

Article - Natural Resources

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§4-502.

(a) Every owner of a dam on waters of the State shall construct on the dam and keep repaired at least one fish ladder if the Department deems it necessary for ascending and descending of fish. Every fish ladder shall be constructed to allow anadromous fish free course up and down the waters at all times.

(b) Any person intending to construct a dam on waters of the State shall file an application with the Department. Each application shall contain sufficient information to enable the Department to determine the necessity for constructing a fish ladder. The Department shall advise the applicant of its determination.

(c) The Department and any other unit having jurisdiction shall approve the construction plan before the dam is constructed.

(d) If the owner, operator, or lessee of a dam entered into an agreement prior to July 1, 1955, to pay the State an annual periodic sum of money instead of being required to erect a fish ladder or instead of being required to construct and maintain any fish way or fish ladder pursuant to the provisions contained in any charter previously granted to any corporation by any special or general State law, the provisions of the charter or agreement remain in effect. The amount of money paid to the State during each year may not be less than four and one-half percent of the estimated cost to erect the fish ladder, but not to exceed \$4,000 annually. Any money paid to the Department shall be used to manage, rear, and distribute the fish actually placed in the water and to acquire any necessary facility for these purposes. One half of the funds received on behalf of the Conowingo Dam across the Susquehanna River shall be credited to the State Fisheries Management and Protection Fund.

(e) The provisions of this section do not change any term, condition, or obligation imposed by a contract in force prior to July 1, 1955, between the owner of any dam and the State.

(f) On application of the Department, verified by oath or affirmation, the circuit court for any county, sitting in equity, may enforce by injunction compliance with, or restraint from violating or attempting to violate, any provision of this section.

(g) The Department shall investigate every violation of this section. If any person obstructs a stream by failing to make or keep in repair any fish ladder on the dam, the Department shall serve notice in writing on him requiring that he make or keep in repair the necessary fish ladder. The notice shall specify the penalty for the failure to act within its time limit. Any person who violates the notice is guilty of a misdemeanor and upon conviction is subject to a fine not exceeding \$300, or imprisonment not exceeding three years, or both, with costs imposed in the discretion of the court. A separate offense exists on each day the person violates the notice. If

the fine is imposed by the circuit court for any county, the fine when collected shall be remitted to the Department.

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