

**Vermont Department of Environmental Conservation***Agency of Natural Resources*

Commissioner's Office

One National Life Drive, Main 2 [phone] 802-828-1556

Montpelier, VT 05620-3520 [fax] 802-828-1551

To: Representative Janet Ancel, Chair, House Ways and Means Committee

From: David Mears, Commissioner, Department of Environmental Conservation

Date: May 11, 2015

Re: H.489 – DEC Fees

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DEC's fees approved in House bill H.184 – *An Act Related to Executive Branch Fees*, have been moved into H.489 – *An Act Relating to Revenue*. Within DEC's fee package, differences between H.184 as passed the house, and H.489, as passed the Senate are described below:

**1) Dam Safety Program Fees**

The Department of Environmental Conservation proposed the following fee increase and new fee as part of the Administration's FY16 Executive Fee Bill proposal. As the proposal moved through House Ways and Means Committee earlier in the session, the fees related to our Dam Safety Program were removed from the FY16 Executive Fee Bill and included in H.37 - *An act relating to the safety and regulation of dams*. Because H.37 is not on track to become law this year, DEC requested the Senate Finance Committee move the dam safety fees back into the FY16 Executive Fee Bill. The fees are included as part of the H.489.

Revenue generated by these fees is critical to supporting our existing program and maintaining the current level of service. In FY15 the Dam Safety Program was supported 74% by General Funds. In FY16 it is estimated that the Program costs will be covered 48% by General Funds. See attached Dam Safety Program funding chart for a more detailed breakdown of funding for the Dam Safety Program.

**Program Description**

There are 440 dams in the state of Vermont subject to regulation by the Department's Dam Safety Program. These dams are designed to hold more than 500,000 cubic feet of water. There are two sets of dam related fees included in H.489 described in more detail in the attached spreadsheet.

**Application for Authorization to Construct or Alter a Dam Fees (Rows 1-2)**

Authorization to construct or alter a dam is required for construction, enlarging, raising, lowering, remodeling, and reconstruction. This is an existing fee that we are proposing to increase. Due to the small number of dam related projects, the fee is estimated to raise approximately \$6K in additional revenue in FY16.

The current application fee is 0.525 percent of construction cost with a minimum fee of \$200. The proposal is to raise the fee to 1.0 percent of construction cost with a minimum fee of \$1,000 to help defray the cost of application notice, review, and order issuance. It is estimated that approximately six projects per year fall into this category. Dam owners would pay this fee.

Administrative and technical reviews are intensive and time consuming. The proposed project must conform to technical dam safety standards as well as current environmental standards to provide for public safety and environmental protection.

**Dam Annual Registration/Operating Fee (Rows 3-5)**

The Dam Safety Program conducts inspections to assess the condition of dams. All dams structures designed to hold more than 500,000 cubic feet of water are inspected on a regular basis.

The proposal includes new annual registration fees for dam owners as follows:

<b>Hazard Class:</b>	<b>Proposed Fee:</b>	<b>Target Inspection Frequency:</b>
Low Hazard Dam:	\$200/year	At least once every 5 years
Significant Hazard Dam:	\$350/year	At least once every 3 years
High Hazard Dam:	\$1000/year	Every year

This new registration (year 1)/operating (annually after year 1) fee is intended to generate revenue to ensure we have sufficient resources to maintain the current level of inspections.

Inspections are crucial to determining the condition of dams and identifying the extent, if any, they pose a potential or actual threat to life and property. Dam owners are provided a copy of the inspection report which identifies deficiencies and makes recommendations for improvements. The owner can then make the appropriate repairs, or if necessary, the State can pursue unsafe dam proceedings. Continuing the inspection program is essential for the protection of public safety.

**2) Encroachment Permit Fee Cap**

The Lake Encroachment Permit Program has jurisdiction over work in the public water of lakes, ponds and reservoirs. Permit conditions aim to reduce impact to public trust resources (including water quality, habitat, and recreation/navigation) and to minimize new fill in lakes. Projects typically include retaining walls, marinas, bridges, dredge and fill, and access area work.

The current fee for encroachment permits are \$155 per application for non-structural erosion control; \$250 per application for structural erosion control; and \$300 plus one percent of construction costs for all other encroachments.

The Department did not propose increasing the fee but did propose a cap for the category of “all other encroachments” under 3 V.S.A. §2282(j)(2)(10) which would make the fee \$300 per application plus one percent of construction costs, not to exceed \$20,000 per application. While a significant amount of staff time is spent reviewing some of these projects, a fee over \$20,000 would be disproportionate to the amount of service provided by the Department because fees would exceed the cost to the program to review the project.