

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 _____ (date).

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 8554, Harrisburg, PA 17105-8554 or Patricia McSparran, Director, Bureau of Waterways Engineering, 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 Waterways, Wetlands and Stormwater Management, P.O. Box 8775, Harrisburg, PA 17105-8775 or Glenn H. Rider, Director, Bureau of Watershed Management, P. O. Box 8555, Rachel Carson State Office Building, Harrisburg, PA 17105-8555, (717) 787-5267.

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 (35 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 therefore reducing each Program's dependency on the General Fund. 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 US 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. Governor Rendell received the 2004 ASDSO National Award of Merit, the organization's highest award given to individuals who have advanced the dam safety cause nationwide, for his leadership role on these issues.

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 position 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 fee. These fees 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 | \$2,000 + \$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

SLLA fees 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 Fee (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. 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 Board.

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

Section 105.35 was amended to reflect new fees 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.

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 Water Obstruction and Encroachment (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 \$1,760,150) 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 fees, 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 | | |

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 for SLLA since the increased fees adds 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 fees adds 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.

Municipal

Dam Safety Program

| Expenditures | Proposed Annual Approx Cost | Source | Existing Annual Approx Cost |
|-------------------------|------------------------------------|---------------------|------------------------------------|
| Administrative | \$115,500 | Dam Permits | \$0 |
| Monitoring | \$438,500 | Annual Registration | n/a |
| Administrative | \$21,800 | Major Amend/Auth | |
| Administrative | \$11,200 | Minor Amend/Auth | |
| Administrative | \$20,900 | Design Revision | |
| Administrative | \$11,500 | Env Assessment | |
| Administrative | \$900 | Transfer of Permit | |
| Dam Safety Total | \$620,300 | | |

The cost to the local municipalities with the Dam Safety new regulations will be an average of \$620,300. The activities requiring a review fee will increase from \$0 to an estimated \$620,300 since there are no fees currently associated with municipal projects requiring authorizations under this program.

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 fees are currently associated with municipal projects requiring authorizations under this program and no fees 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 fee.

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 | | |

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 | \$5,000 | Env Assessment | |
| Administrative | \$529,251 | Gen Permit Avg | |
| Administrative | \$5,000 | Major Amendment | |
| Administrative | Unknown* | Minor Amendment | |
| Administrative | \$6,000 | Transfer w/ SLLA | |
| Administrative | Unknown* | Transfer w/o SLLA | |
| Water Obstruction & Encroachments Permit Total | \$2,952,612 | | \$47,850 |

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

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 fee. SLLA fees will increase from \$0.010/sf to \$0.040/sf to reflect an increase in value as these fees 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, Water Obstruction and Encroachment 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

In accordance with section 5(a) and (f) of the Regulatory Review Act (71 P.S. §§ 745.5a and (f)), the Department submitted a copy of the proposed rulemaking on _____, 2010, to the Legislative Reference Bureau for publication of notice of proposed rulemaking in the *Pennsylvania Bulletin*, and to the Independent Regulatory Review Commission (Commission). In accordance

with Section (f) of the act (71 P.S. § 745.5(f)), the Department will submit the proposed regulations and the required material to the Chairpersons of the House Environmental Resources and Energy Committee and the Senate Environmental Resources and Energy Committee (Committees) no later than the second Monday after the date by which both Committee designations have been published in the *Pennsylvania Bulletin*. In addition to submitting the proposed amendments, the Department has provided the Commission and will provide the Committees with a copy of a detailed Regulatory Analysis Form. 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 (blank) (within days of publication in the *Pennsylvania Bulletin*). 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 (blank) (within days following publication in the *Pennsylvania Bulletin*). 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@state.pa.us and must also be received by the Board by (date) . A subject heading of the proposal and a return name and address must be included in each transmission.

BY:

JOHN HANGER
Chairperson
Environmental Quality Board