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CONSERVATION AND NATURAL RESOURCES Water Resources: Mandate Adoption of Construction Milestone Schedule to Meet Phosphorous Reduction Standards; Provide Schedules of Fines and Penalties Imposed for Failure to Meet Construction Schedule; Impose Fines and Penalties for Failure to Implement Plan to Eliminate Combined Sewage Overflow; Provide Standards for Interbasin Transfers

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CONSERVATION AND NATURAL RESOURCES

Water Resources: Mandate Adoption of Construction Milestone Schedule to Meet Phosphorous Reduction Standards; Provide Schedules of Fines and Penalties Imposed for Failure to Meet Construction Schedule; Impose Fines and Penalties for Failure to Implement Plan to Eliminate Combined Sewage Overflow; Provide Standards for Interbasin Transfers

CODE SECTIONS:	O.C.G.A. §§ 12-5-23.2, -29, -29.1 (amended)
BILL NUMBER:	SB 500
ACT NUMBER:	1042
GEORGIA LAWS:	1996 Ga. Laws 1618
SUMMARY:	The Act mandates that the holders of certain waste water discharge permits who fail to meet existing phosphorous reduction standards shall adopt a schedule of construction milestones to reach amended standards established by the Act. The Act further imposes mandatory monetary penalties for failure to meet those milestones. The Act also restricts new sewer connections within the corporate limits of any entity failing to meet phosphorous reduction standards. The Act establishes standards for new water pollution control discharge permits allowing the waste discharge of water drawn from one river basin into another river basin. The Act sets phosphorous limitations for new discharge permits. The Act authorizes the reduction of permit capacity for any treatment plants not in compliance with permit requirements for phosphorous discharge. The Act increases monetary penalties for the owners of combined sewer overflow systems who failed to implement a plan to eliminate sewage overflow by December 31, 1995. The Act prohibits additional sewer connections to combined sewer overflow systems until construction on such plan is completed.
EFFECTIVE DATE:	April 25, 1996[1]

1. The Act became effective upon approval by the Governor.

Produced by The Berkeley Electronic Press, 1996.
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History

The treatment of waste water and the discharge of that water into Georgia's waterways are governed by the Georgia Water Quality Control Act, as administered by the Georgia Environmental Protection Division (EPD).[2] Two possible sources of water pollution controlled by the Water Quality Control Act relevant to the subject Act are: (1) the discharge of phosphorous-containing waste water from water treatment plants;[3] and (2) the release of untreated sewage by combined sewer overflow systems (CSOs).[4]

Prior to passage of the Act, Georgia law mandated several programs to protect state waters from these polluting activities, setting deadlines to meet pollutant standards and imposing penalties for noncompliance.[5] Also, standards were enacted requiring possession of an EPD-issued permit to install sewage disposal systems or construct new sewage discharge outlets.[6] Failure to comply with the requirements of that permit or any other law, rule, regulation or order governing the discharge of sewage was declared unlawful.[7]

One specific program dictated that waste water discharged from water treatment plants into the Chattahoochee River could not have a phosphorous level higher than 0.75 milligrams per liter of water on or after January 1, 1992.[8] That same program allowed those operating under a consent order with the EPD to conform to the order's schedule for compliance, with a deadline of July 4, 1996.[9]

A second program required that owners and operators of CSOs submit a plan to the EPD for the elimination of those systems, or alternatively, for the treatment of sewage overflow before discharge into

2. 1964 Ga. Laws 416, §§ 1-35, at 416-36 (codified at O.C.G.A. §§ 12-5-20 to -53 (1996)).

3. Phosphorous is a nutrient upon which algae feed. Telephone Interview with Sen. Steve Langford, Senate District No. 29 (May 9, 1996) [hereinafter Langford Interview]. The presence of large amounts of phosphorous accelerates the growth of algae, which depletes the oxygen supply in water sources, killing fish and other life, and eventually choking the water source. *Id.*

4. CSOs are systems designed to release untreated sewage into state waters when surface-water runoff (*i.e.*, from rain) causes the sewage system to reach maximum capacity. 1990 Ga. Laws 1216, § 1, at 1217 (codified at O.C.G.A. § 12-5-29.1(a)(1) (1996)).

5. *See* 1991 Ga. Laws 1042, § 1, at 1043 (formerly found at O.C.G.A. § 12-5-23.2 (1992)); 1991 Ga. Laws 1386, § 1, at 1388-89 (formerly found at O.C.G.A. § 12-5-29.1(c) (Supp. 1995)).

6. 1964 Ga. Laws 416, § 10, at 428 (codified at O.C.G.A. § 12-5-29(b) (1996)).

7. 1977 Ga. Laws 368, § 6, at 380 (codified at O.C.G.A. § 12-5-29(a) (1996)).

8. 1991 Ga. Laws 1042, § 1, at 1043 (formerly found at O.C.G.A. § 12-5-23.2 (1992)).

9. Langford Interview, *supra* note 3.

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water sources to comply with Georgia water quality standards.[10] Completion of the construction necessary to implement the plan was required by December 31, 1995.[11] Failure to complete construction by the deadlines triggered statutory liability and penalties.[12]

The City of Atlanta operates three treatment plants that discharge treated wastewater into the Chattahoochee River.[13] Because these plants did not meet the statutorily-required 0.75 mg./liter phosphorous discharge standard under the provisions of Code section 12-5-23.2,[14] the City entered into a consent order to lower its phosphorous discharge to that level by July 4, 1996.[15] Under the terms of the consent order, failure to meet this deadline would have resulted in the imposition of fines and a moratorium on any new sewer connections in the City.[16] At the time the Georgia General Assembly convened its 1996 session, it seemed very unlikely that the City would meet that deadline.[17]

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10. 1990 Ga. Laws 1216, § 1, at 1217 (codified at O.C.G.A. § 12-5-29.1(b) (1996)).

11. 1991 Ga. Laws 1386, § 1, at 1388 (formerly found at O.C.G.A. § 12-5-29.1(c)(2)(C) (Supp. 1995)).

12. *Id.* at 1389.

13. Telephone Interview with Scotty Greenwood, Director of Intergovernmental Affairs, Office of the Mayor of the City of Atlanta (May 10, 1996) [hereinafter Greenwood Interview]. The three plants are the R.M. Clayton plant, the Utoy Creek plant, and the South River Water plant. *See* Consent Order No. EPD-WQ-3198 between the City of Atlanta and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (Oct. 26, 1995) [hereinafter Phosphorous Consent Order] (available in Georgia State University College of Law Library).

14. 1991 Ga. Laws 1042, § 1, at 1043 (formerly found at O.C.G.A. § 12-5-23.2 (1992)).

15. Phosphorous Consent Order, *supra* note 13; Telephone Interview with David Word, Assistant Director of Georgia Environmental Protection Division (May 13, 1996) [hereinafter Word Interview]; David Goldberg, *'96 Georgia Legislature; Senators Get Tough on Atlanta: $100,000 Daily Fine Sought to Clean Water*, ATLANTA J. & CONST., Jan. 31, 1996, at B1.

16. Phosphorous Consent Order, *supra* note 13; Goldberg, *supra* note 15. The fines started at $150,000 per month, escalating in stages to an upper limit of $750,000 per month for increasing levels of phosphorous discharge. Phosphorous Consent Order, *supra* note 13. Additionally, the consent order established a phosphorous discharge limit of 0.64 mg./liter to be reached by February, 1997. *Id.* Again, fines ranging from $100,000 per month to $750,000 per month would be imposed if that level was not reached. *Id.*

17. Goldberg, *supra* note 15; Langford Interview, *supra* note 3. The City of Atlanta must expand the R.M. Clayton Wastewater Treatment Plant if it is to meet the phosphorous discharge limits. Greenwood Interview, *supra* note 13; David Goldberg, *Water and Waste; Atlanta Ducks Expensive Fine for Polluting*, ATLANTA J. & CONST., Feb. 22, 1996, at B4. Originally, the City planned to build a tunnel between the R.M. Clayton plant and the Utoy Creek plant to reduce the phosphorous discharge to acceptable levels. Phosphorous Consent Order, *supra* note 13; Maria Saporta, *City Working Hard to Clean Up Its Act on Chattahoochee*, ATLANTA J. & CONST., Feb. 2, 1996, at F1. However, that plan was abandoned due to neighborhood opposition. *Id.*

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The City of Atlanta also has eight CSOs.[18] The City had been operating under another consent order with the EPD requiring that construction to bring those CSOs into compliance with discharge treatment standards be completed by December 31, 1993.[19] Because the City failed to meet that construction deadline for two of its CSOs,[20] it had been paying increasing daily fines since January 1, 1994, which at the time of the passage of the Act amounted to $8000 per day.[21] Additionally, the City of Atlanta failed to meet the December 31, 1995 deadline set by Code section 12-5-29.1[22] to eliminate or treat sewage overflow.[23] Because of its failure to meet this deadline, the City was under a moratorium forbidding new sewer connections in the areas serviced by the two CSOs.[24]

Atlanta was not the only community concerned about waste water discharge. Forsyth County's rapid development and its lack of a sewage system spurred its leaders to seek the swift implementation of a sewage treatment plan.[25] However, a moratorium on new systems on the Chattahoochee was in place until the completion of a pollution study slated for December 1996, preventing Forsyth County from implementing a plan.[26] Attempts to aid Forsyth County in its quest for a new sewage system influenced the drafting of the Act.[27]

Senator Steve Langford introduced SB 500 because of the City of Atlanta's failure to achieve timely compliance with state water quality laws and the effect that failure had on residents of communities on the Chattahoochee downstream of Atlanta.[28] He feared that the State EPD

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18. Langford Interview, *supra* note 3.

19. Consent Order No. EPD-WQ-1983 between the City of Atlanta and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (Apr. 27, 1993) [hereinafter CSO Consent Order]; Word Interview, *supra* note 15.

20. *See* Goldberg, *supra* note 15. The CSOs not in compliance are the Clear Creek and Utoy Creek CSOs. Langford Interview, *supra* note 3. The Clear Creek CSO alterations are scheduled for completion by October 1, 1997, and the Utoy Creek CSO by July 1, 1998. *Id.*

21. CSO Consent Order, *supra* note 19. The fines for each CSO were $1000 per day from January 1, 1994 to June 30, 1994. *Id.* Beginning on July 1, 1994, they increased to $2000 per day. *Id.* On January 1, 1995, the fines increased to $4000 per day—a total of $8000 per day for two CSOs out of compliance. *Id.*; Goldberg, *supra* note 15.

22. 1991 Ga. Laws 1386, § 1, at 1388 (formerly found at O.C.G.A. § 12-5-29.1(c)(2)(C) (1992)).

23. Langford Interview, *supra* note 3.

24. *Id.* The consent order contained a provision imposing such a moratorium. CSO Consent Order, *supra* note 19.

25. Langford Interview, *supra* note 3; *1996 Georgia General Assembly; City Earned 'Hooch Fines*, ATLANTA J. & CONST., Mar. 11, 1996, at A8 [hereianfter *'Hooch Fines*].

26. Langford Interview, *supra* note 3.

27. *Id.*

28. *Id.* West Point Lake in Senator Langford's district had been damaged in the

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would continue to renegotiate the City's consent order rather than impose fines for excessive phosphorous discharge.[29] He also feared that the City would find it less burdensome to continue paying the $8000 per day fines than to pay for the required CSO alterations.[30]

SB 500

As introduced, the bill would have imposed fines and penalties on those entities failing to meet the 0.75 mg./liter level of phosphorous discharge by July 4, 1996.[31] These fines would have remained in effect until the entity had been in compliance with the phosphorous discharge standard for 365 consecutive days.[32] Second, the initial bill would have prohibited the City of Atlanta from adding any new sewer connections after December 31, 1996, due to its failure to meet the deadline for alterations to two of its CSOs.[33] Finally, the bill would have imposed stiff penalties for failure to correct both the phosphorous discharge and CSO problems—beginning at $100,000 per day for the first year violations continued, jumping to $200,000 per day for the second year, and culminating in a fine of $300,000 per day for each year thereafter.[34]

The bill underwent important modifications in the Senate Natural Resources Committee and on the Senate floor.[35] The Senate Natural

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1980s due to Atlanta's high level of phosphorous discharge. *Id.* Requiring lower levels of phosphorous discharge improved the lake's condition; however, the damage is not completely repaired, and the lake still bears the stigma of "polluted water." *Id.* Senator Langford estimates it has cost the area $500,000 per year in tourism losses alone. *Id.*

29. *Id.*

30. *Id.*; Record of Proceedings in the Senate Natural Resources Committee (Jan. 24, 1996) (remarks by Sen. Steve Langford) (available in Georgia State University College of Law Library).

31. SB 500, as introduced, 1996 Ga. Gen. Assem. Although the language of the bill did not expressly state that it applied only to the City of Atlanta, the City was the only community which still had significant violations, and the bill was aimed at forcing the City into compliance with the Georgia Water Quality Control Act provisions. Langford Interview, *supra* note 3.

32. SB 500, as introduced, 1996 Ga. Gen. Assem. Senator Langford stated that he intended to impose the heaviest penalty on Atlanta that would pass the Senate. Langford Interview, *supra* note 3. However, according to Scotty Greenwood, Atlanta's Director of Intergovernmental Affairs, meeting this standard would have been impossible for any city—one rainy day would increase phosphorous levels beyond compliance, imposing fines for a year. Greenwood Interview, *supra* note 13.

33. SB 500, as introduced, 1996 Ga. Gen. Assem.

34. *Id.* The bill would have barred consideration of any extenuating circumstances for failure to meet compliance standards, and would have removed from the EPD Director's discretion the amount of penalty imposed. *Id.*

35. *See* SB 500 (SCS), 1996 Ga. Gen. Assem.; SB 500 (SCSFA), 1996 Ga. Gen. Assem.

Resources Committee responded to concerns that the high fines would bankrupt the City of Atlanta.[36] It eliminated the upper tiers of fines that could be imposed against the City of Atlanta for failure to meet phosphorous limits or make CSO alterations, with the fine remaining at $100,000 per day for the duration of the violation.[37] The bill was also more narrowly tailored to apply to Atlanta, the only city with significant compliance problems.[38] The provision allowing for $100,000 per day penalties was amended to apply only to those discharging water into the Chattahoochee River.[39]

The bill was amended on the Senate floor to bring the penalty for failure to correct the CSO deficiencies more closely in line with the CSO consent order already applicable to the City of Atlanta.[40] Instead of a city-wide moratorium on new sewer connections, the moratorium would have applied only in those areas serviced by the violating CSOs.[41] Also, an amendment established the length of time such a moratorium would have been in place.[42] Finally, the bill was amended so that it would have imposed penalties for failure to meet phosphorous discharge levels until the City had been in compliance with those levels for three months, rather than one year.[43]

With those amendments, the bill passed the Senate and moved to the House, for consideration by the House Natural Resources Committee,[44] where it was drastically altered.[45] Three significant changes were

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36. Record of Proceedings in the Senate Natural Resources Committee (Jan. 24, 1996) (available in Georgia State University College of Law Library).

37. SB 500 (SCS), 1996 Ga. Gen. Assem. This amendment was proposed by Sen. Eddie Madden, Senate District No. 47. Langford Interview, *supra* note 3. Senator Langford expected at the outset that the fines and other penalties established in SB 500 as it was introduced would be negotiated downward. *Id.*

38. Langford Interview, *supra* note 3; Record of Proceedings in the Senate Natural Resources Committee (Jan. 24, 1996) (available in Georgia State University College of Law Library).

39. SB 500 (SCS), 1996 Ga. Gen. Assem.

40. *See* SB 500 (SCSFA), 1996 Ga. Gen. Assem.; CSO Consent Order, *supra* note 19; Langford Interview, *supra* note 3; Greenwood Interview, *supra* note 13.

41. SB 500 (SCSFA), 1996 Ga. Gen. Assem.; CSO Consent Order, *supra* note 19. Generally, only moratoriums resulting from phosphorous discharge violations were imposed city-wide; the CSO moratoriums were supposed to apply only in those areas actually serviced by the CSOs. Langford Interview, *supra* note 3.

42. SB 500 (SCSFA), 1996 Ga. Gen. Assem. The moratorium would have remained in place until the implementation of a plan to correct the CSO noncompliance, as certified by the EPD Director. *Id.*

43. *Id.* Senator Langford agreed to this amendment as a compromise in response to the City's claim that the 365-day requirement would be impossible to meet. Langford Interview, *supra* note 3; Greenwood Interview, *supra* note 13. Also, this change was made to reflect that phosphorous discharge levels are calculated on a monthly basis, not a daily one. Greenwood Interview, *supra* note 13.

44. Final Composite Status Sheet, Mar. 18, 1996.

45. *Compare* SB 500 (SCSFA), 1996 Ga. Gen. Assem. *with* SB 500 (HCS), 1996 Ga.

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made to the bill, all of which survived to constitute the major provisions of the Act.[46]

Construction Milestones

First, the strict penalties that would have been imposed beginning in July 1996 for the City's failure to meet phosphorous reduction standards were removed.[47] In their place, the Act requires that an entity not in compliance first comply with any schedule for phosphorous discharge reductions adopted under a consent order.[48] The Act also requires entities under a consent order and not in compliance with the 0.75 mg./liter phosphorous discharge level by July 4, 1996 to establish a schedule of construction milestones to achieve a discharge level of 0.64 mg./liter by January 1, 2001.[49] This change responded to concerns that the penalties as introduced would bankrupt the City of Atlanta and harm its residents.[50] However, the entity is still required to meet the 0.64 mg./liter discharge level by February 1, 1997.[51]

Gen. Assem.

46. The House's revisions included the following: the establishment of construction milestones to meet phosphorous discharge standards, rather than the imposition of large fines for failure to immediately meet those standards; the establishment of interbasin transfer permit standards and permit capacity reduction allowances to assist Forsyth County in its establishment of a new sewage system; and amendments to the monetary penalty provisions for CSOs. *See* O.C.G.A. §§ 12-5-23.2, -29, -29.1 (1996); SB 500 (HCSFA), 1996 Ga. Gen. Assem.; SB 500 (HCS), 1996 Ga. Gen. Assem.

47. *Compare* SB 500 (HCS), 1996 Ga. Gen. Assem. *with* SB 500 (SCSFA), 1996 Ga. Gen. Assem.

48. O.C.G.A. § 12-5-23.2(b) (1996). Therefore, under its existing consent order, the City is still required to meet the 0.75 mg./liter phosphorous discharge limit by July 1996, and the 0.64 mg./liter level by February 1997. Phosphorous Consent Order, *supra* note 13. This provision was intended to ensure that Atlanta met its present requirements for phosphorous reductions, instead of merely preparing for the future through the establishment of construction milestones. Langford Interview, *supra* note 3. Also, the Act requires that the entity conform to the consent order as it appeared on the date the Act became effective. O.C.G.A. § 12-5-23.2(b) (1996). This provision was meant to ensure that the City of Atlanta did not renegotiate its consent order with the EPD to provide a more lenient schedule prior to the July 1996 deadline. Langford Interview, *supra* note 3.

49. O.C.G.A. § 12-5-23.2(c)(1) (1996). The House initially required the construction milestones to be completed by the year 2000. SB 500 (HCS), 1996 Ga. Gen. Assem. This deadline was later extended to 2001 to give the City an additional year to come into compliance; Atlanta officials had initially requested 7 years. SB 500 (HCSFA), 1996 Ga. Gen. Assem.; Langford Interview, *supra* note 3.

50. Langford Interview, *supra* note 3; *'Hooch Fines, supra* note 25. Senator Langford felt that a system establishing interim consequences, with a large penalty for failure to complete the project, would be the best way to help Atlanta meet compliance without allowing it to stray from its objective. Langford Interview, *supra* note 3.

51. O.C.G.A. § 12-5-23.2(c)(1) (1996). Therefore, the City of Atlanta is still required

The Act's system of construction milestones requires the City to submit a plan to the EPD Director for approval by July 4, 1996.[52] The Director has the discretion to reject that plan and substitute it with a plan designed by the EPD by September 1, 1996.[53] In the event that the City misses a construction milestone established under that plan, the Act imposes a penalty of $25,000 per day until it is met; should six months pass without the milestone being met, the fine increases to $100,000 per day until it is met.[54] Should the City fail to complete its entire construction schedule by January 1, 2001, it must pay a penalty of $100,000 per day until the construction is completed.[55] As a final impetus to meet discharge standards, the Act also imposes a moratorium on new sewer connections within the City if it is out of compliance in any month; the moratorium will not be lifted until the City has met a graduated schedule of phosphorous reductions for three consecutive months.[56]

Interbasin Transfers and Permit Capacity Reduction

Second, Forsyth County's concerns impacted the amendment process.[57] Forsyth County's desire to set up a new sewage system had been foiled by the moratorium against new systems discharging into the Chattahoochee.[58] To circumvent this problem, Forsyth County designed a plan to draw water from the Chattahoochee River and, after treating the waste water, discharging that water into the Etowah River.[59] Residents of communities surrounding both rivers opposed the plan.[60] To address objections to Forsyth County's plan and the

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to meet the 0.64 mg./liter discharge level by February 1, 1997, as originally provided under its consent order. *Id.*; Langford Interview, *supra* note 3. The construction milestones were meant to ensure future compliance; requiring Atlanta to maintain compliance with the consent order schedule was intended to keep it in present compliance. Langford Interview, *supra* note 3.

52. O.C.G.A. § 12-5-23.2(c)(1) (1996).

53. *Id.* § 12-5-23.2(c)(2).

54. *Id.* § 12-5-23.2(c)(4).

55. *Id.* § 12-5-23.2(c)(5).

56. *Id.* § 12-5-23.2(c)(6). This provision thus incorporates some terms of the already existing consent order between the City and the EDP. *See* Phosphorous Consent Order, *supra* note 13. The consent order, however, imposes a moratorium only if the City fails to meet discharge standards for two consecutive months, and requires compliance for only two consecutive months for the moratorium to be lifted. *Id.* Because the Act's provision might result in a constant moratorium against Atlanta even if it were in compliance a majority of the time, this provision may be changed in the next legislative session to comport with the consent order terms. Greenwood Interview, *supra* note 13.

57. Langford Interview, *supra* note 3.

58. *Id.*

59. *Id.*

60. *Id.* Chattahoochee residents did not want their water volume lowered; Etowah

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legitimate need of that county to develop a sewage plan, Code section 12-5-29[61] governing the issuance of permits was amended.[62] This portion of the Act establishes standards for the issuance of permits for interbasin transfers such as the one suggested by Forsyth County.[63] The Act requires the EPD Director to study the effect such a transfer would have on both water basins.[64] It also codifies the procedures already used by the EPD to determine whether to issue discharge permits.[65]

Additionally, the Act amends Code section 12-5-29 by allowing the reduction of permit capacity for those facilities not in compliance with phosphorous discharge limits, and allowing the issuance of new permits based on that reduction.[66] The purpose of this language is to further assist Forsyth County's sewage program.[67] By reducing the amount of Atlanta's discharge, the EPD may allow Forsyth County to discharge in an amount equivalent to the reduction.[68]

Penalty Changes

Third, the House amended the penalty provisions passed by the Senate imposing $100,000 per day penalties.[69] As discussed above, the Act imposes a $100,000 daily fine for failure to meet phosphorous discharge standards only if a construction milestone goes six months without being met, or if the City of Atlanta fails to meets its final construction deadline of January 1, 2001.[70] The Act also imposes a $10,000 per day penalty for each CSO not in compliance, which began on April 25, 1996.[71] The daily fines increase to $100,000 per day for

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River residents did not want treated sewage dumped into their river. *Id.*

61. 1964 Ga. Laws 416, § 10, at 427 (formerly found at O.C.G.A. § 12-5-29 (1992)).

62. O.C.G.A. § 12-5-29(d) (1996); Langford Interview, *supra* note 3.

63. O.C.G.A. § 12-5-29(d) (1996). Those standards include the assessment of both water sources for compliance with water quality standards and the establishment of water quality standards for the nearest downstream lake on those water sources. *Id.*

64. *Id.* § 12-5-29(d)(1).

65. *Id.* § 12-5-29(d)(1)(A)-(C).

66. *Id.* § 12-5-29(e). This provision initially required that a treatment plant's permit capacity be reduced 10% if it was not in compliance. SB 500 (HCS), 1996 Ga. Gen. Assem. However, the City of Atlanta successfully lobbied for an amendment that made reduction discretionary, and allowed a reduction of less than 10% if the Director felt it was sufficient. SB 500 (HCSFA), 1996 Ga. Gen. Assem.; Langford Interview, *supra* note 3.

67. Langford Interview, *supra* note 3; *'Hooch Fines, supra* note 25.

68. Langford Interview, *supra* note 3.

69. O.C.G.A. §§ 12-5-23.2(c)(4)-(5), -29.1(c)(2) (1996).

70. *Id.* § 12-5-23.2(c)(4)-(5).

71. *Id.* § 12-5-29.1(c)(2). This increases the daily penalties the City of Atlanta was paying under its CSO consent order by $6000 per CSO, for a total of $20,000 per day rather than $8000 per day. CSO Consent Order, *supra* note 19; Greenwood

failure to correct CSO violations by statutorily-set deadlines.[72] The deadlines are identical to the dates projected for the completion of the alterations at the Clear Creek CSO[73] and the Utoy Creek CSO.[74] Beginning on October 1, 1997, the Act imposes a $100,000 per day penalty for the first CSO not in compliance, with the $10,000 per day penalty continuing for the second CSO system owned.[75] The penalty for the second system increases to $100,000 per day if it is not in compliance by July 1, 1998.[76] In addition to these monetary penalties, the Act establishes a moratorium on additional sewer connections in areas serviced by noncompliant CSO systems until construction on each system is complete.[77]

New Permit Standards

In addition to the three provisions discussed above, the Act also amends the directives of Code section 12-5-29 regarding permit issuance to add phosphorous discharge requirements for new permits.[78] The Act codifies the EPD's existing standard that treatment plants which are issued new permits have phosphorous discharge limits no higher than 0.30 mg./liter.[79] Also, the Act exempts certain categories of permits from those discharge limits: renewals of existing permits, permits allowing existing facilities to expand, agricultural use permits, and mining permits for use of water to transport materials.[80]

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Interview, *supra* note 13. The City initially refused to pay the increased fines, claiming that it was bound by its consent order rather than the Act. Charmagne Hilton, *Atlanta Yields on Higher Water-Quality Fines $20,000 a Day: City Costs are Mounting for Failure to Complete Projects to Keep Sewage Out of the Chattahoochee*, ATLANTA J. & CONST., Aug. 23, 1996, at C2. However, under political pressure and the threat of having to pay both the consent order's fines and the fines under the Act (a total of $28,000 per day), the City agreed to pay the Act's fines. *Id.*; Editorial, *Advice to City Hall: Don't Duck River Fines*, ATLANTA J. & CONST., Aug. 15, 1996, at A18.

72. O.C.G.A. § 12-5-29.1(c)(2) (1996).
73. October 1, 1997. *See id.*
74. July 1, 1998. *See id.*
75. *Id.* No additional penalties are set for owners of more than two systems. *Id.*
76. *Id.*
77. *Id.* § 12-5-29.1(c)(3).
78. *Id.* § 12-5-29(d)(2)-(3).
79. *Id.* § 12-5-29(d)(2); Langford Interview, *supra* note 3.
80. O.C.G.A. § 12-5-29(d)(3) (1996). These were ordinarily exempted from the discharge requirements by the EPD. Langford Interview, *supra* note 3.

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