



**pennsylvania**  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Office of Water Programs

# **Proposed Rulemaking – Dam Safety and Waterway Management**

## **25 Pa. Code Chapter 105**

### **Environmental Quality Board Meeting**

### **July 21, 2020**

Tom Wolf, Governor

Patrick McDonnell, Secretary

# Dam Safety and Waterway Management

## Statutory Authority

- Sections 5, 7, 10, 11 and 17 of the Dam Safety and Encroachments Act (32 P.S. §§ 693.5, 693.7, 693.10, 693.11 and 693.17);
- Sections 5 and 402 of The Clean Streams Law (35 P.S. §§ 691.5 and 691.402);
- Sections 302 and 402 of the Flood Plain Management Act (32 P.S. §§ 679.302 and 679.402);
- Section 11(2) of the Conservation District Law (3 P.S. § 859(2)); and
- Sections 514, 1901-A, 1908-A, 1917-A and 1920-A of The Administrative Code of 1929 (71 P.S. §§ 194, 510-1, 510-8, 510-17 and 510-20)

# Dam Safety and Waterway Management

## Intent of this proposed rulemaking

- Clarify and better organize existing requirements
- Incorporate existing practices
- Make updates consistent with current scientific and technical knowledge and good engineering practice
- Add new/revise existing sections
- Add new supporting definitions and revise existing definitions
- Delete or update obsolete requirements and references
- Correct typographical errors

# Dam Safety and Waterway Management

## Outreach efforts

- Water Resources Advisory Committee (WRAC)
- Agricultural Advisory Board (AAB)
- State Conservation Commission (SCC)
- Citizens Advisory Council (CAC)
- Chapter 105 Agricultural Workgroup
- State agency representatives
  - PA Department of Conservation and Natural Resources (DCNR)
  - PA Fish and Boat Commission (PFBC)
  - PA Department of Agriculture (PDA)
  - PA Department of Transportation (PennDOT)
  - PA Turnpike Commission (PTC)
- County Conservation District Workgroup
  - Select County Conservation Districts
  - PA Association of Conservation Districts (PACD)
  - State Conservation Commission (SCC)
- Other County Conservation Districts
- Major dam owners
- PA Chamber of Business and Industry
- PA Association of Environmental Professionals (PAEP)

# Dam Safety and Waterway Management

## Section 105.12 Waiver of permit requirements

- Adds six new waivers under Subsection (a):
  - (17) Streambank fencing conservation practice associated with crop production (i.e. grazing)
  - (18) Passive, low impact, and non-motorized recreational activities
  - (19) Elevated boardwalks in wetlands for educational and interpretive trails
  - (20) Emergency water withdrawal for agricultural and fire protection
  - (21) Temporary environmental testing, monitoring or investigative activities
  - (22) Temporary mats and pads in wetlands



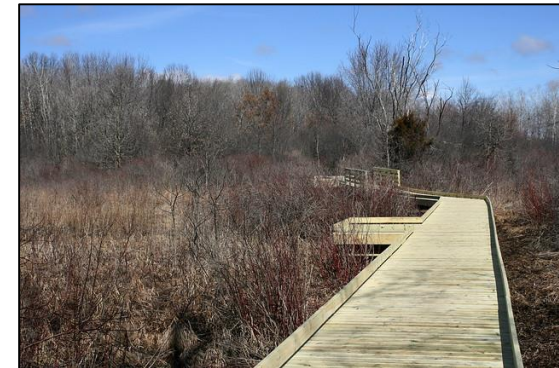
**Streambank fencing agricultural practice**

Photo credit: *Western Pennsylvania Conservancy*



**Low impact hiking trail crossing**

Photo credit: *Andy Klinger*



**Wetland educational boardwalk trail**

# Dam Safety and Waterway Management

## Updated Compensatory Mitigation Requirements Framework

- Consistent with the Department's authority
- Consistent with Federal mitigation requirements
- Options for:
  - Permittee responsible
  - Mitigation bank credit purchase
  - Accept payments into in-lieu fee program
- Time and cost savings for applicants
- Permitting efficiencies
- Greater environmental benefits
- Consistency with current scientific understanding of ecosystem restoration

# Dam Safety and Waterway Management

- Time and cost savings to the regulated community and DEP
  - Increased regulatory clarity
  - Improved quality of applications
  - More projects eligible for waivers (no permits or permit fees)
  - More efficient process for environmentally beneficial projects
- No new or increased permit or registration fees

# Dam Safety and Waterway Management

## Department Recommendation

The Department recommends the Board adopt the proposed regulation. The Department also recommends a 60-day public comment period that includes holding public hearings.





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Office of Water Programs

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