

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 AND KEEFER, APRIL 11, 2022

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, APRIL 11, 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 a municipality may apply. The
18 permit shall allow permittees to maintain, inspect and monitor
19 watercourses, water obstructions, appurtenant works and
20 encroachments within the municipality as specified within the

1 permit.

2 (b) Submission of a watercourse alone within the application
3 shall be interpreted as submitting the publicly owned water
4 obstructions, appurtenant works or encroachments within and
5 alongside the watercourse unless otherwise specified within the
6 permit.

7 (c) A municipality granted the permit may amend the permit
8 through the addition of watercourses, water obstructions,
9 appurtenant works or encroachments for which a duty to maintain,
10 inspect and monitor shall apply with the approval of the
11 department. The department shall approve a request to remove
12 watercourses, water obstructions, appurtenant works or
13 encroachments from the permit when a written order to do so is
14 provided by the municipality granted the permit.

15 (d) A municipality granted a permit under this section may
16 not be required to seek preapproval or further authorization
17 from the department for maintenance conducted under the permit.

18 (e) The permit shall provide for the maintenance, inspection
19 and monitoring of watercourses, water obstructions, appurtenant
20 works and encroachments in a manner consistent with previously
21 prepared applicable plans, specifications, reports and designs
22 for the operation of any category of watercourses, water
23 obstructions, appurtenant works or encroachments prepared,
24 signed and certified by a registered professional engineer and
25 affixed with the seal of a registered professional engineer.

26 (f) A municipality shall provide to the department, by
27 January 15 of each year, a compilation of the maintenance
28 projects undertaken between January 1 and December 31 of the
29 previous year that were permitted under this section. The
30 compilation shall delineate the persons, municipal equipment

1 operators and contractors operating as agents of the
2 municipality who maintained, inspected and monitored
3 watercourses, water obstructions, appurtenant works and
4 encroachments within the municipality.

5 (g) A permit granted under this section by the department to
6 a municipality shall be in effect for no less than 10 years.

7 (h) The department shall extend a permit under this section
8 to a municipality for 10 years following 10 years of operation
9 under this section without a permit violation. A permit
10 violation shall be found to have occurred when the permittee
11 failed to address an alleged violation in the manner prescribed
12 by the department within one year of receipt of the notice of an
13 alleged permit violation.

14 (i) The department may impose permit terms and conditions
15 regarding construction methods, operation, maintenance,
16 inspection and monitoring to ensure compliance with this act and
17 other laws administered by the department.

18 (j) The municipality granted the permit shall accept an
19 affirmative duty to maintain, inspect and monitor watercourses,
20 water obstructions, appurtenant works and encroachments within
21 the municipality as specified within the permit.

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