

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2404 Session of 2022

INTRODUCED BY OWLETT, PICKETT, FRITZ, HAMM, ARMANINI, O'NEAL, SMITH, HERSHEY, JAMES, RYAN, MILLARD, CAUSER, BROOKS, RAPP, GROVE, DeLUCA, ROWE, KEEFER, MARSHALL, ZIMMERMAN AND STRUZZI, APRIL 11, 2022

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 8, 2022

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 municipal<--
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 municipal <--
15 continuous maintenance permits.

16 (a) The department shall develop a municipal continuous <--
17 maintenance permit for which the Department of Transportation or
18 a municipality may apply. The permit shall allow permittees to
19 maintain, inspect and monitor watercourses, water obstructions,

1 appurtenant works and encroachments within the municipality as <--  
2 specified within the permit.

3 (b) The department shall approve an application for a permit  
4 to a municipality AN APPLICANT under this section if the <--  
5 applicant meets all of the following criteria:

6 (1) The municipality APPLICANT is without a sustained <--  
7 history of significant permit violations under this act.

8 (2) The municipality APPLICANT takes an affirmative duty <--  
9 over the watercourses, water obstructions, appurtenant works  
10 and encroachments delineated in the permit application.

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

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

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

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

1 obstructions, appurtenant works or encroachments prepared,  
2 signed and certified by a registered professional engineer and  
3 affixed with the seal of a registered professional engineer.

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

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

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

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

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

1 specified within the permit.

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

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