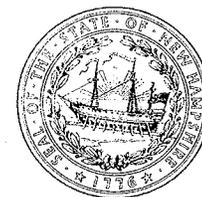




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

February 3, 2011

The Honorable Beverly A. Ferrante, Chairman
Municipal and County Government Committee
Legislative Office Building, Room 301
Concord, NH 03301

RE: HB 205-FN, relative to owners of upstream dams.

Dear Chairman Ferrante:

Thank you for the opportunity to comment on HB 205-FN. The bill would repeal a 2009 amendment to RSA 676:4 that requires local planning boards to send notification of proposed developments near rivers and streams and downstream of a dam to the owner of the nearest upstream dam and to the Department of Environmental Services (DES) Dam Bureau. This notification is intended to inform these parties so that there is opportunity to perform an evaluation to consider whether the proposed new structures downstream of the dam would increase the public safety risk and the hazard classification of the dam.

While DES recognizes that there have been some practical concerns about the scope of the notification requirement, the agency does not support its repeal. Rather, DES believes that these concerns could most appropriately be addressed by improving the accessibility of information about dam locations and their owners.

There are currently 2,618 active dams in New Hampshire. Of these, 841 are classified as hazardous dams because the flooding produced by their failure would result in loss of life or property damage downstream. The hazard classification of a dam is based on the extent of development downstream within the potentially inundated area.

Of the 841 hazardous dams, 141 are classified as High Hazard Dams because their failure would inundate houses or other occupied structures downstream and likely cause loss of life. One hundred and sixty (160) dams are classified as Significant Hazard Dams because failure would cause major property damage downstream, and 540 are classified as Low Hazard Dams because failure would cause minor property damage downstream, such as damage to a town or city road. The remaining 1,777 active dams are classified as Non-Menace Dams. Because of the lack of development downstream, the failure or poor operation of these dams would not cause loss of life or property damage downstream.

New Hampshire's dam safety regulations establish performance standards for dams based on hazard classification. For example, an existing Low Hazard Dam must be able to safely pass a flood with an expected recurrence interval of once in 50 years, also known as the 50-year flood. However, an existing High Hazard Dam must be able to pass 250% of the 100-year flood. In addition, the Annual Dam Registration Fee that a dam owner must pay is based on the hazard

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classification of the dam. The owner of a High Hazard Dam must pay \$1,500 per year to fund the annual inspection that DES performs on the dam. However, the Annual Dam Registration Fee for a Low Hazard Dam, which DES inspects every five years, is \$400, and there is no Annual Dam Registration Fee assessed for Non-Menace Dams.

Until enactment of Chapter 34 of the Laws of 2009, DES would review the hazard classification of a dam only during its scheduled inspection, which is once every year for a High Hazard Dam, once every two years for a Significant Hazard Dam and once every five years for a Low Hazard Dam. However, because of limitations on resources, DES would only periodically visit Non-Menace Dams, approximately once every 10 years, to make sure that no development has taken place downstream that would change the hazard classification. Under the existing statute, notification of any proposed development downstream of a dam is now provided to both DES and the dam owner by the local planning board when the board is considering an application for a downstream development.

In this way, the hazard classifications established by DES for the dams in the state are kept more current, and the dam owner can be aware of the effect of the proposed downstream development on the dam's hazard classification before the development is constructed. In addition, the municipality and the developer would know if the proposed development is located in an area that could be inundated if the upstream dam were to fail. It is because of these important benefits and protections that DES believes that the existing statutory requirement should remain in place. DES further believes that it can address municipal concerns about the identities and contact information of upstream dam owners by making such information more widely available through the DES website and other resources.

Thank you for the opportunity to comment on this bill. Please call either Jim Gallagher at 271-1961, or me at 271-2958, if you have any questions or need additional information.

Very truly yours,



Thomas S. Burack
Commissioner

cc: Representative Betsey L. Patten
Representative Priscilla P. Lockwood