

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 200 Session of 2023

INTRODUCED BY OWLETT, PICKETT, STAMBAUGH, GREINER, STRUZZI,
 JAMES, R. MACKENZIE, HAMM, STAATS, ORTITAY, ZIMMERMAN, ROWE,
 LEADBETER AND MARSHALL, MARCH 8, 2023

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
 MARCH 8, 2023

AN ACT

1 Amending the act of November 26, 1978 (P.L.1375, No.325),
 2 entitled "An act providing for the regulation and safety of
 3 dams and reservoirs, water obstructions and encroachments;
 4 consolidating and clarifying the programs of the Department
 5 of Environmental Resources and Navigation Commission for the
 6 Delaware River; establishing penalties and repealing certain
 7 acts," providing for issuance of and conditions for
 8 continuous maintenance permits.

9 The General Assembly of the Commonwealth of Pennsylvania
 10 hereby enacts as follows:

11 Section 1. The act of November 26, 1978 (P.L.1375, No.325),
 12 known as the Dam Safety and Encroachments Act, is amended by
 13 adding a section to read:

14 Section 9.1. Issuance of and conditions for continuous
 15 maintenance permits.

16 (a) The department shall develop a continuous maintenance
 17 permit for which the Department of Transportation or a
 18 municipality may apply. The permit shall allow permittees to
 19 maintain, inspect and monitor watercourses, water obstructions,
 20 appurtenant works and encroachments as specified within the

1 permit.

2 (b) The department shall approve an application for a permit
3 to an applicant under this section if the applicant meets all of
4 the following criteria:

5 (1) The applicant is without a sustained history of
6 significant permit violations under this act.

7 (2) The applicant takes an affirmative duty over the
8 watercourses, water obstructions, appurtenant works and
9 encroachments delineated in the permit application.

10 (c) Submission of a watercourse alone within the application
11 shall be interpreted as submitting the publicly owned water
12 obstructions, appurtenant works or encroachments within and
13 alongside the watercourse unless otherwise specified within the
14 permit.

15 (d) A permittee may amend the permit through the addition of
16 watercourses, water obstructions, appurtenant works or
17 encroachments for which a duty to maintain, inspect and monitor
18 shall apply with the approval of the department. The department
19 shall approve a request to remove watercourses, water
20 obstructions, appurtenant works or encroachments from the permit
21 when a written order to do so is provided by the permittee.

22 (e) A permittee may not be required to seek preapproval or
23 further authorization from the department for maintenance
24 conducted under the permit.

25 (f) The permit shall provide for the maintenance, inspection
26 and monitoring of watercourses, water obstructions, appurtenant
27 works and encroachments in a manner consistent with previously
28 prepared applicable plans, specifications, reports and designs
29 for the operation of any category of watercourses, water
30 obstructions, appurtenant works or encroachments prepared,

1 signed and certified by a registered professional engineer and
2 affixed with the seal of a registered professional engineer.

3 (g) A permittee shall provide to the department, by January
4 15 of each year, a compilation of the maintenance projects
5 undertaken between January 1 and December 31 of the previous
6 year that were permitted under this section. The compilation
7 shall delineate the persons, equipment operators and contractors
8 operating as agents of the permittee who maintained, inspected
9 and monitored watercourses, water obstructions, appurtenant
10 works and encroachments.

11 (h) A permit granted under this section by the department to
12 a permittee shall be in effect for no less than 10 years.

13 (i) The department shall extend a permit under this section
14 to a permittee for 10 years following 10 years of operation
15 under this section without a permit violation. A permit
16 violation shall be found to have occurred when the permittee
17 failed to address an alleged violation in the manner prescribed
18 by the department within one year of receipt of the notice of an
19 alleged permit violation.

20 (j) A permit violation shall not be found to have occurred
21 when a permittee removes or manipulates obstructions or debris
22 within or along a watercourse in a manner that enables water
23 obstructions, appurtenant works or encroachments specified
24 within the permit to operate consistent with applicable plans,
25 specifications, reports and designs previously prepared by a
26 registered professional engineer.

27 (k) The permittee shall accept an affirmative duty to
28 maintain, inspect and monitor watercourses, water obstructions,
29 appurtenant works and encroachments as specified within the
30 permit.

1 (1) As used in this section, the term "municipality" means a
2 county, city, town, borough, township or school district in this
3 Commonwealth.

4 Section 2. This act shall take effect in 60 days.