its response to the Director of the Environmental Protection Division of the Georgia Department of Natural Resources.
- C. If the Commission's Director has not received a response, in writing, within three (3) working days as required above, the Commission's Director shall so notify the Director of the Environmental Protection Division of the Georgia Department of Natural Resources, who has the authority under the Act to employ appropriate enforcement actions.

VIII. Other

- A. Any proposal which is excepted or exempted from the provisions of the Act pursuant to Code Section 12-5-451 or 12-5-454, but which meets the criteria set forth in the Commission's February 23, 1972 or March 27, 1985 resolution (i.e., any plan or proposal that involves governmental action, expenditure of public funds, use of public property or the exercise of franchise rights granted by any public body and which potentially affects the area within the Chattahoochee River Corridor) shall be submitted to the Commission for review as an Area Plan pursuant to Code Section 50-8-94.
- B. The determination as to whether or not any change in a proposed land or water use is a "substantial change" shall be made by the local governing authority in accord with Code Section 12-5-444 as further supplemented by these Rules and Regulations. In making this determination, the local governing authority shall consult with the Commission. When a determination of no substantial change is made, the local governing authority

shall notify the Commission within thirty (30) days of such determination by providing copies of the revisions to allow consistency of records. The Commission shall review any amended or new application for a certificate in accord with these Rules and Regulations.

- C. If a certificate is issued by the local governing authority pursuant to Code Section 12-5-444 following review by the Commission pursuant to these Rules and Regulations, then any future written instrument related to the same land-disturbing activity covered by the original certificate need not be reviewed by the Commission unless such written instrument authorizes a substantial change as defined herein.
- D. Where an applicant proposes to undertake a land-disturbing activity with respect to any pre-existing land or water use or project for which the issuance of a certificate was not previously required, such use or project shall be treated as though a certificate previously had been issued with respect thereto. The local governing authority shall determine whether or not the proposed land-disturbing activity constitutes a “substantial change” with respect to the pre-existing use or project pursuant to Section I.K.(b) of these Rules and Regulations. If the proposed land-disturbing activity will not constitute a “substantial change,” then the application shall not require review by the Commission. If, however, the proposed land-disturbing activity will constitute a “substantial change” with respect to the pre-existing use or project, then a certificate must be issued in accordance with the Act. In those cases where a certificate is required, the application shall be reviewed based upon the entire use or project or land-disturbing activity without regard to the fact that the issuance of a certificate was not required with respect to the pre-existing use or project. For purposes of this rule, the phrase “pre-existing land or water use or project” means a land or water use or project that existed the day before the Act became applicable to the site.
- E. Any legal action instituted by the Commission to enforce provisions of the Act shall have prior approval by the Commission’s Executive Committee pursuant to Article VII., Section 13.G.3.(c) of the Commission’s Bylaws.
- F. The Commission’s Director will provide to the Commission a monthly list of all certificate application reviews which were active during the thirty (30) calendar days prior to the date of the report.
- G. Prior to the beginning of any land-disturbing activity, such activity shall be clearly and accurately demarcated, wherever it is proposed, with stakes, ribbons or other appropriate means. The location and extent of all authorized land-disturbing activity shall be similarly demarcated for so long as any land-disturbing activity continues.
- H. Prior to initiation of any land disturbance pursuant to a certificate, the owner or applicant shall file or cause to be filed, by affidavit or otherwise, a copy of the certificate on the real estate records of the Clerk of the Superior Court of the county in which the affected land lies.

- I. A copy of the approved land-disturbance plan shall be present on the site whenever land-disturbing activity is in progress.
 - J. The Commission's Environment and Land Use Committee is authorized to act on reviews of certificates or Area Plans within the Chattahoochee Corridor which would normally require Commission action during December.
 - K. Severability. In the event any part, section, subsection, sentence, clause or phrase of these Rules and Regulations shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other parts, sections, subsections, sentences, clauses or phrases of these Rules and Regulations, which shall remain in full force and effect, as if the part, section, subsection, sentence, clause or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof. The Commission hereby declares that it would have passed the remaining parts of these Rules and Regulations if it had known that such part or parts hereof would be declared or adjudged invalid or unconstitutional.
- IX. Local governing authorities in the stream corridor are encouraged to do the following:
- A. Transmit promptly to the Commission copies of all ordinances or regulations and amendments, if any, adopted pursuant to the Act.
 - B. Transmit promptly to the Commission copies of all certificates issued pursuant to the Act.
 - C. Prior to occupancy, certify that the land or water use has been undertaken as certified.
 - D. Record the listing of permitted land-disturbing activity, by vulnerability category and, where applicable, by lot, required by Section V.C.1.k. of these Rules and Regulations as an official part of each preliminary and final plat.