

*twenty-five (25) feet of the intersection of the established bottom and the heel of the embankment, provided the slope of such excavation is no steeper than the slope of the upstream face of the embankment. The drainage area contributory to or diverted to the pond shall not exceed one hundred fifty (150) acres. The dam or embankment shall have a minimum free board of one (1) foot above the water elevation in the reservoir under design storm conditions; a wave height analysis shall be made for ponds with a water surface area greater than 60,000 square feet and the minimum free board increased if necessary for safety. Any limitation on contributing watershed area, depth of water, and water surface shall not be construed to apply to impoundments created entirely by excavation below the existing ground level, these being known generally as dug out ponds. The dam or embankment forming the pond shall not be closer than five hundred feet to a place for human habitation or public road so situated as to be endangered by the breaking or failure of the dam or embankment.*

~~Prior consent in writing for the construction of any such farm pond shall be obtained from all abutting property owners within a distance of five hundred feet downstream from the dam or embankment. Copies of such consents and of the location and construction plans and specifications of the dam or embankment shall be filed with the Department before the construction thereof is commenced. Any proposed construction or change which would increase the possible depth of water at the spillway level of an existing farm pond, or which would increase the water surface area of any existing farm pond, shall be subject to the procedures and requirements specified in this sub-section. Notice of the proposed removal or destruction of any such dam or embankment shall be sent to the Department at least thirty days in advance thereof.~~

(c) In addition to, and not in substitution of, the foregoing provisions of this section, nothing in this section shall be construed to extend to or affect in any way "ponds" constructed as farm ponds except as in this sub-section provided.

A pond constructed under the provisions of this sub-section shall not have a *normal* water surface area in excess of ~~five~~ *twelve* acres at the *crest elevation of the mechanical spillway* ~~[level]~~; nor shall it have a ~~maximum~~ *normal* depth of water in excess of fifteen (15) feet ~~[at the spillway level of the dam or embankment]~~ *at the crest of the mechanical spillway*, the measurement to be upward from the original stream bed at the point of the dam or embankment. However, excavation for additional water capacity is permitted to any depth at any location in the pond, other than within twenty-five (25) feet of the intersection of the established bottom and heel of the embankment, provided the slope of ~~[the]~~ *such* excavation ~~[from a line of twenty-five (25) feet upstream from the heel of the embankment, to the maximum depth, shall not exceed one vertical foot for each six horizontal feet.]~~ *is no steeper than the upstream face of the embankment.*

The contributory drainage area for an impoundment constructed across a waterway shall not be in excess of four hundred (400) acres in any portion of the State northerly and westerly from the main line tracks of the Baltimore and Ohio Railroad Company between the District of Columbia and the State of Delaware (en route to Wilmington, Delaware); and the contributory drainage area shall not be in excess of seven hundred (700) acres in any portion of