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**Act No. 161 (H.554). Conservation and land development; dam safety; groundwater source testing**

**An act relating to the regulation of dams and the testing of groundwater sources**

This act establishes standards for the safety and regulation of dams within the jurisdiction of the Department of Environmental Conservation (DEC). The act also requires a new groundwater source to be tested prior to use as a well.

The act defines the term “dam” as an artificial barrier capable of impounding water, other liquids, or accumulated sediments. The term “dam” includes an artificial barrier previously capable of impounding water, liquid, or sediments that was partially breached and has not been properly removed. The term “dam” does not include: barriers created by wild animals; transportation infrastructure; stormwater management structures; water storage tanks; agriculture waste storage facilities; or other structures identified by rule. Intake structures in existence on July 1, 2018 are presumed to be in compliance with dam safety and registration requirements if the intake structure: does not require a new authorization for construction, repair, or other use; or is not subject to a dam safety order.

The act requires DEC to adopt rules establishing a schedule for inspection of dams under its jurisdiction. The act clarifies the methods for dam inspection. DEC and the Public Utility Commission (PUC) shall assess the hazard potential classification of a dam based on potential loss to human life, property damage, and economic loss if a dam failed. The PUC has adopted a hazard classification system by rule. The act authorizes DEC to adopt a hazard potential classification by rule.

DEC shall maintain an inventory of all known dams in the State. If a dam is listed on the inventory and is under DEC jurisdiction, the person owning title to the dam or the land owner owning the land shall submit, upon DEC’s request, information about the dam necessary to ensure public safety. Failure to provide the requested information would be subject to a civil penalty. Failure to file a dam inspection report or registration when required shall not be an encumbrance on record title or affect marketability of title.

The act requires DEC to adopt rules for the regulation of dams under its jurisdiction. The rule shall include: exemptions from registration or inspection; standards for siting, design, construction, operation, maintenance, inspection, repair, or breach; requirements for emergency action plans; criteria for hazard potential classification; and the process for registration. The act would transfer jurisdiction over agricultural dams from the natural resources conservation districts to DEC.

The act requires a new groundwater source to be tested prior to use as a well by the person who owns or controls the groundwater source. A groundwater source is defined as any supply of water from the ground, including a well. The groundwater source shall be tested for: arsenic, lead uranium, gross alpha radiation, total coliform bacteria, nitrate and nitrite, fluoride, manganese, or any chemical required by Agency of Natural Resources (ANR) rule. ANR may require testing for a chemicals by region or area. ANR shall adopt rules to implement the testing requirement, including when to test; who is authorized to test; and how to sample. Failure to test a groundwater source shall not affect marketability of title, provided that the test results are forwarded to the Department of Health prior to conveyance of the property. The act requires laboratories conducting groundwater source testing to submit the results to ANR and the Department of Health. The act also provides that a permit to operate a failed potable water supply is not required to use a failed supply consisting of only one groundwater source providing water to a single family residence.

Multiple effective dates, beginning on May 22, 2018