

NOTICE TO PLANNING BOARDS
New Requirements Regarding Notification of Upstream Dam Owners and
NHDES Dam Bureau for Development Proposals (per RSA 676:4)

Effective July 14, 2009, RSA 676:4 was amended to require notification to the nearest upstream dam owner and the New Hampshire Department of Environmental Service (NHDES) Dam Bureau when a municipal Planning Board considers a development application that is located near a stream or river and downstream from a dam.

The following language from RSA 676:4 describes the new requirement:

RSA 676:4 I(b): "Since construction of any structure near streams or rivers downstream of a dam can increase the hazard classification of the dam established by the department of environmental services, the **application shall identify the nearest dam upstream and include the name and address of the dam owners.**"

RSA 676:4 I(d): "For proposals near rivers and streams and downstream of a dam, the planning board shall also notify the owners of the upstream dam and the department of environmental services dam bureau by certified mail. Notice shall be mailed at least 10 days prior to submission."

How To Address this New Requirement

How are dams defined and where can the dam owner's name and address be found?

Dams are defined under RSA 482:2 II(a), and the NHDES Dam Bureau maintains a listing of all dams in the state (ph: 603-271-3406). Beaver dams are not considered as dams under RSA 676:4. Note: This notification requirement applies to an upstream dam regardless of the size or classification.

How can the Applicant or Planning Board determine if the proposed project is "near rivers and streams and downstream of a dam" and therefore requires notice to the dam owners and the NHDES Dam Bureau?

The referenced RSAs require: 1) The Application shall identify the nearest upstream dam owner and the Dam Bureau; and, 2) The Planning Board shall notify these entities. James Gallagher, Chief Engineer with the NHDES Dam Bureau, recommends that **the applicant notify the Dam Bureau of any proposed development near any river or stream¹. The Dam Bureau can identify relevant dams upstream and whether dam failure would impact the proposed development.** The Dam Bureau can be contacted at 603-271-3406.

It is important to keep in mind that the nearest upstream dam may be located in another town. Many towns, as part of their Hazard Mitigation Plans, have maps and/or listings of dams in their towns. This can serve as a useful resource for general reference, in addition to specific guidance from the NHDES Dam Bureau.

Currently, the RSA includes the term "near" with no specific guidance as to distance from the river or stream.

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