

Executive Summary

Amendments to Title 25, Pa. Code Chapter 105 Dam Safety and Waterway Management

Purpose of Proposed Rulemaking:

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 thereby reducing each program's dependence on the General Fund.

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.

Summary of Amendments:

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 amended 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. However, the proposed rulemaking removes the fee exemption for county or municipal agencies or municipal authorities for the Dam Safety Program. In addition, the Department will review the adequacy of the fees once every three years and provide a written report to the Environmental Quality Board (Board).

Submerged Lands License Agreements fees:

Section 105.35 was modified to reflect new fees for Submerged Lands License Agreements (SLLAs).

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 and Encroachments Act (Act).

General permit fees:

Sections 105.444 and 105.448 were modified to clarify the Department's authority to charge a registration or general permit fee.

Advisory Committee Review:

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 with a request for a formal record of the committee's recommendations. The proposed amendments were approved by WRAC on July 14, 2010. Attached is a copy of the final minutes from WRAC's July 14, 2010 meeting.

The proposed amendments were also submitted to the Agricultural Advisory Board (AAB) for review and discussion at their June 16, 2010 meeting. A copy of the draft minutes from AAB's June 16, 2010 meeting is attached. The minutes have not been finalized because AAB has not met since this June meeting.

Adoption Deadline:

The Department recommends the Board's approval of the proposed rulemaking, which amends the Dam Safety and Waterway Management Regulations (25 Pa. Code Chapter 105) in order to address Dam Safety and Water Obstruction and Encroachment Programs' concerns and address the administration's desire to establish fees to offset the programs' operating costs. These proposed amended regulations should be finalized and become effective in fall 2011.

Recommendations for Public Comment Period and Public Meetings/Hearings:

The Department recommends a 30-day public comment period. Public meetings or hearings will be accommodated, if requested.