Chapter 105 Dam Safety and Waterway Management

Overview of Proposed Regulation Revisions
Citizens Advisory Council
February 18, 2020
Department is proposing amendments to:

• Clarify existing requirements
• Delete or update obsolete requirements and references
• Incorporate new or revised sections and definitions to codify existing practices
• Correct typographical errors
Summary of Proposed Revisions

- Adds, revises or deletes definitions in Section 105.1
  - Abandonment
  - Aquatic resource functions
  - Aquatic resource restoration
  - Conservation district
  - Crop production
  - Cross-Section
  - Maintenance
  - Probable Maximum Flood (PMF)
Summary of Proposed Revisions

• Section 105.1 Definitions (Cont.)
  • Probable Maximum Precipitation (PMP)
  • Project
  • Project purpose
  • Reservoir
  • Stormwater management facilities
  • Water dependent
  • Wetland functions
Summary of Proposed Revisions

• Section 105.12 Waiver of permit requirements
  • Adds new waivers:
    • Streambank fencing conservation practice associated with crop production (i.e. grazing)
    • Passive, low impact, and non-motorized recreational activities
    • Elevated boardwalks in wetlands for educational and interpretive trails
    • Emergency water withdrawal for agricultural and fire protection
    • Temporary environmental testing, monitoring or investigative activities
    • Temporary mats and pads in wetlands
• Section 105.13 Regulated activities—information and fees
  • No new fees
  • Provides an option for submission of disturbance fee
  • Adds reference of “multiple” counties in subsection (d)
  • Adds details on water dependency, alternatives analysis, antidegradation demonstration and cumulative impacts analysis
  • Provides a reference for electronic permit application submissions
Summary of Proposed Revisions

• Section 105.13a. Complete applications
  • Eliminates prescribed 60-day period to provide deficient items in completeness and technical
  • Adds references to conservation district
  • Adds new language requiring the confirmation of extensions in writing

• Section 105.13b. Proof of financial responsibility
  • Adds enrollment to the Private Dam Financial Assurance Program as an option.
Summary of Proposed Revisions

- Section 105.20a. Compensation for impacts to regulated waters of this Commonwealth
  - Makes revisions to address compensation of impacted aquatic resources and no net loss of wetlands
  - Revises siting criteria for consistency with mitigation banking, in lieu fee, and permittee responsible compensation
  - Establishes compensation factors
Summary of Proposed Revisions

• Section 105.35 Charges for use and occupation of submerged lands of this Commonwealth
  • Adds new exemptions (c)(8) and (c)(9):

• Section 105.47. Removal of dams and removal or abandonment of water obstructions and encroachments.
  • Clarifies removal of public health, safety and environment concerns

• Section 105.401. Permit applications
  • Revises and updates
Summary of Proposed Revisions

- Section 105.446. Procedure for issuance
  - Adds new section on periodic reviews
- Section 105.451. Identification and delineation of wetlands – statement of policy
  - Updates references
- Section 105.452. Status of prior converted cropland—statement of policy
  - Updates and clarifies policy
Stakeholder Outreach Efforts

- Chapter 105 Agricultural Workgroup
- State agency representatives
- Major dam owners
- Water Resources Advisory Committee (WRAC)
- Agricultural Advisory Board (AAB)
- State Conservation Commission (SCC)
- Citizens Advisory Council (CAC)
- County Conservation District Workgroup
- Formal Process
  - Environmental Quality Board (EQB)
  - Public Notice in the Pennsylvania Bulletin
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