

# GEORGIA

## Citation

Laws governing the Georgia dam safety program are embodied in the "Georgia Safe Dams Act of 1978", (O.C.G.A. 12-5-370 through 12-5-385) last amended in 1990. Rules are found in Chapter 391-3-8 of the Rules of the Department of Natural Resources Environmental Protection Division, last amended in 1998.

## Definitions/Dam Classification

Definitions are found in O.C.G.A. (Code Section) 12-5-372A, and in Section 391-3-8-.02 of the Rules. The term *dam* is defined as "any artificial barrier, including appurtenant works, which impounds or diverts water, and which is twenty-five feet or more in height from the natural bed of the stream or watercourse measured at the downstream toe of the barrier, or from the lowest elevation of the outside limit to the barrier, if it is not across a stream channel or watercourse, to the maximum water storage elevation or stores one hundred acre-feet or more". Exceptions include some federal dams, and those less than 6 feet in height regardless of storage capacity or which have storage capacity of less than 15 acre-feet regardless of height. (See also Rules Section 391-3-8-.04)

Dams classifications are found in Code Section 12-5-375(a) and in Section 391-3-8-.03 of the Rules. Dams are classified by the Director into one of two categories: *Category I dams* are those for which 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." *Category II dams* are those for which improper operation or dam failure would not be expected to result in probable loss of human life."

## Jurisdiction/Powers of Department:

Code Section 12-5-373 provides the Director of the Environmental Protection Division, Department of Natural Resources with general power over the administration of the dam safety program, to require reports and supervise investigations, and to enter into necessary contracts. Powers and duties of the Board of Natural Resources are listed in Code Section 12-5-374 and include the power to "establish by rule or regulation such policies, requirements or standards governing the construction, operation and maintenance of dams or artificial barriers". The board may also establish rules regarding the criteria to be included in dam construction and operation application forms, as well as the standards necessary to govern the inspection program. Various sections of the statutes address the Director's powers to approve or disapprove applications for construction permits (Code 12-5-376), classify or reclassify dams into hazard categories, revoke, suspend, or modify permits, (Code 12-5-376(j)), issue administrative orders requiring owners to undertake maintenance and repairs deemed necessary at the owner's expense (Code 12-5-378), and to approve or disapprove applications for the removal of a dam (12-5-377). Code Section 12-5-378 empowers the Director or any authorized agency to inspect dams and to "enter on any property, public or private at reasonable times without notice for the purpose of accomplishing such inspection.

## Permit/Approval Process

Code Section 12-5-376 provides that persons wishing to construct or operate a Category I dam must obtain a permit from the Division. The Director may require the submission of plans and specifications and other information as he deems relevant to the application. Permit applications must be accompanied by a certificate from a registered professional engineer certifying that the design is in accordance with state laws and regulations. Sections 391-3-8-.05 through 391-3-8-.09 of the Rules describe the procedures for the application for permits to construct or operate existing dams, conditions for the revocation, suspension or modification of permits, permits for dam removal, and design standards for existing dams. Rules Section 391-3-8-.10 and 391-3-8-.11 describe procedures for permit application for the construction and operation of new dams, and design standards for new dams. Filing fees or bonds are not required as part of either process.

Code Section 12-5-376.1 sub classifies Category I dams into size classifications and describes minimum spillway design requirements for each:

Small dams	25% PMP
Medium dams	33.3% PMP
Large dams	50% PMP
Very Large dams	100% PMP

Size classifications are defined in Code Section 12-5-376.1.

## Inspection Process

### State

The Director shall determine compliance with the provisions of state law based upon a visual inspection of the dam as authorized in Code Section 12-5-378. No inspection schedules or fees for state inspections are provided for in the laws or regulations.

### Owner

Visual inspection evaluations are required as part of the process of obtaining a permit for the operation of dams. The information which must be included in such an evaluation is detailed in Code Section 391-3-8-.08, and includes a physical description of the structure, its emergency spillway and instrumentation, maps, hydrological data, records of performance, stability and stress analysis, seepage and settlement analysis, and other items.

Rules Section 391-3-8-.10 states that dam owners are responsible for conducting routine inspections and maintenance of dams, and must report symptoms of dam failure to the Director. The frequency of such owner inspections is not specified.

## Owner's Non-Compliance/Violations/Penalties

If after visual inspection, the Director finds that the dam is not in compliance with the dam safety law or any rule or regulation promulgated thereunder, he may issue an administrative order to the dam owners requiring maintenance, alterations, repairs, reconstruction, change in construction or location, the draining or lowering of the water level, or removal of the dam. (Code Section 12-5-378) The Director is also authorized under 12-5-376 to revoke or suspend permits if dams are found to be in violation of permit conditions, the dam safety law or rules. Criminal (misdemeanor) and civil penalties for violations are listed in Code Section 12-5-385.

## **Emergencies**

Based on visual inspection of the dam by the Director, if determination of hazard to life is found, 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. The costs of such emergency measures may be recovered by the State from the owners. (Code 12-5-378(b)) Emergency Action Plans are not required under Georgia law or regulations.

## **Liability**

O.C.G.A. 12-5-383 addresses the sovereign immunity of the state, the board, and the division, stating "no action shall be brought against the State, nor any employee of the State for damages sustained through the partial or total failure of any dam or other artificial barrier or its maintenance by reason of any supervision or other action taken or not taken pursuant to Code Section 12-5-375...Nothing shall relieve the owner or operator of a dam of the legal duties, obligations, or liabilities incident to the ownership or operation of the dam."

## **Oversight**

Owners who are aggrieved or adversely affected by an order of the Director shall be entitled to administrative and judicial review conducted in accordance with Code Section 12-2-2.

## **Miscellaneous**

1. Code Section 12-5-375 requires the Director to conduct and maintain a state dam inventory of all jurisdictional dams. The original inventory was to have been completed by July 1, 1983, with follow-up inventories every five years after that time. The Director is authorized to contact federal and state agencies, including the US Army Corps of Engineers, and private entities for assistance and information.
2. Code Section 12-5-381 expressly authorizes the Director to apply to a county superior court for an order enjoining any act or practice constituting an unlawful action, when in his judgment any person has or is about to engage in such unlawful action.
3. Georgia dam safety rules provide specific, detailed permit application procedures and design standards for dams. The permit application procedures include requirements for a significant amount of technical information regarding the dam, its location, and design, and construction elements.