

OFFICIAL CODE OF GEORGIA

TITLE 12. CONSERVATION AND NATURAL RESOURCES CHAPTER 16. ENVIRONMENTAL POLICY AND REGULATIONS ARTICLE 1. ENVIRONMENTAL POLICY

Georgia Environmental Policy Act (GEPA)

§ 12-16-1. Short title

This article shall be known and may be cited as the "Environmental Policy Act."

HISTORY: Code 1981, § 12-16-1, enacted by Ga. L. 1991, p. 1728, § 1; Ga. L. 2004, p. 329, § 2.

§ 12-16-2. Legislative findings

The General Assembly finds 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 evaluations should be a part of the decision-making processes of the state; and

(4) Environmental effects reports can facilitate the fullest practicable provision of timely public information, understanding, and participation in the decision-making processes of the state.

HISTORY: Code 1981, § 12-16-2, enacted by Ga. L. 1991, p. 1728, § 1. Title Note Chapter Note Article Note

§ 12-16-3. Definitions

As used in this article, the term:

(1) "A proposed governmental action which may significantly adversely affect the quality of the environment" means a project proposed to be undertaken by a government agency or agencies, for which it is probable to expect a significant adverse impact on the natural environment, including the state's air, land, water, plants, animals, historical sites or buildings, or cultural resources. Such actions shall not include: (A) emergency measures undertaken in response to an immediate threat to public health or safety; or (B) activities in which government agency participation is ministerial in nature, involving no exercise of discretion on the part of the government agency.

(2) "Director" means the director of the Environmental Protection Division of the Department of Natural Resources.

(3) "Division" means the Environmental Protection Division of the Department of Natural Resources.

(4) "Environmental effects report" means a report on a proposed governmental action which may significantly adversely affect the quality of the environment.

(5) "Government agency" means any department, board, bureau, commission, authority, or other agency of the state.

(6) "Land-disturbing activity" means scraping, plowing, clearing, dredging, grading, excavating, transporting, or filling of land or placement of any structure or impervious surface, dam, obstruction, or deposit or placement of or alteration to any structure on or eligible for the Georgia Register of Historic Places; provided, however, that agricultural practices involving the establishment, cultivation, or harvesting of products of the field or orchard; the preparation and planting of pasture land; farm ponds; dairy operations; livestock and poultry management practices; and forestry land management practices, including harvesting of less than five acres of trees over two inches in diameter at breast height, are excluded from the definition of land-disturbing activity.

(7) "Proposed governmental action" means any proposed land-disturbing activity by a government agency or funded by a grant from a government agency, 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 over two inches in diameter at breast height, but the term proposed governmental action does not include, among other things, the following:

(A) Any action or undertaking of a nongovernmental entity, even if that action or undertaking requires a permit, license, or other approval by a government agency;

(B) Any action or undertaking of a municipality, a county, or an authority of a municipality or county, unless more than 50 percent of the total cost is funded by a grant of a government agency or a grant of more than \$250,000.00 is made by a government agency;

(C) The permitting or licensing by a government agency of an action or undertaking;

(D) The promulgation and implementation of rules and regulations by a government agency;

(E) The sale of bonds by a government agency or any program of loans funded by the sale of bonds by a government agency; or

(F) Litigation decisions made by a government agency.

(8) "Responsible official" means the official or body in charge of or authorized to act on behalf of a government agency.

HISTORY: Code 1981, § 12-16-3, enacted by Ga. L. 1991, p. 1728, § 1; Ga. L. 2004, p. 329, § 2.

§ 12-16-4. Determination of adverse effect on quality of environment; environmental effects report; consultation with other agencies; publication of notice of proposed action

(a) The responsible official of the government agency shall determine if a proposed governmental action is a proposed governmental action which may significantly adversely affect the quality of the environment. If the responsible official determines that the proposed governmental action is a proposed governmental action which may significantly adversely affect the quality of the environment, the government agency responsible for such project shall prepare an environmental effects report including, but not limited to, a discussion of:

(1) The environmental impact of the proposed governmental action;

(2) Alternatives to the proposed governmental action, including no action;

(3) Any adverse environmental effects which cannot be avoided if the proposed governmental

action is undertaken;

(4) Mitigation measures proposed to avoid or minimize the adverse impact of the proposed governmental action;

(5) The relationship between the value of the short-term uses of the environment involved in the proposed governmental action and the maintenance and enhancement of its long-term value;

(6) The effect of the proposed governmental action on the quality and quantity of water supply;

(7) The effect of the proposed governmental action on energy use or energy production; and

(8) Any beneficial aspects of the proposed governmental action, both short-term and long-term, and its economic advantages and disadvantages.

(b) Prior to the issuance of the environmental effects report, the responsible official should consult with and obtain the comments of any agency which has 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 a proposed governmental action which may significantly adversely affect the quality of the environment, the responsible official shall publish in the legal organ of each county in which the proposed governmental action or any part thereof is to occur notice that an environmental effects report has been prepared. The responsible official shall provide a copy of the environmental effects report and all other comments to the director. The responsible official shall also make the environmental effects report available to the public and to counties, municipalities, institutions, and individuals, upon request.

HISTORY: Code 1981, § 12-16-4, enacted by Ga. L. 1991, p. 1728, § 1. Title Note Chapter Note Article Note

§ 12-16-5. Public hearing; notice of decision; challenge to decision

(a) If the responsible official receives, within 30 days of the publication of the notice in the legal organ of an affected county or counties, requests in writing for a public hearing from at least 100 persons who are residents of the State of Georgia, a public hearing shall be held by the responsible official or his designee in each county where the proposed governmental action for which an environmental effects report has been prepared or any part thereof is to take place. The responsible official or his designee may, in the sole discretion of the responsible official, hold a public hearing in each such county at any time after 30 days from the date of publication of the notice has elapsed even if less than 100 requests are received in writing from residents of the State of Georgia but only one public hearing in a county shall be required regardless of whether it is a mandatory or discretionary hearing.

(b) The responsible official shall consider all comments received either in writing or during the public hearing or hearings, if held. After considering these comments, the responsible official shall decide whether to proceed with the proposed governmental action as originally proposed, whether to proceed with changes, or whether not to proceed. Notice of the decision of the responsible official shall be given in writing to the director and published in the legal organ of each county in which the proposed governmental action or any part thereof is to occur.

(c) The decision of the responsible official to proceed with the proposed governmental action shall not create a cause of action in any person, corporation, association, county, or municipal corporation; provided, however, the actions of the responsible official in the procedure of giving notice by publication of the environmental effects report and notice by publication of the decision made based upon the report and public comments, if any, may be challenged pursuant to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," if the responsible official acts on behalf

of a government agency which is subject to that act or by mandamus otherwise; but any such challenge must be commenced within 30 days after the date notice of the responsible official's decision made pursuant to subsection (b) of this Code section is first published in a legal organ of any affected county or counties.

HISTORY: Code 1981, § 12-16-5, enacted by Ga. L. 1991, p. 1728, § 1.

§ 12-16-6. Reconciliation of existing authority required

All government agencies shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit or hinder full compliance with the intent, purposes, and provisions of this article, including the guidelines issued pursuant to Code Section 12-16-8, and shall propose to the Governor not later than January 1, 1992, such measures as may be necessary to bring their authority, regulations, policies, and procedures into conformity with the intent, purposes, and procedures set forth in this article.

HISTORY: Code 1981, § 12-16-6, enacted by Ga. L. 1991, p. 1728, § 1; Ga. L. 2004, p. 329, § 2.

§ 12-16-7. Effect of article on federal environmental policy requirements

Nothing in this article shall in any way affect or detract from specific statutory obligations of any government agency to comply with criteria or standards of environmental quality or to perform other statutory obligations imposed upon it, except those specified in Code Section 12-16-6; to coordinate or consult with any other government agency or federal agency; or to act, or refrain from acting, contingent upon the recommendations or certification of any other government agency or federal agency. A government agency shall be deemed to have complied with the requirements of this article for a proposed governmental action that requires and has received federal approval of an environmental document prepared in accordance with the National Environmental Policy Act of 1969, as amended, and its implementing regulations.

HISTORY: Code 1981, § 12-16-7, enacted by Ga. L. 1991, p. 1728, § 1; Ga. L. 2004, p. 329, § 2.

§ 12-16-8. Director to issue guidelines to assist government agencies

Prior to July 1, 1991, the director shall issue guidelines to assist government agencies in the preparation of environmental effects reports in accordance with this article, including, but not limited to, provisions for:

(1) Criteria for determining if a proposed governmental action may significantly adversely affect the quality of the environment;

(2) Comment upon the proposed governmental action by public and private organizations and individuals;

(3) The possibility of the preparation of single-program environmental effects reports if a series of governmental actions taken individually are of minimal adverse significance on the environment but the cumulative effect of the proposed government actions on the environment is significantly adverse or if a series of proposed government actions are related either geographically or as logical parts in a chain of contemplated actions; and

(4) The possibility of the preparation of modified environmental effects reports on remaining decisions significantly adversely affecting the quality of the environment that are parts of actions begun before but not completed before July 1, 1991.

HISTORY: Code 1981, § 12-16-8, enacted by Ga. L. 1991, p. 1728, § 1; Ga. L. 2004, p. 329, § 2