

Summary of Comments to the Environmental Quality Board
25 Pa. Code Ch. 105, Dam Safety and Waterway Management Fees
Monroe County Conservation District
February 16, 2012

This proposed rulemaking is flawed because it is silent on the activities performed on behalf of the Department by delegated conservation districts. It is the districts' delegated duty to receive and acknowledge notifications to use Chapter 105 general permits issued by DEP. The fact that the proposed fees vary according to general permit number, and that each GP registration requires a fee, implies that the fee is based on the GP acknowledgement process. Therefore, we suggest that general permit processing fees should be submitted directly to delegated conservation districts, and that proposed §105.13(a) be amended as follows: "An application ... shall be accompanied by a fee ...". This is consistent with the Chapter 102 regulations, which do not specify to whom the fees are directed. The tracking of Chapter 105 fees can easily be done via the quarterly Chapter 102-105 reports submitted to DEP Central Office.

We suggest adding a new §105.13(b), which mimics Chapter 102, §102.6(b)(3): *Conservation districts may charge additional review fees in accordance with section 9(13) of the Conservation District Law (3 P.S. § 857(13))*.

Section 105.13(c)(1)(iv)(C) contains an error, which can be corrected by adding the words, *equal or*, as follows: If, after completion of the project, the total construction costs *equal or* exceed \$250,000, ...

If the fees in §105.13(c)(1)(viii) are intended to cover DEP's costs for administering annual dam inspections and EAPs, we suggest that an annual fee be assessed on Category 4 dams, which should be inspected by DEP periodically, but perhaps not as frequently as Category 3 dams are inspected. The fee should also consider that EAP updates every 5 years are not required for Cat. 4 dams as they are for Cat. 3 dams.

Since the fees assessed in §105.13(c)(2) differentiate between major and minor amendments, this section should include definitions as do sections 105.13(c)(1)(iv)(B) and (C). The implication that major amendments include temporary and/or permanent impacts while minor amendments do not should be explicit in this section.

The base administrative filing fee as well as the permanent disturbance fee in 105.13(c)(2) may be excessive for certain projects. The general permit fee for a small dock is \$175.00, while the fee for the same dock in an EV watershed would be \$2,550.00. Because this proposed rulemaking addresses only a small portion of Chapter 105, it is not practical to adjust the fees by amending the GPs at this time. Therefore, we suggest a second category of base filing fee, which does not include disturbance review fees, and which must be defined in this section.

Section 105.131a contains an error in the reference to 105.13(c)(viii), which should be corrected to 105.13(c)(1)(viii).

By referencing fees established under §105.13, is §105.444(5) limiting fees for new general permits because those new permits are not specifically listed in 105.13(c)(2)?