

Frequently Asked Questions (FAQs)

DRBC Project Review Fee and Water Supply Charge Revisions Approved on December 14, 2016



1. What are the approved revisions to the DRBC project review fees and water supply charges?

The DRBC at its public business meeting on December 14, 2016 approved a comprehensive revision and restructuring of its project review (docket) fees and a revision to its water supply charges, which include the following:

- **For wastewater discharge project review fees** – elimination of fees for projects that are subject to a coordinated review under the One Process/One Permit Program.
- **For water withdrawal project review fees** – (1) restructuring of fees based upon monthly water allocation limits where DRBC continues to act as the lead review agency; and (2) elimination of fees for projects subject to a coordinated review under the One Process/One Permit Program.
- **No changes to project review fees for “Other Projects”** that are neither water withdrawals nor wastewater discharges.
- The addition of **an annual monitoring and coordination fee** for all eligible water withdrawal and wastewater discharge projects subject to DRBC review and approval, including those permits issued under the One Process/One Permit Program.
- **An annual, indexed inflation adjustment for most fees and charges, including water supply charges.**

2. Why is the DRBC revising its fees and charges?

Funding goals for DRBC are based upon the principle that sources of funds need to be stable, sustainable and right-sized to support the costs associated with implementing the project review program. Adjusting, revising, and restructuring fees and water supply charges are needed to cover these implementation costs. Project review fees had not been adjusted since 2009 while costs to support the program have increased. For example, the number of DRBC full-time employees (38.6 FTEs in FY 2016) has decreased by 14% since 2009, yet the costs for the same or reduced level of employer-funded benefits for employees have increased by 80.6% (\$1.61 million in FY 2016). In addition, inflation has increased by 8.2% since 2009¹ with no adjustment in fees to keep pace with rising costs.

3. What are the DRBC funding sources?

The primary sources of funding for the DRBC are:

- Contributions and support from signatory members (the four states in the Delaware River Basin and the federal government).
- Regulatory project review fees.

¹ Inflation rate is based upon the U.S. Bureau of Labor Statistics June 2009 CPI/Philadelphia of 223.81 compared to the December 2015 CPI/Philadelphia of 242.356.

- Compliance revenues.
- Grants and other special contributions.
- Water supply charges.

4. How much funding support is provided from the signatory members?

The signatory members contribution history table on the DRBC web site (www.nj.gov/drbc/library/documents/ContributionHistoryJuly2016.pdf) shows annual state and federal funding that has been provided to support the commission's general operating budget since 1963.

5. What does DRBC do to attempt to get its full fair share from the signatory members?

DRBC provides each member with an estimate of its share of the DRBC general operating budget based upon a tacit agreement between the signatories well in advance of the development of each fiscal year's budget. DRBC coordinates with its Commissioners and their budget offices to ensure that the benefits provided to each member and to the Delaware River Basin are well known and documented.

6. There has been no federal funding support of the commission's annual operating budget since October 1996, with the exception of one year. What is DRBC doing to restore federal funding?

The DRBC has been actively working with senators and representatives in the basin's congressional delegation, along with watershed stakeholders, to restore federal funding. The Water Resources Reform and Development Act of 2014 (WRRDA 2014), which was passed by Congress and signed into law in June 2014, included clear language directing the Secretary of the Army to allocate funding to the DRBC and two other mid-Atlantic river basin commissions. The president's proposed budget presented to Congress in February 2016 once again did not request funding for the three mid-Atlantic river basin commissions. DRBC's annual federal funding request is \$715,000.

7. How much is the DRBC's general operating budget?

The current FY 2017 operating budget is \$6,512,100. Details, including the budget document, can be found on the commission's web site at www.nj.gov/drbc/about/budget.html.

8. What regulatory program project review fees were in effect prior to the December 14, 2016 revisions?

Reviews of projects were based on project costs, public or private sponsorship, and out-of-basin transfers.

Projects with total costs of \$250,000 or less were charged a flat project review fee of \$1,000 for privately sponsored projects and \$500 for publicly sponsored projects. Project review fees for projects with total costs greater than \$250,000 were based upon a percentage of construction costs, with a maximum fee of \$75,000. However, in some unique cases, complex projects could be charged the actual review costs incurred by DRBC, which may be greater than \$75,000.

Most project review applications are related to water withdrawals and wastewater discharges. The majority of those applications are for renewals and applicants paid the flat \$1,000/\$500 fee since the project costs were less than \$250,000.

9. How much does DRBC receive each year in project review fees?

Total revenues from project review fees vary year to year depending upon the number and types of projects that apply to the commission for approval. As shown in the table below, over fiscal years 2011-2015, the revenues for project review fees averaged \$610,843 with a range from \$430,365 to \$868,533.

FY 2011	FY 2102	FY 2013	FY 2014	FY 2015	Average FY11 to FY15
\$448,296	\$868,533	\$708,391	\$430,365	\$598,629	\$610,843

10. When was the last time DRBC adjusted the project review fees?

The previous project review fees had been in effect since July 1, 2009.

11. Did the previous fees collected for project review applications cover the cost of the DRBC regulatory program?

No, the previous project review fees did not support the full annual cost of the regulatory program, which is estimated to be \$1.15 million. Program costs include technical review, project administration, compliance and enforcement, as well as modeling, monitoring, and assessment support. In principle, the cost of the regulatory program should be supported by those who seek to obtain and maintain project approvals consistent with the Delaware River Basin Compact and DRBC’s Comprehensive Plan.

12. How did DRBC formulate its cost estimate of \$1.15 million to run the regulatory program?

The DRBC manages and maintains approximately 975 wastewater discharge docket and 1,185 water withdrawal docket throughout the basin. Approximately 10.5 full-time equivalent employees perform the following tasks:

- Coordination with the Commissioners;
- Review of consistency with the Delaware River Basin Compact (P.L. 87-328);
- Review of consistency with the DRBC Comprehensive Plan;
- Review of consistency with DRBC Water Quality Regulations;
- Review of projects that need to be included in the Comprehensive Plan;
- Water allocation analyses;
- Review of plans and specifications associated with projects;
- Site visits;
- Public notice support;
- Review of pumping tests and supporting documentation;
- Post-docket coordination, review, and approval of required reports, requirements, and submissions;
- Communication with and support to docket holders;
- Development and coordination of DRBC comments and requirements for input into state water withdrawal permits under approved administrative agreements (AAs) with member states;
- Development and coordination of DRBC comments and requirements for input to state NPDES discharge permit under approved AAs;
- General process coordination with state environmental agencies;

- Special Protection Waters (SPW) substantial alteration and addition analysis as well as the development of effluent limits associated with No Measurable Change requirements;
- Import and export analyses;
- Total dissolved solids (TDS) and color determinations;
- Review and update DRBC rules as required;
- Review related state rules and regulations concerning like programs;
- Development, calibration and modification of models for SPW waste load determinations, total maximum daily loads (TMDLs), and waste load allocations (WLAs);
- Model analysis, mixing zone, alternate mixing zone, and dilution factor determinations for acute aquatic life criteria;
- Review and coordination with docket holders of PCB pollutant minimization plans (PMPs);
- Provide commission requirements for input to state NPDES discharge permit under the AA for DRBC requirements for WLAs, TDS determinations, and heat dissipation areas;
- Technical support to states as requested;
- External Information Technology/GIS system support for public/customer access to dockets;
- Internal regulatory process database and data management;
- Electronic application development and maintenance;
- Regulatory program web site maintenance;
- Water audit support and staff review of 300 annual submittals;
- Docket holder notifications of docket report deliverables; and
- Compliance and enforcement activities

13. *What are the estimated annual additional revenues from the approved fee revisions?*

Estimated additional revenues to be generated from the approved fee restructuring are \$539,000. Actual revenues may vary.

14. *Will the One Process/One Permit Program reduce the costs of the regulatory program?*

It is expected that the One Process/One Permit Program will eliminate some administrative costs at DRBC over time. However, the DRBC's authority, role, and responsibilities under the One Process/One Permit Program and under the DRB Compact continue to be extensive and significant, requiring the same level of technical review to ensure DRBC standards are achieved. The regulatory program cost estimate noted in the answer to Question 11 includes the costs following One Process/One Permit Program implementation.

15. *Why is DRBC eliminating wastewater project review fees for projects that are processed through the One Process/One Permit Program?*

Eliminating DRBC project review fees for wastewater discharges aligns with the One Process/One Permit approach since it is envisioned that there will only be one fee paid by applicants to the lead review agency. That being said, the costs associated with the coordinated project review incurred by DRBC will need to be supported through other revenues or fees. The DRBC costs associated with these reviews will now be supported by the modest annual monitoring and coordination fee. Without this annual fee or some other revenue source, DRBC would not have been able to eliminate the coordinated project review fees.

16. *Why not eliminate project review fees for water withdrawals processed under the One Process/One Permit Program similar to wastewater discharges?*

Unlike wastewater discharges, the DRBC and the states have different lead agency roles for water withdrawals, depending upon the state. DRBC believes that a fee of \$400 per million gallons a month

(mgm) of allocation requested (up to \$15,000) is a fair amount to the applicants, the states, and the DRBC to review projects in states where DRBC has the lead regulatory role. In states where the state has the lead regulatory role and where the One Process/One Permit Program is in place, there are no docket application fees except when the project needs to be added to the DRBC Comprehensive Plan (mostly for new projects).

17. What is the annual monitoring and coordination fee? Why is it needed? What will it be used for?

This annual fee will support routine expenses associated with DRBC's regulatory programs. Use of an annual fee is a similar approach taken by state agencies and the Susquehanna River Basin Commission. An annual fee will allow for elimination of certain project review fees under the One Process/One Permit Program (including renewal fees) and will sustainably support the full scope of the regulatory program. For eligible water withdrawal docket holders or permittees, the annual fees will range from \$300 to \$1,000 per year, depending upon the permitted monthly water allocation. For eligible wastewater discharge docket holders or permittees, the annual fees will also range from \$300 to \$1,000 per year, depending upon the permittee discharge capacity.

18. Why should I now pay a new annual fee, when previously I was only required to pay a fee when my docket came up for renewal?

First, if there was no annual fee, project review fee revenues would still need to increase to cover the current costs required to implement the regulatory program. The DRBC staff and Commissioners reviewed several alternative fee structures and the annual fee approach was found to be similar to that being used by other regulatory programs and well-aligned with the concepts, principles, and goals in the One Process/One Permit Program. Effectively, the annual fee covers most of the coordination efforts between agencies, including coordinated project reviews. In addition, under the One Process/One Permit Program, the cost to the applicant to use either internal resources or external consultants to prepare and coordinate a DRBC docket application has been eliminated. The avoided cost to the applicant, since a separate DRBC application will no longer be required, should more than cover any increased costs for a modest (\$300 to \$1,000 per year) annual monitoring and coordination fee.

19. Is this annual fee just a scheme for DRBC to get their money sooner?

There is no question that annual fees provide a more predictable and sustainable source of revenues. As noted in the answer to Question 9, project review revenues vary substantially from year to year while the staff resources required to support the overall program remain relatively stable from year to year. The concept is not to get the funds sooner, but to match the incoming revenues with year-to-year expenses.

20. When will docket and permit holders be invoiced for the annual monitoring and coordination fee?

The current plan is to send invoices for annual fees to the docket or permit holders between March 2017 and June 2017.

21. Are there annual fees for "other projects" that are not water withdrawals or wastewater discharges?

No. Effectively DRBC's one-time costs for the review of "other projects" are supported by separate project review fees and will continue to be supported by separate project review fees.

22. What are the DRBC revenues for compliance and what will they be under the approved revisions?

Over the most recent four fiscal years, revenues from compliance and enforcement have ranged from \$61,399 to \$156,164 per year. Under the One Process/One Permit Program, primary compliance,

enforcement, and collections will be the responsibility of the states. As project approvals are transitioned to the One Process/One Permit Program, DRBC compliance revenues associated with approvals will be largely eliminated. DRBC will still play a role in supporting the states related to compliance and enforcement of DRBC requirements and conditions. It is anticipated that the costs associated with this effort will be supported by the annual fee.

23. *Why would DRBC agree to “give up” compliance revenues?*

It is the objective of DRBC to have rational, achievable regulations that will be protective of the basin’s water resources and to work with the regulated community to meet all DRBC requirements. The goal is compliance, not generation of revenues arising from noncompliance. DRBC finds more value in applying resources to work with the states and the regulated community to provide an efficient regulatory process and effective communications to ensure compliance, rather than spending time and resources on enforcement and collection. As such, we will support the states as needed.

24. *The DRBC collects water supply charges. Do those charges support the operating budget?*

Water supply charges are used by DRBC to pay for debt service as well as annual operations and maintenance costs associated with water supply and flow augmentation storage owned by the commission in two reservoirs – Blue Marsh and Beltzville – constructed and maintained by the U.S. Army Corps of Engineers in the Pennsylvania portion of the basin. The water supply charges will also be used to support future required improvements to the Blue Marsh and Beltzville dams and reservoirs. In addition, some revenues from the water supply charges account are annually “transferred” to the general fund operating budget to support activities related to water supply planning and operations.

25. *If project review fees are increased, can water supply charges decrease?*

That is not likely. The purpose of the approved changes to the project review fees is to generate sufficient revenues to more fully support the costs associated with the project review program. The DRBC’s project review program currently runs a deficit each year in operating costs and the approved project review fee restructuring will help to close that gap. It will not help to lower water charges.

26. *If the federal government paid its “fair share” to support the DRBC’s annual operating budget, would project review fees still need to increase?*

There is no question that annual revenues from the federal government would help the overall budget position of the DRBC. That being said, the probability that the federal government will regularly provide its statutorily required annual contribution is uncertain. DRBC is currently limiting work efforts to correspond to the funding support being provided by the signatory parties. There are significant programs other than project review that require more sustainable funding should federal contributions be restored. It is likely that project review fees would still need to be adjusted to meet the objectives previously described.

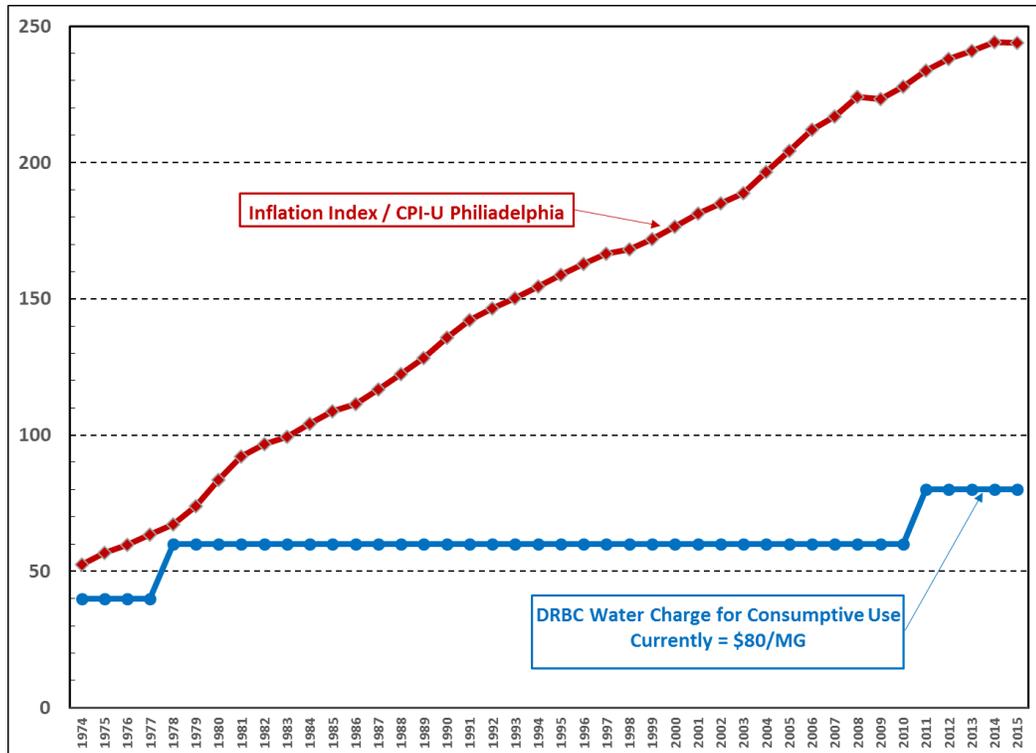
27. *I heard that DRBC had a committee reviewing fee options. What happened to that committee?*

The DRBC created a Water Charges Advisory Committee on a temporary basis several years ago. The primary work of this committee was focused on options related to water supply charges and not on other DRBC revenues, such as project review fees. The commission is not recommending any significant revisions to water supply charges at this time. As noted in the answer to question 1, an annual inflation adjustment will now apply to water supply charges.

28. Why does DRBC need an inflation adjustment for water supply charges?

An inflation adjustment will pace water supply charge revenues with annual increases to expenses associated with the operations and maintenance costs at Beltzville and Blue Marsh reservoirs, which DRBC is obligated to pay under an agreement with the U.S. Army Corps of Engineers.

A graph showing the DRBC water supply charges history for consumptive uses versus the rate of inflation (measured as the U.S. Bureau of Labor Statistics CPI-U for Philadelphia) is provided below. The water supply charges for non-consumptive use have changed at the same time and at the same rate as those for consumptive use. As shown, water supply charges have significantly lagged behind inflation over time and an inflation adjustment will now be implemented on a going-forward basis.



29. Why doesn't DRBC simply cut costs to balance their budget?

From FY 2006 to FY 2015 total DRBC operating expenses have increased by an annual rate of change of 0.4%. Inflation over the same period of time has increased by an annual rate of change of 1.7%. Total FTEs have decreased by 12.3% over the same 10-year period. DRBC has controlled expenses to below the rate of inflation and has reduced staff significantly to meet basic agency needs and requirements as defined in the Delaware River Basin Compact. Considering the scope of DRBC responsibilities and authority, the agency has reached a floor level of FTEs needed to perform basic and required functions. That being said, DRBC continues to look at ways to control expenses, reduce costs, and improve efficiencies.

30. What would have happened if these fee increases were not approved?

Just like any person, family, business, or organization, the DRBC cannot run a budget deficit year after year. For the past several years, DRBC has used equity (or "money in the bank in reserve") to meet expenses. This is not a sustainable path forward and cannot be maintained for the longer term without significant consequences related to the commission scope of operations and/or financial position.

31. *If a wastewater docket is required in a state without the One Process/One Permit Program, do I pay the old (existing) fees?*

As explained earlier, the previous application fee structure was based on project costs as well as public or private sponsorship. Projects with total costs of \$250,000 or less were charged a flat review fee of either \$1,000 (privately sponsored) or \$500 (publicly sponsored), while fees for projects with total costs above \$250,000 were based upon a percentage of construction costs. With the approved fee structure revisions, there will no longer be a relationship between the fees and project costs: the application fee will either be \$1,000 (private) or \$500 (public). An alternative fee can also apply to cover actual DRBC review costs required for any extraordinary reviews.

32. *When will Pennsylvania and Delaware adopt the One Process/One Permit Program, especially now that the approved restructured fee structure would be tied to the program?*

Each state has made its own judgement as to the merits and schedule of the One Process/One Permit Program based upon their own circumstances and priorities. There is no set schedule for Pennsylvania and Delaware to participate in the One Process/One Permit Program at this time. While the fee structures differ slightly with and without the One Process/One Permit Program, the impacts to individual docket or permit holders are generally not significant. For example, under the adopted changes the docket application fee for a municipal wastewater discharge in Pennsylvania will be \$500 without One Process/One Permit compared to \$0 for a state participating in the program.

33. *Will I need to pay the new fees if I have a DRBC “entitlement”?*

Water users with entitlements are still subject to surface water supply charges for amounts of water used in excess of their entitlement. Entitlement holders (including those that do not presently have a DRBC docket with an allocation limit) will be subject to the annual monitoring and coordination fee. In response to public input received during the comment period, the originally published draft rule was modified to explain that where the allocated amount exceeds the amount specified in an entitlement, the annual monitoring and coordination fee will be based solely on the allocated amount in excess of the quantity specified in the entitlement.

34. *Am I subject to docket application fees and annual monitoring and coordination fees if I have a water withdrawal docket that does not expire?*

Dockets without an expiration date will continue without renewal fees *unless* there is a significant change proposed to the docket that will require a new review of the docket. However, all water withdrawal dockets and permits will be subject to the annual monitoring and coordination fee.

35. *How will fees be calculated if I am a water user that has a docket without an allocation limit?*

Until such time that an allocation limit can be established in a permit or docket, the DRBC will develop an estimated monthly allocation for purposes of billing the annual monitoring and coordination fee. At the time of a modification or renewal, an allocation will be established and the docket fee calculation will then be based upon the requested monthly allocation limit.

36. *Which allocation will apply for the calculation of fees if the monthly withdrawal or discharge limit in a DRBC docket differs from the monthly limit in a state permit?*

Until such time as the DRBC docket and the state permit are merged under the One Process/One Permit Program, the DRBC docket limit will apply for fee calculations.

37. *If I have a water withdrawal permit or docket in New Jersey and Delaware and it includes a water export, what fees and charges apply?*

Surface water supply charges, if applicable, will apply as they do now. The annual monitoring and coordination fee will also apply. In addition, since an export of water is involved requiring DRBC review, a docket application fee will apply to new and renewal applications.

38. *Under what circumstances will DRBC charge applicants an “alternative fee”?*

The most likely conditions for charging the alternative fee are outlined in the approved new rules. Alternative fees are not intended for routine new applications or routine renewals. If the review of an application results in extraordinary costs, those costs should be borne by the applicant and the Executive Director would have the authority to charge the alternative fee. The capability to impose alternative fees was already authorized under the previous fee structure to be used in unique, not routine, circumstances.

39. *Agricultural uses were previously not subject to water supply charges or other fees? Will that continue under the new fee structure?*

Yes.

40. *Does DRBC consider golf courses as agricultural uses?*

No. Golf courses will be subject to all applicable fees.

41. *Does the annual monitoring and coordination fee apply immediately upon Commissioner adoption or not until a docket/permit is renewed and a condition included in the approval?*

The annual monitoring and coordination fee will apply to all existing docket/permit holders.

42. *Are projects located in the Southeastern Pennsylvania Groundwater Protected Area subject to these fees?*

Yes, permits issued by the DRBC in the Southeastern Pennsylvania Groundwater Protected Area are subject to the fees included in the fee schedule approved on December 14, 2016.

43. *What will the renewal and annual fees be based on in dockets that approve both a wastewater discharge and a water withdrawal?*

For DRBC dockets that contain both types of approvals, the total renewal fee will be based on the sum of the applicable water allocation and wastewater discharge fees. The total annual monitoring and coordination fee will also be based on the sum of the applicable water and wastewater fees.

**END OF SECTION
ADDITIONAL QUESTIONS AND ANSWERS WILL BE ADDED AS REQUIRED**

(Last Updated January 20, 2017)