Dear Mayor Fleisch:

The Lake Peachtree Dam in Fayette County has been reclassified to Category I by the Environmental Protection Division. The classification resulted from a review of the 100 year flood identified on FIRM Panel 13113C0089E, dated September 26, 2008, which showed the 100 year flood would inundate the home at 114 Fen Way, and other homes in the area, 0.59 miles downstream. As the top of the dam is at an elevation of approximately 2 feet above the 100 year flood, the inundation from a dam failure would exceed the 100 year flood. Additional structures appear to be in the dam break failure zone. A probable loss of human life situation would exist, necessitating a Category I classification.

A Category I classification is based upon a finding that a probable loss of life would occur in the event of a dam failure. In order to reclassify a Category I dam to a Category II dam, the Environmental Protection Division must be satisfied that a dam failure will not result in a probable loss of life downstream. At a minimum, the following events must occur in order for the Environmental Protection Division to review any Category I classification at any time other than that required by O.C.G.A. §12-5-375 (b):

1. A dam break model would need to be developed by engineers employed by the owner of the dam to establish the entire dam failure flood zone and the location and nature of any structures, businesses, or recreation facilities within that flood zone.

2. Any structures, businesses or recreation facilities within the dam failure flood zone would have to be relocated and/or permanently vacated.

Should the dam owner undertake the above actions, the Division may review the Category I classification. However, the Division does not guarantee that the taking of the above actions will result in either a review or reclassification of a Category I dam.
Under the provisions of the Safe Dams Act and the Rules for Dam Safety of the Environmental Protection Division, a permit from the Division will be required for the construction and operation of this dam (see enclosed copies of the Safe Dams Act and the Rules for Dam Safety). Application for such a permit shall include a Visual Inspection Report (VIR) which outlines deficiencies with the dam, design documents, including a geotechnical report and hydraulic & hydrologic calculations, as applicable, to remedy issues found in the VIR and bring the dam into compliance with the Safe Dams Act and Rules for Dam Safety, an Emergency Action Plan, an Operation & Maintenance plan, and any other pertinent information as may be required by "Section 391-3-8-.08: Permits for the Construction and/or Operation of New and Existing Dams" of the Rules for Dam Safety. These documents must be prepared and sealed by a professional engineer registered in Georgia that is an Engineer of Record as defined by the Rules for Dam Safety. In accordance with O.C.G.A. § 12-5-376 (b), you must file the “Application for Dam Construction & Operation Permit” (copy attached), including all attachments listed above, with the Director of the Division no later than one hundred eighty (180) days from the date of this letter.

INVENTORY INFORMATION

| ID. NO. | 056-005-00519 |
| LAT:    | 32° 23' 4.6" N |
| LONG:   | 84° 34' 24.6" W |
| HGT. (TOD): | 23.7 feet |
| STG. (MAX): | 3624 acre-feet |
| STG. (NWL): | 1914 acre-feet |
| COE.NO: | GA01337 |
| QUAD:   | Tyrone |
| STREAM: | Flat Creek |
| TRIB:   | Line Creek |
| INV. BY: | Nancy Prock |
| CLASS. BY: | David Griffin, P.E. |

DIRECTIONS: Take Highway 74 south from Fairburn to Peachtree City. Turn left on Kelly Road 1.3 miles from Highway 54 intersection and follow to the dam.

The classification of this structure as a Category I dam is deemed an action of the Director, which you may appeal if you disagree with this classification. Accordingly, you are hereby informed of the right to appeal this Category I classification within thirty (30) days from the date of issuance of the same, and such classification shall become final unless a petition for a hearing is filed with the Director as set forth below within thirty (30) days from the date of issuance of the classification.

The ORIGINAL AND THREE (3) COPIES of any petition for a hearing in this matter shall be filed with the Director by hand delivering same to the Filing Clerk, Environmental Protection Division, 2 Martin Luther King, Jr. Drive, SE, Suite 1456, East Tower, Atlanta, GA 30334, or by mailing same to the Director at the following address:

Judson H. Turner, Director
Environmental Protection Division
2 Martin Luther King, Jr. Drive, SE
Suite 1456, East Tower
Atlanta, GA 30334-9000
Attn: Filing Clerk
Lake Peachtree Dam
Page 3

The Petition for Hearing shall be deemed filed on the date received by the Filing Clerk or when mailed by first class mail, with proper postage attached, and properly addressed, whichever comes first.

A separate copy of any Petition for Hearing shall be served on the Director's counsel of record, to wit:

John Hennelly  
Senior Assistant Attorney General  
132 State Judicial Building  
40 Capitol Square, SW  
Atlanta, GA 30334-1300

If there are any questions, please contact the Safe Dams Program at (404) 463-2461.

Sincerely,

Judson H. Turner  
Director  
Environmental Protection Division

JHT:dg  
Enclosures  
cc: The Honorable Steve Brown, Chairman, Fayette County Board of Commissioners  
    Director Pete Nelms, Fayette County EMA  
    Director Charlie English, GEMA  
    Ms. Faye Russell
June 18, 2014

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
#7009 1680 0001 4652 1756

The Honorable Steve Brown, Chairman
Fayette County Board of Commissioners
140 Stonewall Avenue, West
Suite 100
Fayetteville, Georgia 30214

SUBJECT: Lake Peachtree Dam
Fayette County

Dear Chairman Brown:

The Lake Peachtree Dam in Fayette County has been reclassified to Category I by the Environmental Protection Division. The classification resulted from a review of the 100 year flood identified on FIRM Panel 13113C0089E, dated September 26, 2008, which showed the 100 year flood would inundate the home at 114 Fen Way, and other homes in the area, 0.59 miles downstream. As the top of the dam is at an elevation of approximately 2 feet above the 100 year flood, the inundation from a dam failure would exceed the 100 year flood. Additional structures appear to be in the dam break failure zone. A probable loss of human life situation would exist, necessitating a Category I classification.

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Lake Peachtree Dam
Page 2

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INVENTORY INFORMATION

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Judson H. Turner, Director
Environmental Protection Division
2 Martin Luther King, Jr. Drive, SE
Suite 1456, East Tower
Atlanta, GA 30334-9000
Attn: Filing Clerk
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John Hennelly  
Senior Assistant Attorney General  
132 State Judicial Building  
40 Capitol Square, SW  
Atlanta, GA 30334-1300

If there are any questions, please contact the Safe Dams Program at (404) 463-2461.

Sincerely,

Judson H. Turner  
Director  
Environmental Protection Division

JHT:dg  
Enclosures  
cc: The Honorable Vanessa Fleisch, Mayor, City of Peachtree City  
Director Pete Nelms, Fayette County EMA  
Director Charlie English, GEMA  
Ms. Faye Russell
MEMORANDUM

TO: Georgia Dam Owners/Operators
FROM: Safe Dams Program
SUBJECT: Engineer of Record
Professional Services

May 7, 2014

In certain situations, the Environmental Protection Division will require a Category I (high-hazard) dam owner/operator to retain the services of an "Engineer of Record" for the purpose of evaluating a dam's condition. An "Engineer of Record" is an engineer who has at least seven years of demonstrated dam safety experience as required by the "Rules for Dam Safety".

Sometimes we are asked by dam owners to recommend the name of an engineer. We cannot ethically comply with these requests, since by recommending one engineer, we would in effect be slighting others by omission.

In choosing an engineer, owners should remember that engineering, like medicine and law, is a professional service. The engineer's fee is an important consideration, but it should not be the only factor in selecting your engineer. The engineering analysis required on dams varies depending on the type of deficiencies that are found. For your convenience, an "Engineer of Record" list that has been subdivided by discipline is available for your use: Civil, Hydrologic and Hydraulic Engineering and Geotechnical Engineering.

If you have an engineer that you already have an ongoing working relationship with who is not on the "Engineer of Record" list, they can provide their dam safety experience to see if they qualify. Otherwise, they can be part of the design team led by an "Engineer of Record".

You may want to ask your prospective 'Engineer of Record" for a list of his or her previous clients, and you may want to contact these clients for references prior to signing a contract for professional services.

ks
attachments
Engineer of Record
for Geotechnical Engineering

Karl W. Myers, P.E.
Piedmont Geotechnical Consultants, Inc.
Post Office Box 1997
Roswell, GA 30077
(770) 752-9205

James G. LaBastie, P.E.
3541 Jefferson Township Parkway
Marietta, GA 30066
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Smyrna, Georgia 30080
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Peoples & Quigley, Inc.  
6059 Boylston Drive, NE  
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(404) 255-2650

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(706) 722-1588  
(706) 722-8379

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817 West Peachtree Street, N.W.  
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1301 Hightower Trail, Suite 130  
Atlanta, GA 30350  
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27 Lakeview Place  
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Brad Boyer, P.E.
Schnabel Engineering
6445 Shiloh Road
Suite A
Alpharetta, Georgia 30005
(770) 781-8008

Bill Hunt, P.E.
Arcadis, Gerahy & Miller
1210 Permi Drive
Suite 200
Chattanooga, TN 37421
(478) 756-7193

H. Grady Adkins, Jr., P.E.
Paul C. Rizzo Associates, Inc.
101 Westpark Boulevard
Suite B
Columbia, South Carolina 29210
(803) 750-9773 x 12
May 22, 2014

MEMORANDUM

To: Dam Owners
From: Safe Dams Program
Subject: Dam Classification Appeals

Attached is DNR Rule 391-1-2 which defines what is required for you to appeal the classification of your dam by the Director. The appeal must be filed within thirty days of receipt of the classification letter.

Attachment
PROCEDURES FOR DISPOSITION OF CONTESTED CASES

TABLE OF CONTENTS

391-1-2-.01 Definitions.
As used in this Chapter, the term:
(a) "Decision Maker" means the individual or entity within DNR that took or proposed the action to be reviewed under this Chapter. The term Decision Maker includes, without limitation, the CMPC, the Commissioner, the Director and the SAC.
(b) "ALJ" means an Administration Law Judge appointed by the Board.
(c) "APA" means the Georgia Administration Procedure Act (O.C.G.A. Title 50, Chapter 13).
(d) "Board" means the Board of Natural Resources.
(e) "Clerk" means the Administrative Hearing Clerk.
(f) "CMPC" means the Coastal Marshlands Protection Committee.
(g) "Commissioner" means the Commissioner of Natural Resources.
(h) "CPA" means the Civil Practice Act (O.C.G.A. Title 9, Chapter 11).
(i) "Director" means the Director of the Environmental Protection Division of DNR.
(j) "DNR" means the Georgia Department of Natural Resources.
(k) "SAC" means the Shore Assistance Committee.
(l) "Attorney General" means the Attorney General of the State of Georgia.
(m) "Person" means any individual, partnership, firm, corporation, association, or other entity.

391-1-2-.02 Applicability and Scope of These Rules.
(1) The Rules in this Chapter govern all formal hearings in "contested cases," as that term is defined in the APA, which are conducted before an ALJ. An ALJ shall afford a liberal construction of these rules insofar as they are applied to cases wherein petitioners or respondents are unable to be represented by counsel.
(2) An ALJ shall hear all contested cases arising under the following laws:
(a) The Game and Fish Code (O.C.G.A. Title 27).
(b) The Coastal Marshlands Protection Act of 1970 (O.C.G.A. Title 12, Chapter 5, Article 4, Part 4).
(c) The Shore Assistance Act of 1979 (O.C.G.A. Title 12, Chapter 5, Article 4, Part 2).
(d) The Oil and Gas and Deep Drilling Act of 1975 (O.C.G.A. Title 12, Chapter 4, Article 2, Part 2).
(e) The Georgia Surface Mining Act of 1968 (O.C.G.A. Title 12, Chapter 4, Article 2, Part 3).
(f) The Solid Waste Management Act (O.C.G.A. Title 12, Chapter 8 Article 2).
(g) The Georgia Air Quality Act of 1978 (O.C.G.A. Title 12, Chapter 9).
(h) The Georgia Hazardous Waste Management Act (O.C.G.A. Title 12, Chapter 8, Article 3).
(i) The Georgia Water Quality Control Act (O.C.G.A. Title 12, Chapter 5, Article 2).
(k) The Georgia Safe Drinking Water Act of 1977 (O.C.G.A. Title 12, Chapter 5, Article 3, Part 5).
(m) The Erosion and Sedimentation Act of 1975 (O.C.G.A. Title 12, Chapter 7).
(n) The Metropolitan River Protection Act (O.C.G.A. Title 12, Chapter 5, Article 5, Part 6).
(o) The Georgia Asbestos Safety Act (O.C.G.A. Title 12, Chapter 12).
(p) All other laws providing for the Review by an ALJ of any decision, order or action.

(3) Procedural questions arising at any stage of the proceeding which are not addressed in the APA, any other applicable law or these Rules shall be resolved at the discretion of the ALJ, as justice requires. The ALJ may consult and utilize the CPA and the Uniform Rules for the Superior Courts in the exercise of this discretion.

391-1-2-.03 Petitions for Hearing; Time for Filing of Same.
Petitions for hearing in contested cases shall be in writing and shall be filed in the manner and within the time required by applicable law or Rule.

391-1-2-.04 Filing of Petitions for Hearing.
(1) An original and three copies of all petitions for hearing in contested cases shall be filed on 8 1/2 by 11 inch paper with the Decision Maker. Submissions shall be deemed filed on the date on which they are received by the Decision Maker, c/o Commissioner of Natural Resources, 2 Martin Luther King, Jr. Drive, S.E., Suite 1252 East, Atlanta, Georgia 30334-9000, or when mailed by first class mail, with proper postage attached, and properly addressed directly to the Decision Maker, whichever date comes first. The petitioner shall simultaneously serve a copy of such petition by certified mail or personal service upon the Attorney General, and, if applicable, upon the persons or entity to whom the permit or license was issued.

(2) The office hours of the Decision Maker shall be 8:00 a.m. to 4:30 p.m., Monday through Friday, except State legal holidays.

(3) All submissions shall meet the applicable requirements of the OSAH Rules, Chapter 616-1-2, and of Rule 391-2-.06 below.

(4) Failure to comply with this Rule or any other requirement of this Chapter relating to form or content of submissions to be filed may result in the non-complying portions of the submission being excluded from consideration. If the Decision Maker or the Attorney General determines that a submission fails to meet any requirement of this Chapter, the Decision Maker may return the submission by mail together with a reference to the applicable Rule(s). A party whose submission has been returned shall have 10 days from the date the submission is mailed back by the Decision Maker within which to conform the submission to the applicable Rule(s) and refile it with the Decision Maker.

391-1-2-.05 Content of Petitions for Hearing.
(1) A petition for hearing on the grant or denial of a permit or license shall contain:
(a) A copy of the license or permit of which review is sought.
(b) A statement of the legal authority and jurisdiction under which a hearing is requested;
(c) A short and plain statement of the factual matters asserted;
(d) A statement of each specific section (including subsection and paragraph if applicable) of the laws or rules involved in any questions of law;
(e) The name and current mailing address of the petitioner's counsel;
(f) A short and plain statement of the nature of the petitioner's interest in the matter;
(g) In cases contesting the issuance of a license or permit, those suggested permit conditions or limitations which the petitioner believes required to implement the provisions of the law under which the permit or license was issued; and
(h) In cases contesting conditions, limitations or requirements placed on the issuance of a license or permit, specific reference to the conditions, limitations or requirements contested, as well as suggested revised or alternate permit conditions, limitations or requirements which the petitioner believes required to implement the provisions of the law under which the permit or license was issued.

(2) A petition for a hearing on an order requiring or imposing administrative enforcement relief or the revocation, suspension, amendment, modification or non-renewal of a permit or license shall contain:
   (a) A copy of the notice or order for which review is sought;
   (b) A statement of the legal authority and jurisdiction under which a hearing is requested; and
   (c) A reply to the allegations set forth in the order which reply shall address all the factual allegations set forth in the order.

(3) For hearings on the revocation of the privilege of operating a vessel pursuant to O.C.G.A. § 52-7-12.5(e), the following information must be included:
   (a) The petitioner's full name, current address, driver's license or Social Security number, date of birth and telephone number at which the petitioner can be reached between the hours of 8:00 a.m. and 4:30 p.m.;
   (b) The name and address of all interested parties who may testify;
   (c) A clear and concise statement of the facts upon which the contested case arises;
   (d) A statement setting forth the relief sought; and
   (e) If represented by counsel, the name, address, and phone number of that counsel.

(4) A petition for a hearing on any action not covered in Paragraphs (1) through (2) above shall contain the information required to be included in petitions for hearing by subparagraphs (a) through (f) of paragraph (1) above.

391-1-2-.06 Referral of Petitions for Hearing to Office of State Administrative Hearings.
Upon receipt of a timely petition for hearing, the Decision Maker shall forward the original and two copies of the petition to the Attorney General along with a request that an OSAH Form 1 be prepared and transmitted along with the petition for hearing to OSAH. Referral of a petition for hearing to OSAH is not a determination that the petition satisfied Rule 391-1-2-.04(4) above or that the petitioner is entitled to a hearing. Rather, referral of a petition for hearing to OSAH shall constitute a request that such issues be decided by the ALJ and a hearing conducted pursuant to state law, if appropriate.

391-1-2-.07 Stay Pending Final Action.
(1) Except as otherwise provided by law or regulation concerning a specific type of order or action taken by a Decision Maker, or by paragraphs (2) and (3) of this rule, any order or action of a Decision Maker shall be stayed upon the filing of a petition for review of the order or action pursuant to Rule 391-1-2-.03.

(2) When the filing of the petition is with the Director and by a person to whom the order or action is not directed and when the order or action involves the grant of a permit, permit amendment or variance, the filing shall stay such order or action of the Director only until such time as the hearing has been held and for ten days after the administrative law judge renders his or her decision on the matter. The hearing shall be held and the decision of the administrative law judge shall be rendered not later than 90 days after the date of the filing of the petition. Such period may be extended for a time certain by order of the administrative law judge upon consent of all parties or by order of the administrative law judge for good cause shown for a period not to exceed an additional 60 days.

(3) The following actions shall not stay the order or action of a Decision Maker.
   (a) The filing of a petition with the Director by any person to whom such order or action is not directed in any case involving the grant of a permit, permit amendment, or variance by the Director regarding water withdrawal for farm uses under Code Section 12-5-31 or Code Section 12-5-105.
   (b) The filing of a petition for hearing contesting any order issued or action taken by the Director pursuant to the Georgia Hazardous Site Response Act, O.C.G.A. § 12-8-90, et seq. The filing shall not stay any further order or action by the Director, or any obligation imposed by the Georgia Hazardous Site Response Act, O.C.G.A. § 12-8-90, et seq., or the rules and regulations
promulgated pursuant thereto, Department of Natural Resources Rules Chapter 391-3-19, except as provided in O.C.G.A. §12-8-97(f).

391-1-2-.08 Final Decision.
A proposed decision by an ALJ shall not be subject to further review by the Department of Natural Resources or the Board and shall become final without expiration of the 30-day review period provided for in the APA.

391-1-2-.09 Criteria for Review and for Determining Civil Penalties.
In rendering a decision imposing civil penalties, the ALJ shall consider all factors which are relevant including the factors listed below to the extent applicable and not inconsistent with statutory or more specific regulatory provisions.

(a) The amount of civil penalty necessary to ensure immediate and continued compliance and the extent to which the violator may have profited by failing or delaying to comply;
(b) The character and degree of impact of the violation or failure on the natural resources of the state, especially any rare or unique natural phenomena;
(c) The nature of the violator's conduct which resulted in the violation in terms and inadvertence, negligence, recklessness, or knowing intent;
(d) The conduct of the violator to take promptly, or in failing or refusing to take promptly, all feasible steps or procedures necessary or appropriate to comply or to correct the violation or failure;
(e) Any prior violations of, or failures by, such person to comply with statutes, rules, regulations, orders, or permits administered, adopted, or issued by a Department of Natural Resources Decision Maker;
(f) The character and degree of injury to or interference with the reasonable use of property which is caused or threatened to be caused by such violation or failure; and
(g) The character and degree of injury to or interference with public health and safety, which is caused or threatened to be caused by such violation or failure.
GEORGIA
SAFE DAMS ACT
and
RULES
FOR DAM SAFETY
GEORGIA SAFE DAMS ACT OF 1978

NO. 796 (HOUSE BILL NO. 914)

AN ACT

To provide for the inspection and permitting of dams; to provide a short title; to state the purpose of this Act; to define the term "dam"; to define certain other terms; to provide that no action for damages shall be brought against the State or any employee of the State by reason of any action taken or not taken by such employees pursuant to this Act; to provide that it shall be unlawful to own, construct, operate or remove a dam except in accordance with this Act and all rules, regulations, orders, and permits established pursuant thereto; to provide for the powers and duties of the Soil and Water Conservation Committee; to require a permit to operate or construct a dam; to provide a procedure to apply for and obtain such a permit; to require a permit to construct an artificial barrier as described in this Act after the effective date of this Act under certain conditions; to provide a procedure to apply for and obtain such a permit; to provide an exception to the permitting requirements for artificial barriers constructed in connection with surface mining; to authorize the establishment of conditions in permits issued pursuant to this Act; to require certain documents to accompany permit applications; to provide that certain conditions be met prior to the issuing of permits for the operation of dams in existence or being constructed as of the effective date of this Act; to authorize contracts to provide for inspection of dams; to provide for the revocation, suspension or modification of permits under certain conditions; to provide a procedure for dam removal; to authorize the issuance of administrative orders to owners of dams when such dams are in noncompliance with this Act or rules or regulation promulgated hereunder; to authorize emergency action by the State with regard to dams that are an immediate threat to life or property; to provide for rights of investigation, entry, access and inspection; to provide for administrative and judicial review; to provide for the powers and duties of the Board of Natural Resources; to provide for the powers and duties of the Director of the Environmental Protection Division; to provide that violation of this Act shall constitute a misdemeanor; to provide for civil penalties for violation of this Act or any permit or order issued hereunder; to provide a procedure for imposing such civil penalties; to provide for injunctive relief; to provide the Department of Transportation with contracting authority; to provide for severability; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12-5-370. Short title.

This part shall be known and may be cited as the "Georgia Safe Dams Act of 1978." (Ga. L. 1978, p. 795, § 1.)


It is the purpose of this part to provide for the inspection and permitting of certain dams in order to protect the health, safety, and welfare of all the citizens of the state by reducing the risk of failure of such dams. The General Assembly finds and declares that the inspection and permitting of certain dams is properly a matter for regulation under the police powers of the state. (Ga. L. 1978, p. 795, § 2.)


As used in this part, the term:

(1) "Board" means the Board of Natural Resources.
"Commission" means the State Soil and Water Conservation Commission.

"Construct" or "construction" means the building of any artificial barrier, together with appurtenant works, for the impoundment or diversion of water or liquid substances and shall include any activity which, other than routinely as part of a maintenance program, repairs or restores such artificial barrier, or alters its design, shape, or structural characteristics, and shall also include any enlargement of such artificial barrier.

Except as otherwise provided in subparagraph (B) of this paragraph, "dam" means any artificial barrier, including appurtenant works, which impounds or diverts water and which:

(i) is 25 feet or more in height from the natural bed of the stream or water course measured at the downstream toe of the barrier, or from the lowest elevation of the outside limit of the barrier, if the barrier is not across a stream channel or water course, to the maximum water storage elevation; or

(ii) has an impounding capacity at maximum water storage elevation of 100 acre-feet or more.

The word "dam" shall not include:

(i) Any dam owned and operated by any department or agency of the United States government.

(ii) Any dam constructed or financially assisted by the United States Soil Conservation Service or any other department or agency of the United States government when such department or agency designed or approved plans and supervised construction and maintains a regular program of inspection of the dam; provided, however, that this exemption shall cease on November 1, 2000, for all such dams over which the supervising federal agency has relinquished authority for the operation and maintenance of such dam to a person unless the supervising federal agency certifies by said date and at least biannually thereafter to the director that such dams are in compliance with requirements of this part, including minimum spillway design, and with the maintenance standards of the supervising federal agency;

(iii) Any dam licensed by the Federal Energy Regulatory Commission, or for which a license application is pending with the Federal Energy Regulatory Commission;

(iv) Any dam classified by the director as a category II dam pursuant to Code Section 12-5-375, except that such category II dams shall be subject to the provisions of this part for the purposes of said Code Section 12-5-375 and for the purposes of subsection (b) of Code Section 12-5-376; or

(v) Any artificial barrier which is not in excess of 6 feet in height regardless of storage capacity, or which has a storage capacity at maximum water storage elevation or not in excess of 15 acre-feet regardless of height.

"Director" means the director of the Environmental Protection Division of the Department of Natural Resources, or his designee.

"Division" means the Environmental Protection Division of the Department of Natural Resources.

"Enlargement" means any change in or addition to an existing dam or impoundment, which change or addition raises or may raise the water storage elevation of the water impounded by the dam or reservoir.

"Impoundment" means the water or liquid substance that is or will be stored by a dam and which may be commonly referred to as the reservoir.
(9) "Local unit of government" means a municipal corporation or county, or any legal consolidation thereof.

(10) "Operate" or "operation" means the impoundment or diversion of water or liquid substance by a dam.

(11) "Person" means any municipal corporation or county, or legal consolidation thereof, individual; partnership; corporation; or public or private authority and shall include the State of Georgia and all its departments, boards, bureaus, commissions, authorities, and any other agencies or instrumentalities. (Ga. L. 1978, p. 795, § 3; Ga. L. 1982, p. 2339, §§ 1, 8; Ga. L. 1983, P. 3, § 9; Ga. L. 1984, p. 454, § 1; Ga. L. 1986, p. 196, § 1; Ga. L. 1988, p. 269, § 20.)

The 1986 amendment, effective March 20, 1986, substituted "1990" for "1985" in the proviso in division (4) (B) (iii).

The 1988 amendment, effective July 1, 1988, substituted "Commission" for "Committee" in two places in paragraph (2).

The 1990 amendment, effective July 1, 1990, substituted "1995" for "1990" in the proviso in division (4) (B) (ii).

12-5-373. Powers and duties of director as to dams, etc., generally.

In addition to any other powers and duties provided for in this part, the director shall have and may exercise the following powers and duties:

(1) To exercise general supervision over the administration and enforcement of this part and all rules and regulations and orders promulgated hereunder;

(2) To require progress reports from the supervising engineer of a dam construction project, as deemed necessary;

(3) To supervise investigations necessary to carry out the duties prescribed in this part;

(4) To advise, consult, cooperate, contract, and enter into cooperative agreements with private persons, local units of government, and other governmental agencies or committees, including, but not limited to, the Department of Transportation, the State Soil and Water Conservation Commission, and the United States Army Corps of Engineers for the purposes of carrying out this part;

(5) To take such other actions as may be necessary to carry out this part. (Ga. L. 1978, p. 795, § 13; Ga. L. 1984, p. 454, § 2; Ga. L. 1988, p. 269, § 21.)

The 1988 amendment, effective July 1, 1988, substituted "Commission" for "Committee" near the end of paragraph (4).

12-5-374. Powers and duties of board as to dams, etc.

In the performance of its duties, the board shall:

(1) Establish by rule or regulation such policies, requirements, or standards governing the construction, operation, and maintenance of dams or artificial barriers permitted or required to be permitted under this part, including, but not limited to, the following:
(A) Requiring that the engineer who provides engineering design services for a dam constructed after July 1, 1978, certify to the director that he is registered by the State of Georgia and that he has the necessary training and experience to design such dam, and requiring that the engineer attach such certification to the application for permit;

(B) Requiring that, if the engineer determines geological investigation of the dam site is advisable, investigation shall be conducted by a professional geologist registered to practice in the State of Georgia;

(C) Requiring that the engineer who undertakes the design of a dam constructed after July 1, 1978, submit to the director all documentation of the analysis and calculation for such design and the as-built drawings for such dam;

(D) Requiring that an approved plan for inspection and maintenance be put into effect by the owner or operator for any permitted dam;

(E) Requiring that the owner of a dam immediately notify the division of the occurrence of symptoms of failure including, but not limited to, erosion, surface cracks, seepage, settlement, or movement.

(F) Requiring that prior to construction of a dam owner shall provide the board of commissioners or other governing authority of the county in which the dam is to be constructed with the name and address of the person owning such dam and the person having direct responsibility for the operation of such dam. In addition, the owner shall have recorded on the official land plat for the county the location of such dam;

(2) Establish by rule or regulation such criteria to be included in dam construction and operation application forms;

(3) Establish by rule or regulation such standards necessary to govern inspection of permitted dams; and

(4) Adopt, modify, repeal, and promulgate such other rules and regulations relating to dam safety as are necessary and proper to carry out the purposes of this part, including Code Section 12-5-375. (Ga. L. 1978, p. 79S, § 12; Ga. L. 1982, p. 2339 § 6, 9- Ga. L 1984, p. 454, §3.)

12-5-375. Inventory and classification powers of director; technical assistance to local government; artificial barriers.

(a) It shall be the duty of the director to inventory the dams in this state and to classify each dam into one of the following categories:

(1) Category I - Dams where improper operation or dam failure would result in probable loss of human life. Situations constituting "probable loss of human life" are those situations involving frequently occupied structures or facilities, including, but not limited to, residences, commercial and manufacturing facilities, schools, and churches.

(2) Category II - Dams where improper operation or dam failure would not be expected to result in probable loss of human life.

(b) The first inventory shall be completed by July 1, 1983. The director shall reinventory the dams in this state at least once every five years after the completion of the first inventory. The director is authorized to contract with other state or federal agencies or private entities to accomplish the purposes of this Code section.

(c) The director is authorized to use information furnished to the director by the United States Army Corps of Engineers to accomplish the purposes of this Code section, including, but not limited to, the classification of dams as set forth in
subsection (a) of this Code section.

(d) The director shall have the right to direct and conduct investigations as the director may reasonably deem necessary to carry out the director's duties as prescribed in this Code section. For this purpose, the employees of the division or any authorized representatives shall have the right to enter at reasonable times on any property, public or private, for the purpose of inventorying, classifying, and investigating any dam and to require written reports from the owner or operator of any dam for the purpose of accomplishing its duties under this Code section. It is specifically provided, however, that if the owner of the dam is a resident of the county wherein the dam is located, the director shall notify the owner before the division employees or representatives shall enter the property of the dam for the purposes of this Code section.

(e) Upon request of the governing authority of a local unit of government, the director is authorized in the director's discretion to provide technical assistance to such local unit of government relative to those dams within its jurisdiction for which a permit is not required by this part. Such assistance may include, but shall not necessarily be limited to, the inventorying of dams of any size or holding capacity for which a permit is not required by this part, visual inspections, written reports on any structural inadequacies discovered during such inspections, written descriptions of the potential dam failure, flood plain, technical advice on procedures to correct such structural inadequacies, and assistance in the development of model dam safety ordinances.

(f) Any person who desires to construct an artificial barrier for the purpose of impounding or diverting water may request of the director, and the director is authorized to furnish such person with, a determination as to whether such artificial barrier, if constructed, would be a Category I or Category II dam for the purposes of this part. (Ga. L. 1978, p. 795, § 6; Ga. L. 1982, p. 2339, §§ 2-4, 10-12; Ga. L. 1983, p. 3, § 9; Ga. L. 1984, p. 454, § 4.)

(g) Before a permit to construct a structure or facility is issued by the governing authority of a local unit of government which would result in changing a Category II dam to a Category I dam, the local unit of government shall notify the owner of said dam by certified mail of the proposed permit. The owner of the dam may within ten days of the notice request the director to inspect said dam and determine whether or not said dam is in compliance. If the director determines the dam is not in compliance with Category I, both the owner and the local unit of government shall be notified in writing. (Ga. L. 1978, p. 795, § 6; Ga. L. 1982, p. 2339, §§ 2-4, 10-12; Ga. L. 1983, p. 3, § 9; Ga. L. 1984, p. 454, § 4; Ga. L. 1990, p. 326, § 2.)

The 1990 amendment, effective July 1, 1990, added subsection (g).

12-5-376. Permits to construct and operate dams.

(a) Any person who desires to construct a dam but has not commenced such construction as of July 1, 1978, shall obtain a permit from the director to construct a dam prior to commencement of construction. Any person who is operating a dam or who is in the physical process of constructing a dam as of July 1, 1978, shall obtain a permit from the director for such operation or construction, provided that the person may continue to operate or construct such dam pending final action by the director on the application for a permit; provided, further, that such application has been filed with the director within 180 days after the director serves upon the person a written notice that such dam has been classified as a category I dam in accordance with Code Section 12-5-375. Service of notice upon the person shall be made by delivering the notice to the person or by mailing it to the person by certified mail at the person's home or business address. Service by mail is complete upon mailing unless the notice is returned to the director by the U. S. Postal Service for any reason other than a refusal by the person to accept the mailing. Permits issued for the construction of dams pursuant to this part shall also authorize the operation of such dams in accordance with the conditions in such permits.

(b) If the director reclassifies a dam formerly classified as category II dam as a category I dam because of modification in the dam or because of changing circumstances, the director shall serve upon the owner or operator of the dam a written notice of
the director's determination regarding the dam. Within 180 days after such service of notice, the owner or operator shall apply to the director for a permit to operate the dam. Notice shall be served in accordance with subsection (a) of this Code section. Such owner or operator may continue to operate the dam pending final action by the director on the application for a permit. A permit to operate such dam shall be issued in accordance with the requirements of subsection (g) of this Code section, notwithstanding the date specified in said subsection (g).

(c) Notwithstanding subsection (a) of this Code section, no permit shall be required to be obtained by any person who constructs a dam, if the dam is constructed in connection with or incidental to "surface mining" as defined in Part 3 of Article 2 of Chapter 4 of this title, but if the dam so constructed is classified the director as a category 1 dam, the owner or operator shall, upon the completion of the mining activity in connection with which such dam was constructed, either drain and reclaim the impoundment formed by such dam pursuant to such person's mined land use plan approved by the director under Part 3 of Article 2 of Chapter 4 of this title, the "Georgia Surface Mining Act of 1968," or stabilize such impoundment as a lake pursuant to such mined land use plan. If the impoundment is reclaimed as a lake and the dam which created the impoundment remains in place as a category 1 dam, then, before such lake is deemed acceptable reclamation and the miner is released from his obligations under Part 3 of Article 2 of Chapter 4 of this title the miner must obtain a permit for such dam as provided by this part.

(d) Consistent with the provisions of Code Section 12-5-376.1, the director is authorized to establish such conditions in permits issued pursuant to this part as are necessary to assure compliance with this part and all rules and regulations promulgated hereunder. The director, under the conditions he prescribes, may require the submission of such plans, specifications and other information as he deems relevant in connection with the issuance of such permits and subsequent construction and operation of such dams.

(e) Permit applications for the construction of dams shall be accompanied by a certificate from a professional engineer registered to practice in Georgia stating that he is responsible for the design of the dam and that the design meets the standards of this part and the rules and regulations promulgated hereunder. As an alternative to a certificate from a professional engineer, the director may accept a permit application accompanied by a certificate from the United States Soil Conservation Service stating that the design of the dam meets the standards of this part and the rules and regulations promulgated hereunder.

(f) If the director disapproves an application for construction of a dam, a copy of the application shall be returned to the applicant with a statement of the reasons for such disapproval. Such applicant may reapply incorporating the improvements indicated by the director.

(g) Permits authorizing the operation of dams in existence or being physically constructed as of July 1, 1978, shall be issued only when one of the following conditions precedent is met:

1. Approval by the director of the applicant's submission of a detailed engineering study of the dam, prepared by a professional engineer registered by the State of Georgia or prepared by the United States Soil Conservation Service;

2. Approval by the director of a written report prepared by the division or other authorized agency under contract with the director entered into upon behalf of the division after a visual inspection has been performed by such agency under the supervision of a professional engineer registered by the State of Georgia; or

3. Approval by the director of the applicant's submission of a written report prepared by a professional engineer registered by the State of Georgia after a visual inspection has been performed under the supervision of such engineer.

(h) Subsection (g) of this Code section shall not be construed as exempting any existing dam from compliance with the design standards established pursuant to this part and the rules and regulations promulgated hereunder prior to the issuance of a permit authorizing the operation of such dam. Further, in the event a visual inspection provided for in paragraph (2) or para-
(i) The visual inspection performed pursuant to paragraph (2) of subsection (g) of this Code section shall be made by the division or under the provisions of a contract between the director entered into upon behalf of the division and the United States Army Corps of Engineers, the United States Soil Conservation Service, the Georgia Department of Transportation, or some other governmental agency.

(i) The director may revoke, suspend, or modify any permit issued pursuant to this part of deny the issuance of a permit for cause including, but not limited to, the following:

1. Violation of any condition of the permit;
2. Obtaining a permit by misrepresentation or by failure to disclose fully all relevant facts;
3. Violation of any provision of this part or any rule or regulation promulgated hereunder;
4. Failure to comply with dam safety standards provided for in this part or any rules and regulations promulgated hereunder;
5. Change in any condition that requires revocation, suspension, or modification of a permit in order to ensure compliance with this part or any rules and regulations promulgated hereunder.

(k) Earthen embankments serving as dams shall be protected from surface erosion by appropriate vegetation or some other type protective surface such as riprap or paving and shall be maintained in a safe condition. Examples of appropriate vegetation include, but are not limited to, Bermuda grass, Tall Fescue, and Lespedeza sericea. Inappropriate vegetation such as trees shall be removed from dams only after consultation with the division on the proper procedures for removal. Hedges and small shrubs may be allowed if they do not obscure inspection or interfere with the operation and maintenance of the dam. (Ga. L. 1978, p. 795, § 7; Ga. L. 1982, p. 2339, §§ 5, 13; Ga. L. 1983, p. 3, § 9; Ga. L. 1984, p. 454, §§ 5, 6.)

12-5-376.1. Subclassification of category I dams by director; minimum spillway design requirements.

(a) For the purposes of this Code section:

1. "Acre-feet" means the measurement of the impounding capacity of a dam as described in paragraph (4) of Code Section 12-5-372.

2. "Height" means the height of a dam determined in the manner described in paragraph (4) of Code Section 12-5-372.

3. "PMP" means probable maximum precipitation as determined by the United States Weather Service to be the greatest amount of rainfall of a six-hour duration which would be expected for a given location.
(b) All category I dams identified by the commission pursuant to Code Section 12-5-375 shall be subclassified by the director as follows:

1. Small dams - Those with a storage capacity not exceeding 500 acre-feet and a height not exceeding 25 feet.
2. Medium dams - Those with a storage capacity exceeding 500 acre-feet but not exceeding 1,000 acre-feet or a height exceeding 25 feet but not exceeding 35 feet.
3. Large dams - Those with a storage capacity exceeding 1,000 acre-feet but not exceeding 50,000 acre-feet or a height exceeding 35 feet but not exceeding 100 feet.
4. Very large dams - Those with a storage capacity exceeding 50,000 acre-feet or a height exceeding 100 feet.

(c) Permits issued pursuant to this part shall require minimum spillway design as follows:

1. Small dams...........................................25 percent PMP
2. Medium dams........................................33.3 percent PMP
3. Large dams..........................................50 percent PMP
4. Very large dams....................................100 percent PMP

Based on visual inspection and detailed hydrologic and hydraulic evaluation, including documentation of competent original design and construction procedures, up to a 10 percent lower requirement (22.5, 30, 45, 90) can be accepted, at the discretion of the director, provided the project is in an acceptable state of maintenance. The design storm may also be reduced if the applicant’s engineer can successfully demonstrate to the director by engineering analysis that the dam is sufficient to protect against probable loss of human life downstream at a lesser design storm. (Ga. L. 1982, p. 2339, § 7, Code 1981, § 12-5-376.1, enacted by Ga. L. 1982, p. 2339, § 14; Ga. L. 1983, p. 3, § 9; Ga. L. 1984, p. 22, § 12; Ga. L. 1984, p. 454, § 7; Ga. L. 1985, p. 149, § 12; Ga. L. 1988, p. 269, § 22.)

Effective date. - This Code section became effective November 1, 1982. (See 1982 Acts in history line for similar provisions given effect before November 1, 1982.

The 1988 amendment, effective July 1, 1988, substituted “commission” for “committee” in the introductory language of subsection (b).


(a) It shall be unlawful for the owner or operator of any dam for which a permit is required by this part to remove the dam without the approval of the director.

(b) Prior to the commencement of removing any such dam, such owner or operator shall apply to the director on
forms supplied by the division for permission to remove the dam.

(c) Within 60 days after the receipt of a completed application for removal, the director shall approve, or approve subject to appropriate conditions, the applicant's request for removal.

(d) Upon receipt of approval for removal, the removal shall be commenced as soon as practicable; and the impoundment shall be drained and the structure permanently breached.

(e) Nothing in this part shall be construed to prevent the owner or operator of any impoundment from draining such impoundment without authorization from the director. (Ga. L. 1978, p. 795, § 8.)

12-5-378. Inspections of dams and other barriers by director, etc.; administrative orders to enforce compliance with part, etc.; emergency action by director.

(a) The director or any authorized agency with which the director has entered into a contract on behalf of the division is authorized to make a visual inspection of any dam or other artificial barrier for which a permit is or may be required by this part and to enter any property, public or private, at reasonable times without notice for the purpose of accomplishing such inspection. After any such visual inspection, and upon a finding by the director that a dam is not in compliance with any provision of this part or any rule or regulation promulgated hereunder, the director may issue an administrative order to the owner of such dam requiring such owner to undertake, at the owner's expense, such maintenance, alterations, repairs, reconstruction, change in construction or location, or removal as may be deemed necessary by the director, or the draining or lowering of the water level of the dam, within the time period specified in such administrative order.

(b) Based upon a visual inspection of a dam, if the director determines that the dam is not in compliance with this part or any rule and regulation promulgated hereunder, and there is not sufficient time to issue an administrative order, the director may immediately take such measures as may be necessary to provide emergency protection to life or property, including lowering the reservoir level or destroying in whole or in part the barrier and impoundment. The costs of such emergency measures may be recovered by the state in an action brought in the superior court of the county in which the dam is located or the county of residence of the dam owner. (Ga. L. 1978, p. 795, § 9.)

12-5-379. Investigations by division; right of access by employees and representatives of division; right of employees and representatives to require statements and reports regarding construction and operation of dams; refusal of access to and interference with representatives of division.

(a) The division shall have the right to direct and conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this part. For this purpose, the employees of the division or any authorized representatives shall have the right to enter at reasonable times on any property, public or private, for the purpose of investigating the condition, construction, or operation of any dam or other artificial barrier dealt with in this part. Such employees or representatives shall also have the right to require written statements or the filing of reports with respect to pertinent questions relating to the construction or operation of any dam; provided, however, that no person shall be required to disclose any secret formula, processes, or methods used in any manufacturing operation or any confidential information concerning business activities carried on by him or under his supervision.

(b) It shall be unlawful for any person to refuse entry or access to any authorized representative of the division who requests entry for purposes of inspection and who presents appropriate credentials. It shall also be unlawful to obstruct, hamper, or interfere with any such representative while in the process of carrying out his official duties. (Ga. L. 1978, p. 795, § 10.)

12-5-380. Administrative and judicial review.

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Any person who is aggrieved or adversely affected by an order or action of the director shall be entitled to administrative and judicial review in accordance with subsection (c) of Code Section 12-2-2. (Ga. L. 1978, p. 795, §11; Ga. L. 1980, p. 922, § 1; Ga. L. 1984, p.454, § 8.)

12-5-381. Injunctive relief.

Whenever in the judgment of the director any person has engaged in or is about to engage in any act or practice which constitutes or will constitute an unlawful action under this part, he may make application to the superior court of the county in which the unlawful act or practice has been or is about to be engaged in, or in which jurisdiction is appropriate, for an order enjoining such act or practice, or for an order requiring compliance with this part. Upon a showing by the director that such person has engaged in or is about to engage in any such act or practice, a permanent or temporary injunction, restraining order, or other order shall be granted without the necessity of showing lack of an adequate remedy at law. (Ga. L. 1978, p. 795, § 15.)

12-5-382. Power of commissioner of transportation as to contracts relating to part.

The commissioner of transportation is authorized to enter into contracts on behalf of the Department of Transportation with the division for the purpose of carrying out this part. (Ga. L. 1978, p. 795, § 16; Ga. L. 1984, p. 454, § 9.)

12-5-383. Liability for damages.

(a) Nothing in this part shall be construed to constitute a waiver of the sovereign immunity of the state, the board, or the division. No action shall be brought against the state, the board, the division, or any member, officer, or employee of the state, the board, or the division for damages sustained through the partial or total failure of any dam or other artificial barrier dealt with in this part or its maintenance by reason of any supervision or other action taken or not taken pursuant to or under this part, including specifically, but not limited to, any action taken or not taken by the board or its members, the director, the division, its officers or employees, or its representatives pursuant to Code Section 12-5-375. Nothing in this part and no order, action, or advice of the director or the division or any representative thereof shall be construed to relieve a dam owner or operator of the legal duties, obligations, or liabilities incident to the ownership or operation of the dam.

(b) Nothing in this part shall be construed to constitute a waiver of the sovereign immunity of the commission. No action shall be brought against the state, the commission, or any employee of the state or the commission for damages sustained through the partial or total failure of any dam or other artificial barrier dealt with in this part or its maintenance by reason of any supervision or other action taken or not taken pursuant to former Code Section 125-5-375. (Ga. L. 1978, p. 795, § 4; Ga. L. 1984, p. 454, § 10; Ga. L. 1988, p.269, § 23.)

The 1988 amendment, effective July 1, 1988, substituted, "commission" for "committee" in three places in subsection (b).

12-5-384. Requirement of construction, operation, etc., of dam, etc., in conformance with part and rules, regulations, etc., adopted pursuant to part.

It shall be unlawful for any person to own, construct, operate, or remove a dam or other artificial barrier dealt with in this part, except in such a manner as to conform to and comply with this part and with all rules, regulations, orders, and permits established under this part. (Ga. L. 1978, p. 795, § 5.)

12-5-385. Criminal and civil penalties.
(a) Any person who engages in any action made unlawful by this part shall be guilty of a misdemeanor. Each day of continued violation after conviction shall constitute a separate offense.
(b) As an alternative to criminal enforcement pursuant to subsection (a) of this Code section, the director may impose civil penalties in accordance with the following provisions:

(1) Any person violating any provision of this part or any permit condition or limitation established pursuant to this part or negligently or willfully failing or refusing to comply with any final order of the director issued as provided in this part shall be liable for a civil penalty not to exceed $1,000.00 for such violation and an additional civil penalty not to exceed $500.00 for each day during which the violation continues;

(2) Whenever the director has reason to believe that any person has violated any provision of this part or any permit condition or limitation established pursuant to this part or has negligently or willfully failed or refused to comply with any final order of the director, he may, upon written request, cause a hearing to be conducted before a hearing officer appointed by the board. Upon a finding that such person has violated any provision of this part or any permit condition or limitation established pursuant to this part or has negligently or willfully failed or refused to comply with a final order of the director, the hearing officer shall issue his initial decision imposing such civil penalties as are provided in paragraph (1) of this subsection. Such hearing and any administrative or judicial review thereof shall be conducted in accordance with subsection (c) of Code Section 12-2-2. (Ga. L. 1978, p. 795, § 14.)

EXECUTIVE REORGANIZATION ACT OF 1972.

No. 1489 (Senate Bill No. 499).

Section 17. (a) The Director of the Environmental Protection Division of the Department of Natural Resources shall issue all orders, grant, deny, revoke or amend all permits or variances provided for in the laws to be enforced by this Division. Any person who is aggrieved or adversely affected by any order or action of the Director shall upon petition within thirty (30) days of the issuance of such order or notice of such action have a right to hearing before a hearing officer appointed by the Board of Natural Resources. The initial hearing and any administrative review thereof shall be conducted in accordance with the Georgia Administrative Procedure Act (Title 3A), as now or hereafter amended. Any administrative review of the initial decision by the hearing officer shall be by a five (5) member committee, to be known as the Administrative Review Committee. The members of said committee shall be members of the Board of Natural Resources and shall be selected by said Board, provided, however, that all members so selected for a particular review shall fully meet and qualify as to the conflict of interest requirements provided for in section 304 (b) (2) (D) of the Federal Water Pollution Control Act of 1972, as amended, and the Rules and Regulations and Guidelines promulgated thereunder. Any person who has exhausted all administrative remedies available and who is aggrieved or adversely affected by any final order or action of the Board shall have the right of judicial review thereof in accordance with subsections (b), (c), (d), (e), (f), (g) and (h) of section 20 of the Georgia Administrative Procedure Act (Title 3A), as now or hereafter amended. Any party to the proceeding may secure a review of the final judgment of the superior court by appeal in the manner and form provided by law for appeals from superior courts to the appellate courts of this State.

RULES
OF
DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION

13
CHAPTER 391-3-8
RULES FOR DAM SAFETY

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391-3-8-.01 Purpose. Amended. The Purpose of these Rules is to implement the responsibilities assigned to the Environmental Protection Division by the Georgia Safe Dams Act of 1978; Part 3 of Article 5 of O.C.G.A. §§ 12-5. These Rules are promulgated to provide for the inventory, classification, inspection and permitting of certain dams in order to protect the health, safety, and welfare of all the citizens of the State by reducing the risk of failure of such dams to prevent death or injuries to persons.

Authority O.C.G.A. Secs. 12-5-370 through 12-5-385. Administrative History. Original Rule entitled "Purpose" was filed as Emergency Rule 391-3-8-0.5-.01 on August 28, 1978; effective July 28, 1978, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding said Emergency Rule, as specified by the Agency. Amended: Permanent Rule of the same title adopted superseding Emergency Rule 391-3-8-0.5-.01. Filed August 31, 1978; effective September 20, 1978. Amended: Rule repealed and a new Rule of the same title adopted. Filed October 29, 1985; effective November 18, 1985. Amended: F. August 31, 1990; eff. September 20, 1990.

391-3-8-.02 Definitions. Amended. For the purpose of these rules and regulations, the terms:

(a) "abutment" means the bordering area of the dam site which functions as a support for the ends of the dam structure.

(b) "Act" means the "Georgia Safe Dams Act of 1978" as amended (O.C.G.A. 12-5-370 through 12-5-385).

(c) "appurtenant works" means such structures as spillways, either in the dam or separate therefrom; the reservoir and its rims; low level outlet works; access bridges; and water conduits such as tunnels, pipelines or penstocks, either through the dam or its abutments.

(d) "Category I" means the classification where improper operation or dam failure would result in probable loss of human life. Situations constituting "probable loss of life" are those situations involving frequently occupied structures or facilities, including, but not limited to, residences, commercial and manufacturing facilities, schools and churches.

(e) "Category II" means the classification where improper operation or dam failure would not expect to result in probable loss of human life.

(f) "conduit" means any closed waterway such as a cast-in-place cut-and-cover culvert, a precast or prefabricated pipe imbedded in the dam or foundation of tunnel bored through the abutment used for the purpose of regulating or releasing water impounded by a dam.

(g) "construct" or "construction" means the building, removal or modification of any artificial barrier, together with appurtenant works for the impoundment or diversion of water or liquid substances and shall include any activity which, other than routinely as part of an approved maintenance program, repairs, removes, or restores such artificial barrier, or alters its design, shape or structural characteristics, and shall also include any enlargement of such artificial barrier.
(h) "dam" means, with exception of the exemptions outlined in Rule 391-3-8-.04 herein, the following:

1. Any artificial barrier, including appurtenant works, which impounds or diverts water and which the improper operation or failure of such would result in probable loss of human life as determined pursuant to the Act, and which

   (i) is twenty-five (25) feet or more in height from the natural bed of the stream or water course measured at the downstream toe or the lowest elevation of the outside limit of the barrier (whichever is lower) to the maximum water storage elevation; or

   (ii) has an impounding capacity at maximum water storage elevation of one hundred (100) acre-feet or more.

2. Any artificial barrier, including appurtenant works, constructed in conjunction with the reclamation of surface mined land, and meeting the requirements of subsection 1., above and when improper operation or failure would result in probable loss of human life.

   (i) "small dam" means any artificial barrier meeting the requirements of subsection (h) above with a storage capacity not exceeding 500 acre-feet and a height not exceeding 25 feet.

   (j) "medium dam" means any artificial barrier meeting the requirements of subsection (h) above with a storage capacity exceeding 500 acre-feet but not exceeding 1000 acre-feet or a height exceeding 25 feet but not exceeding 35 feet.

   (k) "large dam" means any artificial barrier meeting the requirements of subsection (h) above and with a storage capacity exceeding 1000 acre-feet but not exceeding 50,000 acre-feet or a height exceeding 35 feet but not exceeding 100 feet.

   (l) "very large dam" means any artificial barrier meeting the requirements of subsection (h) above and with a storage capacity exceeding 50,000 acre-feet or a height exceeding 100 feet.

   (m) "engineer" means the State Conservation Engineer of the Natural Resources Conservation Service or the engineer of record.

   (n) "engineer of record" means an individual who:

   1. Is a licensed engineer registered with the State of Georgia; and
   2. Is competent and has relevant experience in areas related to dam investigation, inspection, design, and construction for the type of dam being investigated, inspected, designed, or constructed; and
   3. Understands adverse dam incidents, failures and the potential causes and consequences of dam failures; and
   4. Will have responsible charge for the design of a new Category I dam or repair of an existing Category I dam; and
   5. Has substantiated their qualifications to the Georgia Safe Dams Program prior to their engagement by an Owner/Operator of an existing or proposed Category I Dam.

   (o) "flood control pool" means the storage volume of the entire reservoir at the crest of the emergency spillway.

   (p) "flood control zone" means the storage volume available between the normal pool and the flood control pool.

   (q) "foundation" means the earth or rock on which the dam rests.

   (r) "freeboard" means the difference in elevation between the top of the dam and the maximum reservoir water surface that would result should the inflow design flood occur and should the outlet works function as planned.

   (s) "hydrometeorological gauges" means any variety of measuring devices used in determining data concerning rainfall, snow, fog, dew, etc.

   (t) "impoundment" means the water or liquid substance that is or will be stored by a dam - commonly referred to as the reservoir.

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(u) "maximum water storage elevation" means the elevation of the lowest point of the top of the impoundment structure independent of low points caused by partial failure or collapse.

(v) "normal pool" means the reservoir storage volume at normal storage elevation.

(w) "normal water storage elevation" means the normal elevation of water surface which is obtained by the reservoir when the intake and outlet works are operating as planned during periods of normal precipitation and runoff and not during periods of drought or flood.

(x) "principal spillway" means the spillway which conveys normal runoff out of the reservoir.

(y) "probable maximum precipitation (PMP)" means the greatest amount of rainfall of a six-hour duration which would be expected for a given drainage basin as determined by Hydrometeorological Report No. 52 published by the U.S. Weather Bureau.

(z) "spillway" means the feature of a storage or detention dam which is designed to released surplus water which cannot be contained in the allotted storage space, and at diversion dams is a means to bypass flows exceeding those which are turned into the diversion system.

(aa) "structural height" means the height of the dam measured from the lowest point of the dam's foundation to the highest point on the top of the dam.

(bb) "surcharge zone" means the reservoir of storage volume located between the crest of the emergency spillway (flood control pool) and the maximum water storage elevation.

(cc) "surface mining" means any activity constituting all or part of a process for the removal of mineral ores and other solid matter for sale or for processing or for consumption in the regular operation of a business. However, the removal of mineral ores and other solid matter by tunnels, shafts, and dimension stone quarries shall not be considered surface mining.

Authority Ga. L. 1978, pp. 795-807, et seq.: O. C. G. A. Secs. 12-5-370 through 12-5-385. Administrative History. Original Rule entitled "Definitions" was filed as Emergency Rule 391-3-8-0.5-.02 on August 28, 1978, effective July 28, 1978, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding said Emergency Rule, as specified by the Agency. Amended: Permanent Rule of the same title adopted superseding Emergency Rule 391-3-8-0.5-.02. Filed August 31, 1978; effective September 20, 1978. Amended: Filed October 29, 1985; effective November 18, 1985. Amended: F. August 31, 1990; eff. September 20, 1990.

391-3-8-.03 Inventory and Classification. Amended.

(1) It shall be the duty of the Director to inventory the dams in this state and to classify each dam into one of the following categories:

(a) Category I Dam
(b) Category II Dam

(2) The inventory shall consist of all dams not excluded under Rule 391-3-8-.04 subsections (a), (b), (c), (e) and (f).

(3) The inventory and classification of dams including proposed structures shall be carried out in accordance with the Safe Dams Program Quality Assurance Plan.

(4) When an existing Category II dam may be reclassified to a Category I dam because of proposed development downstream of the dam, the governing authority issuing the permit for the development shall provide for review by the Safe Dams Program the following information:
(a) location of the Category II dam and the proposed development; and

(b) a surveyed cross-section of the stream valley at the location of the proposed development including proposed finished floor elevations; and

(c) a dam breach analysis using the Dambreak computer model to establish the height of the floodwave in the downstream floodplain. The dambreak modeling shall be completed by an engineer in accordance with the Safe Dams Program Quality Assurance Plan.

(3) If the Director determines that an existing Category II dam will be reclassified to a Category I dam if the proposed development occurs, then the owner of the existing Category II dam may request an inspection from the Director within ten (10) days of notification of the proposed development by the local governing authority. The preliminary visual inspection shall be carried out in accordance with subsection (2) paragraph (b) and subsection (3), paragraph (d), subparagraph, (ii) (l) and (2) under Rule 391-3-8-08. Detailed surveys, hydrologic and hydraulic analyses will not be performed, however the Director may provide an opinion on the hydraulic adequacy of the dam.

(6) A written evaluation of the existing Category II dam's compliance with Category I requirements will be provided to the owner of the dam and the local governing authority based on the preliminary visual inspection by the Safe Dams Program.

Authority O.C.G.A. Secs. 12-5-370 through 12-5-385. Administrative History. Original Rule entitled "Scope and Exclusions" was filed as Emergency Rule 391-3-8-0.5-03 on August 28, 1978, effective July 28, 1978, the date of adoption to remain in effect for a period of 120 days until the effective date of a permanent Rule covering the same subject matter supersedes said Emergency Rule as specified by the Agency. Amended: Permanent Rule of the same title adopted superseding Emergency Rule 391-3-8-0.5-03. Filed August 31, 1978, effective September 20, 1978. Amended: Rule renumbered as Rule 391-3-8-04 and a new rule 391-3-8-03 entitled "Inventory and Classification" adopted. Filed October 29, 1985; effective November 18, 1985. Amended: F. August 31, 1990; eff. September 20, 1990.

391-3-8-04 Scope and Exclusions. Amended. These rules and regulations shall apply to any dams or artificial barriers existing or constructed in Georgia except for the following:

(a) any dam owned and operated by any department or agency of the United States government;

(b) any dam constructed or financially assisted by the United States Natural Resources Conservation Service or any other department or agency of the United States government when such department or agency designed or approved plans and supervised construction and maintains a regular program of inspection of the dam; provided, however, that this exemption shall cease on November 1, 2000, for all such dams which the supervising federal agency has relinquished authority for the operation and maintenance of such dam to a person unless the supervising federal agency certifies by said date and at least biannually thereafter to the Director that such dams are in compliance with requirements of this part, including minimum spillway design, and with the maintenance standards of the supervising federal agency;

(c) any dam licensed by the Federal Energy Regulatory Commission, or for which a license application is pending with the Federal Energy Regulatory Commission;

(d) any dam classified as a Category II Dam;

(e) any artificial barrier, except as provided in Rule 391-3-8-.02 (b), constructed in connection with and incidental to surface mining, provided that upon completion of mining the impoundment created by the barrier is drained and reclaimed or stabilized as a lake pursuant to a mined land use plan approved by the Director pursuant to the Georgia Surface Mining Act;

(f) any artificial barrier which is not in excess of 6 feet in height regardless of storage capacity, or which has a storage capacity at maximum water storage elevation not in excess of 15 acre-feet, regardless of height.
Authority O.C.G.A. Secs 12-5-370 through 12-5-385. Administrative History. Original Rule entitled "Application for a Permit" was filed as Emergency Rule 391-3-8-.05-.04 on August 28, 1978, effective July 28, 1978, the date of adoption to remain in effect for a period of 120 days or until the effective date of permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. Amended: Permanent Rule of the same title adopted superseding Emergency Rule 391-3-8-.05-.04. Filed August 31, 1978; effective September 20, 1978. Amended: Rule renumbered as rule 391-3-8-.05 and Rule 391-3-8-.03 entitled "Scope and Exclusions" repealed and a new Rule of the same title adopted as Rule 391-3-8-.04. Filed October 29, 1985; effective November 18, 1985. Amended: F. Aug 31, 1990; eff. Sept 20, 1990.

391-3-8-.05 Application for a Permit. Amended.

(1) No person shall operate or construct a dam as defined by the Act and these Rules without first having obtained a permit from the Division; provided, however, any person who is operating a dam may continue such operation or construction pending final action by the Director on the permit application and provided such application has been filed with the Director within 180 days after notice by the Director that permit is required.

(2) Permit application shall be on forms as may be prescribed and furnished by the Division.

(3) The Director may require the submission of plans, specifications and other information deemed relevant to the application.

(4) If a permit application for the construction of a dam is not approved by the Director, the application shall be returned to the applicant along with the reasons for its disapproval. Such applicants may reapply for said permit by correcting deficiencies in the application and resubmitting the application to the Director.

(5) Permits shall not be transferred from one person to another without the approval of the Director. If the ownership changes from one person to another, the new owner shall immediately notify the Director in writing of such transactions. The Director shall also be notified of any proposed change in the operation of the dam.

(6) Permits shall not be transferred from one dam to another dam.

Authority O.C.G.A. Secs. 12-5-370 through 12-5-385. Administrative History. Original Rule entitled "Revocation, Suspension or Modification of Permits" was filed as Emergency Rule 391-3-8-.05-.05 on August 28, 1978, effective July 28, 1978, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding this Emergency Rule, as specified by the Agency. Amended: Permanent Rule of the same title adopted superseding Emergency Rule 391-3-8-.05-.05. Filed August 31, 1978; effective September 20, 1978. Amended: Rule renumbered as Rule 391-3-8-.06 and Rule 391-3-8-.05-.06 and Rule 391-3-8-.04 entitled "Application for Permit" amended and adopted as Rule 391-3-8-.05. Filed October 29, 1985; effective November 18, 1985. Amended: F. August 31, 1990; eff. Sept 20, 1990.

391-3-8-.06 Revocation, Suspension or Modification of Permits. Amended. Permits may be revoked, suspended, modified, or denied by the Director for cause including but not limited to the following:

(a) violation of any permit condition;

(b) failure to fully disclose all relevant facts or obtaining a permit through misrepresentation;

(c) violations of the Act or these Rules;

(d) changes in conditions that require such action on a permit in order to insure compliance with the Act or these Rules.
120 days or until the effective date of a permanent Rule covering the same subject matter superseding said Emergency Rule, as specified by the Agency. Amended: Permanent Rule of the same title adopted superseding Emergency Rule 391-3-8-.05-06 Filed August 31, 1978; effective September 20, 1978. Amended: Rule renumbered as Rule 391-3-8-.07 and Rule 391-3-8-.05 entitled "Revocation, Suspension or Modification of Permits" renumbered as Rule 391-3-8-.06. Filed October 29, 1985; effective November 18, 1995. Amended: F. Aug 31, 1990; eff. September 20, 1990.

391-3-8-.07 Dam Removal. Amended. No person may remove a dam without the approval of the Director in accordance with the procedures required by Section 8 of the Act.

Authority O. C. G. A. Secs 12-5-370 through 12-5-385. Administrative History. Original Rule entitled "Permits for Operation of Existing Dams" was filed as Emergency Rule 391-3-8-0.5-.07 on August 28, 1978, effective July 28, 1978, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding said Emergency Rule, as specified by the Agency. Amended: Permanent Rule of the same title adopted superseding Emergency Rule 391-3-8-0.5-.07. Filed August 31, 1978; effective September 20, 1978. Amended: Rule renumbered as Rule 391-3-8-.08 and Rule 391-3-8-.06 entitled "Dam Removal" renumbered as Rule 391-3-8-.07. Filed October 29, 1985; effective November 18, 1985. Amended: F. August 31, 1990; eff. Sept. 20, 1990.

391-3-8-.08 Permits for the Construction and/or Operation of New and Existing Dams. Amended.

(1) New Dams

(a) Applications for a permit to construct and operate a Category I dam shall be accompanied by a statement from an engineer who provides engineering design services for the dam, certifying that he/she has the necessary training and experience to design such dam, and that to the best of his/her knowledge, understanding and belief such design meets the standards of the Act and these Rules. If the design engineer determines that a geological investigation of the dam is advisable, such investigation shall be conducted by a professional geologist registered to practice in the State of Georgia.

(b) As an alternative to a certificate from an engineer, the Director may accept a permit application accompanied by a certificate from the State Conservation Engineer of the Natural Resources Conservation Service stating that the design of the dam meets the standards of this Act and the rules and regulations promulgated hereunder.

(c) Construction of such dams shall be completed in the time frame stated in the special conditions of the Construction and Operation Permit.

(d) Notice by registered mail shall be given to the Director at least 10 days prior to the commencement of construction for permitted dam construction activities.

(2) Existing Dams

(a) Permits for the operation of dams in existence may be issued provided the application for a permit is judged complete and meets the requirements of the Act and these Rules.

(b) When a visual inspection, performed by an engineer, reveals that abnormal stress exists or that the dam was not constructed in accordance with the requirements of the Act or these Rules, a detailed engineering survey meeting the requirements of this section shall be performed prior to final action on the permit application. Such visual inspection may be provided by the applicant, in accordance with Section 12-5-376(g) of the Act, or by the Division, or by another authorized agency under contract with the Director on behalf of the Division.

(3) Applications for permits for existing or proposed dams shall include the following evaluations and information when such information is relevant and available as determined by the Director:

(a) A regional vicinity map showing the location of the existing or proposed dam and the latitude and longitude of the
center of the dam expressed to the nearest second, the watershed drainage area, and the downstream area subject to potential damage due to failure or misoperation of the dam or operation equipment including other artificial barriers or downstream fixed improvements which would be affected;

(b) A detailed description of the existing or proposed dam including:

(i) Proposed or as-built drawings indicating plans, elevations and sections of the dam and appurtenant works including details of the discharge facilities such as outlet works, limited service and emergency spillways, flashboards, fuse plugs and other operation equipment;

(ii) the elevation of the top and lowest outside limit of the dam, and the elevation of the lowest upstream and downstream toe;

(iii) the profile of the top of the dam and the dam's structural height;

(iv) the maximum and normal storage elevation, hydraulic heights and freeboard and storage capacity associated with each;

(v) the surface area of the impoundment;

(vi) the top and bottom width of the dam;

(vii) the elevation of the crest, type, width or diameter; length and location of spillways and the number, size and type of gates if the structure is controlled;

(viii) the type, location, entrance and exit inverts of outlet works, and emergency drawdown facilities;

(ix) the location, crest elevation, and description of the invert, sides, and length of limited service and emergency spillways;

(x) the location, and description of flashboards and fuse plugs, including hydraulic head(pool elevation) and other conditions required for breaching along with the assumed results of breaching;

(xi) the type, location, observations and records of hydrometeorological gauges appurtenant to the project;

(xii) the maximum non-damaging discharge causing only negligible damage at potential damage locations downstream;

(xiii) the location and description of any proposed or existing instrumentation including, but not limited to, observation wells, piezometers, settlement devices, seepage outlets and weirs;

(xiv) the location, elevation and description of areas affected by reservoir fluctuation.

(c) Design and safety evaluation reports including:

(i) a hydrological analysis of the proposed or existing dam, reservoir, drainage basin system including computation of the basin P.M.P. or the design storm event, average watershed slope, watershed area, hydrologic soil groups, land use of impoundment watershed, reservoir inflow hydrograph, spillway and exit water-surface profiles, flow rate, expected frequency of emergency spillway use and minimum freeboard;

(ii) analysis and/or evaluation of the proposed or existing dam that indicates that the dam will be stable during construction (new dams), filling (new dams) and under all conditions of reservoir operations including
assumed material properties and all pertinent applied loads;

(iii) evaluation of seepage and measures taken to control seepage through the embankment, foundation, and abutments so that no internal erosion will take place and that there will be no significant sloughing in the area where the seepage emerges;

(iv) evaluation of the geology of the site and foundation including any boring logs or laboratory testing with engineering conclusions, foundation data, geological maps, profiles and cross sections, foundation treatment, and any relevant seismic information;

(v) evaluation of materials in the foundation and embankment including results of any laboratory tests, field permeability tests, construction control tests, and assumed design or evaluation properties of materials;

(vi) the properties of concrete including source or proposed source of aggregate, mix design, type of cement and additives, and the result of testing during construction;

(vii) evaluation or design of cover (vegetation, masonry, or riprap) to protect the upstream slope, crest, and downstream slope of the dam and abutments against erosion from wind, waves and runoff;

(viii) the proposed water control plan, including the regulation plan under normal conditions and during flood or other emergency conditions;

(ix) analysis of the anticipated time required to completely drain the flood control zone and normal pool;

(x) the electric and mechanical equipment types and rating of normal and emergency power supplies, hoists, cranes, valves and valve operators, control and alarm systems, and other electrical and mechanical equipment systems that could affect the safe operation of the dam;

(xi) the spillway and tailwater rating curve below the dam site, including the elevation corresponding to the maximum design flood discharge and approximate nondamaging channel capacity;

(xii) evaluation and/or analysis of settlement estimates and steps adopted to compensate for total settlement and to minimize differential settlements;

(d) Other data requirements for new and existing dams:

(i) New Dams

1. the proposed method of construction and quality control provisions for the project, including the responsibilities of the applicant, the design engineer, the builder, and the prescribed order of the work;

2. the proposed dam construction schedule and filling schedule for the reservoir;

3. the proposed inspection and maintenance plan;

4. the proposed instrumentation and monitoring plan including the filling surveillance plan;

5. the estimated life of the dam and reservoir;

6. any other pertinent data as may be required by the Director;

(ii) Existing Dams
1. A detailed description of the condition of the dam and appurtenant works resulting from a detailed visual inspection including a description of any signs of structural deterioration and seepage such as, but not limited to, surface cracks, settlement, structural condition of any conduits through the dam, and erosion;

2. The year of construction and the date and description of any modifications or repairs;

3. The construction history including the diversion scheme, construction sequence, pertinent construction problems, alterations, modifications, and major maintenance repairs;

4. A summary of past major flood events or previous failures or known deficiencies, including any experiences that presented a threat to the safety of the project or to human life and any action taken to correct or eliminate such hazards;

5. The records of performance observations including instrumentation records;

6. The inspection history including the results of the last safety inspection, the organization that performed the inspection, and the date the inspection was performed;

7. Any other pertinent information as may be required by the Director.

Authority: C.G.A. Secs. 12-5-370 through 12-5-385. Administrative History: Original Rule entitled "Design Standards for Existing Dams" was filed as Emergency Rule 391-3-8-0.5-.08 on August 28, 1978, effective July 28, 1978, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding Emergency Rule, as specified by the Agency. Amended: Permanent Rule of the same title adopted superseding Emergency Rule 391-3-8-0.5-.08. Filed August 31, 1978, effective September 20, 1978. Amended: Rule renumbered as Rule 391-3-8-.09 and Rule 391-38-.07 entitled "Permits for Operation of Existing Dams" renumbered as Rule 391-3-8-.08. Filed October 29, 1985: effective November 18, 1985. Amended F. Aug. 31, 1990: eff. Sept 20, 1990.


(1) The design and/or evaluation of new and existing dams shall conform to accepted practices of the engineering profession and dam safety industry. Design manuals, evaluation guidelines, and procedures used by the following agencies can be considered as acceptable design or evaluation references, except as those references differ from Georgia Law and these regulations:

(a) U.S. Army Corps of Engineers;
(b) Natural Resources Conservation Service;
(c) U.S. Department of Interior, Bureau of Reclamation;
(d) Federal Energy Regulatory Commission;

(2) Other design and evaluation methods may be used to demonstrate compliance with the objectives of these rules, but are subject to the approval of the Director.

(3) Design and Evaluation of Dams under Paragraph (1) and (2) above shall, as a minimum, consider the following basic principles:

(a) All dams must be stable under all conditions of construction and/or operation of the impoundment. Details of stability evaluation shall be submitted to the Director for approval. Analyses using the methods, guidelines and procedures of the agencies listed in Paragraph (1) yielding the following Minimum Safety Factors can be considered as acceptable stability:

Earthen Embankments
1. End of Construction 1.3
2. Steady State Seepage 1.5
3. Steady State Seepage 1.1 with Seismic Loading
4. Rapid Drawdown (Upstream) 1.3
5. Submerged Toe 1.3 with Rapid Drawdown

Concrete Structures (cohesion included)

1. Normal Reservoir 3.0
2. Normal Reservoir 1.0 with Seismic Loading
3. Design Flood 2.0

(b) Details of the engineering evaluation of material properties in the dam or appurtenant structures shall be submitted to the Director for review and approval. Conservative selections for soil strength values shall be used for analyses or evaluations. Details of any foundation investigation and laboratory testing supporting assumed design or evaluation parameters shall be included for review.

c) All dams and appurtenant structures shall be capable of withstanding seismic accelerations defined in the most current "Map for Peak Acceleration with a 2% exceedance in 50 years" for the contiguous United States published by the United States Geological Survey (a.k.a. NEHRP maps). The minimum seismic acceleration shall be 0.05g. The seismic accelerations may be reduced or seismic evaluation eliminated if the applicant's engineer can successfully demonstrate to the Director by engineering analyses or judgment that smaller seismic accelerations are appropriate or no seismic evaluation is needed.

d) All dams shall have a means of draining the reservoir to a safe level as demonstrated by the applicant's engineer. The submittal by the applicant's engineer shall include the computation of the maximum time required to drain the reservoir. Exceptions to this rule may be given by the Director based on an engineering evaluation demonstrating the lack of this capability would not endanger the public.

e) All earthen embankments shall be protected from surface erosion by appropriate vegetation, or some other type of protective surface such as riprap or paving, and shall be maintained in a safe condition. Examples of appropriate vegetation include, but are not limited to, Bermuda, Tall Fescue, Centipede grasses, and Lespedeza sericea. Inappropriate vegetation on existing dams such as trees shall be removed only after consultation with the Division or other qualified persons on the proper procedures for removal. Hedges and small shrubs may be allowed on existing dams if they do not obscure inspection or interfere with the operation and maintenance of the dam.

(f) Design Storm. Each dam shall be capable of safely passing the fraction of the flood developed from the PMP hydrograph depending on the subclassification of the dam. The design storm for each subclassification of a dam is as follows:

1. Small Dam 25 percent PMP
2. Medium Dam 33.3 percent PMP
3. Large Dam 50 percent PMP
4. Very Large Dam 100 percent PMP

Based on visual inspection and detailed hydrologic and hydraulic evaluation, including documentation of completed design and construction procedures, up to 10 percent lower requirement (22.5, 30, 45, 90) may be accepted on existing PL566 (including RC&D structures) and PL 534 Project Dams at the discretion of the Director, provided
the project is in an acceptable state of maintenance. The design storm may be reduced on existing dams if the applicant's engineer can successfully demonstrate to the Director, by engineering analysis, that the dam is sufficient to protect against probable loss of human life downstream at a lesser design storm. Earth emergency spillways shall not function until the 50 year storm.

(g) Seepage Control. All dams shall be able to prevent the development of instability due to excessive seepage forces, uplift forces, or loss of materials in the embankment, abutments, spillway areas, or foundation. For new dams, seepage analysis for design, and inspection during construction shall be in sufficient detail to prevent the occurrence of critical seepage gradients.

(i) For new dams, the design shall include a seepage control method which meets the minimum acceptable safety standards, as determined by the Division. All internal drainage systems with pipe collection systems shall have cleanouts.

(ii) In existing dams, seepage shall be investigated by an engineer and appropriate control measures shall be taken as necessary.

(h) Monitoring Devices.

(i) Monitoring devices, including but not limited to piezometers, settlement plates, tell-tale stakes, seepage outlets and weirs, and permanent bench marks may be required by the Director for use in the inspection and monitoring of the safety of a dam during operation.

(ii) For new dams or existing dams where appropriate, a reservoir filling monitoring and surveillance plan to be implemented during reservoir filling or re-filling shall be submitted to the Director for approval prior to start of filling or re-filling.

(i) Design Life. The design life for proposed dams and reservoirs shall be adequate for the dams and reservoirs to perform effectively as planned, as determined by the following criteria:

(i) The time required to fill the reservoir with sediment from the contributing watershed; and

(ii) The durability of appurtenances and materials used to construct the dams.

(j) Freeboard. Appropriate freeboard for wave action shall be considered by an engineer through engineering analysis. The required freeboard shall be provided above the maximum reservoir surface elevation that would result from the inflow from the design storm for the structure. The resulting maximum reservoir surface elevation plus freeboard shall determine the elevation of the top of the dam. In lieu of determining the appropriate amount of freeboard by engineering analysis, a minimum of three (3) feet of freeboard shall be provided on earth dams.

(k) Existing concrete and/or masonry dams and appurtenant structures shall be structurally sound and shall have joints free of trees and other vegetation and shall show no signs of significant structural deterioration such as excessive cracks, spalling, efflorescence and exposed reinforcing steel.

(4) Other design standards may be imposed as deemed appropriate by the Director after review of design of new structures or through a visual inspection of an existing structure conducted pursuant to Rule 391-3-8-08 (2)(b) of these regulations, or based on a review of the detailed engineering study prepared by an engineer.

Authority O. C. G. A. Secs. 12-5-370 through 12-5-385. Administrative History. Original Rule entitled "Permits for the Construction and Operation of New Dams" was filed as Emergency Rule 391-3-8-0.5-09 on August 28, 1978, effective July 28, 1978, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding said Emergency Rule, as specified by the Agency. Amended: Permanent Rule of the same title adopted superseding Emergency Rule 391-3-5-0.5-09. Filed August 31,
391-3-8-.10 Inspection and Maintenance Plan Requirements. Amended. Dam Owners and operators of dams shall be responsible for conducting routine inspection and maintenance of dams necessary to:

(a) Prevent the growth of trees or brush on the embankment of the dam and on the spillway system;

(b) Prevent the accumulation of debris, obstructions, or other deleterious materials from the spillway system;

(c) Insure that all gates, orifices, dissipators, trash racks, and other appurtenances that affect the proper operation of the dam and reservoir are kept in good repair and working order, and that spillway and outlet gates necessary to pass flood flows shall be test operated at least once each year. The dam owner shall file an affidavit with the Director certifying that such appurtenances and gates are in good working order;

(d) Maintain adequate and suitable vegetation to prevent erosion of the embankment and earth spillway for the dam;

(e) Determine that any seepage on the downstream slopes of the dam does not exceed normal amounts and does not present a situation indicative of potential dam failure. At any time where there is a question regarding seepage and potential dam failure, the Director shall be notified in writing and provided a description of the situation, and

(f) Dam owners shall immediately notify the Division when symptoms of failure, including but not limited to, erosion, surface cracks, seepage, settlement, or movement occur.

Authority O. C. G. A. Secs. 12-5-370 through 12-5-385. Administrative History. Original Rule entitled "Effective Date" was filed as Emergency Rule 391-3-8-8-.05-.12 on August 28, 1978, effective July 28, 1978, the date of adoption, to remain in effect for a period of 120 days or until the effective date of a permanent Rule covering the same subject matter superseding said Emergency Rule, as specified by the Agency. Amended: Permanent Rule of the same title adopted superseding Emergency Rule 391-3-8-0.5-.12. Filed August 31, 1978; effective September 20, 1978. Amended: Rule repealed and Rule 391-3-8-.11 entitled "Inspection and Maintenance Plan Requirements" renumbered as Rule 391-3-8-.12. Filed October 29, 1985; effective November 18, 1985. Amended: F. Aug 31, 1990; eff. Sept 20, 1990.

391-3-8-.11 Effective Date. This Chapter shall become effective on October 26, 1998