

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WATERWAYS ENGINEERING AND WETLANDS
GENERAL PERMIT
BWEW-GP-9
AGRICULTURAL ACTIVITIES**

1. **GENERAL DESCRIPTION AND AUTHORITY** - The Department of Environmental Protection hereby authorizes by General Permit subject to the terms and criteria set forth below the installation, operation, modification and maintenance of certain agricultural activities that encroach into streams and their floodways or bodies of water wholly or partly within or forming part of the boundary of this Commonwealth. These agricultural activities are grassed or lined waterways, terraces, diversions, waste storage facilities, spring development and minor drainage that supports these activities and is necessary for contour strips when engaged in as a part of an existing agricultural operation and shall only be implemented as part of a conservation plan consistent with the 25 PA Code Chapter 102 (relating to Erosion Control) and approved by the County Conservation District. This authorization is pursuant to Section 7(b) of the Dam Safety and Encroachments Act, 32 P.S. §693.7(b) and the rules and regulations promulgated thereunder at 25 Pennsylvania Code §105.441-104.449 (relating to General Permits). This General Permit is subject to the terms and conditions set forth below.
2. **DENIAL OF AUTHORIZATION** - The Department shall have the discretion, on a case-by-case basis, to deny, revoke or suspend the authorization to use this General Permit for any project which the Department determines to present a risk to life, property or the environment or otherwise would not be adequately regulated by the provisions of this General Permit.
3. **DEFINITIONS** - The following terms as used in this General Permit shall have the following meanings:

AGRICULTURAL OPERATIONS - Activities, practices and procedures that farmers adopt, use or engage in for the production of crops and livestock. This does not include practices and procedures related to timber harvesting.

BODY OF WATER - A natural or artificial lake, pond, reservoir, swamp, marsh or wetland.

CONSERVATION PLAN - A plan as required by 25 PA Code Chapter 102 (relating to Erosion Control) that includes a map and narrative that identifies conservation practices including an erosion and sediment control plan for an identified parcel of land.

CONTOUR STRIPS - The practice of farming sloped land using alternating crops in such a way that plowing, preparing land, planting and cultivating are done on the contour as part of an agricultural operation. Contour strips without drainage are not regulated.

DIVERSIONS - A graded channel with a supporting ridge on the lower side which is constructed as part of an agricultural operation across the slope of a field to intercept surface water runoff and carry it slowly to surface or underground outlets.

FLOODWAY - The channel of the watercourse and those portions of the adjoining floodplains which are reasonably required to carry and discharge the 100-year frequency flood. Unless otherwise specified, the boundary of the floodway is as indicated on maps and flood insurance studies provided by FEMA. In an area where no FEMA maps or studies have defined the boundary of the 100-year frequency floodway, it is assumed, absent evidence to the contrary, that the floodway extends from the stream to 50 feet from the top of the bank of the stream.

GRASSED OR LINED WATERWAY - A natural or constructed channel that is shaped or graded to required dimensions and established in suitable vegetation or protection for the stable conveyance of surface water runoff which is part of an agricultural operation.

INSTALL - To construct, deposit, place, lay or set in place.

MINOR DRAINAGE - The installation of a water conveying device as necessary for the installation and operation of contour strips and other conservation practices authorized by this General Permit conducted as part of an agricultural operation.

OWNER - A person who owns, controls, operates, maintains or manages a dam or reservoir, water obstruction or encroachment.

PERSON - A natural person, partnership, association, corporation, public utility, municipality, municipal authority, political subdivision of the Commonwealth, receiver or trustee and a department, board, commission or authority of the Commonwealth.

REGULATED WATERS OF THIS COMMONWEALTH - Watercourses, streams or bodies of water and their floodways wholly or partly within or forming part of the boundary of this Commonwealth.

SPRING DEVELOPMENT - The practice of intercepting and conveying water to a livestock watering facility that will not be used for a public water supply when conducted as part of an agricultural operation.

STREAM - A watercourse.

TERRACE - An earthen embankment or a ridge and channel constructed across a slope of a field to intercept surface runoff water and outlet it to a grassed or lined waterway or an underground tile as part of an agricultural operation.

WASTE STORAGE FACILITY - A structure or basin for temporary storage of animal or other organic agricultural wastes constructed as part of an agricultural operation.

WATERCOURSE - A channel or conveyance of surface water having defined bed and banks, whether natural or artificial, with perennial or intermittent flow.

WETLANDS - Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

4. **SPECIFIC AREAS WHERE THE GENERAL PERMIT DOES NOT APPLY** - This General Permit does not apply in and is not valid in the following situations:

- a. Historic, cultural or archaeological sites as identified in the latest published version of the Pennsylvania Inventory of Historic Places or the National Register of Historic Places.
- b. Sites identified in the latest published version of the National Registry of Natural Landmarks.
- c. Wetlands which serve as habitat for fauna or flora listed as "threatened" or "endangered" under the Endangered Species Act of 1973, the Wild Resource Conservation Act, the Fish and Boat Code or the Game and Wildlife Code. Sites may be checked through the Pennsylvania Natural Diversity Inventory by completing an online search at www.naturalheritage.state.pa.us.
- d. Watercourses having a drainage area greater than 100 acres.
- e. Submerged Lands of this Commonwealth.
- f. A spring being developed for public drinking water.

5. **OTHER PERMITS** - Nothing in this General Permit relieves the owner(s) of the obligation of complying with all Federal, Interstate Compacts and State laws, regulations and standards for the construction, operation or maintenance of the activities covered by this General Permit.

6. **REGISTRATION OF PROPOSED USE OF GENERAL PERMIT** - Prior to construction, the owner(s) shall submit the General Permit Registration form with the required attachments to the delegated County Conservation District or to the appropriate DEP Regional Office's Permitting and Technical Services Section (see attached listings). A copy of the General Permit Registration form shall also be sent to the municipality and county in which the work will be performed. **The owner(s) may not begin work until he has notified the appropriate office and received an acknowledgement of that registration.**
7. **CHANGE OF OWNERSHIP** - If there is a change in ownership of the agricultural activities installed in accordance with this General Permit, the new owner(s) is required to register the activities with the Department in accordance with Item 6.
8. **FEES** - The fee required for a project authorized under this General Permit shall be consistent with 25 PA Code §105.13 (relating to regulated activities – information and fees).
9. **EFFECTIVE TIME PERIOD** - This General Permit will remain in effect indefinitely, unless specifically modified, suspended or revised by the Department.
10. **SUSPENSION, MODIFICATION OR REVOCATION-** The Department may suspend, modify or revoke this General Permit at any time upon notice in the Pennsylvania Bulletin.
11. **PROJECT INTERFERENCE** - This General Permit does not authorize any interference with any existing or proposed Local, State, Federal or Federally Licensed Project, and permittee shall not be entitled to compensation for damage or injury to the work authorized herein which may be caused by or a result of existing or future operations undertaken by the United States, Commonwealth of Pennsylvania, or its Political Subdivisions in the public interest.
12. **CONDITIONS**
 - a. The use of this General Permit is only authorized as part of a conservation plan approved by a County Conservation District ("Exhibit C").
 - b. Grassed waterways, terraces, diversions, waste storage facilities, spring, development and minor drainage must be constructed and maintained according to 25 Pa. Code Chapter 101.8 and the design standards and specifications found in the technical guide for Pennsylvania available through the U.S. Department of Agriculture, Natural Resources Conservation Service or the County Conservation District ("Exhibit C").
 - c. All excess material from any activity must be deposited and stabilized outside the regulated waters of this Commonwealth.
 - d. Any archaeological artifacts discovered during the performance of work authorized under this General Permit must be adequately protected and their discovery promptly reported to the Bureau for Historic Preservation, Pennsylvania Historical and Museum Commission, 400 North Street, Second Floor, Harrisburg, PA 17120-0093, Telephone (717) 783-8946.
 - e. Pollution of the waterway with harmful chemicals, fuels, oils, greases, bituminous material, acid, and/or other harmful or polluting materials, is prohibited.
 - f. Wetlands shall be avoided if an alternate location is possible. Where wetlands cannot be avoided and the activities are necessary to minimize erosion and sedimentation and improve water quality, the impact shall be minimized.
 - g. Waste storage facilities constructed within 250 feet of a source of water used as a public water supply source as defined under Pennsylvania Safe Drinking Water Act may need to be relocated due to the geology of the site. Contact the Regional Water Supply Management Office in your area.

13. **DEPARTMENT INSPECTION** - As a condition of use of this General Permit and of the owner's authority to conduct the activities authorized by this General Permit, the owner(s) hereby authorizes and consents to allow authorized employees or agents of the Department, without advance notice or a search warrant, at any reasonable time and upon presentation of appropriate credentials, and without delay, to have access to and to inspect all areas where the project is being constructed, operated or maintained. The authorization and consent shall include consent to conduct tests or sampling, to take photographs, to perform measurements, surveys and other tests, to inspect the methods of construction, operation or maintenance, to examine and copy books, papers and records pertinent to any matter under investigation and to take other action necessary to assure the project is constructed, operated or maintained in accordance with the terms and conditions of this General Permit. This General Permit condition is included pursuant to Section 16 of the Dam Safety and Encroachments Act 32 P.S. §693.16, and in no way limits any other powers granted under the Dam Safety and Encroachments Act or the Clean Streams Law, 35 P.S. §691.1 et seq.
14. **ACTIVITIES NOT IN ACCORDANCE WITH THE TERMS OR CONDITIONS** - If the Department determines, upon inspection, that the construction, operation or maintenance of a project has violated the terms or conditions of this General Permit or the Rules and Regulations published at 25 Pa. Code Chapter 105, Chapter 102 or Chapter 101.8, the Department may take such actions, legal or administrative, that it may deem to be appropriate, including revocation of the General Permit with regard to the violation.
15. **STRUCTURAL REMOVAL** - The owner(s) shall remove all or any portion of the activities covered by this General Permit upon written notification to the owner(s) by the Department in the event the project is causing an adverse impact on public health, safety or the environment or in any other manner violates the conditions of this General Permit or Chapter 105.
16. **PROPERTY RIGHTS** - This General Permit does not convey any property rights, either in real estate or material, or any exclusive privileges; nor does it authorize any injury to property or invasion of rights or any infringement of Federal, State or local laws or regulations.
17. **OTHER APPROVALS** - The owner(s) shall secure all other approvals that may be necessary under Federal, State or local laws or regulations.
18. **FISH AND BOAT COMMISSION NOTIFICATION** - The owner(s) shall notify the Pennsylvania Fish and Boat Commission's Regional Field Office Manager (see "Exhibit A") responsible for the County where the activities are proposed ten (10) days prior to start of construction. Written notification is suggested. The project site shall at all times be available for inspection by authorized officers and employees of the Pennsylvania Fish and Boat Commission.
19. **BEST MANAGEMENT PRACTICES** - Work must be done in compliance with a Conservation Plan which meets the requirements of Chapter 102, including erosion control measures for the construction of best management practices installed pursuant to that plan. The project shall at all times be available for inspection by authorized employees of the county conservation district. The Conservation Plan shall be available at the site at all times.