

## FEE REPORT FORM

Department of Environmental Protection

Agency

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Date

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	<u>Prior Year</u>	<u>Current Year</u>	<u>First Future Year Projected</u>	<u>Second Future Year Projected</u>
<b>FEE COLLECTIONS:</b>	FY 2006	FY 2007	FY 2011	FY 2012
Current	\$705,750	\$635,750		
Proposed			\$7,350,000	\$7,350,000

<b>FEE TITLE AND RATE:</b>	<u>NPDES Stormwater Construction Permit</u>	<u>Erosion &amp; Sediment Control Permit</u>
Current:		
General Permit:	\$250	\$500
Individual Permit:	\$500	\$500
Proposed		
General Permit:	\$2500	\$2500
Individual Permit:	\$5000	\$5000
Permit-by-rule:	\$2500	\$2500

### **FEE OBJECTIVE:**

The fees established in the proposed rulemaking are calculated to cover the reasonable costs to the Department and conservation districts to administer the Chapter 102 Program and related training, permit reviews, inspections, program oversight and compliance. Currently, the permit filing fee does not cover the costs of program implementation for the Department or the conservation districts.

### **FEE RELATED ACTIVITIES AND COSTS:**

Examples of Chapter 102 program activities supported by the fees include:

Training – The Department conducts at a minimum annual training for regional staff and conservation district staff. Additionally, the Department conducts localized training and regional meetings to address specific needs of the conservation districts and DEP regions.

Permit Review – The Department and conservation districts conduct erosion control plan and post construction stormwater management plan reviews for the issuance of E&S Permits and NPDES Permits. Reviews include an administrative completeness review and a technical review to ensure the plans have been designed in accordance with Chapter 102.

Inspections – The Department and conservation districts conduct reviews at the beginning and end of earth disturbance activities, as well as periodic inspections throughout the term of permit coverage. Inspections require the completion of an inspection report and follow up to ensure any violations were addressed.

Program oversight – The Department delegates many responsibilities of the Chapter 102 program to the conservation districts. In order to ensure that districts are meeting the obligations of the delegation agreement, the Department conducts periodic reviews of district operations. This involves a file review of issued permits and the accompanying plans along with site visits to conduct field inspections that verify plan implementation.

Compliance – The Department seeks compliance with Chapter 102 through plan reviews and site inspections. The Department first seeks to gain compliance through voluntary participation by permittees, as this is the most cost effective and expedient approach. When this is not achievable the Department takes increasing steps towards compliance from issuing Notices of Violation to taking penalty action.

#### **ANALYSIS:**

For the Department and conservation districts to implement the Chapter 102 program, the costs will vary depending upon the number of permitted projects submitted in a given year. Under the Conservation District Law (3 P.S. §859(2)), districts can charge additional fees to meet their increasing costs and have been charging review fees above and beyond the permit filing fee. The fee increase is an attempt to better meet the needs of the districts and the Department. While the permit fees have been chosen to assume the cost of implementation from application submittal to permit termination, the increase may not meet the needs of all districts throughout the state. Those conservation districts may still need to charge an additional review fee.

It is estimated that the proposed fees will cover the cost for program activities identified above. There are two categories of permits: NPDES permits (administered by DEP to meet federal Clean Water Act) and state erosion and sediment control permits that are required under the Pennsylvania Clean Streams Law. The vast majority of activities regulated by this Chapter are permitted under the NPDES Stormwater Construction Permitting program. Currently the fees are \$250 for a general permit and \$500 for an individual permit. These fees have not been increased since 2000.

The estimated cost to administer the Chapter 102 program for the first full year, fiscal year 2011/2012 is \$7,100,000 and the projected revenue is \$7,350,000. Thus the projected amount collected in revenue covers the estimated cost of the program

#### **RECOMMENDATION AND COMMENT:**

This proposed rulemaking for Chapter 102 sets forth the requirements for earth disturbance activities to minimize erosion and sedimentation and manage stormwater. The Department is proposing an increased fee for activities requiring a permit.

At least every three years, the Department will recommend regulatory changes to the fees in this section to the environmental quality board to address any disparity between program income generated by the fees and program costs. The regulatory amendment will be based upon an evaluation of the accreditation program fees income and the Department's costs of administering the accreditation program.

The Agriculture Advisory Board (AAB) and the Water Resources Advisory Committee (WRAC) held meetings on the dates listed below to review the Department's proposed drafts of the Chapter 102 regulations. Both committees provided invaluable advice and insight to the Department during these meetings. The Department considered all and agreed to many of the recommendations made by the AAB and WRAC. Neither advisory committee voiced any concern over the increase in fees.

- Agricultural Advisory Board (AAB) :
  - February 21, 2007 Overview of proposed revisions
  - October 10, 2007 Overview of proposed revisions
  - December 19, 2007 Discussion of proposed draft language for agricultural activities
  - April 15, 2009 Consideration of Proposed Chapter 102 rulemaking
  
- Water Resources Advisory Committee (WRAC):
  - January 10, 2007 Overview of proposed revisions
  - January 9, 2008 Overview of proposed revisions
  - July 22, 2008 Overview of riparian forest buffers
  - February 25, 2009 Overview of proposed permit-by-rule
  - April 8, 2009 Consideration of Proposed Chapter 102 rulemaking
  - April 23, 2009 Special Meeting – continuation of proposed Chapter 102
  - April 29, 2009 Second Special Meeting – continuation of proposed Chapter 102 (No quorum of WRAC)