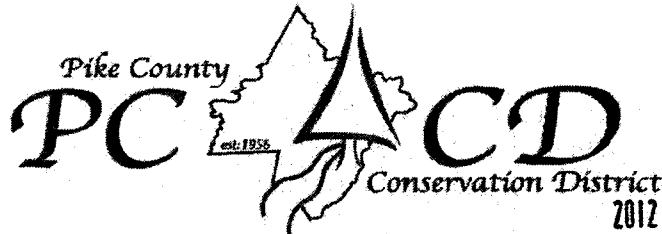


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February 27, 2012

Submitted electronically to RegComments@pa.gov
Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105-8477

**RE: Proposed Rulemaking
25 PA Code Ch. 105, Dam Safety and Waterway Management Fees**

Pike County Conservation District supports the implementation of a reasonable fee schedule for Chapter 105 general permits and updated fees for other Chapter 105 regulated activities to help offset operating costs of the program. However the proposed rulemaking fails to acknowledge or incorporate the substantial contributions made by Chapter 105 delegated conservation districts on behalf of the Department.

Delegated conservation districts perform a variety of duties associated with Chapter 105, including receiving and acknowledging notifications to use Chapter 105 general permits, maintaining full and complete records, providing project specific technical assistance to the regulated community, conducting site inspections and compliance assistance for permitted activities, responding to citizen complaints and conducting education and outreach on program requirements. In fact, many delegated districts incur the majority of the costs for administering the general permit program and other Chapter 105-related duties in their counties.

We recommend that §105.13 be amended to provide for general permit processing fees to be submitted directly to delegated conservation districts. While the current Chapter 105 and proposed revisions are silent on this, the recently updated Chapter 102 regulations reference *fees collected by the Department or conservation district* (102.6(b)(5)) and specifically give delegated conservation districts the ability to charge review fees (102.6(b)(3)). To that end, we request that §105.13 be amended as follows:

- (1) In 105.13(a), remove reference to "check payable to Commonwealth of Pennsylvania" and replace with *An application for a permit ...under this chapter shall be accompanied by a fee ...*;
- (2) Revise 105.13(b) to state that *Fees collected by the Department or conservation district will be deposited into a restricted revenue account....and utilized to offset the operating costs to administer the programs*;
- (3) Add a new §105.13 subsection which is consistent with 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)).

Delegated conservation districts currently participate in an established Department quarterly reporting system for tracking delegated conservation districts' Chapter 102 and Chapter 105 related activities. This system could easily be revised to track general permit fees accepted by delegated conservation districts.

The District suggests that the proposed fees for certain general permits may be excessive. For example, the general permit-2 fee of \$175 for a small dock is difficult to justify based on our experience in registering this general permit. We also have concern for the potential financial burdens posed by application fees for modification, operation and maintenance and letter of amendment or authorization fees for existing dams, of which there are many – both publically and privately owned - in Pike County. Many dam owners, including a number of Pike County's residential property owners associations, are already struggling to fund necessary maintenance and repairs of aging dams. An explanation of how the various proposed fees were determined would be useful.

In addition, there are certain general permits that are not approved for use in Exceptional Value (EV) waters. In the current proposal, this would result in a significant permit fee burden for relatively small impact projects (such as docks, utility line and minor road crossings, or intake/outfall structures) located in EV watersheds. We suggest that the Department consider another fee category for projects in EV watersheds that would otherwise be eligible for general permit coverage.

Pike County Conservation District believes that there should be a balance between collecting fees to offset the operating costs of the program and maintaining the substantial benefits to water resources and public and private property infrastructure gained from compliance with the Chapter 105 regulations. If the required fees are perceived as costing more than the consequences of conducting regulated activities without authorization, delegated conservation districts and DEP will be spending more time and resources in compliance and enforcement versus project planning and permitting. The resulting under designed and/or improperly installed structures could have long-term impacts on water quality, flooding damages and infrastructure maintenance costs.

Thank you for considering these comments for inclusion in the final regulation. Pike County Conservation District is a Chapter 105 delegated district and we would be happy to answer any questions on these comments or provide additional information as needed.

Sincerely, for the Board of Directors,



Susan Beecher
Executive Director

cc: Pike County Commissioners
Senator Lisa Baker
Representative Michael Peifer
Representative Rosemary Brown
PACD Executive Director Robert Maiden