



pennsylvania
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Bureau of Waterways Engineering and Wetlands

Final Rulemaking

25 Pa Code Chapter 105

Dam Safety and Waterway Management

Fee Revisions

Environmental Quality Board
October 16, 2012

Program Background

- **Dam Safety**
 - 3,346 regulated dams
 - 646 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

Rulemaking Timetable

- EQB Approved Proposed Rulemaking
December 21, 2010
- Proposed Rulemaking Published in
Pennsylvania Bulletin January 28, 2012
- Public Comment Period Expired
February 27, 2012
- IRRC Comment Deadline Expired
March 28, 2012
- 30 Commentators

Key Comments and Concerns

- Exemption of state, county, municipal agencies
- Federal agencies are exempt from the fees by statute
- Ensure the solvency and fiduciary health of its municipalities
- Privately-owned dams are not disproportionately carrying the costs of program administration

Key Comments and Concerns

- Annual fees based upon hazard potential category of the dam
- Need for DEP to conduct annual dam inspections
- The rulemaking has been in development and discussed publicly by DEP since 2010

Revisions from Proposed to Final

- Proposed rule inadvertently charged dredging operations fees in addition to royalty payments
- DEP has added 105.13(c)(2)(iii)(B) to clarify

Final Rulemaking – 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

Final Rulemaking – Dam Safety

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

Final Rulemaking – Dam Safety

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

Final Rulemaking – 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	\$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
- Estimated Revenue = \$1,139,850
 - Difference = \$2,147,282
 - 35% of Dam Safety costs will be offset
- Exemptions Remain for State, County, Municipal Agencies and Authorities
- Restricted Revenue Account
- 3 Year Review

Final Rulemaking – WO&E

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

- WO&E Permit Activities
 - Current range \$100 - \$750
 - Final range \$100 - \$1,750
 - *Additional disturbance fee to some activities*
 - *\$400 / 0.1 acre temporary*
 - *\$800 / 0.1 acre permanent*

Final Rulemaking – WO&E

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

- General Permits (GPs)
 - Currently no fees
 - Final range \$50 - \$750
 - *Additional disturbance fee to some activities*
- *Current fee exemptions will remain*

Final Rulemaking – SLLAs

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

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

Final Rulemaking – WO&E and SLLA

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

Comparison to Other States

Summary – WO&E and SLLA

- Cost to Administer = \$9,615,470
- Estimated 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*
 - *Estimated Revenue = \$1,564,000*
 - *All revenue deposited into the General Fund*
- All exemptions remain
- Restricted Revenue Account
- 3 Year Review

Advisory Committee Review

- Water Resources Advisory Committee
 - May 16, 2012
- Agricultural Advisory Board
 - June 20, 2012
- Citizens Advisory Council
 - September 18, 2012

Recommendation

**The Department recommends
that the EQB approve the final rulemaking.**

Thank You



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DEPARTMENT OF ENVIRONMENTAL PROTECTION



Bureau of Waterways Engineering and Wetlands

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