

Proposed Rulemaking
25. Pa. Code Chapter 105
Dam Safety and Waterway Management
Fee Revisions

Environmental Quality Board
December 21, 2010

Office of Water Management



Pennsylvania Department of
Environmental Protection



Program Background

- **Dam Safety**
 - 3256 regulated dams (273 state owned)
 - 945 dams affected by new regulations
- **Water Obstruction & Encroachment (WO&E)**
 - 517 WO&E permits
 - 3,428 General Permits (GPs)
 - 338 acres of streams disturbed
 - 100 acres of wetlands disturbed
- **Submerged Lands License Agreement (SLLAs)**
 - > 39 million square feet leased



Process to Develop New Fees

1. Workload Analysis
2. Cost to Operate Programs
3. Fee Increases and Development
 - SLLA charge increases
4. Revenue Estimate



Purpose of Revisions

- Update existing fees and charges
 - *The charges for SLLAs have not increased since 1978*
 - *The fees for most permitting activities have not increased since 1991*
- Develop additional fees for permit related activities
- Fees collected will offset a portion of the operating costs of the programs
- No fees for state agencies



Proposed Revisions – Dam Safety

§ 105.13(c)(1) Regulated activities –information and fees

Fee Title	Current Fee	Proposed Fee (NEW)	Proposed Fee (MOD)	Proposed Fee (O&M)
Permit Application – A-1	\$3,000	\$26,500	\$18,500	\$12,500
Permit Application – A-2	\$3,000	\$26,500	\$18,500	\$12,500
Permit Application – A-3	\$3,000	\$25,500	\$18,500	\$12,000
Permit Application – A-4	\$3,000	\$23,500	\$18,000	\$10,000
Permit Application – B-1	\$2,500	\$19,000	\$12,000	\$10,000
Permit Application – B-2	\$2,500	\$19,000	\$12,000	\$10,000
Permit Application – B-3	\$2,500	\$18,500	\$12,000	\$9,500
Permit Application – B-4	\$2,500	\$17,000	\$11,500	\$8,500
Permit Application – C-1	\$1,500	\$10,500	\$7,500	\$7,000
Permit Application – C-2	\$1,500	\$10,500	\$7,500	\$7,000
Permit Application – C-3	\$1,500	\$10,000	\$7,500	\$6,500
Permit Application – C-4	\$1,500	\$8,000	\$7,500	\$6,000



Proposed Revisions – Dam Safety

§ 105.13(c)(1) Regulated activities –information and fees

Fee Title	Current Fee	Proposed Fee
Major Letter of Amendment or Authorization Review Fee - Class A	\$0	\$14,700
Major Letter of Amendment or Authorization Review Fee - Class B	\$0	\$8,700
Major Letter of Amendment or Authorization Review Fee - Class C	\$0	\$4,400
Minor Letter of Amendment or Authorization Review Fee - Class A	\$0	\$1,300
Minor Letter of Amendment or Authorization Review Fee - Class B	\$0	\$1,000
Minor Letter of Amendment or Authorization Review Fee - Class C	\$0	\$650
Major Dam Design Revision Review - Class A	\$0	\$4,700
Major Dam Design Revision Review - Class B	\$0	\$3,200
Major Dam Design Revision Review - Class C	\$0	\$1,700
Review Fees for Environmental Assessments of Non-Jurisdictional Dams or Letters of Amendment and Authorization - Class A	\$0	\$1,400
Review Fees for Environmental Assessments of Non-Jurisdictional Dams or Letters of Amendment and Authorization - Class B	\$0	\$1,000
Review Fees for Environmental Assessments of Non-Jurisdictional Dams or Letters of Amendment and Authorization - Class C	\$0	\$900
Transfer of Dam Permit Fee - No Proof of Financial Responsibility Required	\$0	\$300
Transfer of Dam Permit Fee - Proof of Financial Responsibility Required	\$0	\$550

Proposed Revisions – Dam Safety

§ 105.13(c)(1) Regulated activities –information and fees

Fee Title	Current Fee	Proposed Fee
Annual Registration Fee - Class A-1	\$0	\$1,500
Annual Registration Fee - Class A-2	\$0	\$1,500
Annual Registration Fee - Class A-3	\$0	\$800
Annual Registration Fee - Class A-4	\$0	\$0
Annual Registration Fee - Class B-1	\$0	\$1,500
Annual Registration Fee - Class B-2	\$0	\$1,500
Annual Registration Fee - Class B-3	\$0	\$800
Annual Registration Fee - Class B-4	\$0	\$0
Annual Registration Fee - Class C-1	\$0	\$1,500
Annual Registration Fee - Class C-2	\$0	\$1,500
Annual Registration Fee - Class C-3	\$0	\$800
Annual Registration Fee - Class C-4	\$0	\$0



Proposed Revisions – Dam Safety

Comparison to Other States

Dam Safety regulations vary greatly across the United States as indicated in the table below.

State	Application/Review Fees	Annual Fees
PA	\$6,000-\$26,500 – Permits (New, Modification, Operation & Maintenance) \$650-\$14,700 – Letter of Amendment/Authorization \$1,700-\$4,700 – Major Dam Design Revision \$900-\$1,400 – Environmental Assessment \$300-\$550 – Transfer of Permit	\$0 – Category 4 \$800 – Category 3 \$1500 – Category 1 or 2
NH ¹	\$2000 – Non-high Hazard \$3000 – Low Hazard \$4000 – Significant Hazard \$4000 – High Hazard	\$400 – Low Hazard \$750 – Significant Hazard \$1500 – High Hazard
DE	\$500	N/A
MD	\$750 – Does not apply to federal, state or local government	None
WV	\$300 – Construction or modification \$200 – Breaching or Abandonment \$100 – Removal	\$25 – Class 4 Dam \$50 – Class 3 Dam \$75 – Class 2 Dam \$100 – Class 1 Dam
OH	Based on estimated construction costs - 4% up to \$100,000, 3% for next \$400,000, 2% for next \$500,000 and 0.5% for costs in excess of \$1 million	Based on class and height, length, and storage of dam
MI	\$500 – Construction, reconstruction, or enlargement – dam height 6’-<10’ \$1000 - Construction, reconstruction, or enlargement – dam height 10’<20’ \$3000 - Construction, reconstruction, or enlargement – dam height ≥20’ \$100 – Minor project	None

Summary – Dam Safety

- Cost to Administer = \$3,287,132
- Proposed Revenue = \$1,760,150
 - Difference = \$1,526,982
 - 54% of Dam Safety costs will be offset
- No Exemptions for Counties, Municipalities, and Municipal Agencies. Federal and Commonwealth Agencies Remain Exempt.
- Restricted Revenue Account
- 3 Year Review



Proposed Revisions – WO&E

§ 105.13(c)(2) Regulated activities –information and fees

- **WO&E Permit Activities**
 - Current range \$100 - \$750
 - Proposed range \$100 - \$1750
 - *Additional disturbance fee to some activities*
 - \$400 / 0.1 acre temporary
 - \$800 / 0.1 acre permanent
 - **General Permits (GPs)**
 - Currently no fees
 - Proposed range \$50 - \$750
 - *Additional disturbance fee to some activities*
- *Current fee exemptions proposed to remain*



Proposed Revisions - SLLAs

§ 105.35 Charges for use and occupation of submerged lands of this Commonwealth.

- Annual Charges
 - Currently ~ \$0.01 / sq ft average
 - Commercial Utilities per tenth acre, \$250 minimum
 - Private Recreational Docks \$250
 - Public Service Lines per foot within a range
 - Proposed ~ \$0.04 / sq ft average
 - Private Recreational Docks remain \$250



Proposed Revisions – WO&E and SLLA

Comparison to Other States

WO&E Fees		
State	Admin Filing Fee	GP
PA	\$1,750 + \$400 / 0.1 acre of temp dist + \$800 / 0.1 acre of perm dist	\$50-\$750 based upon GP* <i>* some GPs have add'l dist fee</i>
MD	\$750 + ≤ \$7,500 / acre of dist	\$750 for <5,000sf
OH	\$200	none
NJ	\$2,400	\$600 + \$240 / add'l GP
VA	\$2,400	≤ \$2,400 based upon acreage

SLLA Charges	
State	Annual Charge (acreage based)
PA	\$0.04 / sq ft <i>this is an average</i>
OH	\$0.03 / sq ft for small facilities
	\$0.04 / sq ft for large facilities
FL	\$0.1413 / sq ft
ME	% of gross income of Lessee

Summary – WO&E and SLLA

- Cost to Administer = \$9,615,470
- Proposed Revenue = \$2,952,612
 - Difference = \$6,662,858
 - 31% of WO&E costs will be offset
- *SLLA Program*
 - *Cost to administer is embedded in WO&E costs*
 - *Proposed Revenue = \$1,564,000*
 - *All revenue goes to the General Fund*
- All exemptions remain
- Restricted Revenue Account
- 3 Year Review



Advisory Committee Review

- The Water Resources Advisory Committee (WRAC):
 - May 11, 2010
 - July 14, 2010
 - The Agricultural Advisory Board:
 - June 16, 2010
- ✓ *Neither group voiced any concern over the increase in fees and charges.*



The Department recommends
that the EQB approve the proposed rulemaking
revision with a 30-day public comment period.

Thank You