

1 AN ACT concerning waterways.

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

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

6 (615 ILCS 5/23a) (from Ch. 19, par. 70a)

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

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

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

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

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

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

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

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

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

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

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