3-YEAR REGULATORY FEE AND PROGRAM COST ANALYSIS REPORT
TO THE ENVIRONMENTAL QUALITY BOARD

Chapter 102 Erosion and Sedimentation Control and Stormwater Management Permits Fees Report

BACKGROUND:

The regulations governing erosion and sedimentation control and stormwater management at 25 Pa. Code § 102 became effective November 19, 2010. According to 25 Pa. Code 102.6(b)(2), the Department must review the adequacy of fees once every three years and report this data to the Environmental Quality Board. The report shall identify any disparity between the amount of program income generated by the fees and the costs to administer these programs, and contain recommendations to adjust fees to eliminate the disparity, including recommendations for regulatory amendments.

The current fees are in accordance with the following schedule and must accompany an application for all general and individual National Pollution Discharge Elimination System (NPDES) discharges associated with construction activities permits, all Erosion and Sedimentation Control General Permits (ESCGP), and all Erosion and Sedimentation Control (ESC) Permits. The fees are as follows:

Application Fee – General Permits (NPDES PAG-02, ESCGP)	$500
Application Fee – Individual Permits (NPDES PAI, ESC)	$1500
Per Disturbed Acre Fee – All Permits	$100 X for each disturbed acre

The Department has entered into delegation agreements with county conservation districts throughout the Commonwealth to implement the Chapter 102 program. As part of this delegation agreement, the application fee is retained by the conservation district that is processing the permit application and must be deposited into the conservation district Clean Water Fund account. Conversely, the disturbed acreage fee is directed to the Department for deposit into the Commonwealth of Pennsylvania Clean Water Fund.

FEE COLLECTIONS:

The revised Chapter 102 regulations were adopted on November 19, 2010. Due to the adoption of the revisions to the regulations occurring late in the calendar year, all costs and fees are reported using data for three quarters of a year. The disturbed acreage fee did not exist prior to November 19, 2010 regulatory revisions, so that data was not adjusted. Although the Chapter 102 program is implemented in part through delegation to the conservation districts, only Department costs are discussed in this report. Fees collected through ESCGP for oil and gas activities were included for transmission line projects that are processed by the conservation districts only as they are not differentiated from other disturbed acreage fees collected by delegated conservation districts. Fees for ESCGP for gathering lines and well pads are not included in these analyses as they are collected by the Oil and Gas Management Deputate and are kept in a separate revenue account.

COSTS AND FEE COLLECTIONS:

The Department costs for the Chapter 102 program implementation averaged about $2.3 and $2.4 million in 2011 and 2012 (shown in Table 1). Fees collected through Chapter 102 program were $530 thousand, $2.6 million and $3.3 million in 2010, 2011, and 2012, respectively.

Table 1. Costs and revenues associated with the Chapter 102 program

	FY 10-11	**FY 11-12**	**FY 12-13**
Program Cost	$1,275,383	$2,306,912	$2,392,189
Fees Collected	$530,313	$2,641,656	$3,292,312
Difference (dollars)	-$745,070	$344,744	$900,123
Difference (percent)	-58%	15%	38%

TREND ANALYSIS:

25 Pa. Code § 102.6(b)(2) requires the Department to recommend to the Board regulatory changes to fees every three years to address any disparity between the program income generated by the fees and program costs. In accordance with this requirement, the Chapter 102 program performed a workload analysis to evaluate costs associated with the program. Revenues and program costs were projected (or given using actual data, if available) for the three year period of 2014-2016 until the time of the next triennial review of fees.

Program costs were estimated to grow 1.97% yearly based on current DEP growth. Revenues are estimated to be 7% using the American Institute of Architects Consensus Construction Forecast numbers to project the expansion in the construction market for the years 2013 through 2016. This percent growth is smaller when compared to the average increase in permits since 2010 (8% in 2011 and 26% in 2012) which averaged 17%. Actual data for fiscal year 2013-14 were used as they were available at the time of this report.

Table 2 shows the projected costs and revenues for the Chapter 102 program using the AIA Consensus Construction Forecast.

Table 2. Projected costs and revenues associated with the Chapter 102 program

	FY13-14	**FY14-15**	**FY15-16**
Projected Program Cost	$2,439,314	$2,487,369	$2,536,370
AIA Projected Fees Collected	$2,982,648	$3,191,433	$3,414,834
Projected Difference (dollars)	$543,333	$704,064	$878,463
Projected Difference (percent)	22%	28%	35%

Revenue/expense ratios were calculated for the program to see if projected revenue streams are sufficient to support projected program costs. Table 3 provides revenue/expense revenues ratios for the current and next two fiscal years.

Table 3. Revenue/expense ratios associated with projected Chapter 102 program

	FY13-14	**FY14-15**	**FY15-16**
Projected Revenue	$2,982,648	$3,191,433	$3,414,834
Projected Expenses	$2,439,314	$2,487,369	$2,536,370
Ratio	1.22	1.28	1.35

RECOMMENDATION AND COMMENT:

The Bureau of Waterways Engineering and Wetlands recommends the following as a result of this fee analysis and projection:

1. No changes in the fees for the Chapter 102 program are proposed at this time.
2. Continue the funding of training and outreach efforts including Boot Camps (for conservation district and Department staff), annual training (for conservation district and Department staff), and targeted training, including webinars, for the regulated community.
3. Funding the development of ePermitting mechanisms, which is becoming mandatory for states to have in place through their delegation of the permitting programs by the Environmental Protection Agency.
4. Continue Department efforts to improve staff time tracking and accounting