

# CHAPTER X – GEORGIA ENVIRONMENTAL POLICY ACT (GEPA)

## 1.0 Overview

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The 1991 Session of the Georgia Legislature passed Senate Bill 97, as amended, which was signed into law by Governor Miller on April 23, 1991. The new statute (OCGA 12-16-1), known as the Georgia Environmental Policy Act (GEPA), principally provides for the disclosure of the environmental effects of proposed state projects.

In passing GEPA, the General Assembly found that:

1. The protection and preservation of Georgia's diverse environment is necessary for the maintenance of the public health and welfare and the continued viability of the economy of the state and is a matter of the highest public priority;
2. State agencies should conduct their affairs with an awareness that they are stewards of the air, land, water, plants, animals, and environmental, historical, and cultural resources;
3. Environmental evaluation should be a part of the decision-making processes of the state; and
4. Environmental effects reports can facilitate the fullest practicable provision of the timely public information, understanding, and participation in the decision-making process of the state."

The GEPA includes any proposed governmental action by any department, board, bureau, commission, authority, or other agency of the state. Those actions undertaken by a municipality or county are also included under the Act if more than 50 percent of the total cost of the project is funded by a grant of a government agency (state) or a grant of more than \$250,000.00 is made by a government agency (state). Projects that are let by the GDOT that fall below these limits also are subject to GEPA compliance. A proposed government action means the following:

- Any proposed land-disturbing activity (as further defined by GEPA) by a government agency (state) or funded by a grant from a government agency (state);
- Any proposed sale or exchange of more than five acres of state-owned land; or
- Any proposed harvesting of five acres or more of trees more than two inches in diameter at breast height.

The Georgia Department of Transportation's (GDOT) GEPA policy can be found in Policies and Procedures [4415-10](#). The Georgia Department of Natural Resources' (DNR) Environmental Protection Division (EPD) also has published [GEPA guidelines](#).

## 2.0 Environmental studies

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For projects that will cause land disturbance, certain studies will be undertaken. These studies will serve to document whether the GDOT should anticipate that a project might significantly

adversely affect the quality of the environment. These studies may include historic and archaeological surveys, wetland and stream surveys, air assessments, water quality investigations, and state-protected species surveys. All GEPA documents will include a [commitments table \(green sheet\)](#). Information for technical study procedures can be found in [Chapter V](#).

### 3.0 Type A Letter

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Non-land-disturbing activities and minor land-disturbing activities that would not be anticipated to significantly adversely affect the quality of the environment qualify for a Type A letter and include the following list:

- A. Minor roadway and non-historic bridge projects, including:
  - 1. Modernization of an existing highway by resurfacing, restoring, rehabilitating, adding shoulders, widening a single lane or less in each direction, and adding a median within previously disturbed existing right-of-way (ROW).
  - 2. Adding auxiliary lanes for localized purposes (weaving, climbing, speed changes, etc.), and correcting substandard curves and intersections within previously disturbed existing ROW.
  - 3. Non-historic bridge replacement projects in existing alignment with no detour bridge.
- B. Lighting, signing, pavement marking, signalization, freeway surveillance and control systems, and railroad protective devices.
- C. Safety projects such as grooving, glare screen, safety barriers, energy attenuators, median barriers, etc.
- D. Highway landscaping and landscape modification, rest area projects, and truck weigh stations within previously disturbed existing ROW.
- E. Construction of bus shelters and bays within existing ROW.
- F. Temporary replacement of a highway facility that is commenced immediately after the occurrence of a natural disaster or catastrophic failure to restore the highway for the health, welfare, and safety of the public.

[Type A letters](#) are prepared as an Interdepartmental memo and include a project description and a finding that the proposed project is of a type that would not significantly affect the quality of the environment. The letter also will indicate whether or not a Section 404 permit is required.

### 4.0 Significance determination

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For actions that do not fit Type A projects, a determination regarding the significance of project impacts must be made. The EPD, in its [1991 guidelines](#), developed the following checklist to determine the significance of effects. Following the check list is a description of the issues to be considered for each category.

#### ENVIRONMENTAL CHECKLIST

The environmental [checklist](#) covers the following 24 areas/categories:

- 1. Wetlands

2. Floodplain/River Corridor
3. Water Supply
4. Water Resources
5. Groundwater Recharge Area
6. Stormwater
7. Wastewater
8. Air Quality
9. Solid Wastes
10. Soil Stability/Erodibility
11. Protected Mountains
12. Endangered Species
13. Critical Habitats
14. Historical
15. Archaeological
16. Parks/Recreation
17. Energy Supplies
18. Beaches
19. Dunes
20. Shoreline
21. Estuary
22. Forest Land
23. Barrier Island
24. Aquatic Life/Trout Streams

The evaluation will conclude whether or not the area is affected by the project, and if that effect is minor, medium or major.

1. **Wetlands** – Will the action occur in a “wetlands” area? The definition of wetlands is included in the Federal Regulation, 33 CFR 32.93. The DNR Rules for Environmental Planning, Chapter 391-3-16-03, incorporate the federal definition as well as both acceptable and unacceptable uses of wetlands. Under current federal law and state policy, alterations or degradations of wetlands should be avoided unless it can be demonstrated that there will be no long-term impacts or net loss of wetlands. A federal permit is required for most wetland activities.
2. **Floodplain/River Corridor** – Will the action occur in a floodplain or a river corridor? Floodplains are designated areas of land that become flooded with water during periods of rainfall, which increases the primary stream flow. Many floodplain areas are shown on Federal Floodplain Maps, which have been prepared in support of the National Flood Insurance Program. Additional maps and information on floodplains are available from the EPD. Most proposed government actions that occur directly in a floodplain area or that may alter the size or character of the floodplain area are considered significant. Under House Bill 643, passed by the 1991 Session of the General Assembly, lands adjacent to major rivers are protected from certain types of development. DNR is charged with developing rules for the River Corridor protection program.

3. **Water Supply** – Does the proposed action have the potential for decreasing either the quality or quantity of water available for water supply? Water supply refers to a source of water that is used for drinking water in addition to other consumptive purposes. The DNR Rules, Chapter 391-3-16, contain criteria for water supply watersheds. These criteria establish a basis to allow development in a water supply watershed without contaminating the water source to a point where it cannot be treated to meet drinking water standards. The EPD can provide information to state agencies as to whether their proposed projects lie within water supply watersheds.
4. **Water Resources** – Will the proposed action result in a large demand for water from the available water resources? Will the proposed action result in a degradation of the quality of waters of the state? The waters of the state include surface and groundwater that is not wholly confined to a single, privately owned piece of property. Water resources management is one of the most important issues facing Georgia now and in the future. A growing population and the potential for water shortages contribute to the importance of adequate amounts of good quality water. The DNR Rules for Surface Water Withdrawals, Chapter 391-3-6, provide the regulatory framework for withdrawal, diversion or impoundment of surface waters of the state. DNR Rules for Groundwater Use, Chapter 391-3-2, establish regulatory framework for withdrawal, diversion or impoundment of surface waters of the state and establish regulatory procedures for withdrawing, obtaining or utilizing groundwaters of the state.
5. **Groundwater Recharge Area** – Will the action result in the disturbance or altering of a groundwater recharge area? Groundwater recharge areas are those portions of the earth's surface where water infiltrates into the ground to replenish an aquifer. The Significant Recharge Areas of the state are those areas mapped by DNR in Hydrologic Atlas 18 (1989 Edition). The DNR Rules for Environmental Planning Criteria, Chapter 391-3-16, contain specific criteria for the protection of groundwater recharge areas.
6. **Stormwater** – Will the project result in an increase in the amount of stormwater runoff for downstream property owners? The primary concern related to stormwater is the creation of impervious surfaces that contribute to an increase in the amount of stormwater runoff to the point where there is damage or a threat to downstream property owners. Another very important issue is the potential contamination of through increased contact with contaminants.
7. **Wastewater** – Will the project produce wastewater that is discharged to a surface stream? Wastewater refers to contaminated water (sewage or other contaminants) that must be treated and disposed of either by direct discharge to a surface stream or by indirect discharge to an existing municipal sewer system. Even if the wastewater from a state project is to be discharged to a municipal sewer system, the effect can be significant if that wastewater causes the municipality to expand its sewage treatment system.
8. **Air Quality** – Will the action result in a release or discharge of contaminants into the ambient air? Any action that results in the release or discharge of contaminants into the air such that existing ambient air quality may be diminished is a significant action. All discharges or releases may be subject to regulation under the Georgia Air Quality Control Act and/or the US Clean Air Act (CAA). The air quality assessment will be done

in accordance with Chapter V, Section 6.2; however, coordination with FHWA and the Interagency group will not be required.

9. **Solid Wastes** – Will the project result in the generation of solid wastes for disposal, or will the proposed actions occur near or in an active or closed landfill? Solid waste is defined in the Georgia Comprehensive Solid Waste Management Act. It includes different categories of wastes that exist in a solid form (household garbage, demolition material, land clearing debris, commercial non-hazardous waste material, etc). Whereas the amount of solid waste generated that requires disposal is of concern, another primary issue relates to a land-disturbing activity in the vicinity of an active or closed landfill.
10. **Soil Stability/Erodibility** – Will the action displace soils that will be carried off site and pose a threat to surface waters or property? Under the Georgia Soil, Erosion and Sedimentation Act, local governments that have authorized management programs under the Act establish control procedures and permit the project. If the action takes place in a county or municipality that does not have such authorization, EPD is the regulating agency. In either case, a technical guidance book is available from either the local government or EPD.
11. **Protected Mountains** – Will the project involve the alteration of lands with high elevations and steep slopes? Under House Bill 643, which was passed by the 1991 Session of the General Assembly, land that lies above 2,200 feet in elevation and has slopes of 25 percent or more are identified as Protected Mountains. In accordance with the Act, DNR is charged with promulgating Rules for implementation of a “Mountain Protection” program. At the time of preparation of this GEPA guidance, these rules are currently under development.
12. **Endangered Species** – Will the proposed action harm or reduce the population of protected species? The term endangered species is used in both the generic sense for protected species and in a more narrow definition sense under the US Endangered Species Act. With respect to GEPA, the term protected species is more applicable. Protected species include those plant and animal species protected by the state in accordance with the Georgia Wildflower Preservation Act of 1973 and the Georgia Endangered Wildlife Act of 1973. DNR Rules, Chapter 391-4-10, provide more detailed criteria for the state’s protected species.
13. **Critical Habitats** – Is the proposed action expected to involve any critical habitats? Critical habitats are those sites on which the state’s protected species are dependent for their survival. They also include US Forest Lands, US Wildlife Refugees, Wilderness Areas, and Wild or Scenic Rivers.
14. **Historical** – Will the proposed action involve disturbance of any historic property? GEPA specifies consideration of any structure on or eligible for the Georgia Register of Historic Places. In addition, the regulations of the President’s Advisory Council on Historic Preservation (ACHP) (36 CFR 800), which implements Section 106 of the National Historic Preservation Act (NHPA), contains a definition of and criteria for adverse effect for the protection of historic properties.
15. **Archaeological** – Will the proposed action involve disturbance of any archaeological property? Archaeological properties are the physical remains of the past that can be

studied by archaeologists and other scholars to answer questions about prehistory and history. In addition, the regulations of the President's Advisory Council on Historic Preservation (ACHP) (36 CFR 800), which implements Section 106 of the NHPA, contains a definition of and criteria for adverse effect for the protection of historic properties.

16. **Parks/Recreation** – Will the proposed action involve disturbance or otherwise have a significant impact on the state's cultural resources? The GEPA includes cultural resources within the area of potential effect of a proposed government action. In addition to the archaeological or historic value, cultural resources may also include park lands, preserves, and other public lands or areas of recognized scenic and/or recreational value.
17. **Energy Supplies** – Will the proposed action have significant impact or reduce available energy supplies? This primarily refers to the source of energy (electrical, gas/oil, solar, etc.) that will be consumed by the project in relation to the total available in the area.
18. **Beaches** – Will the proposed action involve the disturbance of any ocean beach area? The Georgia General Assembly has found that ocean beaches provide an unparalleled recreation resource, which is vitally linked to the economy of Georgia's Coastal Zone and to that of the entire state. Beaches are also part of the sand-sharing system, which provides habitats and acts as a protective buffer for other areas. This natural resource system is costly, if not impossible, to reconstruct or rehabilitate once adversely affected by man-related activities. Therefore, any action in these areas should be considered highly significant.
19. **Dunes** – Will the proposed activity alter coastal sand dunes? Coastal sand dunes, beaches, sandbars, and shoals comprise a vital natural resource system, known as the "sand-sharing system," which acts as a buffer to protect real and personal property and natural resources from the damaging effects of floods, winds, tides, and erosion. The coastal sand dunes are the most inland portion of the sand-sharing system and because they are a fragile product of shoreline evolution, they are easily disturbed by action harming their vegetation or inhibiting their natural development. They are protected under the Georgia Shoreline Assistance Act of 1979.
20. **Shoreline** – Will the project involve activities in the Georgia Coastal shoreline area or in areas covered under the river corridor protection requirements of Georgia House Bill 643? In accordance with DNR Rules, Chapter 391-2-2, protective measures and procedures are provided for the implementation of the Georgia Shoreline Assistance Act. Construction, erection, or engaging in any shoreline engineering activity or land alteration that alters the natural topography or vegetation of any area is highly regulated under the Act. In addition, the 1991 General Assembly passed House Bill 643, which also provides for the protection of coastal river corridors.
21. **Estuary** – Will the proposed action alter the Georgia coastal marshlands environment? Georgia's coast contains saltwater marshes that have been identified as one of the most extensive and productive marshland systems in the United States. Georgia's marshes, sands, and near-shore ocean water produce more food and energy than any other estuaries zone on the eastern seaboard. They are also an essential life support system

for Georgia's multi-million dollar seafood industry. Any activities that affect this area are closely regulated under the Georgia Coastal Marshlands Protection Act.

22. **Forest Land** – Will the proposed action involve changes in forested areas? The GEPA specifically provides that a proposed government action includes the harvesting of five acres or more of trees over two inches in diameter at breast height. The secondary effects of tree removal as well as other land-disturbing activities that may impact a forested area are of concern. Depending on the type of harvesting methods, tract locations, and other variable criteria, a potential may exist for erosion and sedimentation, habitat alteration, and other changes of concern. Manuals on Best Management Practices (common sense forestry associated practices that minimize the impact on the environment) are available from the Georgia Forestry Commission. These practices were developed by a statewide task force, appointed by the governor, with input from all aspects of the forestry industry in Georgia.
23. **Barrier Island** – Will the proposed action involve activity on or near a barrier island? Along the Georgia Coast, an extensive system of salt marshes, tidal estuaries, and sounds separate a chain of eight major and several smaller barrier islands from the mainland. Two-thirds of the Georgia barrier islands are parks, refuges, or preserves. Sand beaches and dunes protect the islands from erosion and flooding. The islands shelter the marshes from the force of storms. Any proposed action that involves the barrier islands should be considered highly significant.
24. **Aquatic Life/Trout Streams** – Will the proposed action involve an action that significantly impacts freshwater aquatic life? Georgia has an abundance of freshwater lakes, streams, and bodies of water that support aquatic life. The freshwater fisheries are important for the total food chain. Primary and secondary trout streams should be protected.

## 5.0 Type B Letter

Projects that qualify for a [Type B letter](#) include the following, if the studies conducted during the Significance Determination demonstrate that the project will not significantly adversely affect the environment:

- A. Bridge replacement projects on new location or with a detour bridge, where there are no significant impacts to historic or archaeological resources, no involvement with federally listed threatened and endangered species, and no significant adverse impact to wetlands.
- B. Passing lanes, median additions, and widening projects, where there are no significant adverse impacts to historic or archaeological resources, no involvement with federally listed threatened and endangered species, and no significant adverse impact to wetlands.
- C. Safety and intersection improvements where there are no significant adverse impacts to historic or archaeological resources, no involvement with federally listed threatened and endangered species, and no significant adverse impact to wetlands.
- D. Rest area projects and truck weigh stations with no purchase of additional ROW.

- E. New location projects where there are no significant adverse impacts to historic or archaeological resources, no involvement with federally listed threatened and endangered species, and no significant adverse impact to wetlands.

Project files must be documented with the studies conducted during the Significance Determination. Type B letters are prepared as an Interdepartmental memo and include a project description and a finding that the proposed project is of a type that would not significantly affect the quality of the environment. The letter also should indicate whether or not a Section 404 permit is required

If studies demonstrate that the project may significantly adversely affect the quality of the environment, development of an Environmental Effects Report (EER) will be undertaken.

## 6.0 Environmental Effects Report (EER)

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Projects that would qualify for an **EER** are those projects that may significantly adversely affect the quality of the environment. This category includes major widening and new location projects. If such projects result in a significant adverse effect, an EER will be prepared.

### 6.1 Procedure

The GEPA calls for consideration of the “cumulative effect of the proposed government actions on the environment . . . “if a series of proposed government actions are related either geographically or as logical parts in a chain of contemplated actions. Therefore, EERs for sections of roadways to be widened or built as new location facilities will include all programmed projects that are connected geographically or as logical parts in a chain of contemplated actions.

- A. During preparation of an environmental effects report, the GDOT will consult with and solicit comments from agencies that have jurisdiction by law, special expertise, or other interest with respect to environmental impact.
- B. In compliance with GEPA, the following should be contained in the EER, at a minimum:
  - 1. Cover sheet
  - 2. Executive summary
  - 3. Alternatives, including the no-build
  - 4. Relevant environmental setting: geology, soils, water supply and wetlands, floral fauna, archaeology/history, economic environment, energy, and cultural resources
  - 5. The environmental impact of the proposed action of the relevant setting and mitigation measures proposed to avoid or minimize adverse impacts
  - 6. Unavoidable adverse environmental effects
  - 7. Value of short-term uses of the environment and maintenance and enhancement of its long-term value
  - 8. Beneficial aspects, both long term and short term, and economic advantages and disadvantages
  - 9. Comments of agencies that have jurisdiction by law, special expertise or other interest with respect to any environmental impact or resource



- C. At least 45 days prior to making a decision as to whether to proceed with the undertaking, notice that an environmental effects report has been prepared is to be published in the “legal organ of each county in which the proposed government action or any part thereof is to occur.”
- D. The GDOT will send a copy of the EER and all other comments to the EPD Director.
- E. The GDOT will make the document available to the public and agencies, upon request.
- F. A Public Hearing Open House (PHOH) will be held in each affected county if at least 100 residents of the state of Georgia request one within 30 days of publication in the legal organ of an affected county. The responsible official or his or her designee may hold a public hearing if less than 100 requests are received.
- G. Following the public notice period and/or public hearing open house, a summary of the document, comments received, and recommendation as to whether to proceed with the action as originally prepared, to proceed with changes, or not to proceed will be prepared ([Notice of Decision](#) [NOD]).
- H. This decision document, when signed by the Commissioner, will be sent to the director of the EPD, and an abbreviated notice of the decision will be published in the legal organ of each county in which the proposed governmental action or any part thereof is to occur.