

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 689 Session of 2023

INTRODUCED BY YAW, BARTOLOTTA, HUTCHINSON, MARTIN, LAUGHLIN,
ROTHMAN, BREWSTER AND DUSH, MAY 5, 2023

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, MAY 5, 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
21 permit.

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

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

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

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

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

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

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

1 affixed with the seal of a registered professional engineer.

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

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

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

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

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

30 (l) As used in this section, the term "municipality" means a

1 county, city, town, borough, township or school district in this
2 Commonwealth.

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