

AN ACT concerning waterways.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Rivers, Lakes, and Streams Act is amended by changing Section 23a as follows:

(615 ILCS 5/23a) (from Ch. 19, par. 70a)

Sec. 23a. The Department is authorized to carry out inspections of any dam within the State, and to establish standards and issue permits for the safe construction of new dams and the reconstruction, repair, operation and maintenance of all existing dams. If any inspection carried out by the Department or by a federal agency in which the Department concurs determines that a dam is in an unsafe condition, the Department shall so notify the appropriate public officials of the affected city or county, the State's Attorney of the county in which the dam is located, and the Illinois Emergency Management Agency.

The Department may compel the installation of fishways in dams wherever deemed necessary.

The Department may establish by rule minimum water levels for water behind dams on streams and rivers as necessary to preserve the fish and other aquatic life and to safeguard the health of the community.

Upon a determination of the Department that a dam constitutes a serious threat to life or a threat of substantial property damage, the Department may issue orders to require changes in the structure or its operation or maintenance necessary for proper control of water levels at normal stages and for the disposal of flood waters and for the protection of navigation and any persons or property situated downstream from the dam or to otherwise remove the threat provided, however, that no existing dam, based solely upon the enactment by any governmental unit of any new rule, regulation, ordinance, law, or other requirement passed after the construction of the dam, shall be deemed to constitute a serious threat to life or a threat of substantial property damage if it was designed and constructed under a permit from the State of Illinois in conformance with all applicable standards existing at the time of its construction and is in good repair.

The Department shall be required, prior to taking any action to compel alteration or breaching of any dam, to furnish in writing to the owner of the dam (1) a detailed and specific list of defects discovered in the course of inspection of the dam, including the specific nature of any inadequacies in the capacity of the spillway system and any indications of seepage, erosion, or other evidence of structural deficiency in the dam or spillway; and (2) a statement of the applicable standards that if complied with by the owner of the dam would put the dam into compliance with the State's requirements.

No order shall be issued requiring alteration of any existing dam until after notice and opportunity for hearing has been provided by the Department to the dam owners. If the owner or owners of the dam are unknown, notice will be provided by publication in a newspaper of general circulation in the county in which the structure is located. Any order issued under this Section shall include a statement of the findings supporting the order.

Opportunity for hearing is not required in emergency situations when the Department finds there is imminent hazard to personal public safety of people.

The Department may enforce the provisions of this Section and of rules and orders issued hereunder by injunction or other appropriate action.

Neither the Department of Natural Resources nor employees or agents of the Department shall be liable for damages sustained through the partial or total failure of any dam or the operation or maintenance of any dam by reason of the Department's regulation thereof. Nothing in this Act shall relieve an owner or operator of a dam from the legal duties, obligations, and liabilities arising from ownership or operation.

The Department shall review and update its operations manuals for the Algonquin Dam and the William G. Stratton Lock and Dam on an annual basis.

(Source: P.A. 89-445, eff. 2-7-96.)