

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

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**CHAPTER 105. DAM SAFETY AND WATERWAY MANAGEMENT**

**BACKGROUND:**

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*Dam Safety Program:*

The current regulations governing fees associated with dams under the Dam Safety and Waterway Management at 25 Pa. Code § 105.13 (c)(1) became effective February 16, 2013. In accordance with 25 Pa. Code § 105.13(l), the Department of Environmental Protection (DEP) must review the adequacy of fees at least once every three years and provide a written report to the Environmental Quality Board (EQB). The purpose of this report is to identify any disparity between the amount of program income generated by the fees and the costs to administer these programs. The report also will include recommendations to adjust fees to eliminate the disparity, including recommendations for regulatory amendments, if necessary.

DEP conducts the Dam Safety Program through the Office of Water Programs’ (Water) Bureau of Waterways Engineering and Wetlands (BWEW) staff in Central Office and the Waterways and Wetlands staff in the Regional Offices. As required by §105.13(b), the fees collected are deposited into a restricted revenue account known as the Clean Water Fund and utilized to offset operating costs to implement the respective programs.

The current Dam Safety Program fees are included in the following fee tables. The appropriate fee(s) must accompany an application/registration for all Dam Safety Permits, Modifications, Operation and Maintenance, Letters of Amendment or Authorization, Major Design revision, Environmental assessment, Transfer of Dam Permit and Annual Dam Registration fees for High Hazard dams (with or without Submerged Lands License Agreement (SLLA)).

Dam Permit Application Fees for New Dam Construction

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

Dam Permit Application Fees for Modification of Existing Dams\*

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

\*Staged Construction Fee = No. of Stages Beyond Initial Stage x Application Fee x 0.85(85%)

Dam Permit Application Fees for Operation & Maintenance of Existing Dams

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

Letter of Amendment or Authorization Review Fees

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

Major Dam Design Revision Review Fees Based on Major Dam Design Revision as Defined in Chapter 105.1

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

Environmental Assessment Review Fees for Non-Jurisdictional Dams, Letters of Amendment or Letters of Authorization

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

Transfer of Dam Permit as Required Under Chapter 105.25 (Relating to Transfer of Permits)

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

Annual Dam Registration Fees as Required under Chapter 105.131a (Relating to Annual Dam Registration)

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

Water Obstruction and Encroachment Program:

As is true for the Dam Safety Program, the current regulations governing fees associated with water obstructions and encroachments under the Dam Safety and Waterway Management at 25 Pa. Code 105.13 (c)(2) became effective on February 16, 2013. In accordance with 25 Pa. Code § 105.13(l), DEP must review the adequacy of fees at least once every three years and provide a written report to the Environmental Quality Board (EQB). The purpose of this report is to identify any disparity between the amount of program income generated by the fees and the costs to administer these programs. The report also will include recommendations to adjust fees to eliminate the disparity, including recommendations for regulatory amendments, if necessary.

DEP implements the WO&E Program responsibilities through the Office of Water Programs. The Office of Water Programs has delegated the authority to review and authorize Chapter 105 Water Obstruction and Encroachment (WO&E) permits to the Office of Oil and Gas Management (Oil & Gas) when the regulated activities are part of an Oil & Gas permit. The Office of Water Programs has also entered into agreements with 33 of the 66 Conservation Districts (Districts) to delegate administrative responsibilities of the WO&E Program. Included in those delegated responsibilities are General Permit (GP) review and acknowledgement, complaint inspections, and fee accounting and reporting. BWEW staff in Central Office and the Waterways & Wetlands staff in the Regional Offices implement the remaining portions of the WO&E Program, which encompass most of the authorization responsibilities.

As required by §105.13(b), the fees collected are deposited into a restricted revenue account known as the Clean Water Fund and used to offset the operating costs to implement the program. The delegated Conservation Districts have their own Clean Water Funds and tracking of revenue and costs, which they report to DEP on a quarterly basis. The total costs incurred, and the total revenue from fees collected by all Chapter 105 WO&E Program implementation entities is included in this analysis and report.

The WO&E Program is also responsible for processing SLLAs. The analysis for SLLAs is substantially different than the analysis for the WO&E Program responsibilities. The report on SLLAs is included as **Attachment A** to this report because separate reporting allows for a more specific analysis of each item.

The WO&E Program is applicable to individuals or entities seeking authorization to perform the activities regulated under Chapter 105. In accordance with 25 Pa. Code § 105.13(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 assessment, permit transfer, or annual dam registration shall be accompanied by a check for the applicable fees, except for submissions by Federal, State, county or municipal agencies or a municipal authority.

The current WO&E Program fees are as follows:

Water Obstruction and Encroachment Permit Application Fees:

Joint Permit Application Administrative Filing Fee\* \$1,750\*

General Permit Registration Fees:

GP-1	Fish Habitat Enhancement Structures	\$ 50
GP-2	Small Docks and Boat Launching Ramps	\$ 175
GP-3	Bank Rehabilitation, Bank Protection and Gravel Bar Removal	\$ 250
GP-4	Intake and Outfall Structures	\$ 200
GP-5	Utility Line Stream Crossings	\$ 250
GP-6	Agricultural Crossings and Ramps	\$ 50
GP-7	Minor Road Crossings	\$ 350
GP-8	Temporary Road Crossings	\$ 175
GP-9	Agricultural Activities	\$ 50
GP-10	Abandoned Mine Reclamation	\$ 500

GP-11 Maintenance, Testing, Repair, Rehabilitation or Replacement of Water Obstructions and Encroachments\* \$ 750\*

GP-15 Private Residential Construction in Wetlands\* \$ 750\*

Disturbance Review Fees -- added where applicable, see authorizations with “\*”

Permanent Disturbance \$ 800 / 0.10 acre

- Waterways, floodways/floodplains and wetlands  
 per tenth acre, minimum 0.1 acre

Temporary Disturbance \$ 400 / 0.10 acre

- Waterways, floodways/floodplains and wetlands  
 per tenth acre, minimum 0.1 acre

Other Fees -- separate from the initial application or registration fees

Environmental assessment for waived activities \$ 500

- (§ 105.12(a)(11) and (16) per § 105.15(d))

Major amendment to Water Obstruction and Encroachment Permit\* \$ 500\*

Minor amendment to Water Obstruction and Encroachment Permit \$ 250

Transfer of permit with SLLA \$ 200

Transfer of permit without SLLA \$ 100

**ANALYSIS OF COST AND REVENUE DATA:**

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The period of time analyzed for this report is February 2013 through February 2016, which represents the first three calendar years of program cost and revenue data after fee implementation. The current Chapter 105 regulations and WO&E Program fees became effective on February 16, 2013 (43 Pa.B. 967), which was seven and a half months into Fiscal Year (FY) 2012-13. Therefore, it should be noted:

- FY 2012-13 is a partial year of data and details costs and revenue from February 16, 2013 through June 30, 2013
  - This time frame equals 4.5 months or 0.375 years.
- FY 2013-14 is a complete year of cost and revenue data.
- FY 2014-15 is a complete year of cost and revenue data.
- FY 2015-16 includes data collected from July 1, 2015 to February 12, 2016
  - This time frame equals 7.5 months or 0.625 years
  - This data set also provides the basis to project costs and revenue for FY 2016-17, FY 2017-18 and FY 2018-19.

**PROGRAM COSTS:**

*Dam Safety Program:*

To review program costs, BWEW Central Office staff analyzed payroll reports and employee time reporting codes. The payroll posting reports included staff salary and benefits. To account for overhead, 15% was added to the payroll costs to provide an estimate for the overall costs included in the analysis.

*Table 1. Chapter 105 Dam Safety Program Costs* details the Dam Safety Program costs for each Fiscal Year represented during the reporting period. The average annual Dam Safety Program cost was \$2,029,583, which is approximately 62% of the originally projected \$3,287,132 average annual cost.

<i>Table 1. Chapter 105 Dam Safety Program Costs</i>				
	<b>FY 2012-13<sup>1</sup></b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>	<b>FY 2015-16<sup>2</sup></b>
Annual Program Cost	\$270,487	\$2,092,784	\$2,480,435	\$1,245,044
<b>Total Program Cost (3 years)</b>	<b>\$6,088,750</b>			
<i>Average Annual Program Cost<sup>3</sup></i>	\$2,029,583			

<sup>1</sup> partial year (0.375) of data (February 16, 2013 - June 30, 2013)

<sup>2</sup> partial year (0.625) of data (July 1, 2015 - February 12, 2016)

<sup>3</sup> the 2 partial years equal 1 full year, so Total Program Cost is divided by 3 to determine the Average Annual Program Cost

*Water Obstruction and Encroachment Program:*

To review program costs, BWEW Central Office staff analyzed payroll reports and employee time reporting codes. The payroll posting reports included staff salary and benefits. To account for overhead cost, 15% was added to the payroll costs to provide an estimate for the overall costs for the analysis. Also added to DEP’s costs were the costs to each District as reported to DEP quarterly.

*Table 1. Chapter 105 WO&E Program Costs* details the WO&E Program costs for each Fiscal Year represented during the reporting period. The average annual WO&E Program cost was \$9, 327,786, which is within 3% of the originally projected \$9,615,470 average annual cost.

	<b>FY 2012-13<sup>1</sup></b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>	<b>FY 2015-16<sup>2</sup></b>
Annual Program Cost	\$3,111,307	\$8,956,756	\$9,713,323	\$6,201,971
<b>Total Program Cost (3 years)</b>	<b>\$27,983,358</b>			
<i>Average Annual Program Cost<sup>3</sup></i>	<i>\$9,327,786</i>			

<sup>1</sup> partial year (0.375) of data (February 16, 2013 - June 30, 2013)

<sup>2</sup> partial year (0.625) of data (July 1, 2015 - February 12, 2016)

<sup>3</sup> the 2 partial years equal 1 full year, so Total Program Cost is divided by 3 to determine the Average Annual Program Cost

Note: The current program costs are based on the existing WO&E Program complement (including Oil & Gas and Conservation District staff); however, the existing complement is not sufficient, at this time, to address all current program duties such as compliance, operations and wetlands assessment.

### **PROGRAM REVENUE FROM FEE COLLECTIONS:**

#### *Dam Safety Program:*

BWEW Central Office reviewed revenue reports and revenue accounts in order to evaluate fee collections.

*Table 2. Chapter 105 Dam Safety Program Revenue* details the Dam Safety Program revenue from fee collections for each Fiscal Year. The average annual revenue was \$819,986, which is 43% of the originally projected \$1,916,300 average annual revenue.

	<b>FY 2012-13<sup>1</sup></b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>	<b>FY 2015-16<sup>2</sup></b>
Annual Program Revenue	\$9,857	\$631,091	\$1,336,033	\$482,977
<b>Total Program Revenue (3 years)</b>	<b>\$2,459,958</b>			
<i>Average Annual Program Revenue<sup>3</sup></i>	<i>\$819,986</i>			

<sup>1</sup> partial year (0.375) of data (February 16, 2013 - June 30, 2013)

<sup>2</sup> partial year (0.625) of data (July 1, 2015 - February 12, 2016)

<sup>3</sup> the 2 partial years equal 1 full year, so Total Program Cost is divided by 3 to determine the Average Annual Program Revenue

#### *Water Obstruction and Encroachment Program:*

BWEW Central Office reviewed revenue reports and revenue accounts in order to review the fee collections and perform this analysis. Added to DEP's fee collections was the revenue collected by each District as reported to DEP quarterly.

*Table 2. Chapter 105 WO&E Program Revenue* details the WO&E Program revenue from fee collections for each Fiscal Year. The average annual revenue was \$4,233,846, which is 43% higher than the originally projected \$2,952,612 average annual revenue.

	<b>FY 2012-13<sup>1</sup></b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>	<b>FY 2015-16<sup>2</sup></b>
Annual Program Revenue	\$1,043,131	\$4,297,672	\$3,739,554	\$3,621,182
<b>Total Program Revenue (3 years)</b>	<b>\$12,701,539</b>			
<i>Average Annual Program Revenue<sup>3</sup></i>	<i>\$4,233,846</i>			

<sup>1</sup> partial year (0.375) of data (February 16, 2013 - June 30, 2013)

<sup>2</sup> partial year (0.625) of data (July 1, 2015 - February 12, 2016)

<sup>3</sup> the 2 partial years equal 1 full year, so Total Program Cost is divided by 3 to determine the Average Annual Program Revenue

## **TREND ANALYSIS:**

### *Dam Safety Program:*

The Dam Safety Program performed a workload and trend analysis based on revenue and payroll reports to evaluate costs and income associated with implementation during the two partial (FY 2012-13 and FY 2015-16) and two complete (FY 2013-14 and FY 2014-15) fiscal years since the implementation of the new fees. The analysis is consistent with the same delegation and time frame limitations as the income from fee collections and program costs described above.

As previously stated, FY 2012-13 and FY 2015-16 were partial years of data collection. In order to perform a trend analysis and more easily compare FY 2012-13 and FY 2015-16 to FY 2013-14 and FY 2014-15, the average annual cost and revenue were estimated for FY 2012-13 and FY 2015-16.

- Fiscal Year 2012-13 accounts for four and one half (4.5) months, or 0.375 year, of this report:
  - \$9,857 was collected in fees, therefore the estimated total fees for the whole year are \$26,285.
  - \$270,487 were recorded in costs based on employee time reporting and overhead, resulting in an estimated total cost of \$432,779.
- Fiscal Year 2015-16 accounts for seven and a half (7.5) months, or 0.625 year, of this report:
  - \$482,977 was collected in fees, therefore the estimated total fees for the whole year are \$1,287,939.
  - \$1,245,044 were recorded in costs based on employee time reporting and overhead, resulting in an estimated total cost of \$1,992,070.

*Table 3. Chapter 105 Dam Safety Program Cost Recovery* details Dam Safety Program costs and revenue from fee collections for each Fiscal Year represented. This data set shows an average annual deficit of \$929,180, or 61%. Therefore, 39% of the costs are recovered by revenue from fee collections, which is higher than the originally estimated 31% average annual cost recovery.

	<b>FY 2012-13*</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>	<b>FY 2015-16*</b>
Program Cost	\$432,779	\$2,092,784	\$2,480,435	\$1,992,070
Program Revenue	\$26,285	\$631,091	\$1,336,033	\$1,287,939
<b>Deficit (dollars)</b>	<b>(\$406,494)</b>	<b>(\$1,461,693)</b>	<b>(\$1,144,402)</b>	<b>(\$704,131)</b>
<i>Average Annual Deficit (dollars)</i>	(\$929,180)			
<b>Deficit (percent)</b>	<b>94%</b>	<b>70%</b>	<b>46%</b>	<b>35%</b>
<i>Average Annual Deficit (percent)</i>	61%			
<b>Average Annual Cost Recovery</b>	<b>39%</b>			

\* partial year of data; adjusted to be an annual amount for comparison purposes

It is important to note that, the current fee schedule provides fee exemptions for Federal, State, county or municipal agencies, or municipal authorities from paying permit fees, resulting substantially reduced program cost recovery.

*Table 4. Projected Chapter 105 Dam Safety Program Cost Recovery* details Dam Safety Program costs and revenue from fee collections for three years. The available data for FY 2015-16 was used to determine projected costs and revenue. Costs and revenue were projected for FY 2016-17, FY 2017-18 and FY 2018-19, the next three-year fee review time frame.

	<b>FY 2016-17</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
Projected Program Cost	\$2,051,832	\$2,113,387	\$2,176,789
Projected Program Revenue	\$1,287,939	\$1,287,939	\$1,287,939
<b>Projected Deficit (dollars)</b>	<b>(\$763,893)</b>	<b>(\$825,448)</b>	<b>(\$888,850)</b>
<i>Projected Average Annual Deficit (dollars)</i>	(\$826,064)		
<b>Projected Deficit (percent)</b>	<b>37%</b>	<b>39%</b>	<b>41%</b>
<i>Projected Average Annual Deficit (percent)</i>	39%		
<b>Projected Average Annual Cost Recovery</b>	<b>61%</b>		

The source of the fees is presently only the private dam owners. Private dam owners make up approximately 60% of all dam owners. The other 40% of dam owners are comprised of government entities. The 39% projected average annual deficit in income is partially a reflection of the exemption of government entities from paying the Dam Safety fees as set forth in 25 Pa. Code Chapter 105.13(c)(1).

Costs were estimated to grow 3% annually based on anticipated personnel salary increases and economic inflation over the period of the analysis. Average income is expected to remain flat.

*Water Obstruction and Encroachment Program:*

The WO&E Program staff performed a workload and trend analysis based on the revenue and payroll/cost data to evaluate revenue and costs associated with the program responsibilities during the reporting period.



As previously stated, FY 2012-13 and FY 2015-16 were partial years of data collection. In order to perform a trend analysis and more easily compare FY 2012-13 and FY 2015-16 to FY 2013-14 and FY 2014-15, the average annual cost and revenue were estimated for FY 2012-13 and FY 2015-16.

- Fiscal Year 2012-13 accounts for four and a half (4.5) months, or 0.375 year, of this reporting period:
  - \$1,043,131 was collected in revenue from fees, therefore the estimated total revenue from fees for the whole year are \$2,781,683.
  - \$3,111,307 were recorded in costs based on employee time reporting and overhead, resulting in an estimated total cost of \$8,296,820.
- Fiscal Year 2015-16 accounts for seven and a half (7.5) months, or 0.625 year, of this reporting period:
  - \$3,621,182 was collected in revenue from fees, therefore the estimated total revenue from fees for the whole year are \$5,793,891.
  - \$6,201,971 were recorded in costs based on employee time reporting and overhead, resulting in an estimated total cost of \$9,923,154.

*Table 3. Chapter 105 WO&E Program Cost Recovery* details WO&E Program costs and revenue from fee collections for each Fiscal Year represented. This data set shows an average annual deficit of \$5,069,313, or 55%. Therefore, 45% of the costs are recovered by revenue from fee collections, which is 14% higher than the originally estimated 31% average annual cost recovery.

	<b>FY 2012-13*</b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>	<b>FY 2015-16*</b>
Program Cost	\$8,296,820	\$8,956,756	\$9,713,323	\$9,923,154
Program Revenue	\$2,781,683	\$4,297,672	\$3,739,554	\$5,793,891
<b>Deficit (dollars)</b>	<b>(\$5,515,137)</b>	<b>(\$4,659,084)</b>	<b>(\$5,973,769)</b>	<b>(\$4,129,263)</b>
<i>Average Annual Deficit (dollars)</i>	<i>(\$5,069,313)</i>			
<b>Deficit (percent)</b>	<b>66%</b>	<b>52%</b>	<b>62%</b>	<b>42%</b>
<i>Average Annual Deficit (percent)</i>	<i>55%</i>			
<b>Average Annual Cost Recovery</b>	<b>45%</b>			

\* partial year of data; adjusted to be an annual amount for comparison purposes

It is important to note that, the current fee schedule provides fee exemptions for Federal, State, county or municipal agencies, or municipal authorities from paying permit fees, resulting in substantially reduced program cost recovery.

*Table 4. Projected Chapter 105 WO&E Program Cost Recovery* details WO&E Program costs and revenue from fee collections for three years. The available data for FY 2015-16 was used to determine projected costs and revenue. Costs and revenue were projected for FY 2016-17, FY 2017-18 and FY 2018-19, the next three-year fee review time frame.

<i>Table 4. Projected Chapter 105 WO&amp;E Program Cost Recovery</i>			
	<b>FY 2016-17</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
Projected Program Cost	\$10,220,849	\$10,527,474	\$10,843,299
Projected Program Revenue	\$5,793,891	\$5,793,891	\$5,793,891
<b>Projected Deficit (dollars)</b>	<b>(\$4,426,958)</b>	<b>(\$4,733,583)</b>	<b>(\$5,049,407)</b>
<i>Projected Average Annual Deficit (dollars)</i>	<i>(\$4,736,649)</i>		
<b>Projected Deficit (percent)</b>	<b>43%</b>	<b>45%</b>	<b>47%</b>
<i>Projected Average Annual Deficit (percent)</i>	<i>45%</i>		
<b>Projected Average Annual Cost Recovery</b>	<b>55%</b>		

Currently Federal, State, county or municipal agencies or municipal authorities are exempted from paying the permit fees under 25 Pa. Code Chapter 105. An estimated 45% of the costs are attributable to the fee exempt entities. Costs were estimated to grow at 3% annually based on anticipated personnel salary increases and economic inflation over the period of the analysis. The wide range of applicants for WO&E authorizations, including those exempt entities, makes it very difficult to project future revenue. Fiscal Years 2017-18 and 2018-19 revenue from fee collections are projected to remain the same as FY 2016-17 due to these reasons.

#### **NOTES:**

DEP is not seeking to amend the existing fee schedule included in 25 Pa. Code Chapter 105 at this time.

However, as staffing resources are not sufficient to address all current WO&E program responsibilities, DEP will continue to monitor and evaluate program costs and fee revenue and explore all options to improve cost recovery, including future proposed amendments to the regulatory fee schedule.

## ATTACHMENT A

### Submerged Lands License Agreements (SLLA)

In developing the *3-Year Regulatory Fee and Program Cost Analysis Report to the Environmental Quality Board for the Chapter 105. Dam Safety and Waterway Management Water Obstruction and Encroachment Program* BWEW staff determined that the analysis of the SLLA Program was best reported as an attachment to the report rather than in the report itself. The analysis for SLLA Program is substantially different than the analysis for the WO&E Program and separate reporting allows for a more specific analysis of each item.

### BACKGROUND:

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The current regulations governing Dam Safety and Waterway Management at 25 Pa. Code § 105 became effective on February 16, 2013. Chapter 105 encompasses two Programs, the Dam Safety Program and the Water Obstruction and Encroachment (WO&E) Program. The WO&E Program is responsible for processing SLLAs.

The current annual SLLA charges are as follows:

§ 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, \$150 per tenth of an acre.
    - (ii) For barge fleeting and mooring areas, \$30 per tenth of an acre.
    - (iii) Minimum annual charge, \$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 (in feet)</i>	<i>Charges (in dollars)</i>
Less than 500	\$ 750
500 to 999	\$ 1,500
1,000 to 1,499	\$ 3,000
1,500 to 1,999	\$ 4,500
2,000 to 2,499	\$ 6,000
2,500 to 2,999	\$ 7,500
3000 to 3499	\$ 9,000
3500 to 3999	\$10,500
4000 to 4499	\$12,000
4500 to 4999	\$13,500
5000 and over	\$15,000

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.

DEP, on behalf of the Commonwealth, processes grant leases, licenses, easements and rights-of-ways in submerged lands in the form of SLLAs to entities wishing to occupy submerged lands of the Commonwealth. Those entities must obtain an SLLA and pay the appropriate annual charge. The revenue from the SLLA charges are not maintained within DEP, but deposited into the General Fund.

SLLAs are issued by BWEW in coordination with District staff and Department Regional Office staff in Oil & Gas and Waterways & Wetlands.

### **PROGRAM COSTS:**

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To review SLLA processing costs, BWEW Central Office staff analyzed payroll posting reports. The payroll posting report included staff salary and benefits. To account for overhead cost, 15% was added to the payroll cost to provide an estimate for the SLLA processing cost for this analysis.

Prior to the implementation of the current fee schedule, BWEW staff have not been able to fully estimate the costs to implement the existing SLLA responsibilities due to the interrelated nature of the WO&E Program and SLLA processing at the District and Regional Office levels. These costs were therefore included with WO&E Program costs because they are done by the same staff. However, since fee implementation and the addition of new work codes, the cost to BWEW staff to implement the SLLA processing is now available.

*Table 1. Submerged Lands License Agreements (SLLA) Program Costs* details the SLLA processing costs for each Fiscal Year since fee implementation. An average annual SLLA cost of \$73,376 was calculated.

	<b>FY 2012-13<sup>1</sup></b>	<b>FY 2013-14</b>	<b>FY 2014-15</b>	<b>FY 2015-16<sup>2</sup></b>
Annual Program Cost	\$18,678	\$41,646	\$98,734	\$70,070
<b>Total Program Cost (3 years)</b>	<b>\$229,128</b>			
<i>Average Annual Program Cost<sup>3</sup></i>	<i>\$73,376</i>			

<sup>1</sup> partial year (0.375) of data (February 16, 2013 - June 30, 2013)

<sup>2</sup> partial year (0.625) of data (July 1, 2015 - February 12, 2016)

<sup>3</sup> the 2 partial years equal 1 full year, so Total Program Cost is divided by 3 to determine the Average Annual Program Cost

Note: The current SLLA processing costs are based on the existing SLLA staff complement; however, the existing complement is not sufficient, at this time, to efficiently address all current duties such as transfers, amended agreements, etc.

#### **REVENUE FROM SLLA CHARGES:**

BWEW staff retrieved data from the SLLA database in order to support the review and analysis of the revenue from SLLA charges.

*Table 2. Submerged Lands License Agreements (SLLA) Revenue* details the revenue from SLLA charges for each calendar year since fee implementation. An average annual revenue of \$1,753,064 was calculated, which is 12% higher than the originally projected \$1,564,000 average annual revenue.

	<b>2013*</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Annual Program Revenue	\$2,927,118	\$1,023,856	\$1,444,003	\$1,617,279
<b>Total Program Revenue (4 years)</b>	<b>\$7,012,256</b>			
<i>Average Annual Program Revenue</i>	<i>\$1,753,064</i>			

\* full year of data, but revised charges implemented during this time frame

Note: Non-payment of SLLA annual fees in an on-going issue for BWEW staff and results in a cost to DEP as staff attempt to track down delinquent owners and try to bring them into compliance. Additionally, payment of past-due charges may skew the annual data.

#### **TREND ANALYSIS:**

As noted previously, DEP processes SLLAs on behalf of the Commonwealth and as such, DEP incurs the cost of the SLLA processing, but does not maintain the revenue from SLLA charges which are deposited into the General Fund. Therefore, none of the SLLA costs are offset by the SLLA revenue.

*Table 3. Projected Submerged Lands License Agreements (SLLA) Program Costs* details SLLA costs for three fiscal years. The available cost data for FY 2015-16 was used to determine projected program costs which were then projected for FY 2016-17, FY 2017-18 and FY 2018-19, the next three-year fee review time frame.

<i>Table 3. Projected Submerged Lands License Agreements (SLLA) Program Costs</i>			
	<b>FY 2016-17</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
Annual Program Cost	\$115,476	\$118,940	\$122,508
<b>Total Program Cost (3 years)</b>	<b>\$356,924</b>		
<i>Average Annual Program Cost</i>	<i>\$118,975</i>		

Costs were estimated to grow at 3% annually based on anticipated personnel salary increases and economic inflation over the period of the analysis. The wide range of applicants for WO&E authorizations, and therefore those entities obtaining SLLAs, makes it very difficult to project future revenue. For these reasons, revenue from SLLA charges for Fiscal Years 2017-18 and 2018-19 are projected to remain the same as FY 2016-17.