



Stephen Hoffman

From: ecomment@pa.gov
Sent: Wednesday, February 3, 2021 4:27 PM
To: Environment-Committee@pasenate.com; IRRC; environmentalcommittee@pahouse.net; regcomments@pa.gov; Troutman, Nick; timothy.collins@pasenate.com; gking@pahousegop.com; Iversen, Sarah A.
Cc: c-jflanagan@pa.gov
Subject: Comment received - Proposed Rulemaking: Dam Safety and Waterway Management (#7-556)

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Re: eComment System

The Department of Environmental Protection has received the following comments on Proposed Rulemaking: Dam Safety and Waterway Management (#7-556).

Commenter Information:

Stephen Kunz
 (spkunz@aol.com)
 1015 Brookwood Drive
 Phoenixville, PA 19460-2255 US

Comments entered:

I urge the Environmental Quality Board to consider these comments before finalizing its proposed revisions to Chapter 105.

Any revisions to the Chapter 105 regulations should serve to better protect Pennsylvania's wetlands and waterways.

One such way would be to ensure, in every application for an Individual Permit, a General Permit registration, or a request for a waiver, that the identification of wetlands and waters on the project site be thoroughly and accurately identified. This can be best accomplished by requiring the applicant (a) to field-delineate those aquatic resources and then (b) to obtain verification of those delineations by means of a Corps of Engineers "jurisdictional determination" (JD). Unless the resources at risk are accurately identified up front, impacts to them cannot be avoided, minimized, or even recognized.

Second, the Department must give more than lip-service protection to Special Protection waters – those which are recognized as Exceptional Value or High Quality in accordance with Chapter 93. This can be best accomplished by making all such wetlands and waters ineligible for either waivers or General Permits.

Third, all claims made by an applicant (e.g., that a project is water dependent, or that a project is in the public interest, or that the costs of resource protection outweigh the benefits, or that there are no practicable alternatives, etc.) must be fully supported by the applicant and verified by the Department.

Fourth, certain words or terms need to be clarified or defined. For example, there is no clear definition of "temporary", and yet temporary impacts have a smaller fee than permanent impacts. If "temporary" is simply not "permanent", then it could last almost forever. It seems that for Chapter 105 purposes "temporary" is generally meant to be 1 year or less, such as for a GP-8 (Temporary Road Crossing), which allows a road to disturb a wetland or water for up to a year. Another term that needs to be defined clearly is "adverse impact".

Finally, all permit applications, registrations, and waivers (and any accompanying maps, reports, and documentation) should be submitted to the Department electronically. For the sake of transparency, the Department should make all such filings publicly available on its website. And, inasmuch as the Department always seems to have fewer and fewer resources to review more and more projects, public access to all permit applications, registrations, and waivers would also allow the public to assist the Department in reviewing them for consistency with the regulations and application requirements.

Thank you for your consideration of these comments and the opportunity to provide them.

Sincerely,

No attachments were included as part of this comment.

Please contact me if you have any questions.

Sincerely,
Jessica Shirley

Jessica Shirley
Director, Office of Policy
PA Department of Environmental Protection
Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, PA 17105-2063
Office: 717-783-8727
Fax: 717-783-8926
ecomment@pa.gov