

1977 WL 37157 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 28, 1977

**\*1 RE: South Carolina Dams and Reservoirs Safety Act—Rules and Regulations**

Murray Wood  
Director  
South Carolina Land Resources Conservation Commission  
2221 Devine Street  
Suite 222  
Columbia, South Carolina 29205

Dear Murray,

This is to confirm our telephone conversation of this date regarding your agency's proposed rules and regulations under the South Carolina Dams and Reservoirs Safety Act.

As we noted, time does not permit a detailed review of your proposals, however, a cursory examination discloses three areas of concern. First, a definition of 'water' needs to be included to cover situations involving waste treatment or mine refuse dams and their contents which might not be considered 'water' as that term is commonly used. Since a more technical usage is contemplated under the Act, a precise definition should be included. Please have your staff make the necessary addition.

Second, the additional danger presented by waste treatment or mine refuse dam failures and potential environmental damage from contamination clearly justifies additional care and responsibilities in maintaining those structures. Section 3.2, however, appears to need a clearer statement as to the purposes and intents of your agency in its classifications in those situations. A modification similar to that suggested to Kay Brown should suffice.

Third, I noticed that the revocation provisions of Section 5.4 regarding construction permits does not contain any reference to a hearing. Although we both recognize the necessity of providing some procedure for an administrative review of such decisions, none is referenced in that section and therefore might well cause confusion and trouble in the future. Accordingly, a reference to the availability of the procedure contained in Section 7.2 should be included at the end of the last paragraph of Section 5.4. An additional proviso is also recommended to provide that any such appeal to the Commission shall not act as a supersedeas. In other words, an appeal will not permit construction to continue or resume until a hearing is held. Such a provision is, in my opinion, manifestly reasonable in light of the dangerousness of the instrumentality involved and the time and rather large expense which most likely would be required to conform such structures to the original specifications of the construction permit. Mrs. Brown has my suggested provisions.

I regret that the time restrictions you have prevent a closer examination of these rules and regulations. However, our cursory review disclosed only the matters discussed above. If any further explanation or assistance is required, please feel free to contact us.

With best regards, I am  
Very truly yours,

Richard P. Wilson  
Assistant Attorney General

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