

APPENDIX I PERMIT WAIVERS

"§ 105.12. Waiver of permit requirements.

- (a) Under section 7 of the act (32 P.S. § 693.7), the requirements for a permit are waived for the following structures or activities, regardless of when commenced. If the Department upon complaint or investigation finds that a structure or activity which is eligible for a waiver, has a significant effect upon safety or the protection of life, health, property or the environment, the Department may require the owner of the structure to apply for and obtain a permit under this chapter.
- (1) A dam not exceeding 3 feet in height in a stream not exceeding 50 feet in width, except wild trout streams designated by the Fish Commission.
 - (2) A water obstruction in a stream or floodway with a drainage area of 100 acres or less. This waiver does not apply to wetlands located in the floodway.
 - (3) An aerial crossing of a non-navigable stream or wetland by electric, telephone or communication lines which are not located in a Federal wilderness area or watercourse or body of water designated as a wild or scenic river under the Wild and Scenic Rivers Act of 1968 (16 U.S.C.A. §§ 1271-1287) or the Pennsylvania Scenic Rivers Act (32 P.S. §§ 820.21-820.29). This waiver applies to one or more wires attached aboveground to single poles. This does not apply to the maintenance and construction of towers, roads or other water obstructions or encroachments.
 - (4) A dam subject to the requirements of the Mine Safety and Health Administration, 30 CFR 77.216-1 and 77.216-2 (relating to water, sediment or slurry impoundments and impounding structures; identification; and water, sediment, or slurry impoundments or impounding structures; minimum plan requirements; changes or modifications; certification), if the Department determines on the basis of preliminary data submitted by the applicant that the dam is of a Size Classification C and Hazard Potential Classification 3 as defined in § 105.91 (relating to classification of dams and reservoirs) and is not located in a watercourse or body of water designated as a wild and scenic river under the Wild and Scenic Rivers Act of 1968 or the Pennsylvania Scenic Rivers Act.
 - (5) A water obstruction or encroachment located in, along, across or projecting into a wetland or impoundment, constructed and maintained for the purpose of treating acid mine drainage, sewage or other waste, if the wetland or impoundment is a treatment facility constructed under a valid permit issued by the Department under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1-1396.31), The Clean Streams Law (35 P.S. §§ 691.1-691.1001), the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301-3326), the Solid Waste Management Act (35 P.S. §§6018.101-6018.1003), the Oil and Gas Act (58 P.S. §§601.101-601.605) and the Pennsylvania Sewage Facilities Act (35 P.S. §§750.1-750.20).
 - (6) A water obstruction or encroachment located in, along, across or projecting into a stormwater management facility or an erosion and sedimentation pollution control facility which meets the requirements in Chapter 102 (relating to erosion control), if the facility was constructed and continues to be maintained for the designated purpose.

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- (7) Maintenance of field drainage systems that were constructed and continue to be used for crop production. Crop production includes:
 - (i) Plowing, cultivating, seeding, grazing or harvesting.
 - (ii) Crop rotation.
 - (iii) Government set aside programs.
- (8) Plowing, cultivating, seeding or harvesting for crop production.
- (9) Construction and maintenance of ford crossings of streams for individual private personal use which require only grading of banks for approach roads and the placement of not more than 12 inches of gravel for roadway stability. Fords may not be used for commercial purposes and shall cross the regulated waters of this Commonwealth in the most direct manner. This waiver does not apply in exceptional value streams as listed under Chapter 93 (relating to water quality standards) or in wild trout streams.
- (10) A navigational aid or marker, buoy, float, ramp or other device or structure for which a permit has been issued by the Fish Commission under 30 Pa. C.S. § 5123(a)(7) (relating to general boating regulations).
- (11) The removal of abandoned dams, water obstructions and encroachments if the Department determines in writing on the basis of data, information or plans submitted by the applicant that the removal of the abandoned dam, water obstruction or encroachment cannot imperil life or property, have significant effect on coastal resources or have an adverse impact on the environment, and the plans provide for restoration and stabilization of the project area.
- (12) The construction, operation or removal of staff gages, water recording devices, water quality testing devices, including, but not limited to, sensors, intake tubes, weirs and small buildings which contain required instruments and similar scientific structures.
- (13) A bridge or culvert purchased from an operating railroad company subsequent to the abandonment of the railroad line, track, spur or branch pursuant to the approval of the Interstate Commerce Commission. Major maintenance or reconstruction, or stream dredging may not be undertaken until the new owner obtains a permit under this chapter.
- (14) The maintenance of an artificial pond or reservoir to its original storage capacity where:
 - (i) The contributory drainage area is less than or equal to 100 acres.
 - (ii) The greatest depth of water at maximum storage elevation is less than or equal to 15 feet.
 - (iii) The impounding capacity at maximum storage elevation is less than or equal to 50 acre feet.

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- (15) The construction and maintenance of an encroachment or water obstruction on an abandoned mining site, where the Department has issued a notice of intent to forfeit the bond for a mining activity permitted after July 1982.
 - (16) Restoration activities undertaken and conducted pursuant to a restoration plan which has been approved, in writing, by the Department.
- (b) The requirements for a permit for existing structures or activities, as provided in section 6(c) of the act (32 P.S. § 693.6(c)), are waived for the following structures or activities, if construction was completed prior to July 1, 1979. If the Department upon complaint or investigation finds that a structure or activity which is eligible for a waiver, has a significant effect upon safety or the protection of life, health, property or the environment, the Department may require the owner of the structure or activity to apply for and obtain a permit under this chapter.
- (1) A dam not exceeding 5 feet in height in a nonnavigable stream operated and maintained for water supply purposes.
 - (2) A dam which the Department determines, on the basis of preliminary data submitted by the applicant, is of Size Classification C and Hazard Potential Classification 3, as defined in § 105.91 and does not have a significant effect on coastal resources or an adverse impact on the environment.
 - (3) A fill not located on navigable lakes and navigable rivers.
 - (4) A streambank retaining device.
 - (5) A stream crossing other than a crossing located on submerged lands of this Commonwealth and a crossing by pipelines for conveyance of petroleum products and gas.
 - (6) An outfall, headwall or water intake structure.
 - (7) A culvert, bridge or stream enclosure on a watercourse where the drainage area above the culvert, bridge or stream enclosure is 5 square miles or less.
- (c) Structures and activities shall meet the construction, operation, maintenance, monitoring and other requirements of this chapter. No other permits which may be required under a law other than the act are waived by this section."

Note: Fish Commission references are now Fish and Boat Commission.