



ENVIRONMENTAL
ADVOCATES OF NEW YORK

OPPOSES



Key to Legislative Ratings:



Major Detriment



Substantial Detriment



Detrimental

A.976 (GUNTHER, ET AL.) S.2429 (YOUNG)

Summary

This bill would transfer state oversight for dams located on farms from the New York State Department of Environmental Conservation (DEC) Dam Safety Bureau to the Department of Agriculture and Markets. If enacted, this legislation would exempt such dams from proper oversight and regulation.

Explanation

The DEC's Dam Safety Bureau currently oversees the regulation of thousands of dams throughout New York State. This legislation would treat farm ponds as a special subset of dams under state law, exempting them from oversight by the DEC's trained dam inspectors and transferring their regulation to the Department of Agriculture and Markets, marking a major shift in dam regulation in New York State.

Specifically the bill would exempt farm ponds from provisions that:

- Require owners to operate and maintain dams and appurtenant structures in safe condition;
- Give the DEC the power to direct owners (after hearing on due notice) to conduct studies and analysis to ensure dam safety;
- Order an owner to remove or repair an unsafe dam;
- Make it unlawful for owners to refuse to comply with DEC orders;
- Allow the DEC to take action to remove or repair a dam if the owner refuses; and
- Provide the DEC a mechanism for collecting costs for removing or repairing a dam.

Further, under proposed dam safety regulations from the DEC farm pond dam owners would be required to update their hazard classification only every 10 years to assure the dam poses no threat to downstream property or life in the event of a breach.

There is no reason to exempt farm pond dams from review of their hazard classification or to undermine New York State's ability to protect the public from unsafe dams. Given the age of many of these dams, their earthen construction, and increasing downstream development in rural areas, it would be irresponsible to exempt such dams from the minimal safety inspections considered by the DEC.

Environmental Advocates of New York opposes this bill.

Memo 07