

Regulatory Analysis Form

(Completed by Promulgating Agency)

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INDEPENDENT REGULATORY
REVIEW COMMISSION
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2012 JAN 18 P 2:47

(1) Agency:

Department of Environmental Protection

(2) Agency Number:

Identification Number: #7-466

IRRC Number:

2927

(3) PA Code Cite:

25 Pa Code 105.1 et seq.

(4) Short Title:

Chapter 105. Dam Safety and Waterway Management

(5) Agency Contacts (List Telephone Number and Email Address):

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(6) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The purpose of the proposed rulemaking package is to amend the Department's Dam Safety and Waterway Management regulations to update existing fees and include additional fees for activities performed by the Department in order to offset a portion of the operating costs of the Water Obstruction and Encroachment Program and the Dam Safety Program. The fees for most activities have not been increased since 1991.

(8) State the statutory authority for the regulation. Include specific statutory citation.

The provisions of this proposed Chapter 105 rulemaking are issued under 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); sections 5, 6, 8 and 402 of The Clean Streams Law (35 P. S. §§ 691.5, 691.6, 691.8 and 691.402); sections 302 and 402 of the Flood Plain Management Act (32 P. S. §§ 679.302 and 679.402); and 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), unless otherwise noted.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

This regulation is not mandated by federal law, federal or state court order, or federal regulation.

This rulemaking is specifically authorized under Section 5 of the Dam Safety and Encroachments Act: Section 5. Regulations and standards.

(a) The Environmental Quality Board shall have the power, and its duty shall be, to adopt such regulations and standards for the design, construction, operation, monitoring, maintenance, modification, repair and removal of dams and reservoirs, water obstructions and encroachments as are necessary and proper to carry out the purposes of this act. The regulations shall include, but are not limited to, rules establishing:

(5) Reasonable fees for the processing of applications and periodic inspections, for the purpose of reimbursing the Commonwealth for the costs of administration of this act.

This regulation is also authorized pursuant to Section 6 of the Clean Streams Law which provides that the Department is "authorized to charge and collect from persons and municipalities in accordance with its rules and regulations reasonable filing fees for applications and for permits issued."

Additionally, this regulation is authorized pursuant to the general rulemaking authority under the Section of the Clean Streams Law and Section 1920-A of Administrative Code, 71 P.S. §510-20(b).

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The purpose of the proposed rulemaking package is to amend the Department's Dam Safety and Waterway Management regulations to update existing fees and include additional fees for activities performed by the Department as the current fees for most activities have not been increased since 1991 and do not provide enough revenue to support existing program functions. These amendments were developed in order to offset a portion of the operating costs of the Water Obstruction and Encroachment Program and the Dam Safety Program. The revenue generated by the Department for the Dam Safety Program will ensure that adequate and consistent monitoring, compliance and inspection of dams will occur, and reviews will be accomplished in a timely manner. This will ensure that dams are maintained as designed and will help protect the public safety of the communities located downstream and assist the public who depend on dams for water supply, flood control, or recreation.

The revenue generated for the WO&E Program from these fees will be used to continue to administer the WO&E Program. The fee increases will allow the Department to continue to provide timely and thorough review of permit applications ensuring the protection of surface waters and wetlands. In addition, a significant amount of time has been spent by Program staff and applicants working through several application submissions to determine the minimum amount of impacts to aquatic resources. The increased review fees and additional Disturbance Review Fee will encourage applicants to avoid and minimize impacts to the maximum extent possible on their initial application.

(11) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

The Department reviewed the Cross Application Time Sheet (CATS) reporting system and performed a workload analysis to identify staff activities and associated costs. This combined review supports the fee analysis. Costs associated with other program operational needs are posted into the Commonwealth's SAP Accounting System which also supports the fee analysis. This information is included in the Department's Basic Financial Statements that are prepared in conformity with general accepted accounting principles (GAAP) as prescribed by the Governmental Accounting Standards Board (GASB). The Commonwealth's Basic Financial Statements are jointly audited by the Department of Auditor General and an independent public accounting firm.

(12) Describe who and how many people will be adversely affected by the regulation. How are they affected?

The proposed amendments to the regulation could adversely affect potentially anyone applying for a water obstruction and encroachment permit, dam permit, all current dam owners and all Submerged Lands License Agreement (SLLA) lessees. These individuals will be affected by a significant increase in permitting fees, new review fees, new transfer fees, as well as an annual registration fee to dam owners.

A summary of approximate cost difference is shown in the table below; more details are provided in sections 14, 15, 16 and 17 of this document.

Affected Entity	Program	Proposed Annual Approx Cost	Existing Annual Approx Cost
Commonwealth	Dam Safety	\$0	\$0
	WO&E	\$0	\$0
	SLLA	\$0	\$0
Municipalities	Dam Safety	\$0	\$0
	WO&E	\$0	\$0
	SLLA	\$0	\$0
Private	Dam Safety	\$1,139,850	\$28,000
	WO&E	\$2,952,612	\$47,850
	SLLA	\$1,564,000	\$391,000

(13) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

The proposed rulemaking applies to any owner or operator of a dam, or anyone applying for a dam permit, excluding Federal, State, county or municipal agencies or municipal authorities. Approximately

634 dams are affected by the proposed regulations.

In addition to dam owners, the proposed rulemaking will apply to any individuals or entities, excluding Federal, State, county or municipal agencies or municipal authorities, seeking authorization to perform activities regulated under Chapter 105. The Department receives approximately 517 applications for Individual Water Obstruction and Encroachment Permits, 11 Environmental Assessments and 3,428 General Permits annually from entities that are required to comply with permit obligations under Chapter 105.

(14) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The proposed amendments to the regulation will add approximately \$1,111,850 (the difference between \$28,000 existing fees to \$1,139,850 in proposed new fees) in additional costs associated with the Dam Safety Program, \$2,904,762 (the difference between \$47,850 existing fees to \$2,952,612 in proposed new fees) in additional costs associated with the WO&E Program and \$1,173,000 (the difference between \$391,000 existing fees to \$1,564,000 in proposed new fees) in additional costs associated with SLLAs to the regulated community annually. The proposed amendments to the regulation will not directly provide any savings to the regulated community.

The revenue generated for the WO&E Program from these fees will be used to continue to administer the WO&E Program. Traditionally a significant amount of time has been spent by Program staff and applicants working through several application submissions to determine the minimum amount of impacts to aquatic resources. The increased review fees and additional Disturbance Review Fee will encourage applicants to avoid and minimize impacts to the maximum extent possible on their initial application. In doing so, the applicant can reduce their Disturbance Review Fee and the possibility of additional review fees if a re-submission is required. While the review time for each application will not change, the applicant can expect a significant time savings overall due to a decrease in applications being submitted several times.

(15) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There are no new Dam Safety Program, WO&E Program or SLLA costs proposed to local governments.

(16) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The proposed amendments to the regulation will add approximately \$0 in additional costs, but will provide revenue of approximately \$1,139,850 for state government annually associated with the Dam Safety Program. The proposed amendments to the regulations will add approximately \$0 in additional costs, but will provide revenue of \$2,952,612 for state government annually associated with the Water Obstruction and Encroachment program. The proposed rulemaking maintains the fee exemption for State agencies, so there are no additional costs beyond those to operate the Programs. These estimates

were calculated utilizing a three year average of activities conducted by the Dam Safety and WO&E Programs and projecting these averages with an associated activity cost due to the proposed regulations. There are no new SLLA costs proposed for state government.

(17) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<u>SAVINGS:</u>						
<i>Dam Safety</i>						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$1,139,850	\$1,139,850	\$1,139,850	\$1,139,850	\$1,139,850
Dam Safety Total Savings	\$0	\$1,139,850	\$1,139,850	\$1,139,850	\$1,139,850	\$1,139,850
<i>Water Obstructions & Encroachments</i>						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$2,952,612	\$2,952,612	\$2,952,612	\$2,952,612	\$2,952,612
WO&EP Total Savings	\$0	\$2,952,612	\$2,952,612	\$2,952,612	\$2,952,612	\$2,952,612
<i>Submerged Lands License Agreements</i>						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$1,564,000	\$1,564,000	\$1,564,000	\$1,564,000	\$1,564,000
SLLA Total Savings	\$0	\$1,564,000	\$1,564,000	\$1,564,000	\$1,564,000	\$1,564,000
<u>COSTS:</u>						
<i>Dam Safety</i>						
Regulated Community	\$28,000	\$1,139,850	\$1,139,850	\$1,139,850	\$1,139,850	\$1,139,850
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0

Dam Safety Total Costs	\$28,000	\$1,139,850	\$1,139,850	\$1,139,850	\$1,139,850	\$1,139,850
<i>Water Obstructions & Encroachments</i>						
Regulated Community	\$47,850	\$2,952,612	\$2,952,612	\$2,952,612	\$2,952,612	\$2,952,612
Local Government	0	\$0	\$0	\$0	\$0	\$0
State Government	0	\$0	\$0	\$0	\$0	\$0
WO&EP Total Costs	\$47,850	\$2,952,612	\$2,952,612	\$2,952,612	\$2,952,612	\$2,952,612
<i>Submerged Lands License Agreements</i>						
Regulated Community	\$391,000	\$1,564,000	\$1,564,000	\$1,564,000	\$1,564,000	\$1,564,000
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
SLLA Total Costs	\$391,000	\$1,564,000	\$1,564,000	\$1,564,000	\$1,564,000	\$1,564,000
<u>REVENUE LOSSES:</u>						
<i>Dam Safety</i>						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Dam Safety Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0
<i>Water Obstruction & Encroachments</i>						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
WO&EP Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0
<i>Submerged Lands License Agreements</i>						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
SLLA Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(17a) Provide the past three year expenditure history for programs affected by the regulation.				
Program	2008-2009	2009-2010	2010-2011	2011-2012
Environmental Protection Operations (# 161-10381)	\$98,544,000	\$84,218,000	\$87,420,000	\$78,140,000
Environmental Program Management (# 161-10382)	\$37,664,000	\$31,100,000	\$28,166,000	\$28,035,000
(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.				
<p>The revenue generated by the Department will ensure that adequate and consistent monitoring, compliance and inspection of dams will occur, and reviews will be accomplished in a timely manner. This will ensure that dams are maintained as designed and will help protect the public safety of the communities located downstream and assist the public who depend on dams for water supply, flood control, or recreation.</p> <p>The revenue generated for the WO&E Program from these fees will be used to continue to administer the WO&E Program. The fee increases will allow the Department to continue to provide timely and thorough review of permit applications ensuring the protection of surface waters and wetlands. In addition, a significant amount of time has been spent by Program staff and applicants working through several application submissions to determine the minimum amount of impacts to aquatic resources. The increased review fees and additional Disturbance Review Fee will encourage applicants to avoid and minimize impacts to the maximum extent possible on their initial application.</p>				
(19) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.				
<p>The Agricultural Advisory Board (AAB) and the Water Resources Advisory Committee (WRAC) held meetings on the dates indicated below to review the Department's proposed drafts of the Chapter 105 Dam Safety and Waterway Management regulations. Neither advisory committee voiced any concern over the increase in fees:</p> <ul style="list-style-type: none"> • AAB - June 16, 2010 • WRAC - May 11, 2010 - July 14, 2010 				
(20) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.				
<p>The proposed amendments to the rulemaking are to update existing fees and include additional fees for activities performed by the Department. No alternatives have been considered and/or rejected.</p>				
(21) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.				

No. There are no commensurate fee provisions at the federal level.

(22) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

Dam Safety regulations vary greatly across the United States as indicated in the table below.

State	Application/Review Fees	Annual Fees
PA	\$6,000-\$26,500 – Permits (New, Modification, Operation & Maintenance) \$650-\$14,700 – Letter of Amendment/Authorization \$1,700-\$4,700 – Major Dam Design Revision \$900-\$1,400 – Environmental Assessment \$300-\$550 – Transfer of Permit	\$0 – Category 4 \$800 – Category 3 \$1500 – Category 1 or 2
NH ¹	\$2000 – Non-high Hazard \$3000 – Low Hazard \$4000 – Significant Hazard \$4000 – High Hazard	\$400 – Low Hazard \$750 – Significant Hazard \$1500 – High Hazard
NY	None	None
NJ	None	None
DE	\$500	N/A
MD	\$750 – Does not apply to federal, state or local government	None
WV	\$300 – Construction or modification \$200 – Breaching or Abandonment \$100 – Removal	\$25 – Class 4 Dam \$50 – Class 3 Dam \$75 – Class 2 Dam \$100 – Class 1 Dam
OH	Based on estimated construction costs - 4% up to \$100,000, 3% for next \$400,000, 2% for next \$500,000 and 0.5% for costs in excess of \$1 million	Based on class and height, length, and storage of dam
MI ²	\$500 – Construction, reconstruction, or enlargement – dam height 6'-<10' \$1000 - Construction, reconstruction, or enlargement – dam height 10'<20' \$3000 - Construction, reconstruction, or enlargement – dam height ≥20' \$100 – Minor project	None
TX ²	None	None

1 Dam Safety program is 60% funded by fees.

2 States with similar number of dams as Pennsylvania.

WO&E regulations and fees vary widely across the United States making it very difficult to compare. Pennsylvania's proposed regulations are comparable to other states given the wide variety of what actions are regulated and require fees. Additional WO&E Maryland, Ohio, New Jersey and Virginia fees are available for reference.

State	Admin Filing Fee	GP
PA	\$1,750 + \$400 / 0.1 ac of temporary disturbance + \$800 / 0.1 ac of permanent disturbance	\$50-\$750 based upon GP* * some GPs have additional disturbance fee
MD	\$750 + ≤ \$7,500 / ac of disturbance	\$750 for <5,000sf
OH	\$200	none found
NJ	\$2,400	\$600 + \$240 / additional GP
VA	\$2,400	≤ \$2,400 based upon acreage

SLLA fees vary across the United States. Pennsylvania's proposed amendments to the regulation are comparable to Ohio, a neighbor state. Ohio, Florida, and Maine's SLLA regulations are available for reference.

State	Annual Fee (acreage based)
PA	\$0.04 / sf <i>this is an average</i>
OH	\$0.03 / sf for small facilities
	\$0.04 / sf for large facilities
FL	\$0.1413 / sf
ME	% of gross income of Lessee

The proposed amendments to the regulations will increase Pennsylvania's revenues to offset the cost of the Dam Safety

Program, WO&E Program, and the processing of SLLAs.

(23) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(24) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The additional paperwork required for the dam owner would be the submission of the annual registration fee for dams and the new review and transfer of permit fees for dams. The proposed amendments to the existing regulation will create additional compliance/legal, accounting, reporting, record keeping and paperwork for the Department above what is already required in the existing regulation. This will occur for the collection of the new fees for dams including review fees, transfer of permit fees, and annual registration fees from dam owners.

The proposed amendments will require the Department to develop and distribute new SLLA agreements to current SLLA licensees. The SLLA licensees will be required to sign and return the new agreements. No other additional paperwork will be required for the SLLA licensees, Water Obstruction and Encroachment applicants or permittees, or the Department.

(25) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

None.

(26) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments: 30 days after publication in the Pa Bulletin
- B. The date or dates on which public meetings or hearings will be held: N/A
- C. The expected date of promulgation of the proposed regulation as a final-form regulation: Fall 2012
- D. The expected effective date of the final-form regulation: Fall 2012
- E. The date by which compliance with the final-form regulation will be required: Fall 2012
- F. The date by which required permits, licenses or other approvals must be obtained: Fall 2012

(27) Provide the schedule for continual review of the regulation.

The Department will review the adequacy of the fees at least once every 3 years and provide a written

report to the EQB. The report will identify any disparity between the amount of program income generated by the fees and the costs to administer these programs, and it will contain recommendations to increase fees to eliminate the disparity, including recommendations for regulatory amendments to increase program fees.

FEE REPORT FORM

Department of Environmental Protection

Agency

October 2010

Date

Patricia A. McSparran

Contact Person

717-787-3411

Phone Number

PROGRAM COSTS:

Dam Safety:

	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>Projected</u>
	\$2,039,637	\$2,353,637	\$3,287,132

Water Obstruction and Encroachment:

	<u>FY2007-08</u>	<u>FY 2008-09</u>	<u>Projected</u>
	\$1,812,330	\$2,563,080	\$9,615,470*

* \$5,581,060 permitting activities + \$4,034,410 non-permitting

NOTE: Historical program cost information above reflects those current figures as presented to the Environmental Quality Board on December 21, 2010.

FEE COLLECTIONS:

Dam Safety:

	<u>FY2007-08</u>	<u>FY2008-09</u>	<u>Projected</u>
Current	\$30,500	\$28,000	
Proposed			\$1,139,850

Water Obstruction and Encroachment:

	<u>FY2007-08</u>	<u>FY2008-09</u>	<u>Projected</u>
Current Permitting	\$ 30,950	\$33,450	-----
Current SLLAs* (\$0.01/sqft)	\$ 391,000*	\$ 391,000*	-----
Proposed Permitting	-----	-----	\$2,952,612
Proposed SLLAs* <i>using \$0.040/sqft as program proposes</i>			\$1,564,000*
			\$195,500,000*

* - SLLA fees are highly variable and there are currently several thousand SLLAs. \$391,000 is the current amount collected, but many SLLAs do not have fees and those that do have fees are calculated at several different rates. In order to develop some sort of proposed fee without recalculated all several thousand SLLAs, \$391,000 was divided by \$0.01/sqft to get 39,100,000 sq ft. The same 39,100,000 sq ft was then multiplied by \$0.040 and \$5.00 for proposed amounts.

NOTE: Historical fee collection information above reflects those current figures as presented to the Environmental Quality Board on December 21, 2010.

FEE TITLE AND RATE:

Dam Safety:

Current See Attached Table

Proposed See Attached Table

Water Obstruction and Encroachment:

Current Permitting n/a

Current SLLA See attached SLLA document

Proposed Permitting See attached Table

Proposed SLLA See attached SLLA document

FEE OBJECTIVE:

Dam Safety:

The fees established in the proposed rulemaking are calculated to cover a portion of the reasonable costs for the Department to administer the Chapter 105 Dam Safety Program including permit application reviews; letter of amendment or authorization reviews; construction inspections; major dam design revision reviews; environmental assessment (EA) reviews; emergency action plan (EAP) reviews; transfer of permit; lifetime monitoring inspections; and periodic dam condition assessments. In FY 08-09, \$28,000 was collected in permit filing fees, which does not cover the \$3,287,132 costs of these program activities for the Department. The proposed fees will offset 35% of the cost of the program.

Water Obstruction and Encroachment:

The fees established in the proposed rulemaking are calculated to cover a portion of the reasonable costs for the Department to administer the permitting portion of Chapter 105 Water Obstruction and Encroachment Program including permit application reviews for General Permits (GPs), Emergency Permits, and Individual Water Obstruction and Encroachment Permits; environmental assessment (EA) reviews; letter of amendment or authorization reviews; transfer of permit; Submerged Lands License Agreements (SLLAs); Pennsylvania Wetland Replacement Project (PWRP); and Central Office oversight. In FY 08-09, \$33,450 was collected in permit fees, which does not cover the \$5,581,060 cost of these program activities for the Department. Additionally, the increased fees will only offset 53% of the above mentioned permitting component costs of the program, due to the fee exemptions for Federal, State, county or municipal agencies or municipal authorities, which would otherwise have accounted for \$2,415,773 in fee revenue. The permitting portion of the program does not include additional

inspections, complaints, compliance/enforcement activities, conservation district assistance, training or associated management tasks which equate to more than \$4,000,000 in additional costs. The total program cost is \$9,615,470, 31% of which will be offset by the fees proposed in this rulemaking.

In addition to program costs assumed by the Department, the Pennsylvania Fish & Boat Commission (PFBC) supports the Chapter 105 Program by reviewing and providing recommendations to the Department on stream and wetland encroachment applications and other encroachment-related matters. The PFBC estimates its total annual Chapter 105 staffing needs, including its Division of Environmental Services, Waterways Conservation Officers, and projected increases in permit activity, to be three full-time equivalents (FTEs), with a total annual estimated cost of \$334,945. All expenses related to the PFBC's Chapter 105 work are currently being paid for by revenues generated by fishing license sales and boat registrations and federal funds directly related to fishing and boating. While this fee package does not recover costs of the PFBC, the Department and the PFBC will be working cooperatively to identify potential opportunities in future regulatory fee revisions to cover these costs as well.

FEE RELATED ACTIVITIES AND COSTS:

Dam Safety:

Examples of Chapter 105 Dam Safety program activities supported by the fees include:

Permit Application Reviews – The Department conducts permit application reviews, which include the review of plans and specifications for the construction of new dams, the modification of existing dams, and the operation and maintenance of existing dams. Depending on the scope of the project, an EA review and construction inspections may or may not be required.

Letter of Amendment or Authorization Reviews - The Department conducts plan reviews for permitted dams or dams meeting the permit waiver requirement approving major maintenance, repair or improvement projects which do not involve modification to the top of dam elevation or modification of the normal pool reservoir elevation of a dam via a written Letter of Amendment or Authorization. Depending on the scope of the project, an EA review and construction inspections may or may not be required.

Major Design Revision Reviews - The Department conducts plan reviews for major design revisions for a previously approved or permitted dam design which requires either the Department's review or modeling of a revised hydrologic and hydraulic analysis of the dam and reservoir's capacity to pass or store, or both, the required spillway design flood; the Department's review or modeling of an analysis to determine the ability of the dam's spillway or decant to dewater after runoff events; or the Department's review or modeling of a stability analysis of the revised dam design.

EA Reviews - The Department conducts reviews of EAs as part of the permit application process. EAs are also reviewed for dams requiring a written Letter of Amendment or

Authorization, for non-jurisdictional dams requiring EAs, and for dams being breached or removed.

Transfer of Permit – The Department transfers a permit to a new dam owner for existing permitted dams.

Oversight and Monitoring:

- EAP Reviews – The Department conducts reviews of EAPs for hazard potential category 1, 2 or 3 dams as part of the permit application process. The Department also reviews EAPs required to be updated every 5 years.
- Monitoring Inspections – The Department conducts annual inspections of high hazard dams, inspections of significant hazard dams every other year, and inspection of low hazard dams once every five years.
- Dam Condition Assessments – The owner of a high hazard dam is responsible to retain the services of a registered professional engineer and have their dam inspected annually. A report is developed and submitted to the Department for review. The Department assesses the condition of the dam through a review of the owner's annual inspection and a review of the regional office inspection. A letter summarizing the dam condition assessment is developed and sent to the dam owner and their engineer. The dam condition assessment includes a file review to identify any other compliance issues which are then also incorporated into the Department's response letter.

Water Obstruction and Encroachment (WO&E):

Examples of Chapter 105 Waterway and Wetland Program activities supported by the fees include:

Permit Application Reviews – The Department conducts water obstruction and encroachment permit application reviews, which includes the review of plans and specifications for the construction of new water obstructions or encroachments, the modification of existing water obstructions and encroachments, and other activities which would change, expand or diminish the course, current or cross section of a watercourse, floodway or waterbody, including wetlands. Permit types include GPs, Emergency Permits, and Individual Water Obstruction and Encroachment Permits.

EA Reviews - The Department conducts reviews of EAs as part of the permit application process but also in certain situations where a permit authorization is not required in order to issue 401 Water Quality Certification.

Minor and Major Amendment of Authorization Reviews - The Department conducts plan reviews for permitted water obstructions and encroachments approving minor and major modifications of the previously authorized project. Depending on the scope of the modification proposed, determines whether a minor or major modification is required. Minor

modifications are handled via letter authorization where as Major modifications are processed similar to a new project application.

Transfer of Permit – The Department transfers a permit to a new owner for existing permitted water obstructions and encroachments.

Submerged Lands License Agreements (SLLAs) – In Pennsylvania, submerged lands of the Commonwealth are defined as “waters and permanently or periodically inundated lands owned by the Commonwealth, including lands in the beds of navigable lakes and rivers and beds of streams declared public highways which are held in trust by the Commonwealth.” Public ownership generally extends only as far landward as the low water mark, and as far from shore as the boundaries of other states and nations. Submerged lands may only be transferred by action of the state legislature, however, the Commonwealth may grant leases, licenses, easements and rights-of-ways in submerged lands. SLLAs are issued by Central Office in coordination with Regional Office staff. These duties are included with WO&E tasks because they are done by the same staff.

Pennsylvania Wetland Replacement Project (PWRP) – PWRP is DEP’s in-lieu-fee program fund which works with volunteer landowners to restore wetlands. During the permit application review, if the applicant has avoided and minimized to the maximum extent possible, the wetland impacts are less than 0.5 acres and on-site mitigation is not practicable, DEP may determine that the applicant is eligible to contribute to the fund to satisfy wetland replacement requirements. By allowing the applicant to make a monetary contribution to the fund, it relieves the applicant of any further wetland mitigation responsibility and puts the responsibility on the Department. DEP utilizes the fund to support private and public wetland restoration projects. Central Office staff manages every aspect of the records keeping and reporting for the fund. Both Central Office engineering and environment staff search for suitable wetland projects with volunteer landowners and partners, design the project with both earth moving and plantings, hire a contractor, supervise construction, and conduct post-construction inspections for each site. Staff continually answer inquiries from interested landowners, answer questions from other agencies, present data on the status of the fund and coordinate annual monitoring visits with landowners and other agencies and write annual monitoring reports. In light of the Compensatory Mitigation for Losses of Aquatic Resources; Final Rule (33 CFR Parts 325 and 332) and the findings of an EPA mitigation grant awarded to the Program, the Program is anticipating expanding and redesigning this program to include waterways as well as wetlands. This in-lieu-fee program provides a significant benefit to the regulated community through time and cost savings by alleviating the applicant from the burden of spending significant capital trying to locate sites, evaluate suitability and developing design plans prior to applying to the department. The applicant realizes additional cost savings since they are also relieved of legal responsibilities for monitoring sites for up to five years post construction.

Central Office oversight – The Chapter 105 Waterways and Wetlands Program is performed jointly by the Regional Office staff reviewing and issuing permits and Central Office providing oversight, policy decisions and new program initiative implementation. Central Office staff develops guidance for program implementation, revise regulations as necessary,

and undertake research to further wetland and waterway sciences for program improvement. Central Office represents the Commonwealth's interests on regional and national workgroups and professional organizations. Staff is responsible for the coordination of program changes and other initiatives with state and federal agencies, negotiation of the Federal Army Corp of Engineers State Programmatic General Permit (SPGP) issued to the Commonwealth.

ANALYSIS:

Dam Safety:

For the Department to implement the Chapter 105 Dam Safety Program activities listed above, the costs will vary depending on the number of permitted projects and plan reviews submitted in a given year. The fee increase is an attempt to better meet the needs of the Department. While the permit fees have been chosen to assume a portion of the cost of implementation of project review and authorization activities; construction inspections; and lifetime monitoring and dam condition activities, the increase may not necessarily fully meet the needs of the Department. Additional time accounting codes must be developed and utilized to adequately identify staff time spent on all activities to properly distribute those costs to appropriate fee categories.

It is estimated that the proposed fees will cover approximately 35% of the cost for program activities identified above. These fees have not been increased since 1991.

The estimated cost to the Department to administer the Chapter 105 Dam Safety Program for fiscal years 2012-13 and 2013-14 is \$3,287,132. The projected revenue for fiscal years 2012-13 and 2013-14 is \$1,139,850 (fees are not assessed to Federal, State, county or municipal agencies or municipal authorities) based on the annual average of the last 3 years' activities. Thus the projected amount collected in revenue does not fully cover the estimated cost of the program. Additional time accounting codes must be developed and utilized to adequately identify staff time spent on all related program activities to properly distribute those costs to appropriate fee categories.

Water Obstruction and Encroachment:

For the Department to implement the Chapter 105 Waterways and Wetlands Program activities listed above, including SLLAs, the costs will vary depending on the number of permitted projects and plan reviews submitted in a given year. The fee increase is an attempt to better meet the needs of the Department. While the permit fees have been developed to assume the cost of implementation of project review and authorization activities, additional time accounting codes must be developed and utilized to adequately identify staff time spent on all related program activities to properly distribute those costs to appropriate fee categories.

It is estimated that the proposed fees will generate \$2,952,612 (fees are not assessed to Federal, State, county or municipal agencies or municipal authorities) in fiscal years 2012-13 and 2013-14 because fee collections are based on average annual activities and cannot be projected. These fees will cover 53% of the \$5,581,060 cost for conducting permit review associated activities identified above (including SLLAs) and Central Office oversight of this portion of the program for fiscal years 2012-13 and 2013-14. Program cost was determined using a portion of the report on Watershed

Management Program average Regional Office (RO) hours in 2007 provided by the Department's Field Operations Deputate. The portion included only those tasks completed by RO staff in the Chapter 105 Program and was used in conjunction with data provided by the Bureau of Fiscal Management and a daily working knowledge of Central Office staff as a way to determine time and money spent implementing the Program.

The Department will review the adequacy of the fees at least once every 3 years and provide a written report to the Board. The report will identify any disparity between the amount of program income generated by the fees and the costs to administer these programs, and it will contain recommendations to increase fees to eliminate the disparity, including recommendations for regulatory amendments to increase program fees.

RECOMMENDATION AND COMMENT:

This proposed rulemaking for Chapter 105 Dam Safety sets forth the requirements for the permitting and written approvals for dams, waterways and wetlands projects. The Department is proposing an increased fee for activities requiring a permit or other authorization, for monitoring inspections and for periodic dam condition assessments.

The Department will review the adequacy of the fees established at least once every three years and provide a written report to the Board. The report shall identify any disparity between the amount of each program's income generated by the fees and the costs to fully administer the programs and it shall contain recommendations to increase fees to eliminate the disparity, including recommendations for regulatory amendments to increase each program's fees.

The Agricultural Advisory Board (AAB) and the Water Resources Advisory Committee (WRAC) held meetings on the dates indicated below to review the Department's proposed drafts of the Chapter 105 Dam Safety and Waterway Management regulations. Neither advisory committee voiced any concern over the increase in fees:

- AAB: - June 16, 2010
- WRAC: - May 11, 2010 - July 14, 2010

**Department of Environmental Protection
Proposed Revised Dam Safety Fee Schedule**

Fee Title	Section	Current Fee	Proposed Fee
Permit Application - New Dam - Class A, Hazard 1	105.13(b)(1)	\$3,000	\$26,500
Permit Application - New Dam - Class A, Hazard 2	105.13(b)(1)	\$3,000	\$26,500
Permit Application - New Dam - Class A, Hazard 3	105.13(b)(1)	\$3,000	\$25,500
Permit Application - New Dam - Class A, Hazard 4	105.13(b)(1)	\$3,000	\$23,500
Permit Application - New Dam - Class B, Hazard 1	105.13(b)(1)	\$2,500	\$19,000
Permit Application - New Dam - Class B, Hazard 2	105.13(b)(1)	\$2,500	\$19,000
Permit Application - New Dam - Class B, Hazard 3	105.13(b)(1)	\$2,500	\$18,500
Permit Application - New Dam - Class B, Hazard 4	105.13(b)(1)	\$2,500	\$17,000
Permit Application - New Dam - Class C, Hazard 1	105.13(b)(1)	\$1,500	\$10,500
Permit Application - New Dam - Class C, Hazard 2	105.13(b)(1)	\$1,500	\$10,500
Permit Application - New Dam - Class C, Hazard 3	105.13(b)(1)	\$1,500	\$10,000
Permit Application - New Dam - Class C, Hazard 4	105.13(b)(1)	\$1,500	\$8,000
Permit Application - Modification of Dam - Class A, 1	105.13(b)(1)	\$3,000	\$18,500
Permit Application - Modification of Dam - Class A, 2	105.13(b)(1)	\$3,000	\$18,500
Permit Application - Modification of Dam - Class A, 3	105.13(b)(1)	\$3,000	\$18,500
Permit Application - Modification of Dam - Class A, 4	105.13(b)(1)	\$3,000	\$18,000
Permit Application - Modification of Dam - Class B, 1	105.13(b)(1)	\$2,500	\$12,000
Permit Application - Modification of Dam - Class B, 2	105.13(b)(1)	\$2,500	\$12,000
Permit Application - Modification of Dam - Class B, 3	105.13(b)(1)	\$2,500	\$12,000
Permit Application - Modification of Dam - Class B, 4	105.13(b)(1)	\$2,500	\$11,500
Permit Application - Modification of Dam - Class C, 1	105.13(b)(1)	\$1,500	\$7,500
Permit Application - Modification of Dam - Class C, 2	105.13(b)(1)	\$1,500	\$7,500
Permit Application - Modification of Dam - Class C, 3	105.13(b)(1)	\$1,500	\$7,500
Permit Application - Modification of Dam - Class C, 4	105.13(b)(1)	\$1,500	\$7,500
Permit Application - O&M of Existing Dam - Class A, 1	105.13(b)(1)	\$3,000	\$12,500
Permit Application - O&M of Existing Dam - Class A, 2	105.13(b)(1)	\$3,000	\$12,500
Permit Application - O&M of Existing Dam - Class A, 3	105.13(b)(1)	\$3,000	\$12,000
Permit Application - O&M of Existing Dam - Class A, 4	105.13(b)(1)	\$3,000	\$10,000
Permit Application - O&M of Existing Dam - Class B, 1	105.13(b)(1)	\$2,500	\$10,000
Permit Application - O&M of Existing Dam - Class B, 2	105.13(b)(1)	\$2,500	\$10,000
Permit Application - O&M of Existing Dam - Class B, 3	105.13(b)(1)	\$2,500	\$9,500
Permit Application - O&M of Existing Dam - Class B, 4	105.13(b)(1)	\$2,500	\$8,500
Permit Application - O&M of Existing Dam - Class C, 1	105.13(b)(1)	\$1,500	\$7,000
Permit Application - O&M of Existing Dam - Class C, 2	105.13(b)(1)	\$1,500	\$7,000
Permit Application - O&M of Existing Dam - Class C, 3	105.13(b)(1)	\$1,500	\$6,500
Permit Application - O&M of Existing Dam - Class C, 4	105.13(b)(1)	\$1,500	\$6,000

Major Letter of Amendment or Authorization Review Fee - Class A	105.13(b)(1)	\$0	\$14,700
Major Letter of Amendment or Authorization Review Fee - Class B	105.13(b)(1)	\$0	\$8,700
Major Letter of Amendment or Authorization Review Fee - Class C	105.13(b)(1)	\$0	\$4,400
Minor Letter of Amendment or Authorization Review Fee - Class A	105.13(b)(1)	\$0	\$1,300
Minor Letter of Amendment or Authorization Review Fee - Class B	105.13(b)(1)	\$0	\$1,000
Minor Letter of Amendment or Authorization Review Fee - Class C	105.13(b)(1)	\$0	\$650
Major Dam Design Revision Review - Class A	105.13(b)(1)	\$0	\$4,700
Major Dam Design Revision Review - Class B	105.13(b)(1)	\$0	\$3,200
Major Dam Design Revision Review - Class C	105.13(b)(1)	\$0	\$1,700
Review Fees for Environmental Assessments of Non-Jurisdictional Dams or Letters of Amendment and Authorization - Class A	105.13(b)(1)	\$0	\$1,400
Review Fees for Environmental Assessments of Non-Jurisdictional Dams or Letters of Amendment and Authorization - Class B	105.13(b)(1)	\$0	\$1,000
Review Fees for Environmental Assessments of Non-Jurisdictional Dams or Letters of Amendment and Authorization - Class C	105.13(b)(1)	\$0	\$900
Transfer of Dam Permit Fee - No Proof of Financial Responsibility Required	105.13(b)(1)	\$0	\$300
Transfer of Dam Permit Fee - Proof of Financial Responsibility Required	105.13(b)(1)	\$0	\$550
Annual Registration Fee - Class A, 1	105.137(a)	\$0	\$1,500
Annual Registration Fee - Class A, 2	105.137(a)	\$0	\$1,500
Annual Registration Fee - Class A, 3	105.137(a)	\$0	\$800
Annual Registration Fee - Class A, 4	105.137(a)	\$0	\$0
Annual Registration Fee - Class B, 1	105.137(a)	\$0	\$1,500
Annual Registration Fee - Class B, 2	105.137(a)	\$0	\$1,500
Annual Registration Fee - Class B, 3	105.137(a)	\$0	\$800
Annual Registration Fee - Class B, 4	105.137(a)	\$0	\$0
Annual Registration Fee - Class C, 1	105.137(a)	\$0	\$1,500
Annual Registration Fee - Class C, 2	105.137(a)	\$0	\$1,500
Annual Registration Fee - Class C, 3	105.137(a)	\$0	\$800
Annual Registration Fee - Class C, 4	105.137(a)	\$0	\$0

Department of Environmental Protection
Proposed Revised Water Obstruction and Encroachment Fee Schedule

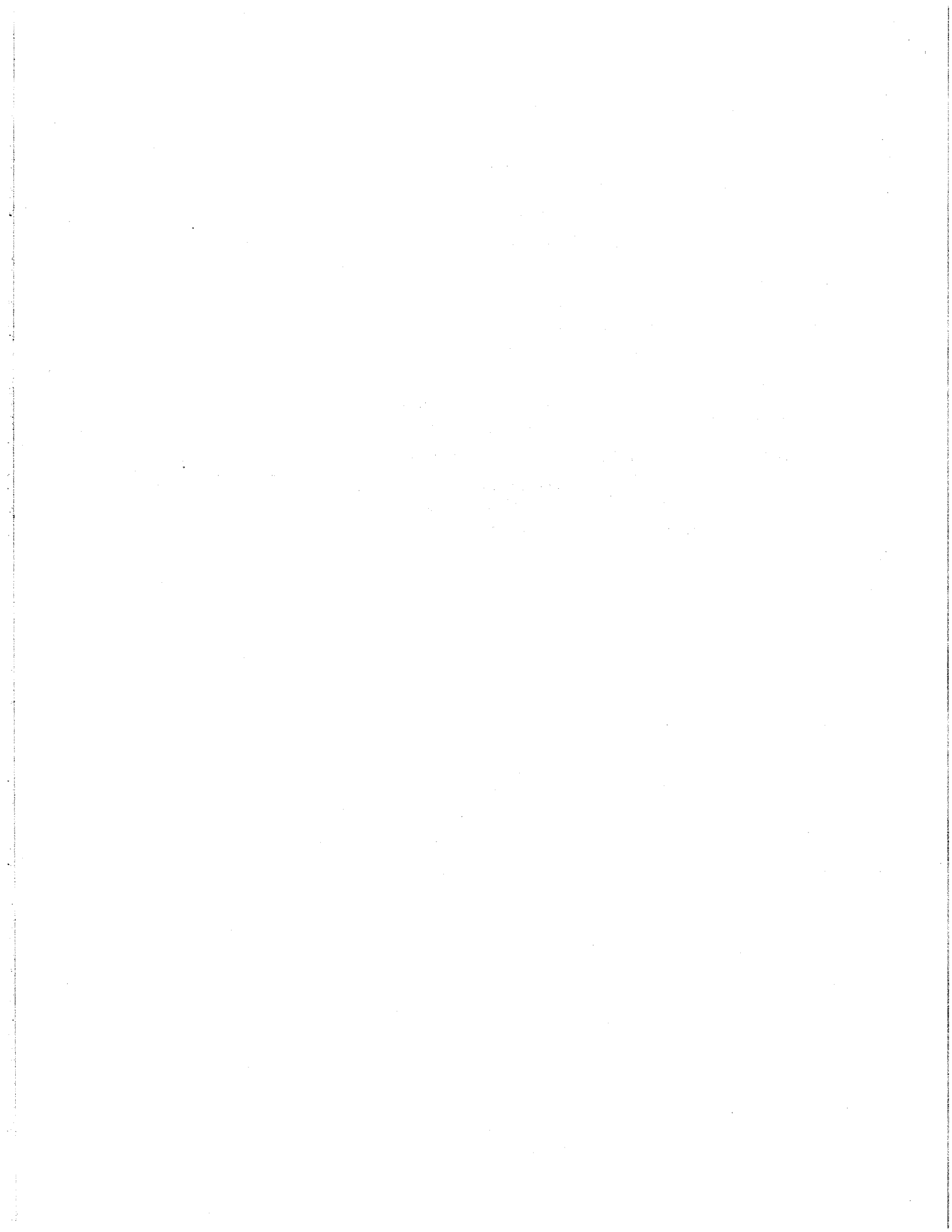
Current Fees:

Stream enclosures	\$350
Channel changes	\$300
Commercial dredging	\$300
Peat extraction	\$750
Fills, levees, floodwalls	\$350
Bridges and other water obstructions and encroachments	\$200
Small projects	\$100

Proposed Fees:

Program	Fee Title	Fee
Obstructions and Encroachments	Administrative Filing Fee (Application fees)*	\$1,750 + disturbance fee
Obstructions and Encroachments	Permanent Disturbance (waterways, floodways/plains, and bodies of water including wetlands per tenth acre, minimum 0.1 acre)*	\$800 / 0.1 acre
Obstructions and Encroachments	Temporary Disturbance (waterways, floodways/plains and wetlands per tenth acre, minimum 0.1 acre)*	\$400 / 0.1 acre
Obstructions and Encroachments	Environmental Assessment for Waived Activities	\$500
Obstructions and Encroachments	General Permits (fees based upon specific general permit activity see section below for listing)	See below
Obstructions and Encroachments	Major Amendment*	\$500 + disturbance fee
Obstructions and Encroachments	Minor Amendment	\$250
Obstructions and Encroachments	Transfer with SLLA	\$200
Obstructions and Encroachments	Transfer without SLLA	\$100

General Permits		
BDWW-GP-1	Fish Habitat Enhancement Structures	\$50
BDWW-GP-2	Small Docks and Boat Launching Ramps	\$175
BDWW-GP-3	Bank Rehabilitation, Bank Protection and Gravel Bar Removal	\$250
BDWM-GP-4	Intake and Outfall Structures	\$200
BDWM-GP-5	Utility Line Stream Crossings	\$250
BDWM-GP-6	Agricultural Crossings and Ramps	\$50
BDWM-GP-7	Minor Road Crossings	\$350
BDWM-GP-8	Temporary Road Crossings	\$175
BDWM-GP-9	Agricultural Activities	\$50
BDW-GP-10	Abandoned Mine Reclamation	\$500
BWM-GP-11	Maintenance, Testing, Repair, Rehabilitation, or Replacement of Water Obstructions and Encroachments*	\$750 + disturbance fee
BWQP-GP-15	Private Residential Construction in Wetlands*	\$750 + disturbance fee
<p>* The Disturbance Review Fee is calculated by adding all permanent or temporary impacts to waterways, floodways/plains, and bodies of water including wetlands to the next highest tenth acre and multiplied by the respective fee for either permanent impacts or temporary impacts and then this amount is added to the other applicable fee.</p>		



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Attorney General

[Signature]

By: (Deputy Attorney General)

JAN 21 2011

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached.

Copy below is hereby certified to be true and
correct copy of a document issued, prescribed or
promulgated by:

DEPARTMENT OF ENVIRONMENTAL
PROTECTION
ENVIRONMENTAL QUALITY BOARD

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 7-466

DATE OF ADOPTION DECEMBER 21, 2010

BY *[Signature]*

TITLE JOHN HANGER
CHAIRMAN

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

Copy below is hereby approved as to form and legality
Executive or Independent Agencies

BY *[Signature]*

Andrew C. Clark
DATE DEC 21 2010

(Deputy General Counsel)
(~~Chief Counsel - Independent Agency~~)
(~~Strike inapplicable title~~)

Check if applicable. No Attorney General Approval
or objection within 30 days after submission.

NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENVIRONMENTAL QUALITY BOARD

DAM SAFETY AND WATERWAY MANAGEMENT FEES

25 Pa. Code, Chapter 105

**Notice of Proposed Rulemaking
Department of Environmental Protection
Environmental Quality Board
(25 Pa. Code, Chapter 105)
(Dam Safety and Waterway Management)**

Preamble

The Environmental Quality Board (Board) proposes to amend 25 Pa. Code, Chapter 105 (relating to Dam Safety and Waterway Management). The amendments update existing fees and include additional fees for activities performed by the Department.

This proposal was adopted by the Board at its meeting of December 21, 2010.

A. Effective Date

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final rulemaking.

B. Contact Persons

For further information regarding Dam Safety contact Roger P. Adams, P.E., Chief, Division of Dam Safety, P.O. Box 8460, Harrisburg, PA 17105-8460 or Patricia McSparran, Director, Bureau of Waterways Engineering and Wetlands, P.O. Box 8460, Rachel Carson State Office Building, Harrisburg, PA 17105-8460, (717) 787-3411.

For further information regarding Water Obstruction and Encroachments contact Kenneth F. Murin, Chief, Division of Wetlands, Encroachment and Training, P.O. Box 8460, Harrisburg, PA 17105-8460 or Patricia A. McSparran, Director, Bureau of Waterways Engineering and Wetlands, P.O. Box 8460, Rachel Carson State Office Building, Harrisburg, PA 17105-8460, (717) 787-3411.

Information regarding submitting comments on this proposal appears in Section J of this preamble. Persons with a disability may use the AT&T Relay Service by calling 1-800-654-5984 (TDD users) or 1-800-654-5988 (voice users). This proposal is available electronically through the DEP Web site (<http://www.depweb.state.pa.us>).

C. Statutory Authority

The proposed rulemaking is being made under the authority of 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) (Dam Safety Act), which grants the Board the authority to adopt such regulations and standards for the design, construction, operation, monitoring, maintenance, modification, repair and removal of dams and reservoirs, water obstructions and encroachments as are necessary and proper to carry out the purposes of the Dam Safety Act; sections 5, 6, 8 and 402 of The Clean Streams Law (35 P. S. §§ 691.5, 691.6, 691.8 and 691.402); 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); and sections 302 and 402 of the Flood Plain Management Act (32 P. S. §§ 679.302 and 679.402).

D. Background and Purpose

The purpose of the proposed rulemaking package is to amend the Department's Dam Safety and Waterway Management regulations to update existing fees and include additional fees for activities performed by the Department as the current fees for most activities have not been increased since 1991 and do not provide enough revenue to support existing program functions. These amendments were developed in order to offset a portion of the operating costs of the Water Obstruction and Encroachment (WO&E) Program and the Dam Safety Program. The new fees included in the proposed rulemaking are associated with: 1) review of permit applications, general permit registration or other requests for approval; 2) inspections; and 3) review of permit related submissions, such as EAPs, inspection reports, transfers, and amendments.

Dam Safety Program

The Department of Environmental Protection (DEP) oversees the construction and operation of dams through the Dam Safety Program. This program historically has been and continues to be a model for similar state programs across the country. This is evidenced by Pennsylvania's leadership role in the Association of State Dam Safety Officials (ASDSO). Pennsylvania was part of the Organizing Committee for the Association of State Dam Safety Officials in 1983, which led to its formation in 1984. Pennsylvania's leadership has served on the ASDSO Board of Directors for most of the years of its existence. Pennsylvania and ASDSO took a leadership role along with Federal agencies in formulating the National Dam Safety Program. Pennsylvania's leadership was also recommended by ASDSO to the U.S. Department of Homeland Security and serves as one of only eight states representing state dam safety programs on the U.S. Department of Homeland Security's Dams Sector – Government Coordinating Council in its mission to improve and protect the nation's dam infrastructure as part of the National Infrastructure Protection Plan. In 2009, DEP was appointed by the National Dam Safety Review Board as the co-chair of the Federal Emergency Management Agency/National Dam Safety Program Emergency Action Plans (EAP) workgroup. Pennsylvania's EAP Guidelines were selected to be used as one of two model EAPs for dam safety programs to use across the country. Pennsylvania has been recognized as a leader on the issues of the need for federal dam rehabilitation and repair funding for our aging infrastructure as well as the need for a second national dam inspection program. Through its partnership with the Pennsylvania Emergency Management Agency (PEMA) and county emergency management personnel, the EAP guidelines were revised in 2009 in a manner that ensured the most up-to-date information is available to emergency responders.

The Dam Safety Program oversees the regulation and safety of approximately 3,200 dams and reservoirs throughout the Commonwealth in order to protect the health, safety and welfare of its citizens and property downstream of dams. The goal is to assure proper planning, design, construction, maintenance, operation, monitoring and supervision of dams and reservoirs. Dam Safety also oversees removal of dams that are no longer needed by their owners. Pennsylvania's Dam Safety Program is leading the nation in its review and approval of EAPs from owners of high hazard dams through a very successful enforcement initiative begun in 2004. The most

recent report available from ASDSO lists the national average for percentage of high hazard dams with an approved EAP at 61%. Pennsylvania is currently at 87% and with those EAPs in the review process, is expected to increase to 98%.

In order to carry out the responsibilities mentioned above and remain a national leader, the Department must ensure adequate funding for the Dam Safety Program. The revenue generated by the Department will ensure that adequate and consistent monitoring, compliance and inspection of dams will occur, and reviews will be accomplished in a timely manner. The revenue from this fee package will restore key positions in the Dam Safety Program to better protect the public. Recently the program lost one of two critical geotechnical engineering positions due to budget cuts to the Department. The person in this position was responsible to review the geotechnical aspects of new dam projects, perform inspections of unsafe, high hazard dams, and investigate deficiencies and recommend corrective action to unsafe high hazard dams. The loss of this position has increased the workload on the remaining geotechnical engineer and has significantly delayed dam permit application processing and project review times. Also, there is a concern for public safety due to the position's direct involvement with Pennsylvania's dams of special concern. The fees collected in this package will also allow the Department to fund eight full-time dam inspectors located in and under the supervision of the six regional offices. With budget cuts to the Department, the number of engineers in the section that performs the dam inspections in each of the regional offices has been reduced so there no longer are eight full-time inspectors. By restoring engineering positions for geotechnical review and dam inspections through this regulatory package it will ensure that dams are maintained as designed and will help protect the public safety of the communities located downstream and assist the public who depend on dams for water supply, flood control, or recreation.

WO&E Program

The revenue generated for the WO&E Program from these fees will be used to continue to administer the WO&E Program. The fee increases will allow the Department to continue to provide timely and thorough review of permit applications ensuring the protection of surface waters and wetlands. In addition, a significant amount of time has been spent by Program staff and applicants working through several application submissions to determine the minimum amount of impacts to aquatic resources. The increased review fees and additional Disturbance Review Fee will encourage applicants to avoid and minimize impacts to the maximum extent possible on their initial application.

SLLA

The Department, on behalf of the Commonwealth, processes grant leases, licenses, easements and rights-of-ways in submerged lands in the form of Submerged Lands License Agreements (SLLA) to entities wishing to occupy submerged lands of the Commonwealth. Those entities must obtain an SLLA and pay the appropriate charge. These charges have not been increased since 1991.

Dam Safety Program

Dam Safety regulations vary greatly across the United States as indicated in the table below.

State	Application/Review Fees	Annual Fees
PA	\$6,000-\$26,500 – Permits (New, Modification, Operation & Maintenance) \$650-\$14,700 – Letter of Amendment/Authorization \$1,700-\$4,700 – Major Dam Design Revision \$900-\$1,400 – Environmental Assessment \$300-\$550 – Transfer of Permit	\$0 – Category 4 \$800 – Category 3 \$1500 – Category 1 or 2
NH ¹	\$2000 – Non-high Hazard \$3000 – Low Hazard \$4000 – Significant Hazard \$4000 – High Hazard	\$400 – Low Hazard \$750 – Significant Hazard \$1500 – High Hazard
NY	None	None
NJ	None	None
DE	\$500	N/A
MD	\$750 – Does not apply to federal, state or local government	None
WV	\$300 – Construction or modification \$200 – Breaching or Abandonment \$100 – Removal	\$25 – Class 4 Dam \$50 – Class 3 Dam \$75 – Class 2 Dam \$100 – Class 1 Dam
OH	Based on estimated construction costs - 4% up to \$100,000, 3% for next \$400,000, 2% for next \$500,000 and 0.5% for costs in excess of \$1 million	Based on class and height, length, and storage of dam
MI ²	\$500 – Construction, reconstruction, or enlargement – dam height 6’-<10’ \$1000 - Construction, reconstruction, or enlargement – dam height 10’-<20’ \$3000 - Construction, reconstruction, or enlargement – dam height ≥20’ \$100 – Minor project	None
TX ²	None	None

¹ Dam Safety program is 60% funded by fees.

² States with similar number of dams as Pennsylvania.

WO&E Program

WO&E regulations and fees vary widely across the United States making it very difficult to compare. Pennsylvania’s proposed amendments to the regulations are comparable to other states given the wide variety of what actions are regulated and require fees. Additional WO&E Maryland, Ohio, New Jersey and Virginia fees are available for reference.

State	Admin Filing Fee	GP
PA	\$1,750 + \$400 / 0.1 ac of temporary disturbance + \$800 / 0.1 ac of permanent disturbance	\$50-\$750 based upon GP* <i>* some GPs have additional disturbance fee</i>
MD	\$750 + ≤ \$7,500 / ac of disturbance	\$750 for <5,000sf
OH	\$200	none found
NJ	\$2,400	\$600 + \$240 / additional GP
VA	\$2,400	≤ \$2,400 based upon acreage

SLLA

SLLA charges vary across the United States. Pennsylvania’s proposed amendments to the regulations are comparable to Ohio, a neighbor state. Ohio, Florida, and Maine’s SLLA regulations are available for reference.

State	Annual Charge (acreage based)
PA	\$0.04 / sf <i>this is an average of fees</i>
OH	\$0.03 / sf for small facilities
	\$0.04 / sf for large facilities
FL	\$0.1413 / sf
ME	% of gross income of Lessee

In summary, the Board proposes to incorporate these amendments into the Dam Safety and Waterway Management Regulations (25 Pa. Code Chapter 105) to update existing and develop new sections.

The proposed amendments to the regulations were submitted to the Water Resources Advisory Committee (WRAC) for review and discussion at their May 11, 2010 meeting. Comments from WRAC were addressed and the revised rulemaking package was presented to WRAC at its July 14, 2010 meeting with a request for a formal record of the committee’s recommendations. The proposed amendments were approved by WRAC on July 14, 2010.

The proposed amendments were also submitted to the Agricultural Advisory Board (AAB) for review and discussion at their June 16, 2010 meeting.

E. Summary of Regulatory Requirements

The proposed amendments to the regulations update existing fees and include additional fees for activities performed by the Department. There are no companion federal regulations.

§ 105.13 Permit applications – information and fees.

The title of Section 105.13 was revised to “Regulated activities – information and fees” to better define the information contained within this section. This revised section includes updated fees, new fees and specifies the appropriate restricted revenue accounts where the fees will be deposited for each program administering Chapter 105. The proposed rulemaking maintains all fee exemptions, including Federal, State, county or municipal agencies or municipal authorities for the Water Obstruction and Encroachment Program. The proposed rulemaking maintains a fee exemption for Federal and State agencies for the Dam Safety Program. Additionally, at final rulemaking the Department will include counties and municipalities within the Dam Safety Program’s fee exemption at § 105.13(a)(1). In addition, the Department will review the adequacy of the fees once every three years and provide a written report to the Board.

§ 105.35 Charges for use and occupation of submerged lands of this Commonwealth.

Section 105.35 was amended to reflect new charges for Submerged Lands License Agreements.

§ 105.131a Annual dam registration.

A new Section 105.131a was developed establishing annual dam registration fees for the Department's administration of specific categories of dams regulated under the Dam Safety Act.

§ 105.444 Contents of general permits.

This section was amended to require the submission of any registration or general permit fees.

§ 105.448 Determination of applicability of general permit.

This section was amended to clarify the Department's ability to charge a registration or general permit fee.

In addition to the summary of the proposed rulemaking above, the Board, upon the advice of WRAC, seeks comment on modifying the proposed rule to incorporate flexibility in the WO&E fee proposal to accommodate multiple structures in one project.

F. Benefits, Costs and Compliance

Benefits

The proposed rulemaking amends the Department's Dam Safety and Waterway Management regulations to update existing fees and include additional fees for activities performed by the Department as the current fees for most activities have not been increased since 1991 and do not provide enough revenue to support existing program functions. These amendments were developed in order to offset a portion of the operating costs of the WO&E Program and the Dam Safety Program thereby reducing each Program's dependency on the General Fund.

The revenue generated by the Department for the Dam Safety Program (an estimated \$1,139,850) will ensure that adequate and consistent monitoring, compliance and inspection of dams will occur, and reviews will be accomplished in a timely manner. This will ensure that dams are maintained as designed and will help protect the public safety of the communities located downstream and assist the public who depend on dams for water supply, flood control, or recreation.

The revenue generated for the WO&E Program from these fees (an estimated \$2,952,612 annually) will be used to continue to administer the WO&E Program. Traditionally a significant amount of time has been spent by Program staff and applicants working through several

application submissions to determine the minimum amount of impacts to aquatic resources. The increased review fees and additional Disturbance Review Fee will encourage applicants to avoid and minimize impacts to the maximum extent possible on their initial application. In doing so, the applicant can reduce their Disturbance Review Fee and the possibility of additional review fees if a re-submission is required. While the review time for each application will not change, the applicant can expect a significant time savings overall due to a decrease in applications being submitted several times.

Compliance Costs

The proposed amendments to the regulations will apply to any existing or potential dam owners and individuals or entities seeking authorization to perform activities regulated under Chapter 105.

Proposed Regulations

The additional costs in the proposed amendments to the regulations are for increased permitting fees, increased SLLA charges, and the addition of annual dam registration, major and minor amendment or authorization, design revision, environmental assessment review and transfer of permit fees. Additional costs could also be incurred for non-compliance with the new regulations resulting in fines and/or attorney fees. The values noted in the charts below are based on an average of three years of activities performed by the Department (Dam Safety and WO&E Programs) and the new fee applied to each activity. The proposed annual approximate cost for SLLAs is based on the current amount collected updated to reflect new fees.

Commonwealth

Dam Safety Program

Expenditure	Proposed Annual Approx Cost	Source	Existing Annual Approx Cost
Administrative	\$0	Dam Permits	\$0
Monitoring	\$0	Annual Registration	n/a
Administrative	\$0	Major Amend/Auth	
Administrative	\$0	Minor Amend/Auth	
Administrative	\$0	Design Revision	
Administrative	\$0	Env Assessment	
Administrative	\$0	Transfer of Permit	
Dam Safety Total	\$0		\$0

The cost to the Commonwealth with the new Dam Safety regulations will be \$0. The benefits should offset the Dam Safety Program's operating cost.

WO&E Program

Expenditure	Proposed Annual Approx Cost	Source	Existing Annual Approx Cost
Administrative	\$0	WO&EP App	\$0
Administrative	\$0	Disturbance Fees	n/a
Administrative	\$0	Env Assessment	
Administrative	\$0	Gen Permit Avg.	
Administrative	\$0	Major Amendment	
Administrative	Unknown*	Minor Amendment	
Administrative	\$0	Transfer w/ SLLA	
Administrative	Unknown*	Transfer w/o SLLA	
Water Obstruction & Encroachments Permit Total	\$0		

* Currently there is no record of Minor Amendments or Transfers without SLLA.

There is a benefit to the Commonwealth with the new WO&E regulations since the increased fees add revenue to the Commonwealth. There is no cost to the Commonwealth as no fees are currently associated with Commonwealth projects requiring authorizations under this program and no fees are proposed in the new regulations. The benefits should offset a portion of the WO&E Program's permitting operating cost; no fees are currently associated with Commonwealth projects requiring authorizations under this program and no fees are proposed in the new regulations.

SLLA

Expenditure	Proposed Annual Approx Cost	Source	Existing Annual Approx Cost
Monitoring	\$0	SLLA	\$0
Submerged Lands License Agreements Total	\$0		\$0

There is a benefit to the Commonwealth with the new regulations for SLLA since the increased charges adds revenue to the Commonwealth. There is no cost to the Commonwealth as no charges are currently associated with Commonwealth projects requiring authorizations under this program and no charges are proposed in the new regulations.

Municipal

Dam Safety Program

Expenditures	Proposed Annual Approx Cost	Source	Existing Annual Approx Cost
Administrative	\$0	Dam Permits	\$0
Monitoring	\$0	Annual Registration	n/a
Administrative	\$0	Major Amend/Auth	
Administrative	\$0	Minor Amend/Auth	
Administrative	\$0	Design Revision	
Administrative	\$0	Env Assessment	
Administrative	\$0	Transfer of Permit	
Dam Safety Total	\$0		\$0

There is no cost to the local municipalities with the new Dam Safety regulations since no fees are currently associated with municipal projects requiring authorizations under this program. At final rulemaking the Department will include counties and municipalities within the Dam Safety Program's fee exemption at § 105.13(a)(1).

WO&E Program

Expenditure	Proposed Annual Approx Cost	Source	Existing Annual Approx Cost
Administrative	\$0	WO&EP App	\$0
Administrative	\$0	Disturbance Fees	n/a
Administrative	\$0	Env Assessment	
Administrative	\$0	Gen Permit Avg	
Administrative	\$0	Major Amendment	
Administrative	Unknown*	Minor Amendment	
Administrative	\$0	Transfer w/ SLLA	
Administrative	Unknown*	Transfer w/o SLLA	
Water Obstruction & Encroachments Permit Total	\$0		\$0

* Currently there is no record of Minor Amendments or Transfers without SLLA.

There is no cost to the local municipalities with the new WO&E regulations since no fees are currently associated with municipal projects requiring authorizations under this program and no fees are proposed in the new regulations.

SLLA

Expenditure	Proposed Annual Approx Cost	Source	Existing Annual Approx Cost
Monitoring	\$0	SLLA	\$0
Submerged Lands License Agreements Total	\$0		\$0

There is no cost to the local municipalities with the new regulations for SLLA since no charges are currently associated with municipal projects requiring authorizations under this program and no charges are proposed in the new regulations.

Private

Dam Safety Program

Business	Expenditures	Annual Approx Cost	Source
Company 1	Monitoring	\$51,000	Annual Registration
Company 2	Monitoring	\$18,000	Annual Registration
Company 3	Monitoring	\$15,800	Annual Registration
Company 4	Monitoring	\$10,500	Annual Registration
Company 5	Monitoring	\$9,000	Annual Registration
Total		\$104,300	

The cost to the five largest affected corporations based on annual approximate cost with the new Dam Safety regulations is indicated above. The only annual increase that can be accounted for is the proposed annual registration fee. It cannot be determined whether or not these businesses will need to perform necessary projects to upgrade their facilities at this time.

WO&E Program

The cost to the five largest affected corporations with the new WO&E regulations cannot be addressed since WO&E permits are not reoccurring authorizations and identifying affected corporations is not possible.

SLLA

Business	Expenditures	Annual Approx Cost	Source
Company 1	Monitoring	\$22,873	SLLA
Company 2	Monitoring	\$18,727	SLLA
Company 3	Monitoring	\$18,727	SLLA
Company 4	Monitoring	\$16,727	SLLA
Company 5	Monitoring	\$15,600	SLLA
Total		\$92,654	

The cost to the five largest affected corporations based on average annual cost with the new regulations is indicated above. The only annual increase that can be accounted for is the increased annual SLLA charge.

Dam Safety Program

Expenditures	Proposed Annual Approx Cost	Source	Existing Annual Approx Cost
Administrative	\$212,500	Dam Permit	\$28,000
Monitoring	\$795,000	Annual Registration	n/a
Administrative	\$45,400	Major Amend/Auth	
Administrative	\$22,300	Minor Amend/Auth	
Administrative	\$27,500	Design Revision	
Administrative	\$32,400	Env Assessment	
Administrative	\$4,750	Transfer of Permit	
Dam Safety Total	\$1,139,850		\$28,000

The cost to private entities affected with the new Dam Safety regulations is the proposed annual registration fee. It cannot be determined whether or not these individuals will need to perform necessary projects to upgrade their facilities at this time. The cost to individuals owning a hazard potential 1 or 2 dam will be assessed an annual fee of \$1500, a hazard potential 3 dam will be \$800 and a hazard potential 4 dam will be \$0.

WO&E Program

Expenditure	Proposed Annual Approx Cost	Source	Existing Annual Approx Cost
Administrative	\$497,613	WO&EP App	\$47,850
Administrative	\$1,925,748	Disturbance Fees	n/a
Administrative	Unknown ¹	Env Assessment	
Administrative	\$529,251	Gen Permit Avg	
Administrative	Unknown ¹	Major Amendment	
Administrative	Unknown ²	Minor Amendment	
Administrative	Unknown ²	Transfer w/ SLLA	
Administrative	Unknown ²	Transfer w/o SLLA	
Water Obstruction & Encroachments Permit Total	\$2,952,612		\$47,850

¹ Currently Environmental Assessments and Major Amendments are included with WO&EP Applications.

² Currently there is no record of Minor Amendments or Transfers.

The cost to private entities affected with the new WO&E regulations is the cost of the proposed new and increased fees. The cost to individuals will be highly variable. Cumulatively, activities requiring a review fee will increase from \$47,850 to an estimated \$2,952,612 because there are proposed new and increased fees.

SLLA

Expenditure	Proposed Annual Approx Cost	Source	Existing Annual Approx Cost
Monitoring	\$1,564,000	SLLA	\$391,000
Submerged Lands License Agreements Total	\$1,564,000		\$391,000

The cost to individuals affected with the new regulations for SLLAs is the cost of the increased annual charge. SLLA charges will increase from \$0.010/sf to \$0.040/sf to reflect an increase in value as these charges have not been updated since 1991.

Compliance Assistance Plan

No financial assistance is necessary. Dam owners will be notified by letter advising of the revisions and how to comply. SLLA licensees will also be notified by letter advising them of the new fee and how to comply. The regulated community will be notified of all Dam Safety, Water Obstruction and Encroachment, and SLLA fee changes by public notice in the *Pennsylvania Bulletin*.

Paperwork Requirements

The additional paperwork required for the dam owner would be the submission of the annual registration fee for dams and the new review and transfer of permit fees for dams. The proposed revisions to the existing regulation will create additional compliance/legal, accounting, reporting, record keeping and paperwork for the Department above what is already required in the existing regulation. This will occur for the collection of the new fees for dams including review fees, transfer of permit fees, and annual registration fees from dam owners.

The proposed amendments to the regulations will require the Department to develop and distribute new SLLA agreements to current SLLA licensees. The SLLA licensees will be required to sign and return the new agreements. No other additional paperwork will be required for the SLLA licensees, WO&E applicants or permittees, or the Department.

G. Sunset Review

This regulation will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 18, 2012, the Department submitted a copy of this proposed rulemaking and a copy of Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate and House Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

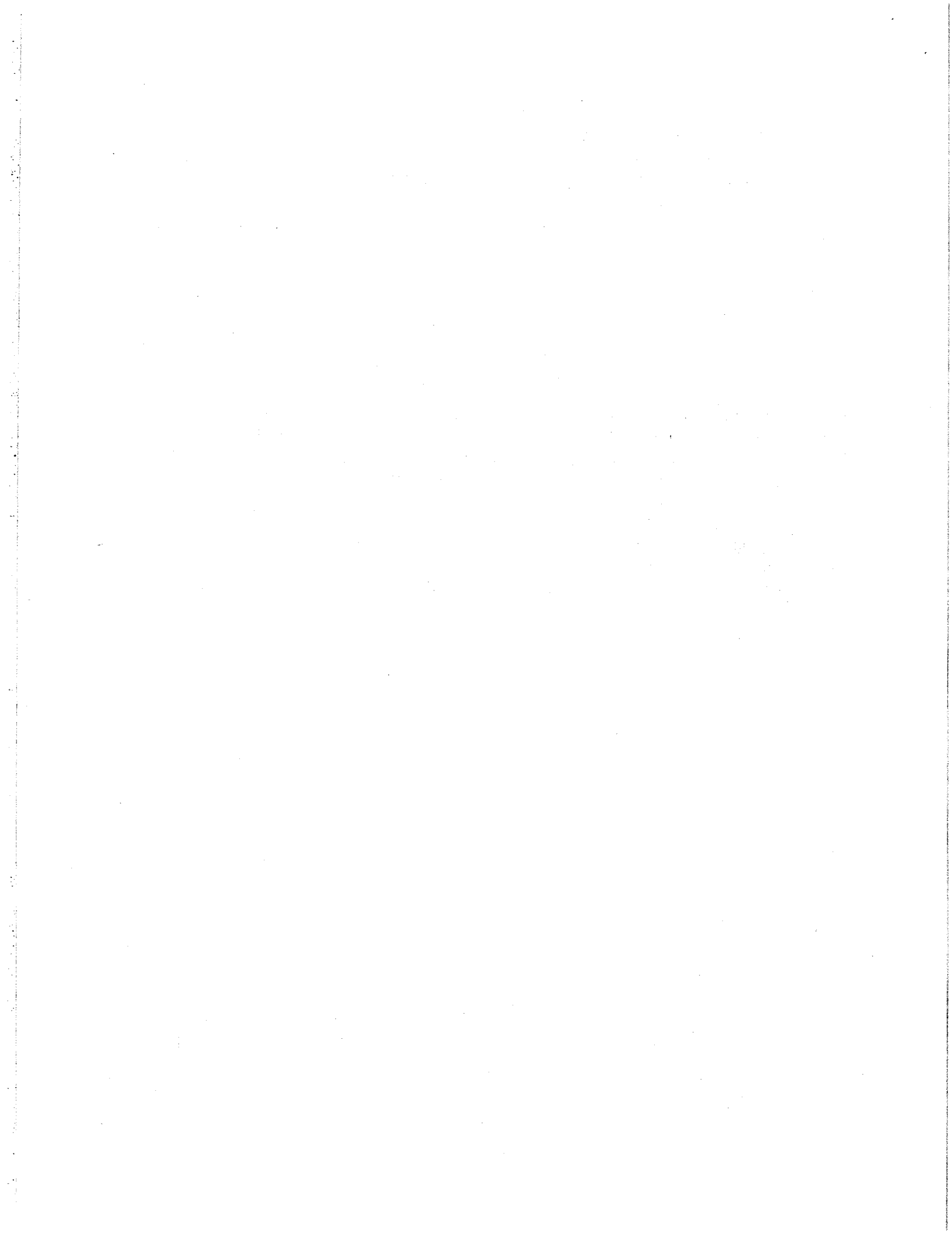
I. Public Comments

Written Comments - Interested persons are invited to submit comments, suggestions, or objections regarding the proposed regulation to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by February 27, 2012. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by February 27, 2012. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

Electronic Comments - Comments may be submitted electronically to the Board at RegComments@pa.gov and must also be received by the Board by February 27, 2012. A subject heading of the proposal and a return name and address must be included in each transmission.

BY:

MICHAEL L. KRANCER
Chairman
Environmental Quality Board



Annex A

Title 25 Environmental Protection
Part I. Department of Environmental Protection
Subpart C. Protection of Natural Resources
Article I. Water Resources
Chapter 105. Dam Safety and Water Management

Subchapter A. GENERAL PROVISIONS

PERMIT APPLICATIONS

- 105.11. Permit requirements.
- 105.12. Waiver of permit requirements.
- 105.13. [Permit applications] Regulated activities—information and fees.
- 105.13a. Complete applications.**
- 105.13b. Proof of financial responsibility.**
- 105.14. Review of applications.
- 105.15. Environmental assessment.
- 105.16. [Environmental] Environmental, social and economic balancing.
- 105.17. Wetlands.
- 105.18. [Reserved].
- 105.18a. Permitting of structures and activities in wetlands.
- 105.19. [Complete applications.] [Reserved].
- 105.20. [Proof of financial responsibility.] [Reserved].
- 105.20a. Wetland replacement.

§ 105.13[Permit applications] Regulated activities —information and fees.

[(a) Application for permits under this chapter shall be submitted to the Department, in writing, upon forms provided by the Department. Applicants are encouraged to request a meeting with the Department prior to submission of their applications.]

[(b)] (a) An application for a permit, registration for a general permit, request for permit amendment, major or minor letter of amendment or authorization, major dam design revision, environmental assessments, permit transfer or annual dam registration under this chapter[, except applications submitted by Federal, State, county or municipal agencies or a municipal authority for a dam, water obstruction or encroachment] shall be accompanied by a check payable to “Commonwealth of Pennsylvania” [in accordance with the following schedule]:

- (1) Except for submissions by Federal or State agencies related to any dam; and
- (2) Except for submissions by Federal, State, county or municipal agencies or a municipal authority related to any water obstruction or encroachment.

(b) Fees collected by the Dam Safety and Water Obstruction and Encroachment Programs will be deposited into a restricted revenue account known as the Clean Water Fund and utilized to offset the operating costs to implement respective programs.

(c) The fees are as follows:

(1) Dams based on size and hazard potential category as defined in § 105.91 (relating to classification of dams and reservoirs).

[Class A \$3000

(Based on Size Classification as defined in § 105.91)

Class B \$2500

Class C \$1500]

(i) Dam permit application fees for new dam construction.

<u>Size Category</u> \ <u>Hazard Potential Category</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>
<u>A</u>	<u>\$26,500</u>	<u>\$26,500</u>	<u>\$25,500</u>	<u>\$23,500</u>
<u>B</u>	<u>\$19,000</u>	<u>\$19,000</u>	<u>\$18,500</u>	<u>\$17,000</u>
<u>C</u>	<u>\$10,500</u>	<u>\$10,500</u>	<u>\$10,000</u>	<u>\$8,000</u>

(A) Initial fees are based upon the size and hazard potential category of the final operating stage of the dam.

(B) Staged construction requires an additional 90% of the appropriate fee for each additional stage beyond the initial stage of work proposed under this permit application, including any closure stage.

(ii) Dam permit application fees for modification of existing dams.

<u>Size Category</u> \ <u>Hazard Potential Category</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>
<u>A</u>	<u>\$18,500</u>	<u>\$18,500</u>	<u>\$18,500</u>	<u>\$18,000</u>
<u>B</u>	<u>\$12,000</u>	<u>\$12,000</u>	<u>\$12,000</u>	<u>\$11,500</u>
<u>C</u>	<u>\$7,500</u>	<u>\$7,500</u>	<u>\$7,500</u>	<u>\$7,500</u>

- (A) Initial fees are based upon the size and hazard potential category of the final operating stage of the dam.
- (B) Staged construction requires an additional 85% of the appropriate fee for each additional stage beyond the initial stage of work proposed under this permit application, including any closure stage.

(iii) Dam permit application fees for operation and maintenance of existing dams.

<u>Size Category</u> \ <u>Hazard Potential Category</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>
<u>A</u>	<u>\$12,500</u>	<u>\$12,500</u>	<u>\$12,000</u>	<u>\$10,000</u>
<u>B</u>	<u>\$10,000</u>	<u>\$10,000</u>	<u>\$9,500</u>	<u>\$8,500</u>
<u>C</u>	<u>\$7,000</u>	<u>\$7,000</u>	<u>\$6,500</u>	<u>\$6,000</u>

(iv) Letter of amendment or authorization review fees.

<u>Size Category</u>	<u>Major Project</u>	<u>Minor Project</u>
<u>A</u>	<u>\$14,700</u>	<u>\$1,300</u>
<u>B</u>	<u>\$8,700</u>	<u>\$1,000</u>
<u>C</u>	<u>\$4,400</u>	<u>\$650</u>

(A) The estimated total construction cost of the project shall be provided to the Department with the submission of the letter of amendment or authorization request.

(B) A major project is a dam rehabilitation project qualifying for a Letter of Amendment for Dams or a Letter of Authorization for Dams as defined in § 105.1 (relating to definitions) whose total construction costs equals or exceeds \$250,000. If, after completion of the project, the total construction costs do not exceed \$250,000, the Department will refund the difference between major and minor project review fees upon approval of the completion certification as required in § 105.108 (relating to completion certification and project costs).

(C) A minor project is a dam rehabilitation project qualifying for a Letter of Amendment for Dams or a Letter of Authorization for Dams as defined in § 105.1 (relating to definitions) whose total construction costs are less than \$250,000. If, after completion of

the project, the total construction costs exceed \$250,000, the difference in review fees between major and minor projects must be submitted to the Department with the completion certification as required in § 105.108.

(v) Major dam design revision review fees based on major dam design revision as defined in § 105.1.

<u>Size Category</u>	<u>Fee</u>
<u>A</u>	<u>\$4,700</u>
<u>B</u>	<u>\$3,200</u>
<u>C</u>	<u>\$1,700</u>

(vi) Environmental assessment review fees for non-jurisdictional dams, letters of amendment or letters of authorization.

<u>Size Category</u>	<u>Fee</u>
<u>A</u>	<u>\$1,400</u>
<u>B</u>	<u>\$1,000</u>
<u>C</u>	<u>\$900</u>

(vii) Transfer of dam permit as required in § 105.25.

<u>Type of Dam Permit Transfer</u>	<u>Fee</u>
<u>No Proof of Financial Responsibility Required</u>	<u>\$550</u>
<u>Proof of Financial Responsibility Required</u>	<u>\$300</u>

(viii) Annual dam registration fees as required in § 105.131a.

<u>Size Category</u> \ <u>Hazard Potential Category</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>
<u>A</u>	<u>\$1,500</u>	<u>\$1,500</u>	<u>\$800</u>	<u>\$0</u>
<u>B</u>	<u>\$1,500</u>	<u>\$1,500</u>	<u>\$800</u>	<u>\$0</u>
<u>C</u>	<u>\$1,500</u>	<u>\$1,500</u>	<u>\$800</u>	<u>\$0</u>

(A) Annual registration fees are due by July 1 of each year.

(B) If the annual registration fee is not received by July 1, all dams regulated by the Department are subject to a temporary suspension of the dam permit, if applicable, and the owner or operator may be required to drain the reservoir at a rate not to exceed 1 foot per day.

(C) If the annual registration fee is not received by July 1, all dams regulated by the Department qualifying for waiver of permit provisions in § 105.12. (relating to waiver of permit requirements) may be subject to a temporary draining of the reservoir at a rate not to exceed 1 foot per day.

(D) If annual registration fees are not remitted as specified, interest shall accrue on the entire amount from the original date payment was due, at a rate of twelve percent (12%) per annum until payment is remitted.

(2) Water obstructions and encroachments.

Stream enclosures	\$350
Channel changes	\$300
Commercial dredging	\$300
Peat extraction	\$750
Fills, levees, floodwalls	\$350
Bridges and other water obstructions and encroachments	\$200
Small projects	\$100]

<u>Program</u>	<u>Fee Title</u>	<u>Fee</u>
<u>Obstructions and Encroachments</u>	<u>Administrative Filing Fee (Application fees)*</u>	<u>\$1,750</u>
<u>Obstructions and Encroachments</u>	<u>Permanent Disturbance (waterways, floodways/plains and wetlands per tenth acre, minimum 0.1 acre)*</u>	<u>\$800</u>
<u>Obstructions and Encroachments</u>	<u>Temporary Disturbance (waterways, floodways/plains and wetlands per tenth acre, minimum 0.1 acre)*</u>	<u>\$400</u>
<u>Obstructions and Encroachments</u>	<u>Environmental Assessment for Waived Activities</u>	<u>\$500</u>
<u>Obstructions and Encroachments</u>	<u>General Permits (fees based upon specific general permit activity see section below for listing)</u>	<u>See below</u>
<u>Obstructions and Encroachments</u>	<u>Major Amendment*</u>	<u>\$500</u>
<u>Obstructions and Encroachments</u>	<u>Minor Amendment</u>	<u>\$250</u>
<u>Obstructions and Encroachments</u>	<u>Transfer with SLLA</u>	<u>\$200</u>
<u>Obstructions and Encroachments</u>	<u>Transfer without SLLA</u>	<u>\$100</u>
<u>General Permits</u>		
<u>BDWW-GP-1</u>	<u>Fish Habitat Enhancement Structures</u>	<u>\$50</u>
<u>BDWW-GP-2</u>	<u>Small Docks and Boat Launching Ramps</u>	<u>\$175</u>
<u>BDWW-GP-3</u>	<u>Bank Rehabilitation, Bank Protection and Gravel Bar Removal</u>	<u>\$250</u>
<u>BDWM-GP-4</u>	<u>Intake and Outfall Structures</u>	<u>\$200</u>
<u>BDWM-GP-5</u>	<u>Utility Line Stream Crossings</u>	<u>\$250</u>
<u>BDWM-GP-6</u>	<u>Agricultural Crossings and Ramps</u>	<u>\$50</u>
<u>BDWM-GP-7</u>	<u>Minor Road Crossings</u>	<u>\$350</u>
<u>BDWM-GP-8</u>	<u>Temporary Road Crossings</u>	<u>\$175</u>
<u>BDWM-GP-9</u>	<u>Agricultural Activities</u>	<u>\$50</u>
<u>BDWW-GP-10</u>	<u>Abandoned Mine Reclamation</u>	<u>\$500</u>
<u>BWM-GP-11</u>	<u>Maintenance, Testing, Repair, Rehabilitation, or Replacement of Water Obstructions and Encroachments*</u>	<u>\$750</u>
<u>BWQP-GP-15</u>	<u>Private Residential Construction in Wetlands*</u>	<u>\$750</u>
<u>* The Disturbance Review Fee is calculated by adding all permanent and temporary impacts to waterways, floodways/plains and bodies of water including wetlands to the next highest tenth acre and multiplied by the respective fee for either permanent impacts or temporary impacts and then this amount is added to the other applicable fee.</u>		

(e) A single application may be submitted or a single permit may be issued for multiple structures and activities which are part of a single project or facility or part of related projects and facilities, located in a single county, constructed, operated or maintained by the same persons. When a single application covers multiple structures or activities other than a single structure and related maintenance dredging, the application fee shall be the sum of fees in subsection (b) for the applicable structures and activities. Stream crossings located within a single county for the installation of a public service line shall be treated as a single structure or activity but the application fee shall be the sum of fees for each stream crossing.

(f) An application for a permit shall be accompanied by information, maps, plans, specifications, design analyses, test reports and other data specifically required by this chapter and additional information as required by the Department to determine compliance with this chapter.

(1) For all permit applications, except small projects, this information [shall include] includes, but is not limited to, the following:

(i) *A site plan.* A site plan [shall] must include:

(A) A complete demarcation of the floodplains and regulated waters of this Commonwealth on the site. The wetlands shall be identified and delineated in accordance with the Department's Wetland Delineation Policy as published at § 105.451 (relating to identification and delineation of wetlands—statement of policy).

(B) Existing roads, utility lines, lots, other manmade structures and natural features such as contour lines and drainage patterns.

(C) Proposed structures or activities included in the project, which shall be identified by labeling.

(D) A scale of one inch equals 200 feet or larger.

(E) A north arrow.

(F) The name of the persons who prepared the plan, and the date and name of the applicants.

(G) A cross sectional view of the regulated waters to be impacted before and after the structure or activity is constructed.

(ii) *A location map.* The location map [shall] must be of a scale factor of 1:24000 (standard U.S.G.S. Topographic Map). The location map [shall] must show all natural features including the names and boundaries of regulated waters of this Commonwealth, natural areas, wildlife sanctuaries, natural landmarks, political boundaries, locations of public water supplies and other geographical or physical features including cultural, archeological and historical landmarks within 1 mile of the site. U.S.G.S. maps may be reviewed at County Conservation District Offices or obtained by writing to: United States Geological Survey Map Distribution, Box 25286 Federal Center, Denver, CO 80225.

(iii) *Project description.* A narrative of the project shall be provided which includes, but is not limited to:

(A) A description of the proposed structure or activity.

(B) The project purpose.

(C) The effect the project will have on public health, safety or the environment.

(D) A statement on water dependency. A project is water dependent when the project requires access or proximity to or siting within water to fulfill the basic purposes of the project.

(iv) *Color photographs.* Color photographs of the proposed site [shall] must be submitted. The photos shall accurately depict the project area and provide a relative scale of the project to the surrounding area and a map showing the location and orientation of each photograph.

(v) *Stormwater management analysis.* If a watershed stormwater management plan has been prepared or adopted under the Stormwater Management Act (32 P. S. §§ 680.1–680.17), an analysis of the project's impact on the Stormwater Management Plan and a letter from the county or municipality commenting on the analysis shall be included.

(vi) *Floodplain management analysis.* If the proposed dam, water obstruction or encroachment is located within a floodway delineated on a FEMA map, include an analysis of the project's impact on the floodway delineation and water surface profiles and a letter from the municipality commenting on the analysis.

(vii) *Risk assessment.* If the stormwater or the floodplain management analysis conducted in subparagraphs (v) and (vi) indicates increases in peak rates of runoff or flood elevations, include a description of property and land uses which may be affected and an analysis of the degree of increased risk to life, property and the environment.

(viii) *Alternatives analysis.* A detailed analysis of alternatives to the proposed action, including alternative locations, routings or designs to avoid or minimize adverse environmental impacts.

(ix) *Mitigation plan.* Actions to be taken in accordance with the definition of mitigation in this chapter.

(x) *Impacts analysis.* A detailed analysis of the potential impacts, to the extent applicable, of the proposed project on water quality, stream flow, fish and wildlife, aquatic habitat, Federal and State forests, parks, recreation, instream and downstream water uses, prime farmlands, areas or structures of historic significance, streams which are identified candidates for or are included within the Federal or State wild and scenic river systems and other relevant significant environmental factors. If a project will affect wetlands the project description shall also include:

(A) A narrative of the delineation process supported by the appropriate data sheets and copies of appropriate soil maps and descriptions from soil conservation service soil surveys. Soil conservation service soil surveys may be obtained from the county conservation district offices.

(B) An analysis of whether the wetland is exceptional value as classified in § 105.17 (relating to wetlands).

(C) A statement on water dependency. A project is water dependent when the project requires access or proximity to or siting within water to fulfill the basic purposes of the project.

(2) An application for a project which will affect less than 1 acre of wetland where the wetland is not exceptional value wetland shall also include a description of functions and values of the existing wetlands to be impacted by the project, as defined in § 105.1 (relating to definitions).

(3) An application for a project which may have an affect on an exceptional value wetland or on 1 or more acres of wetland shall also include an assessment of the wetland functions and values using a methodology accepted by the Department and a survey, conducted by a licensed professional land surveyor, of the wetland boundary as delineated and of the property lines of the parcel where the project is located.

(g) A permit application for small projects located in streams or floodplains shall be accompanied by the following information. This permit application may not be used for projects located in wetlands. If upon review the Department determines that more information is required to determine whether a small project will have an insignificant impact on safety and protection of life, health, property or the environment, the Department may require the applicant to submit additional information and processing fees required by this chapter.

(1) *A site plan.* A site plan **[shall] must** include:

(i) The floodplains and regulated waters of this Commonwealth on the site, including wetlands, existing roads, utility lines, lots, other manmade structures, natural features such as slopes and drainage patterns, proposed structures or activities included in the project.

(ii) The names of the persons who prepared the plan.

(iii) The date and the name of applicants.

(iv) A north arrow.

(2) *A cross sectional view.* A cross sectional view of the affected regulated waters of this Commonwealth before and after the structure or activity is constructed.

(3) *A location map.* A map showing the geographic location of the project. U.S.G.S. topographic maps, FEMA maps or municipal maps are acceptable. FEMA and municipal maps may be obtained from local government offices. U.S.G.S. maps may be reviewed at county conservation district offices or obtained by writing to: United States Geological Survey Map Distribution, Box 25286 Federal Center, Denver, CO 80225.

(4) *Project description.* A narrative of the project shall be provided which includes, but is not limited to:

- (i) A description of the proposed structure or activity.
- (ii) The project purpose.
- (iii) The effect the project will have on public health, safety or the environment.
- (iv) The project's need to be in or in close proximity to water.

(5) *Color photographs.* Color photographs of the proposed site shall be submitted. The photos **[shall] must** accurately depict the project area and provide a relative scale of the project to the surrounding area and a map showing the location and orientation of each photograph.

(h) Except for small projects, an application for a permit under this chapter shall be accompanied by proof of an application for an Earth Disturbance Permit or an erosion and sedimentation control plan for activities in the stream and earthmoving activities. The plan **[shall] must** conform to the requirements contained in Chapter 102 (relating to erosion control) and **[shall] must** include a copy of a letter from the conservation district in the county where the project is located indicating that the district has reviewed the erosion and sediment control plan of the applicant and considered it to be satisfactory, if applicable. Earthmoving activities, including small projects, shall be conducted pursuant to an earth disturbance plan.

(i) An application shall be submitted by the person who owns or has primary responsibility for the proposed dam or reservoir, water obstruction or encroachment. If an application is submitted by a person with primary responsibility for the structure or activity, the owner of a dam or reservoir, water obstruction or encroachment will not thereby be relieved of legal duties or responsibilities for the structure or activity as imposed by the act or this chapter.

(j) An application shall be signed by the owners of the dam or reservoir, water obstruction or encroachment, or the persons exercising primary responsibility for the dam or reservoir, water obstruction or encroachment. In the case of a partnership, one or more members of the partnership authorized to sign on behalf of the entire partnership shall sign the application. In the case of a corporation, it shall be signed by the president, vice president or other responsible official empowered to sign for the corporation. In the case of a political subdivision, it shall be signed by the chief officers of the political subdivision or other responsible official empowered to sign for the political subdivision, with the seal affixed and attested by the clerk.

(k) Plans, specifications and reports accompanying applications for any category of dams, or for bridges and other water obstructions or encroachments which would pose a threat to human life or substantial potential risk to property shall be affixed with the seal of a registered professional engineer and a certification, signed by the registered professional engineer, which shall read as follows:

"I (name) do hereby certify pursuant to the penalties of 18 Pa.C.S.A. Sec. 4904 to the best of my knowledge, information and belief, that the information contained in the accompanying plans, specifications and reports has been prepared in accordance with accepted engineering practice, is true and correct, and is in conformance with Chapter 105 of the rules and regulations of the Department of Environmental Resources."

(l) The Department may waive the specific information requirements of this section in writing, in the record of decision, if upon review of the permit application, the Department finds that specific information is not necessary to review the application.

(m) The Department will review the adequacy of the fees at least once every 3 years and provide a written report to the EQB. The report will identify any disparity between the amount of program income generated by the fees and the costs to administer these programs, and it will contain recommendations to increase fees to eliminate the disparity, including recommendations for regulatory amendments to increase program fees.

§ 105.35. Charges for use and occupation of submerged lands of this Commonwealth.

(a) Except as provided in subsections (b) and (c), the following charges apply to the granting of an easement, right-of-way, license or lease to occupy submerged lands of this Commonwealth issued under section 15 of the act (32 P. S. § 693.15) and § 105.32 (relating to projects—proper purpose):

(1) For commercial utility and other dams, water obstructions and encroachments except as listed in subsection (c), annual license charges:

- (i) For areas occupied by facilities, [~~\$50~~] \$150 per tenth of an acre.
- (ii) For barge fleeting and mooring areas, [~~\$10~~] \$30 per tenth of an acre.
- (iii) Minimum annual charge, [~~\$250~~] \$750.

(2) For private recreation docks, owned and used solely by the owners of adjacent riparian property, unless the project is otherwise authorized by a general permit issued under section 7 of the act (32 P. S. § 693.7), an annual charge of \$250.

(b) Licenses for public service lines crossing or occupying submerged lands of this Commonwealth, issued under section 15 of the act or section 514 of The Administrative Code of 1929 (71 P. S. § 194) are subject to the following schedule of annual charges:

<i>Length of Crossings</i> <i>(in feet)</i>	<i>Charges</i> <i>(in dollars)</i>
Less than 500	[\$250] <u>750</u>
500 to 999	[500] <u>1500</u>
1000 to 1499	[1000] <u>3000</u>
1500 to 1999	[1500] <u>4500</u>
2000 to 2499	[2000] <u>6000</u>
2500 to 2999	[2500] <u>7500</u>
3000 to 3499	[3000] <u>9000</u>
3500 to 3999	[3500] <u>10,500</u>
4000 to 4499	[4000] <u>12,000</u>
4500 to 4999	[4500] <u>13,500</u>
5000 and over	[5000] <u>15,000</u>

(c) Charges may not be imposed under section 15 of the act or section 514 of The Administrative Code of 1929 for the following categories of activities and structures:

- (1) An activity or structure constructed, owned or operated by a department, commission or agency of the Commonwealth or the Federal government.
- (2) A project or activity constructed, or operated primarily for the benefit of a State building or a State institution.
- (3) A flood control project constructed, owned or operated by an agency of the Commonwealth, the Federal government or a municipality.

(4) A project or activity constructed, owned or operated by a political subdivision of the Commonwealth which provides potable water supply, sewage disposal or other similar services necessary for public health and welfare, or in connection with a service for which no fees or charges other than general taxes are imposed.

(5) A facility to provide access to the general public to water for recreational boating, fishing, hunting, swimming or other recreation where the access is provided without charge or on a nonprofit basis.

(6) A structure or facility constructed and operated exclusively to improve fish habitat, under a cooperative agreement with the Fish Commission.

(7) A private recreational dock constructed under a general permit.

(d) The annual charges imposed in subsections (a) and (b) may be revised by the EQB after approval by the Governor and reasonable notice to the holder of a license issued under this section.

(e) This section does not apply to a crossing contiguous to or in a State park or State forest lands. Easements for the crossings shall be administered in accordance with section 514 of The Administrative Code of 1929 and the park and forest land management practices of the Department.

(f) The removal of sand, gravel and other valuable minerals from submerged lands of this Commonwealth are subject to the royalty and agreement provisions established under section 1908-A of The Administrative Code of 1929 (71 P. S. § 510-8).

Subchapter B. DAMS AND RESERVOIRS

OPERATION, MAINTENANCE AND EMERGENCIES

105.131. Operation, maintenance, and monitoring [plans].

105.131a. Annual dam registration.

105.132. [Inspection.] [Reserved]

105.133. Directed repairs.

105.134. Emergency [warning system and operation] action [plan] plans.

105.135. Dam hazard emergencies.

105.136. Unsafe dams.

§ 105.131a. Annual dam registration.

This chapter establishes annual dam registration fees according to 105.13 (b)(viii) (relating to annual dam registration fees) for the Department's administration of the act.

§ 105.444. Contents of general permits.

Each general permit issued by the Department will include, but not be limited to, the following contents:

(1) A concise description of the category of dam, water obstruction or encroachment covered by the general permit, including exceptions to that category.

(2) A specification of the watersheds, streams or geographic areas where the general permit is effective.

(3) A set of standardized specifications or plans for the particular category of dam, water obstruction or encroachment or a reference to specific criteria and requirements adopted by another Federal or State agency which adequately regulates the particular category of dam, water obstruction or encroachment.

(4) A set of conditions governing the construction, operation, maintenance, inspection and monitoring of the projects covered by the general permit as are necessary to assure compliance with the act and this chapter and with other laws administered by the Department, the Fish Commission and a river basin commission created by interstate compact.

(5) A specification of registration requirements if any, established under § 105.447 (relating to registration requirements), **and any registration or general permit fees established under Section 105.13 (relating to regulated activities - information and fees).**

§ 105.448. Determination of applicability of a general permit.

(a) A person who desires to utilize a general permit issued under this subchapter, but is uncertain as to the potential application of the general permit to a particular proposed dam, water obstruction or encroachment, should consult with the Department. The Department may issue a determination as to whether the general permit applies to the proposed dam, water obstruction or encroachment.

(b) A request for a determination of the applicability of a general permit may not be considered a permit application for purposes of this chapter. [, **and no application fee will be charged**].

(c) A project requiring registration under § 105.447 may be charged an application fee as set forth in the general permit governing each category of dam, water obstruction or encroachment.



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

POLICY OFFICE

January 18, 2012

Mr. David Sumner, Executive Director
Independent Regulatory Review Commission
14th Floor
333 Market Street
Harrisburg, PA 17120

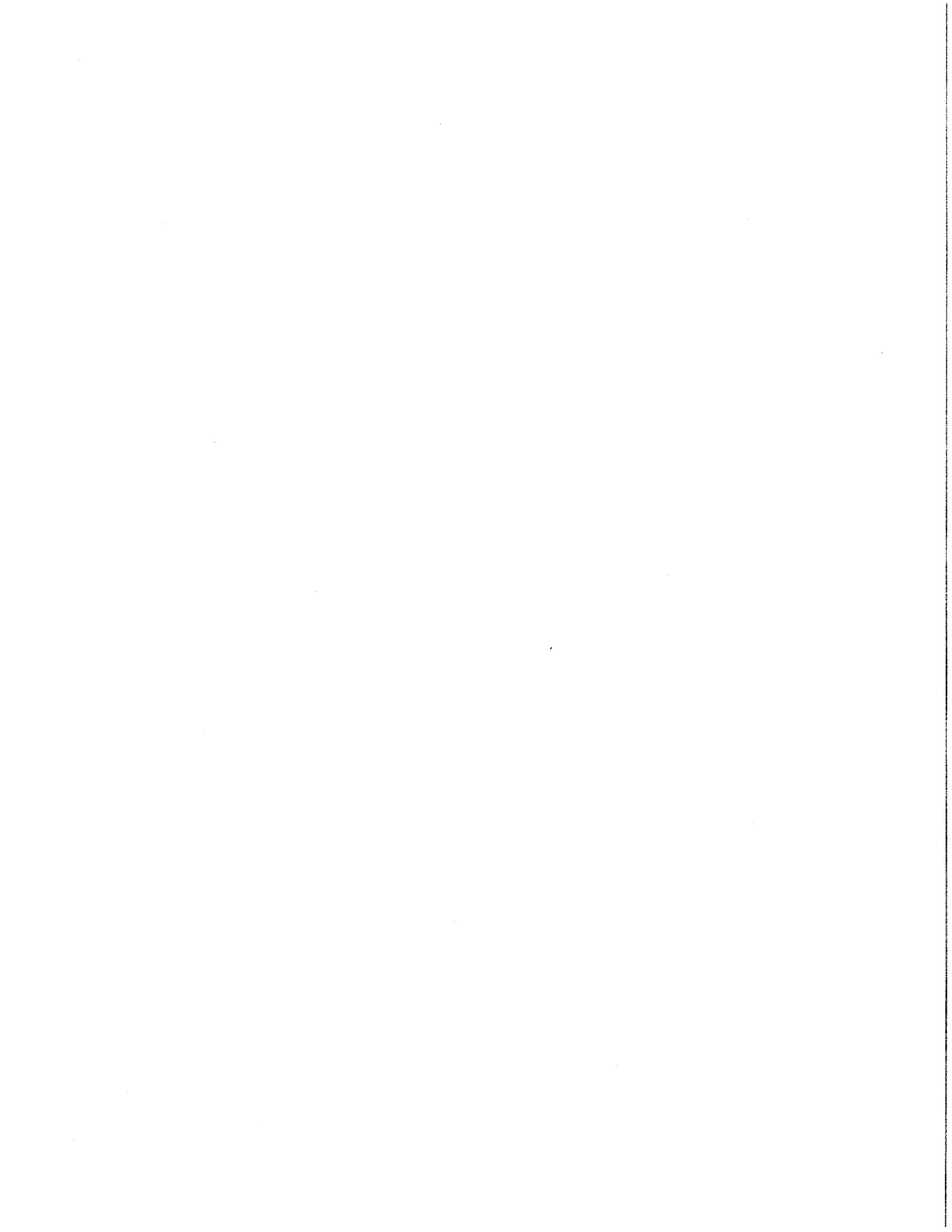
Re: Proposed Rulemaking – Dam Safety and Waterway Management Fees (#7-466)

Dear Mr. Sumner:

Pursuant to section 5(a) of the Regulatory Review Act, please find enclosed a copy of a proposed regulation for review and comment by the Independent Regulatory Review Commission. This proposal is scheduled for publication as a proposed rulemaking in the *Pennsylvania Bulletin* on January 28, 2012, with a 30-day public comment period. The Environmental Quality Board (EQB) adopted this proposal on December 21, 2010.

This proposed rulemaking amends the Department's Dam Safety and Waterway Management regulations in order to update existing fees and include new fees for activities performed by the Department, including the review of permit applications, general permit registration or other requests for approval, inspections, and review of permit-related submissions, emergency action plans, inspection reports, transfers and amendments. The amendments included in the rulemaking will generate fees to offset a portion of the operating costs of both the Dam Safety Program and Water Obstruction and Encroachment Program. The existing fees amended in this rulemaking package have not been adjusted by the Department since 1991. Upon promulgation, the Department will review the adequacy of the fees included in the rulemaking every three years and provide a written report to the Board.

Through its Dam Safety Program, the Department oversees the regulation and safety of approximately 3,200 dams and reservoirs throughout the Commonwealth. Key responsibilities of the program are to assure proper planning, design, construction, maintenance, operation, monitoring and supervision of dams and reservoirs, including the removal of dams that are no longer needed by their owners. The projected cost to the Department to administer the Dam Safety Program is approximately \$3.2 million; however, current permit fees generate only \$28,000. The amendments in the proposed rulemaking will generate approximately \$1.13 million in additional revenue, based on the annual average of the last three years of program activity.



The Department's Water Obstruction and Encroachment Program conducts water obstruction and encroachment permit application reviews, which include the review of plans and specification for the construction of new water obstructions or encroachments, the modification of existing water obstruction and encroachments, and other activities which would change, expand or diminish the course, current or cross section of a watercourse, floodway or waterbody, including wetlands. The projected cost to the Department for permit review-related activities under the program is \$5.5 million, in comparison to current fee collections of approximately \$33,450. Program costs associated with inspections, complaints, compliance/enforcement activities, conservation district assistance, training or associated management tasks add an additional \$4 million in costs, bringing total program costs to approximately \$9.6 million. The proposed regulatory amendments in the rulemaking will generate approximately \$4.5 million in additional revenue.

The proposed amendments were submitted to the Water Resources Advisory Committee (WRAC) for review and discussion at their May 11, 2010 meeting. Comments from WRAC were addressed and the revised rulemaking package was presented to WRAC at its July 14, 2010 meeting, where the committee approved the rulemaking. The proposed amendments were also submitted to the Agricultural Advisory Board (AAB) for review and discussion at their June 16, 2010 meeting.

The Department will provide the Commission with the assistance required to facilitate a thorough review of this proposal. Section 5(g) of the Regulatory Review Act provides that the Commission may, within 30 days of the close of the comment period, convey to the agency its comments, recommendations and objections to the proposed regulation. The Department will consider any comments, recommendations or suggestions made by the Commission, as well as the Committees and public commentators, prior to final adoption of this rulemaking.

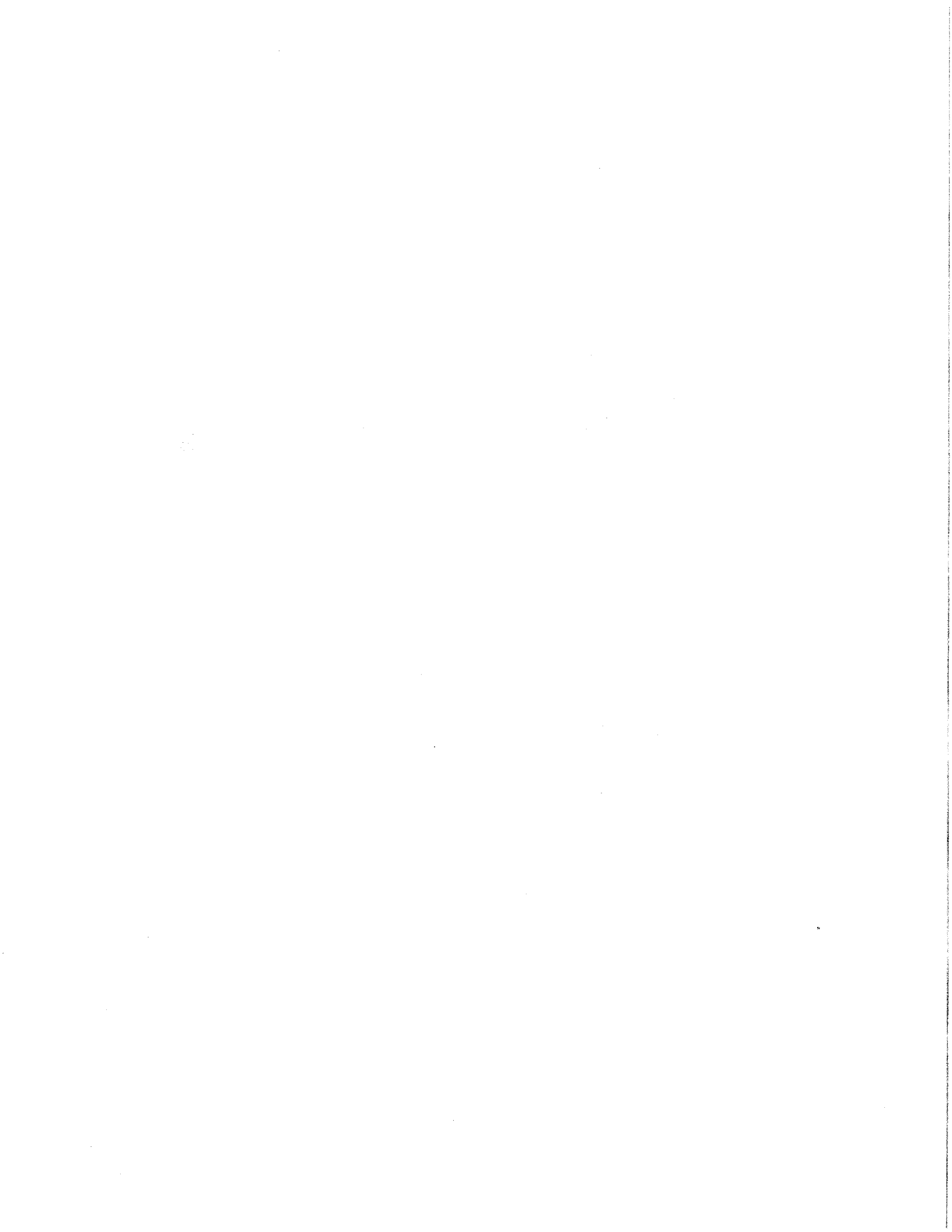
Please contact me at the number above if you have any questions or need additional information.

Sincerely,



Michele L. Tate
Regulatory Coordinator

Enclosures





**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO
THE REGULATORY REVIEW ACT**

I.D. NUMBER: 7-466
SUBJECT: Dam Safety and waterway management fees
AGENCY: DEPARTMENT OF ENVIRONMENTAL PROTECTION

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

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FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
1-18-12		Majority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY Rep. Scott Hutchinson
1-18-12		Minority Chair, HOUSE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
1-18-12		Majority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY Senator Mary Jo White
1/18/12		Minority Chair, SENATE COMMITTEE ON ENVIRONMENTAL RESOURCES & ENERGY
1/18/12		INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
1.18.12		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

