

**Fiscal Year 2010 DEQ Fee Proposal
Dam Safety (Part 315) Fees
November 6, 2008**

Program Description. The Dam Safety Program ensures the integrity of Michigan's approximately 1050 state regulated dams. The program ensures that dams are properly constructed, inspected and maintained, and that the owners have adequately prepared for potential emergencies. The safe operation of dams is regulated by two statutes, Part 315, Dam Safety, and Part 307, Inland Lake Levels, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). Power generating dams regulated by the Federal Energy Regulatory Commission (FERC) are not regulated at the state level.

MCL Citation. MCL 324.31501 (Part 315) and MCL 324.30701 (Part 307)

Last Fee Increase. The Part 315 permit fees have not been raised since 1989.

Who Pays the Fees? The Land and Water Management Division (LWMD) receives about 25 dam safety permit applications, generally for repair activities, each year. The fees are paid by the owner of the dam. Of the state regulated dams in Michigan, 62 percent of dams are privately owned, 21 percent are state owned, 13 percent are local government owned and 4 percent are federally owned. Part 315 currently requires the LWMD to waive fees for applications related to projects on state owned dams. There are currently no fees associated with dams regulated only by Part 307.

Services Provided. Dam Safety Program staff perform a variety of duties, including:

- Responding to dam safety emergencies.
- Providing technical assistance to dam owners and emergency response officials.
- Reviewing various safety related reports, including inspection reports and emergency response plans, prepared by professional engineers and submitted by dam owners.
- Reviewing permit applications for dam construction, alteration, repair or removal to ensure the proposed projects will not have a significant adverse impact on the public health, safety, welfare, property, natural resources or the public trust.
- Inspecting dams owned by the Department of Natural Resources (DNR) per a Memorandum of Understanding (MOU), and for municipalities, upon request.
- Performing compliance activities as necessary to enforce the law.

Benefits of the Services Provided.

The program helps ensure that high hazard dams are inspected on a regular basis and properly maintained to keep them safe. The Dam Safety Act was passed as a result of the numerous dam failures that occurred in the Great Flood of 1986. Since the program's enactment in 1990, the number of dam failures in Michigan has decreased from 74 in the 1980s to 17 in the 1990s, and only seven since 2000.

What Happens Without The Services?

Dams would not be inspected nor maintained, and emergency response plans would not be updated. Loss of human life and serious property and environmental damage would be expected to occur due to increased dam failures and decreased effectiveness of emergency response. In addition, these failures would likely result in long term loss of recreational opportunities and the associated economic benefit of these activities.

Current Fee Revenue. The annual fees collected are approximately \$6000. Primary funding for the Dam Safety Program is provided by state General Fund/General Purpose money and the DNR per an MOU. Approximately 10 percent of funding for this program is received from the Federal Emergency Management Agency (FEMA).

Proposed Fee Revenue. The current combined LWMD fee schedule yields approximately \$2 million annually, and the proposed increase will yield approximately \$3.2 million. Proposed funding for the Dam Safety Program will come from permit application fees and a new annual dam safety fee assessed to the owners of regulated dams. The dam safety fee is designed to fund the non-permit program activities listed above.

Service Improvements and Efficiencies. Program focus on compliance resulted in a nearly 98 percent compliance rate with the requirement for emergency action plans and safety inspections for those key dams where failure could likely harm people or property.

Service Reductions. The Dam Safety Program was only partially restored in FY 2006, resulting in a staff reduction from three dam safety staff to two. The inspection compliance rate for key dams has slightly decreased. The plan to improve the compliance rate of the remaining regulated dams has not been implemented. The number of dams overdue for inspection has increased to 159, with only about half having ever been inspected, and nearly 80 percent not inspected in over ten years. This is troubling because the last review of buildings located downstream of many of these dams was done 30 years ago. It is very likely that development has occurred in the inundation areas of some of the dams. These downstream development assessments are normally done as part of a dam safety inspection. Where development has occurred, the hazard potential rating should be raised, resulting in an increase in the frequency of inspection, and the requirement that the owner develop an emergency action plan.

Impact Without Fee Increase. Should a lack of funding require that the Dam Safety Program be eliminated in order to sustain other LWMD programs, the impacts will be as follows:

Loss of human life and serious property and environmental damage would be expected to occur due to increased dam failures and decreased effectiveness of emergency response.

Statutory amendments would be needed to eliminate the responsibility to administer this program should funding not be provided.

A portion of the fee request is to allow the division to upgrade the permitting database which is over 20 years old, as well as to integrate the various other databases that have been created to supplement this antiquated system. The current database is not capable of being upgraded and does not allow the information tracking that is necessary to comply with current statutes, respond to requests relative to LWMD programs from internal or external interests, nor to easily respond to legislative reports and inquiries. Without an update, the database will continue to be out of compliance relative to security and financial control issues.

**Proposed Fee Schedule
 Dam Safety Program**

ACTIVITY	CURRENT FEES	2009-2010 PROPOSED FEES
Minor Project	\$100	\$350
Repair, Remove or Alter New, Reconstructed or Enlarged Dam	\$200	\$1,200
6 to 10 feet high	\$500	\$3,000
10 to 20 feet high	\$1,000	\$4,500
20 feet or higher	\$3,000	\$10,000
<u>Annual Dam Safety Fees</u>		
Low Hazard Potential	New	\$100
High and Significant Hazard Potential	New	\$400