Appendix B

OVERVIEW OF LAWS, RULES AND REGULATIONS

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National Laws and Programs: Regulatory and Voluntary Approaches To Addressing Nonpoint Source Pollution

During the recent years, our country has made significant headway in addressing nonpoint source pollution. At the federal level, recent NPS control programs include the **Nonpoint Source Management Program** established by the 1987 Clean Water Act Amendments, and the **Coastal Nonpoint Pollution Program** established by the 1990 Coastal Zone Act Reauthorization Amendments. In addition, public and private groups have developed and used pollution prevention and pollution reduction initiatives and NPS pollution controls, known as **Best Management Practices** (BMP), to clean up our water efficiently.

The U.S. Environmental Protection Agency (EPA) administers Section 319 of the Clean Water Act, also known as the **Nonpoint Source Management Program**. Under Section 319, states, territories, and tribes can apply for and receive grants from EPA to implement NPS pollution controls.
National Oceanic and Atmospheric Administration (NOAA) administers section 306 of the **Coastal Zone Management Act** that provides funds for water pollution control projects, including NPS management activities, in states with coastal zones. Together

with the EPA, NOAA also helps administer section 6217 of the **Coastal Zone Act Reauthorization Amendments**. This requires the 29 states with approved Coastal Zone Management Programs to establish and implement Coastal Nonpoint Pollution Control Programs.

EPA administers other Sections of the Clean Water Act to help states, territories, and tribes to plan for and implement water pollution programs, which can include measures for NPS control. These include:

Section 104(b)(3), **Water Quality Cooperative Agreements**,
Section 104(g), **Small Community Outreach**,
Section 106, **Grants for Pollution Control Programs**,
Section 314, **Clean Lakes Program**,
Section 320, **National Estuary Program**,
Section 604(b), **Water Quality Management Planning**.

The U.S. Department of Agriculture (USDA) administers incentive-based conservation programs through the Consolidated Farm Services Agency, the Natural Resources Conservation Service, and the U.S. Forest Service to help control NPS pollution from agriculture, forestry, and urban sources.

*Additional information on these programs can be found at http://www.epa.gov/owow/nps/facts/

Georgia Laws and Programs: Regulatory and Voluntary Approaches To Addressing Nonpoint Source Pollution

Georgia's Water Quality Protection Time Line

1957	The first major legislation to deal with water pollution control in Georgia
1964	The Act of 1957 was ineffective and was replaced by the **Water Quality Control Act.** This Act established the Georgia Water Quality Control Board, the predecessor of the Environmental Protection Division of the Georgia Department of Natural Resources.
1972	EPD was established.
1972	Congress enacted the Federal Water Pollution Control Act of 1972. Today, this law is known as the **Clean Water Act** (CWA).
1972	The CWA established the NPDES permit system for regulation of municipal and industrial water pollution control plants, a water use classifications and standards process, and a construction grants process to fund the construction of municipal water pollution control facilities. Most industries in Georgia had installed modern, effective water pollution control facilities by the end of 1972.
1975	The Georgia General Assembly passed the Erosion and Sedimentation Control Act.
1987	The National Clean Water Act required all States evaluate water quality standards and adopt numeric criteria for toxic substances to protect aquatic life and public health. The Act also required each state to evaluate nonpoint source pollution impacts and develop a management plan to deal with documented problems. This work was initiated and completed by the GAEPD in the late 1980s.
1989	The Georgia Growth Strategies Act was passed. It helps protect sensitive watersheds, wetlands, and ground water recharge areas and placed the ban on high phosphate detergents to reduce nutrient loading to rivers and lakes.
1990	Legislation was passed which requires the GAEPD to conduct comprehensive studies of major publicly owned lakes and establish specific water quality standards for each lake.
1992	The General Assembly passed the River Basin Management Planning Act, which requires the GAEPD to develop and implement plans for water protection for each major river basin in Georgia.
1996-Present	High priority was placed on NPDES permitting and enforcement, nonpoint source pollution abatement, monitoring and assessment, river basin management planning, Chattahoochee River modeling, fish consumption guidance, storm water permitting, treatment plant funding, and public participation projects.

Nonpoint Source Management Program

In 1996, the GAEPD established the Nonpoint Source Program to focus on nonpoint sources of pollution. This program combines regulatory and non-regulatory approaches.

The documents, *Nonpoint Source Assessment Report* and *Nonpoint Source Management Program* were completed in compliance with the Clean Water Act of 1987 and approved by the USEPA in January 1990. The *Nonpoint Source Management Program* will provide an overview of the State's nonpoint source management activities as well as a summary of what the State intends to accomplish in the coming years.

Agriculture

Agricultural nonpoint source pollution continues to be managed and controlled with a State wide non-regulatory approach. This approach utilizes cooperative partnerships with various agencies and a variety of programs. Agencies that form the basis of the partnerships include the following:

Georgia Soil and Water Conservation Commission (GSWCC)
Georgia Soil and Water Conservation Districts (SWCD)
Natural Resources Conservation Service (NRCS)
University of Georgia College of Agriculture and Environmental Sciences (CAES)
University of Georgia Marine Institute and Skidaway Institute of Oceanography
Farm Services Agency (FSA)
Georgia Forestry Commission (GFC)
Georgia Department of Agriculture (GDA)
Agricultural Research Service (ARS)
Resource Conservation and Development (RC&D) Councils

Agencies Working With Agriculture and Nonpoint Source Pollution

Created in 1937 by an Act of the Georgia Legislature, the **Georgia Soil and Water Conservation Commission** (GSWCC) has been designated as the administering or lead agency for agricultural nonpoint source pollution prevention in the state. The GSWCC develops NPS water quality programs and conducts educational activities to promote conservation and protection of land and water resources devoted to agricultural uses. Primary functions of the GSWCC are to provide guidance and assistance to the Soil and Water Conservation Districts and provide oversight for the **Georgia Erosion and Sedimentation Act**. There are six (6) regional offices and forty (40) local districts.

The State **Soil and Water Conservation Districts** (SWCD) include all counties and are governed by boards of supervisors comprised of local citizens. The SWCD, NRCS and GSWCC provide technical assistance to the agricultural community. In addition, SWCD sponsor educational programs and field days to encourage and demonstrate new and/or innovative conservation practices.

The **USDA - Natural Resources Conservation Service** (NRCS) cooperates with federal, state and local units of government to provide technical assistance to landowners, cooperators, producers and special interest groups. Standards and specifications regarding conservation practices, animal waste management systems, grazing activities, plant materials, and other practices are developed and revised by a varied staff.

The University of Georgia College of Agricultural and Environmental Sciences (CAES) includes the **Cooperative Extension Service** and **Experiment Stations**. Services provided include classroom instruction in agriculture related topics, basic and applied research, consultative assistance and information on nonpoint related impacts on water quality, water quality monitoring, pest control, and analyses of nutrients, pesticides, herbicides, and other constituents in forage, water and animal waste. Nutrient management plans for farms are often developed by CAES.

The **University of Georgia Marine Institute** at Sapelo Island, Georgia and the **Skidaway Institute of Oceanography** near Savannah, Georgia are involved in research and monitoring programs for agricultural nonpoint impacts in coastal or estuarine waters. The Sapelo Island National Estuarine Research Reserve is one of 22 estuarine sites nationwide devoted to protection of the resource and study of estuarine function. Coastal aquaculture will likely become more prevalent and a consideration for prevention of NPS pollution in future years.

The **U.S. Farm Services Agency** (FSA), formerly known as the Consolidated Farm Services Agency (CFSA) and the Agricultural Stabilization and Conservation Service (ASCS), administers conservation cost-sharing programs for practices, which improve water quality on farms. A variety of water quality improvement practices are cost-shared with rates generally between 50-70 percent of the total cost of the installation. A

large portion of the funds allocated is targeted for high priority watersheds with water quality problems.

The **Georgia Forestry Commission** (GFC) provides technical information and assistance regarding areas such as reforestation, forest stewardship and management, harvesting, marketing and education. Services provided by the GFC include development of management plans, timber marking, loan or rental of equipment, fire brake plowing and sales of seedlings.

The **Georgia Department of Agriculture** (GDA) administers a variety of insect and plant and animal disease control programs. The Department also enforces a myriad of Georgia laws that include inspections of agricultural products and the registration and use of pesticides. The GDA also provides guidance in location of animal waste facilities and disposal of dead animals.

As part of the United States Department of Agriculture, the **Agricultural Research Service** (ARS) is involved in a wide variety of agricultural research projects and monitoring programs. Research on grazing land systems and irrigation methods relevant to watershed scale monitoring projects and nutrient movement in surface and ground waters are examples of work performed by the ARS.

Resource Conservation and Development (RC&D) Councils are groups of local citizens that are involved in a program to encourage economic development as well as the wise conservation of natural and human resources. The RC&D Councils are locally organized within geographic regions served by the United States Department of Agriculture (USDA). The 1962 Food and Agriculture Act established the RC&D Council program with USDA employees assigned to help the RC&D Councils and termed coordinators. Currently, there are ten (10) RC&D Councils in Georgia.

The federal and state agencies work closely with the Georgia agricultural commodity commissions and organizations such as the Farm Bureau Federation, AgriBusiness Council, Cattleman's Association, Milk Producers, Pork Producers Association, Poultry Federation, and other producer groups and agriculture support industries to control, prevent and/or abate nonpoint source pollution.

The Clean Water Act

The Clean Water Act (CWA) was passed in 1972 to help clean the nation's waters. The CWA makes state agencies and the EPA jointly responsible for identifying both point and nonpoint sources of pollution. A permit-based program governs "point source" pollution, or discharges from a discrete conveyance such as a pipe or ditch. All other sources of water pollution not associated with a discrete conveyance, or "nonpoint" sources, are approached with various management strategies.

The CWA has provided the foundation for reducing water pollution over the past 25 years, especially curbing point sources of pollution, or pollution that is discharged from a

specific source such as an outfall pipe from a municipal wastewater treatment plant or an industry. Section 402 of the Clean Water Act prohibits the discharge of any pollutants into navigable waters of the United States unless the discharger has a National Pollutant Discharge Elimination System (NPDES) permit.

The Environmental Protection Agency delegated the NPDES program to the Environmental Protection Division of the Georgia Department of Natural Resources (EPD). Facilities which discharge wastewater from a point source must meet effluent limitations set forth in their permits. The CWA also requires permittees to self-monitor which includes sending a monthly discharge monitoring report (DMR) to EPD. DMRs list the pollutants that the permittee is allowed to discharge and the amount and concentration of each pollutant actually discharged during the month monitored. DMRs are public documents and are therefore available for public review.

In 1987, Congress required EPA to extend the NPDES program to stormwater runoff. Cities with populations over 100,000 must apply for NPDES permits for their storm drain discharges (MS4 permits). The permit application must describe the management practices, control systems, and engineering methods that the city plans to use to reduce pollutant discharges, as well as the long-term monitoring that will be performed. Most cities will include public education as a significant part of their management practices.

Georgia Water Quality Control Act

Section 303 of the Clean Water Act requires states to develop and periodically revise water quality standards for every body of water in the state. The standards consist of a designated use for the water, which describe and define the maximum levels of pollutants that may exist in the water, and an "antidegradation" statement which prohibits water quality from being degraded. Generally, the standards of NPDES permits are stringent enough to ensure that the state water quality standards are not violated.

A state must specify the "designated use" of each body of water in the state under Section 303. All of Georgia's waters are currently classified as either fishing, recreation, drinking water, wild river, scenic river, or coastal fishing. Each designated use has a different set of water quality standards for parameters such as pH, dissolved oxygen and temperature. Water quality standards are criteria developed in an effort to determine the maximum concentrations of pollutants that may exist in the water body while still preserving the designated use.

GEORGIA WATER USE CLASSIFICATIONS AND INSTREAM WATER QUALITY STANDARDS FOR EACH USE

Taken from *Water Quality In Georgia*

	Bacteria (fecal coliform)		Dissolved Oxygen (other than trout streams)[1]		pH	Temperature (other than trout streams)[1]	
Use Classification	30-Day Geometric Mean[2] (no/100 ml)	Maximum (no./100ml)	Daily Average (mg/l)	Minimum (mg/l)	Std. Units	Maximum Rise (F)	Maximum (F)
Drinking Water requiring treatment	1,000 (Nov-April) 200 (May-Nov)	4,000 (Nov-April)	5.0	4.0	6.0-8.5	5	90
Recreation	200 (Freshwater) 100 Coastal)	--	5.0	4.0	6.0-8.5	5	90
Fishing Coastal Fishing[3]	1,000 (Nov-April) 200 (May-October)	4,000 (Nov-April)	5.0	4.0	6.0-8.5	5	90
Agriculture[4]	5,000	--	--	3.0	6.0-8.5	5	90
Industrial[4]	--	--	--	3.0	6.0-8.5	5	90
Navigation[4]	5,000	--	--	3.0	6.0-8.5	5	90
Urban Stream[4]	2,000	5,000	--	3.0	6.0-8.5	--	--
Wild River		No alteration of natural water quality					
Scenic River		No alteration of natural water quality					

[1] Standards for Trout Streams for dissolved oxygen are an average of 6.0 mg/l and a minimum of 5.0 mg/l. No temperature alteration is allowed in Primary Trout Streams and a temperature change of 2 F is allowed in Secondary Trout Streams.

[2] Geometric means should be “based on at least four samples collected from a given sampling site over a 30-day period at intervals not less than 24 hours.” The geometric mean of a series of N terms is the Nth root of their product. Example: the geometric mean of 2 and 18 is the square root of 36.

[3] Standards are same as fishing with the exception of dissolved oxygen, which is site specific.

[4] Improvements in water quality since the water use classifications and standards were originally adopted in 1972 provided the opportunity for Georgia to upgrade all stream classifications and eliminate these use designations in 1993.

Even though Section 303 gives the states discretion to set designated uses, the EPA has taken the position that, wherever possible, states must set water standards at a level that will protect aquatic life and allow recreation in and on the water. These are known as "fishable/swimmable" waters. In order for states to set designated uses below the "fishable/swimmable" level, the state must be able to demonstrate the use is not attainable because of either natural environmental conditions or because raising the current limits will cause widespread adverse social and economic impacts.

Based on these designated uses and water quality criteria, the state evaluates whether a stream or river 1) supports, 2) partially supports, or 3) does not support its designated use. This information is published every other year by EPD in its "Water Quality in Georgia" report.

What is the 305(b) Report, the 303(d) List, River Basin Management Planning and a TMDL?

The document, *Water Quality in Georgia,* is often referred to as the Georgia Section 305(b) Report as it is prepared to comply with this section of the Federal Clean Water Act. The report is prepared by the Georgia Environmental Protection Division (EPD) of the Department of Natural Resources (DNR). The DNR Coastal Resources (CRD) and Wildlife Resources Divisions (WRD), the Georgia Forestry Commission, and the Georgia Soil and Water Conservation Commission also contributed portions to the report. In addition, water quality data is provided by a number of governmental agencies and universities.

Section 305(b) requires that each State prepare and submit to the Administrator of the United States Environmental Protection Agency (EPA) a report, biennially, which describes water quality conditions of navigable waters across the State. The EPA provides guidance to the States to establish a framework for consistent reporting across the nation. The EPA reviews the individual State reports and uses the information to develop a national water quality inventory report, which is transmitted to the Congress of the United States.

This report provides an assessment of the water quality conditions of surface and groundwater in Georgia and includes a description of the nature, extent and causes of documented water quality problems. The lists of water quality problem areas serve as the basis for lists required by Sections 303(d), 314, and 319 of the Clean Water Act. The report also includes a review and summary of ongoing wetland, estuary, coastal, and public health/aquatic life issues; and water protection, groundwater, and drinking water supply program summaries. In addition to complying with the Federal Clean Water Act, the major objective of this report is to provide Georgians a broad summary of information on water quality and the programs being implemented by the EPD to protect water resources across the State.

The list of waters in the 305(b) Report includes all waters for which data is available (waters that are impaired and also waters that meet water quality standards and designated use). This list has become a comprehensive list of waters for Georgia, incorporating the information requested by Sections 305(b), 303(d), 314, and 319 of the Federal CWA. As noted, waters listed on the partial and not supporting lists are active 305(b) waters. The list of lakes or reservoirs listed as partial or not supporting designated uses provides the information requested in Section 314 of the CWA. Waters with nonpoint sources identified as a potential cause of a standards violation are considered to provide the information requested in the CWA Section 319 nonpoint assessment.

The 303(d) list is a subset of the 305(b) listed waters. To develop the 303(d) list, the previous 305(b) list was reviewed and coded based on the guidance provided by the EPA. First, segments were identified where enforceable State, local or Federal requirements have led to or will lead to attainment of water quality standards. Segments where improvements were completed at the time of the report were assigned a "1" code and segments with ongoing action which will lead to attainment of water quality standards were assigned a "2" code under 303(d) status. A "3" code was assigned to segments where the EPA, Region IV finalized TMDLs. The remaining segments are marked with an "X" and represent 303(d) listed waters for Georgia. In addition to these waters, the USEPA added waters to the Georgia 303(d) list.

The 303(d) list is a list of Impaired Waters
"Impaired Water" is any water body that does not meet or is not expected to meet the state's water quality standards after full implementation of existing permits.

Georgia is implementing a watershed approach to water resource management through River Basin Management Planning. **River basin planning is the foundation for implementation of water protection strategies in Georgia**. This approach provides the framework and schedule for actions to address waters on the Georgia 303(d) list. Basin planning provides an opportunity to focus monitoring, assessment, problem prioritization, TMDL development, water resource protection strategy development and implementation resources in specific basins on an orderly five year rotating basis.

TMDL stands for Total Maximum Daily Load.
That is, the maximum amounts of a pollutant that can enter a water body without exceeding water quality standards for its designated use.
The State must develop TMDLs for streams on the 303(d) list and a plan to reduce pollution in the impaired water bodies.

The Georgia River Basin Management Planning process provides the framework for the long-term schedule for developing TMDLs for 303(d) listed segments. The proposed schedule includes:

1) the Savannah and Ogeechee River Basins in 2004 (completed Jan-Mar 2005);
2) the St. Marys, Satilla, Suwannee, and Ochlockonee River Basins in 2005 (completed Jan-Mar 2006);
3) the Ocmulgee, Oconee, and Altamaha River Basins in 2006 (submitted to EPA for review Jan 2007)
4) the Chattahoochee and Flint River Basins in 2007; and
5) the Coosa, Tallapoosa, and Tennessee River Basins in 2008.

This schedule is in concert with the agreements between the USEPA.

Georgia Erosion and Sedimentation Control Act

Georgia's Erosion and Sedimentation Control Act (ESA) provides for a statewide program to protect Georgia's waters from soil erosion and sediment deposition. The ESA requires permits for non-exempt "land disturbing activities" for disturbed areas of more than 1 acre in jurisdictions of local issuing authorities. In jurisdictions where there is no local issuing authority (LIA) "land disturbing activities" for disturbed areas of more than 1 acre are regulated under the NPDES General Storm Water Permits.

For most streams in the State, no development is allowed within 25 feet of the stream. For trout streams, the buffer width required is 50 feet. If a developer wants to encroach into a buffer zone, State approval is required. Although ESA provides for the delegation of the program from the State to local governments, local governments do not have the authority to grant variances to the buffer requirements.

The Metropolitan River Protection Act

This Act establishes a 2000-foot protection corridor along the Chattahoochee River and its impoundments for 48 miles between Buford Dam and Peachtree Creek. Like ESCA, land disturbing activity is monitored in the Corridor in an effort to minimize adverse impacts of development on water quality.

Definition of State Waters

"Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the state, which are not entirely confined and retained completely upon the property of a single, individual, partnership, or corporation."

Public Access To Waterways In Georgia

Simply stated, for a river or stream to be completely "open" to public use for boating, fishing, and other uses, it must be deemed a "navigable" waterway (See Official Code of Georgia Section 44-8-5). Georgia's definition of navigable waterways remains as it historically has been: a navigable stream is one which is capable of transporting boats loaded with freight in the regular course of trade either for the whole or part of the year. This definition excludes the rafting of timber or the transporting of wood in small boats as "freight."

If a stream or river is deemed non-navigable, then the owner of the land on either side of the river or stream has exclusive fishing and navigation rights to the middle of the stream or river. If one owner owns the land on both sides of the river or stream, then such owner has exclusive fishing and possession rights, whereby he or she can exclude all others from use of the river or stream.

If a river is deemed navigable, the public may pass upon it as it would any public highway. The rights of the owner of land along a navigable river or stream extend only to the low-water mark in the bed of the stream. The public's fishing rights on such a river or stream extend to the low-water mark of the river or stream.

Local Ordinances

All local governments have ordinances and/or regulations that may help maintain the water quality of your local streams. For example, many counties have regulations that govern zoning, septic tank maintenance and activities that affect erosion and sedimentation. In some instances, local ordinances may be more stringent than State law.

Wetland Trends In Georgia

The loss of wetlands has become an issue of increasing concern to the general public because of associated adverse impacts to flood control, water quality, aquatic wildlife habitat, rare and endangered species habitat, aesthetics, and recreation. Historically, we have often treated wetlands as "wastelands" that needed "improvement." Today, "swamp reclamation" acts are no longer funded or approved by Congress, but increasing suburban sprawl now accounts for continued wetland losses annually.

Georgia's total wetland area covers an estimated 20 percent of the State's landscape. This total (7.7 million acres) includes approximately 367,000 acres of estuarine wetlands and 7.3 million acres of palustrine wetlands (forested, scrub-shrub and emergent wetlands). A net wetland loss due to conversion of approximately 78,000 acres was estimated for the seven (7) year period between 1975 and 1982, while timber harvesting altered 455,000 acres.

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Dredge and fill activities in freshwater and coastal tidal wetlands are regulated in Georgia by the **U.S. Army Corps of Engineers (COE)** in coordination with the DNR through a joint permitting and public notice procedure. The State may also require additional permits for activities in salt marshes and marine water bottoms. These permit activities are coordinated through the DNR, Coastal Resources Division. Enforcement of various noncompliance activities or permit violations may be pursued by DNR, the COE, or U.S. EPA. Normal agricultural and silvicultural operations are generally exempted under the **Clean Water Act Section 404** regulations with certain conditions.

Wetland Protection through Planning

In Georgia, wetland uses are tied to both the state water quality standards through the definition of "water" or "waters of the State," and to established criteria for wetlands protection (Chap. 391-3-16-03) associated with the **Comprehensive Planning Act of 1989** (O.C.G.A. 12-2-8).

The definition of "water" or "waters of the State" (Chap. 391-3-6) means "any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, wetlands, and all other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation." The **Comprehensive Planning Act** requires all local governments and Regional Development Centers to recognize or acknowledge the importance of wetlands for the public good in the land use planning process. All local governments (municipalities and county governments) were required, beginning in 1990, to meet minimum criteria for wetland use and protection. Each government is required to map wetlands using DNR or NWI maps, and describe how wetlands will be protected from future development. The wetlands protection criteria define freshwater wetlands as "those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands

generally include swamps, marshes, bogs, and similar areas" (33 CFR 32.93). This definition is not intended to include coastal marshlands or tidal salt marshes as defined by the state **Coastal Marshlands Protection Act**. The minimum area of wetlands to be identified in land use planning is not to exceed five acres.

Additional Wetlands Protection Activities

In addition to land use planning, Georgia is protecting its wetlands through land acquisition, public education, wetland restoration and regulatory programs. The state maintains monitoring and enforcement programs for estuarine marshes under authority of the **Coastal Marshlands Protection Act of 1970**. Monthly or bimonthly over-flights are made of the Georgia coastline to find potential violations. Restoration and penalties are provided for in the Act. No similar monitoring or enforcement programs are maintained for freshwater wetlands by the State apart from interaction with the COE in some regulatory matters. **Additional protection to wetlands is provided either directly or indirectly by the statutes listed below, described elsewhere in this report. These state laws are as follows:**

Coastal Marshlands Protection Act
Shore Protection Act
401 Water Quality Certification
Water Quality Control Act
Ground Water Use Act
Safe Drinking Water Act
Erosion and Sedimentation Control Act
Metropolitan Rivers Protection Act