

*Resources*, in writing, previously obtained, upon written application therefor to said [Commission] Department. Nothing in this sub-section shall be construed to apply to any dam or obstruction which is ten feet or less in height above the elevation of the stream bed or waterway, nor shall it apply to any reservoir with a storage capacity of less than one million gallons, nor shall it apply to any structure for the impounding of water over non-tidal swamp lands for the propagation of muskrats.

(b) Nothing in this section shall be construed to extend to or affect in any way "farm ponds" constructed for purposes of soil-conservation, propagation of fish, watering of stock, and fire protection, except as in this sub-section provided. Farm ponds in order to be exempt shall be formed by the construction of an all-earth dam or embankment with an all-earth spillway; the possible depth of water at the spillway level of the dam or embankment shall not exceed nine (9) feet; the water surface area of the pond at the spillway level shall not exceed 60,000 square feet; the drainage area contributory to or diverted to the pond shall not exceed one hundred acres; 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 with 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 [Commission] 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 [Commission] 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 other "ponds" constructed as farm ponds (as that term is defined in sub-section (b)), irrigation ponds, flood control ponds, or for other purposes approved by the State Soil Conservation Committee, except as in this sub-section provided.*

*A pond constructed under the provisions of this sub-section shall not have a water surface area in excess of five acres at the spillway level; nor shall it have a maximum depth of water in excess of fifteen (15) feet at the spillway level of the dam or embankment, 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 the HEEL of the embankment, provided the slope of the 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.*