

equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, do not include any “[t]rade secret or any commercial or financial information which is . . . privileged or confidential,” as discussed in section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you must follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).¹ Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublishcommentworks.com/ftc/rvaluerule>, by following the instruction on the web-based form. If this Notice appears at <http://www.regulations.gov>, you also may file a comment through that Web site.

If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC-5610 (Annex B), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex B), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at <http://www.ftc.gov> to read this ANPR and the news release describing it. The FTC Act and other laws that the Commission administers permit the

¹In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before September 6, 2016. You can find more information, including routine uses permitted by the Privacy Act, in the Commission’s privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

By direction of the Commission.

Donald S. Clark,
Secretary.

[FR Doc. 2016–13097 Filed 6–2–16; 8:45 am]

BILLING CODE 6750–01–P

DELAWARE RIVER BASIN COMMISSION

18 CFR Parts 401 and 420

Rules of Practice and Procedure Concerning Regulatory Program Fees and Basin Regulations—Water Supply Charges Concerning Rates

AGENCY: Delaware River Basin Commission.

ACTION: Proposed rule; notice of public hearing.

SUMMARY: The Commission is proposing amendments to the Rules of Practice and Procedure to adopt a new project review fee structure and to the Basin Regulations—Water Supply Charges to provide for automatic inflation adjustments. These changes also are proposed to be incorporated into the Commission’s Comprehensive Plan.

DATES: The Commission will hold a *public hearing* at 1 p.m. on Wednesday, July 27, 2016. The hearing will continue until all those wishing to testify have had an opportunity to do so. Written comments will be accepted and must be received by 5 p.m. on Friday, August 12, 2016.

ADDRESSES: The *public hearing* will be held in the Goddard Conference Room at the Commission’s office building located at 25 State Police Drive, West Trenton, NJ. As Internet mapping tools are inaccurate for this location, please use the driving directions posted on the Commission’s Web site.

Oral Testimony and Written Comments: Persons wishing to testify at the hearing are asked to register in advance by phoning Paula Schmitt at 609–883–9500, ext. 224. Written comments may be submitted as follows:

If by email, to paula.schmitt@drbc.nj.gov; if by fax, to Commission Secretary at 609–883–9522; if by U.S. Mail, to Commission Secretary, DRBC, P.O. Box 7360, West Trenton, NJ 08628–

0360; and if by overnight mail, to Commission Secretary, DRBC, 25 State Police Drive, West Trenton, NJ 08628–0360. Comments also may be delivered by hand at any time during the Commission’s regular office hours (Monday through Friday, 8:30 a.m. through 5:00 p.m. except on national holidays) until the close of the comment period at 5:00 p.m. on Friday, August 12, 2016. In all cases, please include the commenter’s name, address and affiliation, if any, in the comment document and “Fees Rulemaking” in the subject line.

FOR FURTHER INFORMATION CONTACT: An FAQ document explaining this proposal in further detail is available on the Commission’s Web site, www.drbc.net. For queries about the rulemaking process, please contact Pamela Bush at 609–477–7203.

SUPPLEMENTARY INFORMATION:

Background. The Delaware River Basin Commission (“DRBC” or “Commission”) is a Federal interstate compact agency charged with managing the water resources of the Delaware River Basin on a regional basis without regard to political boundaries. Its members are the governors of the four basin states—Delaware, New Jersey, New York and Pennsylvania—and the North Atlantic Division Commander of the U.S. Army Corps of Engineers, representing the federal government. DRBC is proposing a comprehensive revision of its project review fee structure, including an automatic annual indexed inflation adjustment for most fees. The inflation adjustment is also proposed for DRBC’s water supply charges rates applicable to consumptive and non-consumptive surface water withdrawals.

Current fees. DRBC’s current project review fee structure was adopted by the Commission in 2009 by (uncodified) Resolution No. 2009–2. For projects involving total costs of \$250,000 or less, it consists of a flat project review fee of \$1,000 for privately sponsored projects and \$500 for publically sponsored projects. For projects with total costs greater than \$250,000, DRBC’s current project review fee is based upon a percentage of the costs of the project attributable to project components physically located within the basin, and is capped at \$75,000. However, projects for which the review is exceptionally involved may be charged DRBC’s actual costs, which may exceed \$75,000. The current fee structure generates an uneven revenue stream that between 2011 and 2015 produced average annual revenues of \$610,843. The Commission’s total cost associated with

project reviews required by the Delaware River Basin Compact and DRBC regulations is estimated to equal \$1.15 million annually. This estimate takes into consideration administrative cost savings expected to accompany implementation of the One Process/One Permit Program (also “One Process/One Permit”), recently authorized by the Commission through its adoption of the One Permit Program rule, 18 CFR 401.42.

DRBC’s water supply charges are used to pay debt service, annual operation and maintenance costs, and the costs of required improvements, repairs and replacements associated with water supply storage owned by the Commission in two reservoirs—Blue Marsh and Beltzville—located in Pennsylvania and operated by the U.S. Army Corps of Engineers. Water supply charges revenues also support DRBC activities related to water supply planning and operations. DRBC’s current water supply charges rates, in effect since January 1, 2011, are \$80 per million gallons for consumptive use and \$.80 per million gallons for non-consumptive use. The previous rates, \$60 per million gallons for consumptive use and \$.60 per million gallons for non-consumptive use, were adopted in 1978 and remained unchanged for more than 30 years. DRBC’s water supply charges revenues have lagged significantly behind inflation.

Proposed Changes. The proposed project review fee restructuring includes: For wastewater discharge projects, elimination of DRBC project review fees for applications that undergo coordinated review pursuant to the One Process/One Permit Program; and for water withdrawal projects, (1) for those projects for which DRBC continues to act as lead review agency, replacement of the current fee structure with fees based on monthly water allocation limits; and (2) for renewals subject to coordinated review under One Process/One Permit, elimination of the project review fee. DRBC is simultaneously proposing an annual coordination, monitoring and assessment fee for all water withdrawal and wastewater discharge projects subject to DRBC review and approval, including projects that receive permits from a signatory party agency under the One Process/One Permit Program. The annual fee will range from \$300 to \$1,000 per year, depending upon the permitted discharge capacity or monthly water allocation. The fee for DRBC’s review of “Other” projects—those that involve no ongoing withdrawals or discharges—will continue to be calculated on the basis of project cost.

The coordination, monitoring and assessment fee will not apply to such “Other” projects. An annual, indexed, automatic inflation adjustment is proposed for most project review fees.

The proposed regulatory program fees structure is expected to provide a more predictable and sustainable source of revenues and to help close the annual gap of approximately \$539,000 in funding to support DRBC’s project review program.

No increase is proposed to DRBC’s current water supply charges rates, set forth at 18 CFR 420.41. However, an annual, indexed, automatic inflation adjustment is proposed, applicable to both the consumptive and non-consumptive use rates for surface water withdrawals.

Additional information. An FAQ document explaining DRBC’s fee restructuring proposal in greater detail is available on the Commission’s Web site, www.drbc.net.

List of Subjects

18 CFR Part 401

Administrative practice and procedure, Penalties, Water pollution control, Water resources.

18 CFR Part 420

Water Supply.

For the reasons set forth in the preamble, the Delaware River Basin Commission proposes to amend parts 401 and 420 of title 18 of the Code of Federal Regulations as follows:

PART 401—RULES OF PRACTICE AND PROCEDURE

- 1. The authority citation for part 401 continues to read as follows:

Authority: Delaware River Basin Compact (75 Stat. 688), unless otherwise noted.

- 2. Add § 401.43 to subpart C to read as follows:

§ 401.43 Regulatory program fees.

(a) **Purpose.** The purpose of this section is to provide an adequate, stable and reliable stream of revenue to cover the cost of the Commission’s regulatory program activities, an important means by which the Commission coordinates management of the shared water resources of the Basin. Activities to be covered by the fees include the review of applications for projects that are subject to review under the Delaware River Basin Compact and implementing regulations; and ongoing activities associated with such projects, including but not limited to, effluent and ambient monitoring, data analysis, hydrodynamic and water quality

modeling, and coordination with state and federal agencies.

(b) **Types of fees.** The following types of fees are established by this section:

(1) **Docket Application Fee.** Except as set forth in paragraph (b)(1)(iii) of this section, the Docket Application Fee shall apply to:

(i) Any project that, in accordance with the Delaware River Basin Compact and DRBC regulations, requires a Commission-issued docket or permit, whether it be a new or existing project for which the Commission has not yet issued an approval or a project for which the renewal of a previous Commission approval is required.

(ii) Any project that in accordance with section 11 or section 13.1 of the *Delaware River Basin Compact* and DRBC regulations must be added to the Comprehensive Plan (also, “Plan”). In addition to any new project required to be included in the Plan, such projects include existing projects that in accordance with section 13.1 of the *Compact* are required to be included in the Plan and which were not previously added to the Plan. Any existing project that is changed substantially from the project as described in the Plan shall be deemed to be a new and different project for purposes of this section.

(iii) **Exemptions.** The Docket Application Fee shall not apply to:

(A) Any project for which the Signatory Party Agency serves as lead under the one permit program rule (§ 401.42), unless such project must be added by the Commission to the Comprehensive Plan.

(B) Any project for which an agency, authority or commission of a signatory to the Compact is the primary sponsor. Projects sponsored by political subdivisions of the signatory states shall not be included in this exemption. For purposes of this section “political subdivisions” shall include without limitation municipalities, municipal utility authorities, municipal development corporations, and all other entities not directly under the budgetary and administrative control of the Commission’s members.

(2) **Annual Monitoring and Coordination Fee.** An Annual Monitoring and Coordination Fee shall apply to each withdrawal and/or discharge project for which a water allocation or wastewater discharge approval issued pursuant to the *Compact* and implementing regulations is in effect, regardless of whether the approval was issued by the Commission in the form of a docket, permit or other instrument, or by a Signatory Party Agency under the one permit program rule (§ 401.42). The fee shall be based on

the amount of a project’s approved monthly water allocation and/or approved daily discharge capacity.

(3) *Alternative Review Fee.* In instances where the Commission’s activities and related costs associated with the review of an existing or proposed project are expected to involve extraordinary time and expense, an Alternative Review Fee equal to the Commission’s actual costs may be imposed. The Executive Director shall inform the project sponsor in writing when the Alternative Review Fee is to be applied and may require advance payment in the amount of the Commission’s projected costs. Instances in which the Alternative Review Fee may apply include, but are not limited to, matters in which:

(i) DRBC staff perform a detailed pre-application review, including but not limited to the performance or review of modeling and/or analysis to identify target limits for wastewater discharges;

(ii) DRBC staff perform or review complex modeling in connection with the design of a wastewater discharge diffuser system;

(iii) DRBC manages a public process for which the degree of public involvement results in extraordinary effort and expense, including but not limited to, costs associated with multiple stakeholder meetings, special public hearings, and/or voluminous public comment.

(iv) DRBC conducts or is required to engage third parties to conduct

additional analyses or evaluations of a project in response to a court order.

(4) *Additional fees—(i) Emergency approval.* A request for an emergency certificate under § 401.40 to waive or amend a docket condition shall be subject to a minimum fee in accordance with paragraph (e) of this section. An Alternative Review Fee also may be charged in accordance with paragraph (b)(3) of this section.

(ii) *Late filed renewal application.* Any renewal application submitted fewer than 120 calendar days in advance of the expiration date or after such other date specified in the docket or permit or letter of the Executive Director for filing a renewal application shall be subject to a Late Filed Renewal Application charge in excess of the otherwise applicable fee.

(iii) *Modification of a DRBC approval.* Following Commission action on a project, each project revision or modification that the Executive Director deems substantial shall require an additional Docket Application Fee calculated in accordance with paragraph (e) of this section and subject to an Alternative Review Fee in accordance with paragraph (b)(3) of this section.

(iv) *Name change.* Each project with a docket or permit issued by the DRBC or by a Signatory Party Agency pursuant to the one permit program rule (§ 401.42) will be charged an administrative fee as set forth in paragraph (e) of this section.

(v) *Change of ownership.* Each project that undergoes a “change in ownership” as that term is defined at 18 CFR 420.31(e)(2) will be charged an administrative fee as set forth in paragraph (e) of this section.

(c) *Indexed adjustment.* On July 1 of every year, beginning July 1, 2017, all fees established by this section will increase commensurate with any increase in the annual April 12-month Consumer Price Index (CPI) for Philadelphia, published by the U.S. Bureau of Labor Statistics during that year.¹ In any year in which the April 12-month CPI for Philadelphia declines or shows no change, the Docket Application Fee and Annual Monitoring and Coordination Fee will remain unchanged. Following any indexed adjustment made under this paragraph, a revised fee schedule will be posted on the Commission’s Web site. Interested parties may also obtain the current fee schedule by contacting the Commission directly during business hours.

(d) *Late payment charge.* When any fee established by this section remains unpaid 30 calendar days after the payment due date provided on the Commission’s invoice, an incremental charge equal to 2% of the amount owed shall be automatically assessed. Such charge shall be assessed every 30 days thereafter until the total amount owed, including any late payment charges has been paid in full.

(e) *Fee schedules.* The fees described in this section shall be as follows:

DOCKET APPLICATION FILING FEE

Project type	Docket application fee	Fee maximum
Water Withdrawal	\$400 per million gallons/month of allocation, ¹ not to exceed \$15,000. ¹ Fee is doubled for any portion to be exported from the basin.	Greater of: \$15,000 ¹ or Alternative Review Fee
Wastewater Discharge	Private projects: \$1,000 ¹ Public projects: \$500 ¹ 0.4% of project cost up to \$10,000,000 plus 0.12% of project cost above.	Alternative Review Fee Greater of: \$75,000 ¹ or Alternative Review Fee
Other	\$10,000,000 (if applicable), not to exceed \$75,000. ¹	

¹ Subject to annual adjustment in accordance with paragraph (c) of this section.

ANNUAL MONITORING AND COORDINATION FEE

	Annual fee	Allocation
Water Withdrawal	¹ \$300	<4.99 mgm.
	1450	5.00 to 49.99 mgm.
	1650	50.00 to 499.99 mgm.
	1825	500.00 to 9,999.99 mgm.
	¹ 1,000;	> or = to 10,000 mgm.
Wastewater Discharge	Annual fee	Discharge design capacity
	1300	<0.05 mgd.
	1610	0.05 to 1 mgd.

¹ Consumer Price Index—U/Series ID: CWURA102SA0/Not Seasonally Adjusted/Area:

Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD/Item: All items/Base Period: 1982-84=100.

ANNUAL MONITORING AND COORDINATION FEE—Continued

	Annual fee	Allocation
	1820 11,000	1 to 10 mgd. >10 mgd.

¹ Subject to annual adjustment in accordance with paragraph (c) of this section.

ADDITIONAL FEES

Proposed action	Fee	Fee maximum
Emergency Approval Under 18 CFR 401.40	\$5,000	Alternative Review Fee.
Late Filed Renewal Surcharge	\$2,000. At Executive Director's discretion, Docket Application Fee for the appropriate project type.	Alternative Review Fee.
Modification of a DRBC Approval.		
Name change	\$1,000. ¹	
Change of Ownership	\$1,500. ¹	

¹ Subject to annual adjustment in accordance with paragraph (c) of this section.

PART 420—BASIN REGULATIONS—WATER SUPPLY CHARGES

■ 3. The authority citation for part 420 continues to read as follows:

Authority: Delaware River Basin Compact, 75 Stat. 688.

■ 4. Revise § 420.41 to read as follows:

§ 420.41 Schedule of water charges.

The schedule of water charges established in accordance with § 420.22 shall be as follows:

(a) \$80 per million gallons for consumptive use, subject to paragraph (c) of this section; and

(b) \$0.80 per million gallons for non-consumptive use, subject to paragraph (c) of this section.

(c) On July 1 of every year, beginning July 1, 2017, the rates established by this section will increase commensurate with any increase in the annual April 12-month Consumer Price Index (CPI) for Philadelphia, published by the U.S. Bureau of Labor Statistics during that year.¹ In any year in which the April 12-month CPI for Philadelphia declines or shows no change, the water charges rates will remain unchanged. Following any indexed adjustment made under this paragraph, revised consumptive and non-consumptive use rates will be posted on the Commission's Web site. Interested parties may also obtain the current rates by contacting the Commission directly during business hours.

Dated: May 26, 2016.

Pamela M. Bush,

Commission Secretary.

[FR Doc. 2016-13012 Filed 6-2-16; 8:45 am]

BILLING CODE 6360-01-P

¹ Consumer Price Index—U/Series ID: CWURA102SA0/Not Seasonally Adjusted/Area: Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD/Item: All items/Base Period: 1982-84=100.

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 1010

RIN 1506-AB35

Imposition of Special Measure Against North Korea as a Jurisdiction of Primary Money Laundering Concern

AGENCY: Financial Crimes Enforcement Network (“FinCEN”), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: In a finding, notice of which was published elsewhere in this issue of the **Federal Register** (“Notice of Finding”), the Director of FinCEN found that the Democratic People’s Republic of Korea (“North Korea”) is a jurisdiction of primary money laundering concern. FinCEN is issuing this notice of proposed rulemaking (“NPRM”) to propose to prohibit covered financial institutions from opening or maintaining a correspondent account in the United States for or on behalf of a North Korean banking institution and to prohibit the use of foreign banking institutions’ correspondent accounts at covered U.S. financial institutions to process transactions involving North Korean financial institutions.

DATES: Written comments on the notice of proposed rulemaking must be submitted on or before August 2, 2016.

ADDRESSES: You may submit comments, identified by 1506-AB35, by any of the following methods:

- *Federal E-rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. Include 1506-AB35 in the submission.
- *Mail:* The Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Include RIN 1506-

AB35 in the body of the text. Please submit comments by one method only.

- Comments submitted in response to this NPRM will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

- *Inspection of comments:* FinCEN uses the electronic, Internet-accessible dockets at [Regulations.gov](http://www.regulations.gov) as its complete, official-record docket; all hard copies of materials that should be in the docket, including public comments, are electronically scanned and placed there. **Federal Register** notices published by FinCEN are searchable by docket number, RIN, or document title, among other things, and the docket number, RIN, and title may be found at the beginning of such notices. In general, FinCEN will make all comments publicly available by posting them on <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at (800) 949-2732.

SUPPLEMENTARY INFORMATION:

I. Statutory Provisions

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56 (the “USA PATRIOT Act”). Title III of the USA PATRIOT Act amended the anti-money laundering provisions of the Bank Secrecy Act (“BSA”), codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5314, 5316-5332, to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR

Symbol Key

Arial type indicates the text existing prior to the regulation being promulgated. Underlined text indicates new text. Language which is ~~stricken~~ through indicates text being deleted.

Proposed Regulations

Under 29 **Del.C.** §10115 whenever an agency proposes to formulate, adopt, amend or repeal a regulation, it shall file notice and full text of such proposals, together with copies of the existing regulation being adopted, amended or repealed, with the Registrar for publication in the *Register of Regulations* pursuant to §1134 of this title. The notice shall describe the nature of the proceedings including a brief synopsis of the subject, substance, issues, possible terms of the agency action, a reference to the legal authority of the agency to act, and reference to any other regulations that may be impacted or affected by the proposal, and shall state the manner in which persons may present their views; if in writing, of the place to which and the final date by which such views may be submitted; or if at a public hearing, the date, time and place of the hearing. If a public hearing is to be held, such public hearing shall not be scheduled less than 20 days following publication of notice of the proposal in the *Register of Regulations*. If a public hearing will be held on the proposal, notice of the time, date, place and a summary of the nature of the proposal shall also be published in at least 2 Delaware newspapers of general circulation. The notice shall also be mailed to all persons who have made timely written requests of the agency for advance notice of its regulation-making proceedings.

DELAWARE RIVER BASIN COMMISSION**PUBLIC NOTICE****Notice of Proposed Rulemaking and Public Hearing****Proposed Amendments to the Rules of Practice and Procedure Concerning Regulatory Program Fees and to the Basin Regulations - Water Supply Charges Concerning Rates**

Summary: The Commission will hold a public hearing to receive comments on proposed amendments to the Rules of Practice and Procedure to adopt a new project review fee structure and to the Basin Regulations - Water Supply Charges to provide for automatic inflation adjustments.

Dates: The public hearing will be held at 1:00 P.M. on Wednesday, July 27, 2016. The hearing will continue until all those wishing to testify have had an opportunity to do so. Written comments will be accepted and must be received by 5:00 P.M. on Friday, August 12, 2016.

Addresses: The public hearing will be held at the Commission's office building located at 25 State Police Drive, West Trenton, NJ. As Internet mapping tools are inaccurate for this location, please use the driving directions posted on the Commission's website.

Oral Testimony and Written Comments: Persons wishing to testify at the hearing are asked to register in advance by phoning Paula Schmitt at 609-883-9500, ext. 224. Written comments may be submitted as follows: If by email, to paula.schmitt@drbc.state.nj.us; if by fax, to Commission Secretary at 609-883-9522; if by U.S. Mail, to Commission Secretary, DRBC, P.O. Box 7360, West Trenton, NJ 08628-0360; and if by overnight mail, to Commission Secretary, DRBC, 25 State Police Drive, West Trenton, NJ 08628-0360. Comments also may be delivered by hand at any time during the Commission's regular office hours (Monday through Friday, 8:30 A.M. through 5:00 P.M. except on national holidays) until the close of the comment period at 5:00 P.M. on Friday, August 12, 2016. In all cases, please include the commenter's name, address and affiliation, if any, in the comment document and "Fees Rulemaking" in the subject line.

For Further Information, Contact: An FAQ document explaining this proposal in further detail is available on the

Commission's website, www.drbc.net. For queries about the rulemaking process, please contact Pamela Bush at 609-477-7203.

Supplementary Information:

Background. The Delaware River Basin Commission ("DRBC" or "Commission") is a federal interstate compact agency charged with managing the water resources of the Delaware River Basin on a regional basis without regard to political boundaries. Its members are the governors of the four basin states - Delaware, New Jersey, New York and Pennsylvania - and the North Atlantic Division Commander of the U.S. Army Corps of Engineers, representing the federal government. The Commission is not subject to the requirements of the Delaware Administrative Procedure Act. This notice is published by the Commission for information purposes.

DRBC is proposing a comprehensive revision of its project review fee structure, including an automatic annual indexed inflation adjustment for most fees. The inflation adjustment is also proposed for DRBC's water supply charges rates applicable to consumptive and non-consumptive surface water withdrawals.

Current fees. DRBC's current project review fee structure was adopted by the Commission in 2009 by (uncodified) Resolution No. 2009-2. For projects involving total costs of \$250,000 or less, it consists of a flat project review fee of \$1,000 for privately sponsored projects and \$500 for publicly sponsored projects. For projects with total costs greater than \$250,000, DRBC's current project review fee is based upon a percentage of the costs of the project attributable to project components physically located within the basin, and is capped at \$75,000. However, projects for which the review is exceptionally involved may be charged DRBC's actual costs, which may exceed \$75,000. The current fee structure generates an uneven revenue stream that produced average annual revenues of \$610,843 for the years 2011 through 2015. The Commission's total cost associated with project reviews required by the Delaware River Basin Compact and DRBC regulations is estimated to equal \$1.15 million annually. This estimate takes into consideration administrative cost savings expected to accompany implementation of the One Process/One Permit Program (also "One Process/One Permit"), recently authorized by the Commission through its adoption of the one permit program rule, 18 CFR 401.42.

DRBC's water supply charges are used to pay debt service, annual operation and maintenance costs, and the costs of required improvements, repairs and replacements associated with water supply storage owned by the Commission in two reservoirs - Blue Marsh and Beltzville - located in Pennsylvania and operated by the U.S. Army Corps of Engineers. Water supply charges revenues also support DRBC activities related to water supply planning and operations. DRBC's current water supply charges rates, in effect since January 1, 2011, are \$80 per million gallons for consumptive use and \$0.80 per million gallons for non-consumptive use. The previous rates, \$60 per million gallons for consumptive use and \$0.60 per million gallons for non-consumptive use, were adopted in 1978 and remained unchanged for more than 30 years. DRBC's water supply charges revenues have lagged significantly behind inflation.

Proposed changes. The proposed project review fee restructuring includes: for wastewater discharge projects, elimination of DRBC project review fees for applications that undergo coordinated review pursuant to the One Process/One Permit Program; and for water withdrawal projects, (1) for those projects for which DRBC continues to act as lead review agency, replacement of the current fee structure with fees based on monthly water allocation limits; and (2) for renewals subject to coordinated review under One Process/One Permit, elimination of the project review fee. DRBC is simultaneously proposing an Annual Monitoring and Coordination Fee for all water withdrawal and wastewater discharge projects subject to DRBC review and approval, including projects that receive permits from a signatory party agency under the One Process/One Permit Program. The annual fee will range from \$300 to \$1,000 per year, depending upon the permitted discharge capacity or monthly water allocation. The fee for DRBC's review of "Other" projects - those that involve no ongoing withdrawals or discharges - will continue to be calculated on the basis of project cost. The Annual Monitoring and Coordination Fee will not apply to such "Other" projects. In instances where the Commission's activities and related costs associated with the review of an existing or proposed project are expected to involve extraordinary time and expense, the Executive Director will continue under the proposed rule to have the discretion to impose an Alternative Review Fee equal to the Commission's actual costs. Finally, an annual, indexed, automatic inflation adjustment is proposed for most project review fees.

The proposed regulatory program fees structure is expected to provide a more predictable and sustainable source of revenues and to help close the annual gap in funding needed to support DRBC's project review program.

No increase is proposed to DRBC's current water supply charges rates, set forth at 18 CFR 420.41. However, an annual, indexed, automatic inflation adjustment is proposed, applicable to both the consumptive and non-consumptive use rates for surface water withdrawals.

Additional information. An FAQ document explaining DRBC's fee restructuring proposal in greater detail is available on the Commission's website, www.drbc.net.

For the reasons set forth in the preamble, the Delaware River Basin Commission proposes to amend parts 401 and 420 of title 18 of the Code of Federal Regulations as follows:

Part 401 - Rules of Practice and Procedure, is proposed to be amended by the addition of a new § 401.43 to read as follows:

§ 401.43 Regulatory program fees.

(a) *Purpose.* The purpose of this section is to provide an adequate, stable and reliable stream of revenue to cover the cost of the Commission's regulatory program activities, an important means by which the Commission coordinates management of the shared water resources of the Basin. Activities to be covered by the fees include the review of applications for projects that are subject to review under the *Delaware River Basin Compact* and implementing regulations; and ongoing activities associated with such projects, including but not limited to, effluent and ambient monitoring, data analysis, hydrodynamic and water quality modeling, and coordination with state and federal agencies.

(b) *Types of fees.* The following types of fees are established by this section:

(1) *Docket Application Fee.* Except as set forth in paragraph (b)(1)(iii) of this section, the Docket Application Fee shall apply to:

(i) Any project that, in accordance with the *Delaware River Basin Compact* and DRBC regulations, requires a Commission-issued docket or permit, whether it be a new or existing project for which the Commission has not yet issued an approval or a project for which the renewal of a previous Commission approval is required.

(ii) Any project that in accordance with section 11 or section 13.1 of the *Delaware River Basin Compact* and DRBC regulations must be added to the Comprehensive Plan (also, "Plan"). In addition to any new project required to be included in the Plan, such projects include existing projects that in accordance with section 13.1 of the *Compact* are required to be included in the Plan and which were not previously added to the Plan. Any existing project that is changed substantially from the project as described in the Plan shall be deemed to be a new and different project for purposes of this section.

(iii) *Exemptions.* The Docket Application Fee shall not apply to:

(A) Any project for which the Signatory Party Agency serves as lead under the one permit program rule (§ 401.42), unless such project must be added by the Commission to the Comprehensive Plan.

(B) Any project for which an agency, authority or commission of a signatory to the *Compact* is the primary sponsor. Projects sponsored by political subdivisions of the signatory states shall not be included in this exemption. For purposes of this section "political subdivisions" shall include without limitation municipalities, municipal utility authorities, municipal development corporations, and all other entities not directly under the budgetary and administrative control of the Commission's members.

(2) *Annual Monitoring and Coordination Fee.* An Annual Monitoring and Coordination Fee shall apply to each withdrawal and/or discharge project for which a water allocation or wastewater discharge approval issued pursuant to the *Compact* and implementing regulations is in effect, regardless of whether the approval was issued by the Commission in the form of a docket, permit or other instrument, or by a Signatory Party Agency under the one permit program rule (§ 401.42). The fee shall be based on the amount of a project's approved monthly water allocation and/or approved daily discharge capacity.

(3) *Alternative Review Fee.* In instances where the Commission's activities and related costs associated with the review of an existing or proposed project are expected to involve extraordinary time and expense, an Alternative Review Fee equal to the Commission's actual costs may be imposed. The Executive Director shall inform the project sponsor in writing when the Alternative Review Fee is to be applied and may require advance payment in the amount of the Commission's projected costs. Instances in which the Alternative Review Fee may apply include, but are not limited to, matters in which:

(i) DRBC staff perform a detailed pre-application review, including but not limited to the performance or review of modeling and/or analysis to identify target limits for wastewater discharges;

(ii) DRBC staff perform or review complex modeling in connection with the design of a wastewater discharge diffuser system;

(iii) DRBC manages a public process for which the degree of public involvement results in extraordinary effort and expense, including but not limited to costs associated with multiple stakeholder meetings,

special public hearings, and/or voluminous public comment.

(iv) DRBC conducts or is required to engage third parties to conduct additional analyses or evaluations of a project in response to a court order.

(4) *Additional fees.*

(i) *Emergency approval.* A request for an emergency certificate under § 401.40 to waive or amend a docket condition shall be subject to a minimum fee in accordance with paragraph (e) of this section. An Alternative Review Fee also may be charged in accordance with paragraph (b)(3) of this section.

(ii) *Late filed renewal application.* Any renewal application submitted fewer than 120 calendar days in advance of the expiration date or after such other date specified in the docket or permit or letter of the Executive Director for filing a renewal application shall be subject to a Late Filed Renewal Application charge in excess of the otherwise applicable fee.

(iii) *Modification of a DRBC approval.* Following Commission action on a project, each project revision or modification that the Executive Director deems substantial shall require an additional Docket Application Fee calculated in accordance with paragraph (e) of this section and subject to an Alternative Review Fee in accordance with paragraph (b)(3) of this section.

(iv) *Name change.* Each project with a docket or permit issued by the DRBC or by a Signatory Party Agency pursuant to the one permit program rule (§ 401.42) will be charged an administrative fee as set forth in paragraph (e) of this section.

(v) *Change of ownership.* Each project that undergoes a "change in ownership" as that term is defined in section 5.2.1 E.2 of the Commission's Water Supply Charges Regulations will be charged an administrative fee as set forth in paragraph (e) of this section.

(c) *Indexed adjustment.* On July 1 of every year, beginning July 1, 2017, all fees established by this section will increase commensurate with any increase in the annual April 12-month Consumer Price Index (CPI) for Philadelphia, published by the U.S. Bureau of Labor Statistics during that year.¹ In any year in which the April 12-month CPI for Philadelphia declines or shows no change, the Docket Application Fee and Annual Monitoring and Coordination Fee will remain unchanged. Following any indexed adjustment made under this paragraph, a revised fee schedule will be posted on the Commission's website. Interested parties may also obtain the current fee schedule by contacting the Commission directly during business hours.

¹ Consumer Price Index – U / Series ID: CWURA102SA0 / Not Seasonally Adjusted / Area: Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD / Item: All items / Base Period: 1982-84=100.

(d) *Late payment charge.* When any fee established by this section remains unpaid 30 calendar days after the payment due date provided on the Commission's invoice, an incremental charge equal to 2% of the amount owed shall be automatically assessed. Such charge shall be assessed every 30 days thereafter until the total amount owed, including any late payment charges, has been paid in full.

(e) *Fee schedules.* The fees described in this section shall be as follows.

DOCKET APPLICATION FILING FEE

<u>Project Type</u>	<u>Docket Application Fee</u>	<u>Fee Maximum</u>
Water Withdrawal	\$400 per million gallons/month of allocation ¹ , not to exceed \$15,000 ¹ . Fee is doubled for any portion to be exported from the basin.	Greater of: \$15,000 ¹ or Alternative Review Fee
Wastewater Discharge	Private projects: \$1,000 ¹ Public projects: \$500 ¹	Alternative Review Fee

PROPOSED REGULATIONS

Other	0.4% of project cost up to \$10,000,000 plus 0.12% of project cost above \$10,000,000 (if applicable), not to exceed \$75,000 ¹	Greater of: \$75,000 ¹ or Alternative Review Fee
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¹ Subject to annual adjustment in accordance with paragraph (c) of this section.

ANNUAL MONITORING AND COORDINATION FEE

	<u>Annual Fee</u>	<u>Allocation</u>
Water Withdrawal	\$300 ¹	< 4.99 mgm
	\$450 ¹	5.00 to 49.99 mgm
	\$650 ¹	50.00 to 499.99 mgm
	\$825 ¹	500.00 to 9,999.99 mgm
	\$1,000 ¹	> or = to 10,000 mgm
	<u>Annual Fee</u>	<u>Discharge Design Capacity</u>
Wastewater Discharge	\$300 ¹	< 0.05 mgd
	\$610 ¹	0.05 to 1 mgd
	\$820 ¹	1 to 10 mgd
	\$1,000 ¹	>10 mgd

¹ Subject to annual adjustment in accordance with paragraph (c) of this section.

ADDITIONAL FEES

<u>Proposed Action</u>	<u>Fee</u>	<u>Fee Maximum</u>
Emergency Approval Under 18 CFR 401.40	\$5,000	Alternative Review Fee
Late Filed Renewal Surcharge	\$2,000	--
Modification of a DRBC Approval	At Executive Director's discretion, Docket Application Fee for the appropriate project type.	Alternative Review Fee
Name change	\$1,000 ¹	--
Change of Ownership	\$1,500 ¹	--

¹ Subject to annual adjustment in accordance with paragraph (c) of this section.

Part 420 - Basin Regulations - Water Supply Charges is proposed to be amended by revising § 420.41 to read

as follows:

§ 420.41 Schedule of water charges.

The schedule of water charges established in accordance with § 420.22 shall be as follows:

- (a) \$80 per million gallons for consumptive use, subject to paragraph (c) of this section; and
- (b) \$0.80 per million gallons for non-consumptive use, subject to paragraph (c) of this section.
- (c) On July 1 of every year, beginning July 1, 2017, the rates established by this section will increase commensurate with any increase in the annual April 12-month Consumer Price Index (CPI) for Philadelphia, published by the U.S. Bureau of Labor Statistics during that year.¹ In any year in which the April 12-month CPI for Philadelphia declines or shows no change, the water charges rates will remain unchanged. Following any indexed adjustment made under this paragraph, revised consumptive and non-consumptive use rates will be posted on the Commission's website. Interested parties may also obtain the current rates by contacting the Commission directly during business hours.

¹ Consumer Price Index – U / Series ID: CWURA102SA0 / Not Seasonally Adjusted / Area: Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD / Item: All items / Base Period: 1982-84=100.

Dated: May 6, 2016

PAMELA M. BUSH
Commission Secretary

DEPARTMENT OF EDUCATION OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(b) (14 Del.C. §122(b))

PUBLIC NOTICE

Education Impact Analysis Pursuant To 14 Del.C. Section 122(d)

616 Uniform Due Process Procedures for Alternative Placement Meetings and Expulsion Hearings

A. TYPE OF REGULATORY ACTION REQUIRED

New Regulation

B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

The Secretary of Education intends to create 14 **DE Admin. Code** 616 Uniform Due Process Procedures for Alternative Placement Meetings and Expulsion Hearings. This regulation is being created pursuant to 14 **Del.C.** §122(b)(26) to provide uniform procedures for alternative placement meetings and expulsion hearings.

This regulation was published for public comment on December 1, 2015 with comments being received from the Attorney General Matt Denn, the ACLU Foundation of Delaware, Representative Kimberly Williams, the Governor's Advisory Council for Exceptional Citizens, the State Council for Persons with Disabilities and various school district personnel. One comment specifically required the removal of 10.4.1.2 in its entirety, as per the Administrative Procedures Act, school districts are not required to receive written exceptions, comments or arguments relative to expulsion decisions. This is a substantive change which required the regulation to be republished.

Additionally, several comments received were found to warrant changes and those changes were made to this republished proposed regulation. In general they are: (1) Corrected definition of Parent to include a student age 18 or older, (2) Clarified definition of and added Appropriate Educational Services where pertinent, (3) Clarified definition of Expulsion to include "any other Delaware public school", (4) Added language in Grievance definition to note that the Grievance Guidelines will be posted on the DOE website, (5) Clarified definition of Student Review to

OTHER AGENCIES

(a)

DELAWARE RIVER BASIN COMMISSION

Notice of Proposed Rulemaking and Public Hearing Proposed Amendments to the Rules of Practice and Procedure Concerning Regulatory Program Fees and to the Basin Regulations – Water Supply Charges Concerning Rates

Authorized By: Delaware River Basin Commission, Pamela M. Bush,
Commission Secretary.

Proposal Number: PRN 2016-089.

Summary: The Commission will hold a **public hearing** to receive comments on proposed amendments to the Rules of Practice and Procedure to adopt a new project review fee structure and to the Basin Regulations – Water Supply Charges to provide for automatic inflation adjustments. These changes also are proposed to be incorporated into the Commission's Comprehensive Plan.

Dates: The **public hearing** will be held at 1:00 P.M. on Wednesday, July 27, 2016. The hearing will continue until all those wishing to testify have had an opportunity to do so. Written comments will be accepted and must be received by 5:00 P.M. on Friday, August 12, 2016.

Addresses: The **public hearing** will be held at the Commission's office building located at 25 State Police Drive, West Trenton, NJ. As Internet mapping tools are inaccurate for this location, please use the driving directions posted on the Commission's website.

Oral Testimony and Written Comments: Persons wishing to testify at the hearing are asked to register in advance by phoning Paula Schmitt at 609-883-9500, ext. 224. Written comments may be submitted as follows: If by e-mail, to paula.schmitt@drbc.nj.gov; if by fax, to Commission Secretary at 609-883-9522; if by U.S. Mail, to Commission Secretary, DRBC, P.O. Box 7360, West Trenton, NJ 08628-0360; and if by overnight mail, to Commission Secretary, DRBC, 25 State Police Drive, West Trenton, NJ 08628-0360. Comments also may be delivered by hand at any time during the Commission's regular office hours (Monday through Friday, 8:30 A.M. through 5:00 P.M. except on national holidays) until the close of the comment period at 5:00 P.M. on Friday, August 12, 2016. In all cases, please include the commenter's name, address and affiliation, if any, in the comment document and "Fees Rulemaking" in the subject line.

For Further Information, Contact: An FAQ document explaining this proposal in further detail is available on the Commission's website, www.drbc.net. For queries about the rulemaking process, please contact Pamela Bush at 609-477-7203.

Supplementary Information:

Background. The Delaware River Basin Commission ("DRBC" or "Commission") is a Federal interstate compact agency charged with managing the water resources of the Delaware River Basin on a regional basis without regard to political boundaries. Its members are the governors of the four basin states – Delaware, New Jersey, New York, and Pennsylvania – and the North Atlantic Division Commander of the U.S. Army Corps of Engineers, representing the Federal government. The Commission is not subject to the requirements of the New Jersey Administrative Procedure Act. This notice is published by the Commission for information purposes.

DRBC is proposing a comprehensive revision of its project review fee structure, including an automatic annual indexed inflation adjustment for most fees. The inflation adjustment is also proposed for DRBC's water supply charges rates applicable to consumptive and non-consumptive surface water withdrawals.

Current fees. DRBC's current project review fee structure was adopted by the Commission in 2009 by (uncodified) Resolution No. 2009-2. For projects involving total costs of \$250,000 or less, it consists of a flat project review fee of \$1,000 for privately sponsored projects and \$500.00 for publicly sponsored projects. For projects with total costs greater than \$250,000, DRBC's current project review fee is based upon a percentage of the costs of the project attributable to project components physically

located within the basin, and is capped at \$75,000. However, projects for which the review is exceptionally involved may be charged DRBC's actual costs, which may exceed \$75,000. The current fee structure generates an uneven revenue stream that produced average annual revenues of \$610,843 for the years 2011 through 2015. The Commission's total cost associated with project reviews required by the Delaware River Basin Compact and DRBC regulations is estimated to equal \$1.15 million annually. This estimate takes into consideration administrative cost savings expected to accompany implementation of the One Process/One Permit Program (also "One Process/One Permit"), recently authorized by the Commission through its adoption of the one permit program rule, 18 CFR 401.42.

DRBC's water supply charges are used to pay debt service, annual operation and maintenance costs, and the costs of required improvements, repairs and replacements associated with water supply storage owned by the Commission in two reservoirs – Blue Marsh and Beltzville – located in Pennsylvania and operated by the U.S. Army Corps of Engineers. Water supply charges revenues also support DRBC activities related to water supply planning and operations. DRBC's current water supply charges rates, in effect since January 1, 2011, are \$80.00 per million gallons for consumptive use and \$0.80 per million gallons for non-consumptive use. The previous rates, \$60.00 per million gallons for consumptive use and \$0.60 per million gallons for non-consumptive use, were adopted in 1978 and remained unchanged for more than 30 years. DRBC's water supply charges revenues have lagged significantly behind inflation.

Proposed changes. The proposed project review fee restructuring includes: for wastewater discharge projects, elimination of DRBC project review fees for applications that undergo coordinated review pursuant to the One Process/One Permit Program; and for water withdrawal projects, (1) for those projects for which DRBC continues to act as lead review agency, replacement of the current fee structure with fees based on monthly water allocation limits; and (2) for renewals subject to coordinated review under One Process/One Permit, elimination of the project review fee. DRBC is simultaneously proposing an Annual Monitoring and Coordination Fee for all water withdrawal and wastewater discharge projects subject to DRBC review and approval, including projects that receive permits from a signatory party agency under the One Process/One Permit Program. The annual fee will range from \$300.00 to \$1,000 per year, depending upon the permitted discharge capacity or monthly water allocation. The fee for DRBC's review of "Other" projects – those that involve no ongoing withdrawals or discharges – will continue to be calculated on the basis of project cost. The Annual Monitoring and Coordination fee will not apply to such "Other" projects. In instances where the Commission's activities and related costs associated with the review of an existing or proposed project are expected to involve extraordinary time and expense, the Executive Director will continue under the proposed rule to have the discretion to impose an Alternative Review Fee equal to the Commission's actual costs. Finally, an annual, indexed, automatic inflation adjustment is proposed for most project review fees.

The proposed regulatory program fees structure is expected to provide a more predictable and sustainable source of revenues and to help close the annual gap in funding needed to support DRBC's project review program.

No increase is proposed to DRBC's current water supply charges rates, set forth at 18 CFR 420.41. However, an annual, indexed, automatic inflation adjustment is proposed, applicable to both the consumptive and non-consumptive use rates for surface water withdrawals.

Additional information. An FAQ document explaining DRBC's fee restructuring proposal in greater detail is available on the Commission's website, www.drbc.net.

For the reasons set forth in the preamble, the Delaware River Basin Commission proposes to amend 18 CFR Parts 401 and 420 as follows:

Part 401 – Rules of Practice and Procedure, is proposed to be amended by the addition of a new 401.43 to read as follows:

§ 401.43 Regulatory program fees.

(a) *Purpose.* The purpose of this section is to provide an adequate, stable and reliable stream of revenue to cover the cost of the Commission’s regulatory program activities, an important means by which the Commission coordinates management of the shared water resources of the Basin. Activities to be covered by the fees include the review of applications for projects that are subject to review under the *Delaware River Basin Compact* and implementing regulations; and ongoing activities associated with such projects, including but not limited to, effluent and ambient monitoring, data analysis, hydrodynamic and water quality modeling, and coordination with state and federal agencies.

(b) *Types of fees.* The following types of fees are established by this section:

(1) *Docket Application Fee.* Except as set forth in paragraph (b)(1)(iii) of this section, the Docket Application Fee shall apply to:

(i) Any project that, in accordance with the *Delaware River Basin Compact* and DRBC regulations, requires a Commission-issued docket or permit, whether it be a new or existing project for which the Commission has not yet issued an approval or a project for which the renewal of a previous Commission approval is required.

(ii) Any project that in accordance with section 11 or section 13.1 of the *Delaware River Basin Compact* and DRBC regulations must be added to the Comprehensive Plan (also, “Plan”). In addition to any new project required to be included in the Plan, such projects include existing projects that in accordance with section 13.1 of the *Compact* are required to be included in the Plan and which were not previously added to the Plan. Any existing project that is changed substantially from the project as described in the Plan shall be deemed to be a new and different project for purposes of this section.

(iii) *Exemptions.* The Docket Application Fee shall not apply to:

(A) Any project for which the Signatory Party Agency serves as lead under the one permit program rule (§ 401.42), unless such project must be added by the Commission to the Comprehensive Plan.

(B) Any project for which an agency, authority or commission of a signatory to the *Compact* is the primary sponsor. Projects sponsored by political subdivisions of the signatory states shall not be included in this exemption. For purposes of this section “political subdivisions” shall include without limitation municipalities, municipal utility authorities, municipal development corporations, and all other entities not directly under the budgetary and administrative control of the Commission’s members.

(2) *Annual Monitoring and Coordination Fee.* An Annual Monitoring and Coordination Fee shall apply to each withdrawal and/or discharge project for which a water allocation or wastewater discharge approval issued pursuant to the *Compact* and implementing regulations is in effect, regardless of whether the approval was issued by the Commission in the form of a docket, permit or other instrument, or by a Signatory Party Agency under the one permit program rule (§ 401.42). The fee shall be based on the amount of a project’s approved monthly water allocation and/or approved daily discharge capacity.

(3) *Alternative Review Fee.* In instances where the Commission’s activities and related costs associated with the review of an existing or proposed project are expected to involve extraordinary time and expense, an Alternative Review Fee equal to the Commission’s actual costs may be imposed. The Executive Director shall inform the project sponsor in writing when the Alternative Review Fee is to be applied and may require advance payment in the amount of the Commission’s projected costs. Instances in which the Alternative Review Fee may apply include, but are not limited to, matters in which:

(i) DRBC staff perform a detailed pre-application review, including but not limited to the performance or review of modeling and/or analysis to identify target limits for wastewater discharges;

(ii) DRBC staff perform or review complex modeling in connection with the design of a wastewater discharge diffuser system;

(iii) DRBC manages a public process for which the degree of public involvement results in extraordinary effort and expense, including but not limited to costs associated with multiple stakeholder meetings, special public hearings, and/or voluminous public comment.

(iv) DRBC conducts or is required to engage third parties to conduct additional analyses or evaluations of a project in response to a court order.

(4) *Additional fees.*

(i) *Emergency approval.* A request for an emergency certificate under § 401.40 to waive or amend a docket condition shall be subject to a minimum fee in accordance with paragraph (e) of this section. An Alternative Review Fee also may be charged in accordance with paragraph (b)(3) of this section.

(ii) *Late filed renewal application.* Any renewal application submitted fewer than 120 calendar days in advance of the expiration date or after such other date specified in the docket or permit or letter of the Executive Director for filing a renewal application shall be subject to a Late Filed Renewal Application charge in excess of the otherwise applicable fee.

(iii) *Modification of a DRBC approval.* Following Commission action on a project, each project revision or modification that the Executive Director deems substantial shall require an additional Docket Application Fee calculated in accordance with paragraph (e) of this section and subject to an Alternative Review Fee in accordance with paragraph (b)(3) of this section.

(iv) *Name change.* Each project with a docket or permit issued by the DRBC or by a Signatory Party Agency pursuant to the one permit program rule (§ 401.42) will be charged an administrative fee as set forth in paragraph (e) of this section.

(v) *Change of ownership.* Each project that undergoes a “change in ownership” as that term is defined in section 5.2.1 E.2 of the Commission’s *Water Supply Charges Regulations* will be charged an administrative fee as set forth in paragraph (e) of this section.

(c) *Indexed adjustment.* On July 1 of every year, beginning July 1, 2017, all fees established by this section will increase commensurate with any increase in the annual April 12-month Consumer Price Index (CPI) for Philadelphia, published by the U.S. Bureau of Labor Statistics during that year.¹ In any year in which the April 12-month CPI for Philadelphia declines or shows no change, the Docket Application Fee and Annual Monitoring and Coordination Fee will remain unchanged. Following any indexed adjustment made under this paragraph, a revised fee schedule will be posted on the Commission’s website. Interested parties may also obtain the current fee schedule by contacting the Commission directly during business hours.

(d) *Late payment charge.* When any fee established by this section remains unpaid 30 calendar days after the payment due date provided on the Commission’s invoice, an incremental charge equal to 2% of the amount owed shall be automatically assessed. Such charge shall be assessed every 30 days thereafter until the total amount owed, including any late payment charges, has been paid in full.

(e) *Fee schedules.* The fees described in this section shall be as follows.

DOCKET APPLICATION FILING FEE

Project Type	Docket Application Fee	Fee Maximum
Water Withdrawal	\$400 per million gallons/month of allocation ¹ , not to exceed \$15,000. ¹ Fee is doubled for any portion to be exported from the basin.	Greater of: \$15,000 ¹ or Alternative Review Fee
Wastewater Discharge	Private projects: \$1,000 ¹ Public projects: \$500 ¹	Alternative Review Fee
Other	0.4% of project cost up to \$10,000,000 plus 0.12% of project cost above \$10,000,000 (if applicable), not to exceed \$75,000 ¹	Greater of: \$75,000 ¹ or Alternative Review Fee

¹ Subject to annual adjustment in accordance with paragraph (c) of this section.

ANNUAL MONITORING AND COORDINATION FEE

	<u>Annual Fee</u>	<u>Allocation</u>
	Water Withdrawal	\$300 ¹
\$450 ¹		5.00 to 49.99 mgm
\$650 ¹		50.00 to 499.99 mgm
\$825 ¹		500.00 to 9,999.99 mgm
\$1,000 ¹		> or = to 10,000 mgm
	<u>Annual Fee</u>	<u>Discharge Design Capacity</u>
	Wastewater Discharge	\$300 ¹
\$610 ¹		0.05 to 1 mgd
\$820 ¹		1 to 10 mgd
\$1,000 ¹		>10 mgd

¹ Subject to annual adjustment in accordance with paragraph (c) of this section.

ADDITIONAL FEES

<u>Proposed Action</u>	<u>Fee</u>	<u>Fee Maximum</u>
Emergency Approval Under 18 CFR 401.40	\$5,000	Alternative Review Fee
Late Filed Renewal Surcharge	\$2,000	--
Modification of a DRBC Approval	At Executive Director's discretion, Docket Application Fee for the appropriate project type.	Alternative Review Fee
Name change	\$1,000 ¹	--
Change of Ownership	\$1,500 ¹	--

¹ Subject to annual adjustment in accordance with paragraph (c) of this section.

Part 420 – Basin Regulations – Water Supply Charges is proposed to be amended by revising § 420.41 to read as follows:

§ 420.41 Schedule of water charges.

The schedule of water charges established in accordance with § 420.22 shall be as follows:

(a) \$80 per million gallons for consumptive use, subject to paragraph (c) of this section; and

(b) \$0.80 per million gallons for non-consumptive use, subject to paragraph (c) of this section.

(c) On July 1 of every year, beginning July 1, 2017, the rates established by this section will increase commensurate with any increase in the annual April 12-month Consumer Price Index (CPI) for Philadelphia, published by the U.S. Bureau of Labor Statistics during that year.¹ In any year in which the April 12-month CPI for Philadelphia declines or shows no change, the water charges rates will remain unchanged. Following any indexed adjustment made under this paragraph, revised consumptive and non-consumptive use rates will be posted on the Commission's website. Interested parties may also obtain the current rates by contacting the Commission directly during business hours.

¹ Consumer Price Index – U / Series ID: CWURA102SA0 / Not Seasonally Adjusted / Area: Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD / Item: All items / Base Period: 1982-84=100

RULE MAKING ACTIVITIES

Each rule making is identified by an I.D. No., which consists of 13 characters. For example, the I.D. No. AAM-01-96-00001-E indicates the following:

AAM -the abbreviation to identify the adopting agency
01 -the *State Register* issue number
96 -the year
00001 -the Department of State number, assigned upon receipt of notice.
E -Emergency Rule Making—permanent action not intended (This character could also be: A for Adoption; P for Proposed Rule Making; RP for Revised Rule Making; EP for a combined Emergency and Proposed Rule Making; EA for an Emergency Rule Making that is permanent and does not expire 90 days after filing.)

Italics contained in text denote new material. Brackets indicate material to be deleted.

Delaware River Basin Commission

INFORMATION NOTICE

Notice of Proposed Rulemaking and Public Hearing

Proposed Amendments to the Rules of Practice and Procedure Concerning Regulatory Program Fees and to the Basin Regulations – Water Supply Charges Concerning Rates

Summary: The Commission will hold a public hearing to receive comments on proposed amendments to the Rules of Practice and Procedure to adopt a new project review fee structure and to the Basin Regulations – Water Supply Charges to provide for automatic inflation adjustments. These changes also are proposed to be incorporated into the Commission’s Comprehensive Plan.

Dates: The public hearing will be held at 1:00 P.M. on Wednesday, July 27, 2016. The hearing will continue until all those wishing to testify have had an opportunity to do so. Written comments will be accepted and must be received by 5:00 P.M. on Friday, August 12, 2016.

Addresses: The public hearing will be held at the Commission’s office building located at 25 State Police Drive, West Trenton, NJ. As Internet mapping tools are inaccurate for this location, please use the driving directions posted on the Commission’s website.

Oral Testimony and Written Comments: Persons wishing to testify at the hearing are asked to register in advance by phoning Paula Schmitt at 609-883-9500, ext. 224. Written comments may be submitted as follows: If by email, to paula.schmitt@drbc.nj.gov; if by fax, to Commission Secretary at 609-883-9522; if by U.S. Mail, to Commission Secretary, DRBC, P.O. Box 7360, West Trenton, NJ 08628-0360; and if by overnight mail, to Commission Secretary, DRBC, 25 State Police Drive, West Trenton, NJ 08628-0360. Comments also may be delivered by hand at any time during the Commission’s regular office hours (Monday through Friday, 8:30 A.M. through 5:00 P.M. except on national holidays) until the close of the comment period at 5:00 P.M. on Friday,

August 12, 2016. In all cases, please include the commenter’s name, address and affiliation, if any, in the comment document and “Fees Rulemaking” in the subject line.

For Further Information, Contact: An FAQ document explaining this proposal in further detail is available on the Commission’s website, www.drbc.net. For queries about the rulemaking process, please contact Pamela Bush at 609-477-7203.

Supplementary Information:

Background. The Delaware River Basin Commission (“DRBC” or “Commission”) is a federal interstate compact agency charged with managing the water resources of the Delaware River Basin on a regional basis without regard to political boundaries. Its members are the governors of the four basin states – Delaware, New Jersey, New York and Pennsylvania – and the North Atlantic Division Commander of the U.S. Army Corps of Engineers, representing the federal government. DRBC is proposing a comprehensive revision of its project review fee structure, including an automatic annual indexed inflation adjustment for most fees. The inflation adjustment is also proposed for DRBC’s water supply charges rates applicable to consumptive and non-consumptive surface water withdrawals.

Current fees. DRBC’s current project review fee structure was adopted by the Commission in 2009 by (uncodified) Resolution No. 2009-2. For projects involving total costs of \$250,000 or less, it consists of a flat project review fee of \$1,000 for privately sponsored projects and \$500 for publicly sponsored projects. For projects with total costs greater than \$250,000, DRBC’s current project review fee is based upon a percentage of the costs of the project attributable to project components physically located within the basin, and is capped at \$75,000. However, projects for which the review is exceptionally involved may be charged DRBC’s actual costs, which may exceed \$75,000. The current fee structure generates an uneven revenue stream that produced average annual revenues of \$610,843 for the years 2011 through 2015. The Commission’s total cost associated with project reviews required by the Delaware River Basin Compact and DRBC regulations is estimated to equal \$1.15 million annually. This estimate takes into consideration administrative cost savings expected to accompany implementation of the One Process/One Permit Program (also “One Process/One Permit”), recently authorized by the Commission through its adoption of the one permit program rule, 18 CFR 401.42.

DRBC’s water supply charges are used to pay debt service, annual operation and maintenance costs, and the costs of required improvements, repairs and replacements associated with water supply storage owned by the Commission in two reservoirs – Blue Marsh and Beltzville – located in Pennsylvania and operated by the U.S. Army Corps of Engineers. Water supply charges revenues also support DRBC activities related to water supply planning and operations. DRBC’s current water supply charges rates, in effect since January 1, 2011, are \$80 per million gallons for consumptive use and \$0.80 per million gallons for non-consumptive use. The previous rates, \$60 per million gallons for consumptive use and \$0.60 per million gallons for non-consumptive use, were adopted in 1978 and remained unchanged for more than 30 years. DRBC’s water supply charges revenues have lagged significantly behind inflation.

Proposed changes. The proposed project review fee restructuring includes: for wastewater discharge projects, elimination of DRBC project review fees for applications that undergo coordinated review pursuant to the One Process/One Permit Program; and for water withdrawal projects, (1) for those projects for which DRBC continues to act as lead review agency, replacement of the current fee structure with fees based on monthly water allocation limits; and (2) for renewals subject to coordinated review under One Process/One Permit, elimination of the project review fee. DRBC is simultaneously proposing an Annual Monitoring and Coordination Fee for all water withdrawal and wastewater discharge projects subject to DRBC review and approval, including projects that receive permits from a signatory party agency

under the One Process/One Permit Program. The annual fee will range from \$300 to \$1,000 per year, depending upon the permitted discharge capacity or monthly water allocation. The fee for DRBC’s review of “Other” projects – those that involve no ongoing withdrawals or discharges – will continue to be calculated on the basis of project cost. The Annual Monitoring and Coordination Fee will not apply to such “Other” projects. In instances where the Commission’s activities and related costs associated with the review of an existing or proposed project are expected to involve extraordinary time and expense, the Executive Director will continue under the proposed rule to have the discretion to impose an Alternative Review Fee equal to the Commission’s actual costs. Finally, an annual, indexed, automatic inflation adjustment is proposed for most project review fees.

The proposed regulatory program fees structure is expected to provide a more predictable and sustainable source of revenues and to help close the annual gap in funding needed to support DRBC’s project review program.

No increase is proposed to DRBC’s current water supply charges rates, set forth at 18 CFR 420.41. However, an annual, indexed, automatic inflation adjustment is proposed, applicable to both the consumptive and non-consumptive use rates for surface water withdrawals.

For the reasons set forth in the preamble, the Delaware River Basin Commission proposes to amend parts 401 and 420 of title 18 of the Code of Federal Regulations and the corresponding sections of the New York Codes, Rules and Regulations (21 NYCRR Ch. XVIII, Subchapters A and D), as set forth below. Note that although the affected NYCRR sections are indicated in the paragraphs introducing the proposed rule text, the rule text itself, including internal references, is shown with Code of Federal Regulations numbering. When proposed amendments are adopted in final form, NYCRR numbering will be applied.

Part 401 – Rules of Practice and Procedure (21 NYCRR Ch. XVIII, Subchapter A) is proposed to be amended by the addition of a new § 401.43 (21 NYCRR 833.12) to read as follows:

§ 401.43 Regulatory program fees.

(a) Purpose. The purpose of this section is to provide an adequate, stable and reliable stream of revenue to cover the cost of the Commission’s regulatory program activities, an important means by which the Commission coordinates management of the shared water resources of the Basin. Activities to be covered by the fees include the review of applications for projects that are subject to review under the Delaware River Basin Compact and implementing regulations; and ongoing activities associated with such projects, including but not limited to, effluent and ambient monitoring, data analysis, hydrodynamic and water quality modeling, and coordination with state and federal agencies.

(b) Types of fees. The following types of fees are established by this section:

(1) Docket Application Fee. Except as set forth in paragraph (b)(1)(iii) of this section, the Docket Application Fee shall apply to:

(i) Any project that, in accordance with the Delaware River Basin Compact and DRBC regulations, requires a Commission-issued docket or permit, whether it be a new or existing project for which the Commission has not yet issued an approval or a project for which the renewal of a previous Commission approval is required.

(ii) Any project that in accordance with section 11 or section 13.1 of the Delaware River Basin Compact and DRBC regulations must be added to the Comprehensive Plan (also, “Plan”). In addition to any new project required to be included in the Plan, such projects include existing projects that in accordance with section 13.1 of the Compact are required to be included in the Plan and which were not previously added to the Plan. Any existing project that is changed substantially from the project as described in the Plan shall be deemed to be a new and different project for purposes of this section.

(iii) Exemptions. The Docket Application Fee shall not apply to:

(A) Any project for which the Signatory Party Agency serves as lead under the one permit program rule (§ 401.42), unless such project must be added by the Commission to the Comprehensive Plan.

(B) Any project for which an agency, authority or commission of a signatory to the Compact is the primary sponsor. Projects sponsored by political subdivisions of the signatory states shall not be included in this exemption. For purposes of this section “political subdivisions” shall include without limitation municipalities, municipal utility authorities, municipal development corporations, and all other entities not directly under the budgetary and administrative control of the Commission’s members.

(2) Annual Monitoring and Coordination Fee. An Annual Monitoring and Coordination Fee shall apply to each withdrawal and/or discharge project for which a water allocation or wastewater discharge approval issued pursuant to the Compact and implementing regulations is in effect,

regardless of whether the approval was issued by the Commission in the form of a docket, permit or other instrument, or by a Signatory Party Agency under the one permit program rule (§ 401.42). The fee shall be based on the amount of a project’s approved monthly water allocation and/or approved daily discharge capacity.

(3) Alternative Review Fee. In instances where the Commission’s activities and related costs associated with the review of an existing or proposed project are expected to involve extraordinary time and expense, an Alternative Review Fee equal to the Commission’s actual costs may be imposed. The Executive Director shall inform the project sponsor in writing when the Alternative Review Fee is to be applied and may require advance payment in the amount of the Commission’s projected costs. Instances in which the Alternative Review Fee may apply include, but are not limited to, matters in which:

(i) DRBC staff perform a detailed pre-application review, including but not limited to the performance or review of modeling and/or analysis to identify target limits for wastewater discharges;

(ii) DRBC staff perform or review complex modeling in connection with the design of a wastewater discharge diffuser system;

(iii) DRBC manages a public process for which the degree of public involvement results in extraordinary effort and expense, including but not limited to costs associated with multiple stakeholder meetings, special public hearings, and/or voluminous public comment;

(iv) DRBC conducts or is required to engage third parties to conduct additional analyses or evaluations of a project in response to a court order.

(4) Additional fees.

(i) Emergency approval. A request for an emergency certificate under § 401.40 to waive or amend a docket condition shall be subject to a minimum fee in accordance with paragraph (e) of this section. An Alternative Review Fee also may be charged in accordance with paragraph (b)(3) of this section.

(ii) Late filed renewal application. Any renewal application submitted fewer than 120 calendar days in advance of the expiration date or after such other date specified in the docket or permit or letter of the Executive Director for filing a renewal application shall be subject to a Late Filed Renewal Application charge in excess of the otherwise applicable fee.

(iii) Modification of a DRBC approval. Following Commission action on a project, each project revision or modification that the Executive Director deems substantial shall require an additional Docket Application Fee calculated in accordance with paragraph (e) of this section and subject to an Alternative Review Fee in accordance with paragraph (b)(3) of this section.

(iv) Name change. Each project with a docket or permit issued by the DRBC or by a Signatory Party Agency pursuant to the one permit program rule (§ 401.42) will be charged an administrative fee as set forth in paragraph (e) of this section.

(v) Change of ownership. Each project that undergoes a “change in ownership” as that term is defined in section 5.2.1 E.2 of the Commission’s Water Supply Charges Regulations will be charged an administrative fee as set forth in paragraph (e) of this section.

(c) Indexed adjustment. On July 1 of every year, beginning July 1, 2017, all fees established by this section will increase commensurate with any increase in the annual April 12-month Consumer Price Index (CPI) for Philadelphia, published by the U.S. Bureau of Labor Statistics during that year.¹ In any year in which the April 12-month CPI for Philadelphia declines or shows no change, the Docket Application Fee and Annual Monitoring and Coordination Fee will remain unchanged. Following any indexed adjustment made under this paragraph, a revised fee schedule will be posted on the Commission’s website. Interested parties may also obtain the current fee schedule by contacting the Commission directly during business hours.

(d) Late payment charge. When any fee established by this section remains unpaid 30 calendar days after the payment due date provided on the Commission’s invoice, an incremental charge equal to 2% of the amount owed shall be automatically assessed. Such charge shall be assessed every 30 days thereafter until the total amount owed, including any late payment charges, has been paid in full.

(e) Fee schedules. The fees described in this section shall be as follows.

DOCKET APPLICATION FILING FEE

Project Type	Docket Application Fee	Fee Maximum
Water Withdrawal	\$400 per million gallons/month of allocation ¹ , not to exceed \$15,000 ¹ . Fee is doubled for any portion to be exported from the basin.	Greater of: \$15,000 ¹ or Alternative Review Fee

Wastewater Discharge	Private projects: \$1,000 ¹ Public projects: \$500 ¹	Alternative Review Fee
Other	0.4% of project cost up to \$10,000,000 plus 0.12% of project cost above \$10,000,000 (if applicable), not to exceed \$75,000 ¹	Greater of: \$75,000 ¹ or Alternative Review Fee

¹ Subject to annual adjustment in accordance with paragraph (c) of this section.

ANNUAL MONITORING AND COORDINATION FEE

	Annual Fee	Allocation
Water Withdrawal	\$300 ¹	< 4.99 mgm
	\$450 ¹	5.00 to 49.99 mgm
	\$650 ¹	50.00 to 499.99 mgm
	\$825 ¹	500.00 to 9,999.99 mgm
	\$1,000 ¹	> or = to 10,000 mgm
	Annual Fee	Discharge Design Capacity
Wastewater Discharge	\$300 ¹	< 0.05 mgd
	\$610 ¹	0.05 to 1 mgd
	\$820 ¹	1 to 10 mgd
	\$1,000 ¹	>10 mgd

¹ Subject to annual adjustment in accordance with paragraph (c) of this section.

ADDITIONAL FEES

Proposed Action	Fee	Fee Maximum
Emergency Approval Under 18 CFR 401.40	\$5,000	Alternative Review Fee
Late Filed Renewal Surcharge	\$2,000	--
Modification of a DRBC Approval	At Executive Director's discretion, Docket Application Fee for the appropriate project type.	Alternative Review Fee
Name change	1,000 ¹	--
Change of Ownership	\$1,500 ¹	--

¹ Subject to annual adjustment in accordance with paragraph (c) of this section.

Part 420 – Basin Regulations – Water Supply Charges (21 NYCRR Ch. XVIII, Subchapter D) is proposed to be amended by revising § 420.41 (21 NYCRR 883.1) to read as follows:

§ 420.41 Schedule of water charges.

The schedule of water charges established in accordance with § 420.22 shall be as follows:

(a) \$80 per million gallons for consumptive use, subject to paragraph (c) of this section; and

(b) \$0.80 per million gallons for non-consumptive use, subject to paragraph (c) of this section.

(c) On July 1 of every year, beginning July 1, 2017, the rates established by this section will increase commensurate with any increase in the annual April 12-month Consumer Price Index (CPI) for Philadelphia, published by the U.S. Bureau of Labor Statistics during that year. In any year in which the April 12-month CPI for Philadelphia declines or shows no change, the water charges rates will remain unchanged. Following any indexed adjustment made under this paragraph, revised consumptive and non-consumptive use rates will be posted on the Commission's website. Interested parties may also obtain the current rates by contacting the Commission directly during business hours.

¹ Consumer Price Index – U / Series ID: CWURA102SA0 / Not Seasonally Adjusted / Area: Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD / Item: All items / Base Period: 1982-84=100.

Dated: May 6, 2016
PAMELA M. BUSH
Commission Secretary

Department of Environmental Conservation

NOTICE OF ADOPTION

Aquatic Invasive Species Spread Prevention

I.D. No. ENV-50-15-00010-A

Filing No. 474

Filing Date: 2016-05-05

Effective Date: 2016-05-25

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Addition of Part 576 to Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 9-1710 and 03-0301

Subject: Aquatic Invasive Species Spread Prevention.

Purpose: To require that “reasonable precautions” are taken prior to placing watercraft into public waters to prevent the spread of AIS.

Text of final rule: A new 6 NYCRR Part 576 is added in Chapter V, Subchapter C to read as follows:

6 NYCRR Part 576 Aquatic Invasive Species Spread Prevention

576.1 Purpose, scope and applicability.

(a) *The purpose of this Part is to establish reasonable precautions such as removing visible plant or animal matter, washing, draining or drying that must be taken by persons launching watercraft or floating docks into public waterbodies to prevent the spread of aquatic invasive species.*

(b) *The regulations in this Part apply to persons who launch, or attempt to launch, a watercraft or floating dock into public waterbodies.*

(c) *The regulations set forth in this Part shall be in addition to the provisions found in Titles 9 and 6 of the New York Code of Rules and Regulations and local laws relating to the prevention of aquatic invasive species in New York. Those provisions shall apply, unless in conflict, superseded or expressly stated otherwise in this Part.*

576.2 Definitions. As used in this Part, the following words and terms shall be defined as follows:

(a) *Animal means all vertebrate and invertebrate species, in any stage of development, including but not limited to mammals, birds, reptiles, amphibians, fish, mollusks, arthropods, insects, and their eggs, larvae or young, but excluding human beings, dog or other companion animal defined in section 350 of the Agriculture and Markets Law.*

(b) *Commissioner means the Commissioner of the Department of Environmental Conservation as well as meaning the Commissioner's designated agent.*

(c) *Department means the New York State Department of Environmental Conservation.*

(d) *Floating dock means a removable buoyant platform supported by floating devices or suspended over the surface of a waterbody by anchors or other devices.*

(e) *Invasive species means a species that is nonnative to the ecosystem under consideration, and whose introduction causes or is likely to cause economic or environmental harm or harm to human health.*

(f) *Launch means to place a watercraft or floating dock into a public waterbody or any inlet or outlet to such waterbody for any purpose, including by trailer or other device or carrying by hand a watercraft into the waterbody.*

(g) *Launch site means the specific location along the shoreline of a public waterbody where a watercraft or floating dock is launched.*

(h) *Marine and coastal district waters means the waters of the Atlantic Ocean within three nautical miles from the coast line and all other tidal waters within the state, including the Hudson River up to the Governor Malcolm Wilson Tappan Zee Bridge.*

(i) *Nonnative species means a species not indigenous to an ecosystem under consideration or to New York State, and includes an individual specimen.*

(j) *Person means any individual, firm, co-partnership, association, or corporation, other than the state or a public corporation, as the latter is defined in Article 2A section 66 of the General Construction Law.*

PROPOSED RULEMAKING

DELAWARE RIVER BASIN COMMISSION

[25 PA. CODE CH. 901]

Proposed Amendments to the Rules of Practice and Procedure Concerning Regulatory Program Fees and to the Basin Regulations—Water Supply Charges Concerning Rates; Public Hearing

Summary: The Commission will hold a public hearing to receive comments on proposed amendments to the *Rules of Practice and Procedure* to adopt a new project review fee structure and to the *Basin Regulations—Water Supply Charges* to provide for automatic inflation adjustments. These changes also are proposed to be incorporated into the Commission's Comprehensive Plan.

Dates: The public hearing will be held at 1:00 P.M. on Wednesday, July 27, 2016. The hearing will continue until all those wishing to testify have had an opportunity to do so. Written comments will be accepted and must be received by 5:00 P.M. on Friday, August 12, 2016.

Addresses: The public hearing will be held at the Commission's office building located at 25 State Police Drive, West Trenton, NJ. As Internet mapping tools are inaccurate for this location, please use the driving directions posted on the Commission's website.

Oral Testimony and Written Comments: Persons wishing to testify at the hearing are asked to register in advance by phoning Paula Schmitt at 609-883-9500, ext. 224. Written comments may be submitted as follows: If by email, to paula.schmitt@drbc.nj.gov; if by fax, to Commission Secretary at 609-883-9522; if by U.S. Mail, to Commission Secretary, DRBC, P.O. Box 7360, West Trenton, NJ 08628-0360; and if by overnight mail, to Commission Secretary, DRBC, 25 State Police Drive, West Trenton, NJ 08628-0360. Comments also may be delivered by hand at any time during the Commission's regular office hours (Monday through Friday, 8:30 A.M. through 5:00 P.M. except on national holidays) until the close of the comment period at 5:00 P.M. on Friday, August 12, 2016. In all cases, please include the commenter's name, address and affiliation, if any, in the comment document and "Fees Rulemaking" in the subject line.

For Further Information, Contact: An FAQ document explaining this proposal in further detail is available on the Commission's website, www.drbc.net. For queries about the rulemaking process, please contact Pamela Bush at 609-477-7203.

Supplementary Information:

Background. The Delaware River Basin Commission ("DRBC" or "Commission") is a federal interstate compact agency charged with managing the water resources of the Delaware River Basin on a regional basis without regard to political boundaries. Its members are the governors of the four basin states—Delaware, New Jersey, New York and Pennsylvania—and the North Atlantic Division Commander of the U.S. Army Corps of Engineers, representing the federal government. DRBC is proposing a comprehensive revision of its project review fee structure, including an automatic annual indexed inflation adjustment for most fees. The inflation adjustment is also

proposed for DRBC's water supply charges rates applicable to consumptive and non-consumptive surface water withdrawals.

Current fees. DRBC's current project review fee structure was adopted by the Commission in 2009 by (uncodified) Resolution No. 2009-2. For projects involving total costs of \$250,000 or less, it consists of a flat project review fee of \$1,000 for privately sponsored projects and \$500 for publicly sponsored projects. For projects with total costs greater than \$250,000, DRBC's current project review fee is based upon a percentage of the costs of the project attributable to project components physically located within the basin, and is capped at \$75,000. However, projects for which the review is exceptionally involved may be charged DRBC's actual costs, which may exceed \$75,000. The current fee structure generates an uneven revenue stream that produced average annual revenues of \$610,843 for the years 2011 through 2015. The Commission's total cost associated with project reviews required by the *Delaware River Basin Compact* and DRBC regulations is estimated to equal \$1.15 million annually. This estimate takes into consideration administrative cost savings expected to accompany implementation of the One Process/One Permit Program (also "One Process/One Permit"), recently authorized by the Commission through its adoption of the one permit program rule, 18 CFR 401.42.

DRBC's water supply charges are used to pay debt service, annual operation and maintenance costs, and the costs of required improvements, repairs and replacements associated with water supply storage owned by the Commission in two reservoirs—Blue Marsh and Beltzville—located in Pennsylvania and operated by the U.S. Army Corps of Engineers. Water supply charges revenues also support DRBC activities related to water supply planning and operations. DRBC's current water supply charges rates, in effect since January 1, 2011, are \$80 per million gallons for consumptive use and \$0.80 per million gallons for non-consumptive use. The previous rates, \$60 per million gallons for consumptive use and \$0.60 per million gallons for non-consumptive use, were adopted in 1978 and remained unchanged for more than 30 years. DRBC's water supply charges revenues have lagged significantly behind inflation.

Proposed changes. The proposed project review fee restructuring includes: for wastewater discharge projects, elimination of DRBC project review fees for applications that undergo coordinated review pursuant to the One Process/One Permit Program; and for water withdrawal projects, (1) for those projects for which DRBC continues to act as lead review agency, replacement of the current fee structure with fees based on monthly water allocation limits; and (2) for renewals subject to coordinated review under One Process/One Permit, elimination of the project review fee. DRBC is simultaneously proposing an Annual Monitoring and Coordination Fee for all water withdrawal and wastewater discharge projects subject to DRBC review and approval, including projects that receive permits from a signatory party agency under the One Process/One Permit Program. The annual fee will range from \$300 to \$1,000 per year, depending upon the permitted discharge capacity or monthly water allocation.

The fee for DRBC's review of "Other" projects—those that involve no ongoing withdrawals or discharges—will continue to be calculated on the basis of project cost. The Annual Monitoring and Coordination Fee will not apply to such "Other" projects. In instances where the Commission's activities and related costs associated with the review of an existing or proposed project are expected to involve extraordinary time and expense, the Executive Director will continue under the proposed rule to have the discretion to impose an Alternative Review Fee equal to the Commission's actual costs. Finally, an annual, indexed, automatic inflation adjustment is proposed for most project review fees.

The proposed regulatory program fees structure is expected to provide a more predictable and sustainable source of revenues and to help close the annual gap in funding needed to support DRBC's project review program.

No increase is proposed to DRBC's current water supply charges rates, set forth at 18 CFR 420.41. However, an annual, indexed, automatic inflation adjustment is proposed, applicable to both the consumptive and non-consumptive use rates for surface water withdrawals.

Additional information. An FAQ document explaining DRBC's fee restructuring proposal in greater detail is available on the Commission's website, www.drbc.net.

For the reasons set forth in the preamble, the Delaware River Basin Commission proposes to amend parts 401 and 420 of title 18 of the *Code of Federal Regulations* (incorporated by reference into the *Pennsylvania Code* at 25 Pa. Code Ch. 901.1 and 901.3) as set forth below.

Part 401—Rules of Practice and Procedure, is proposed to be amended by the addition of a new § 401.43 to read as follows:

§ 401.43 Regulatory program fees.

(a) *Purpose.* The purpose of this section is to provide an adequate, stable and reliable stream of revenue to cover the cost of the Commission's regulatory program activities, an important means by which the Commission coordinates management of the shared water resources of the Basin. Activities to be covered by the fees include the review of applications for projects that are subject to review under the *Delaware River Basin Compact* and implementing regulations; and ongoing activities associated with such projects, including but not limited to, effluent and ambient monitoring, data analysis, hydrodynamic and water quality modeling, and coordination with state and federal agencies.

(b) *Types of fees.* The following types of fees are established by this section:

(1) *Docket Application Fee.* Except as set forth in paragraph (b)(1)(iii) of this section, the Docket Application Fee shall apply to:

(i) Any project that, in accordance with the *Delaware River Basin Compact* and DRBC regulations, requires a Commission-issued docket or permit, whether it be a new or existing project for which the Commission has not yet issued an approval or a project for which the renewal of a previous Commission approval is required.

(ii) Any project that in accordance with section 11 or section 13.1 of the *Delaware River Basin Compact* and DRBC regulations must be added to the Comprehensive

Plan (also, "Plan"). In addition to any new project required to be included in the Plan, such projects include existing projects that in accordance with section 13.1 of the *Compact* are required to be included in the Plan and which were not previously added to the Plan. Any existing project that is changed substantially from the project as described in the Plan shall be deemed to be a new and different project for purposes of this section.

(iii) *Exemptions.* The Docket Application Fee shall not apply to:

(A) Any project for which the Signatory Party Agency serves as lead under the one permit program rule (§ 401.42), unless such project must be added by the Commission to the Comprehensive Plan.

(B) Any project for which an agency, authority or commission of a signatory to the *Compact* is the primary sponsor. Projects sponsored by political subdivisions of the signatory states shall not be included in this exemption. For purposes of this section "political subdivisions" shall include without limitation municipalities, municipal utility authorities, municipal development corporations, and all other entities not directly under the budgetary and administrative control of the Commission's members.

(2) *Annual Monitoring and Coordination Fee.* An Annual Monitoring and Coordination Fee shall apply to each withdrawal and/or discharge project for which a water allocation or wastewater discharge approval issued pursuant to the *Compact* and implementing regulations is in effect, regardless of whether the approval was issued by the Commission in the form of a docket, permit or other instrument, or by a Signatory Party Agency under the one permit program rule (§ 401.42). The fee shall be based on the amount of a project's approved monthly water allocation and/or approved daily discharge capacity.

(3) *Alternative Review Fee.* In instances where the Commission's activities and related costs associated with the review of an existing or proposed project are expected to involve extraordinary time and expense, an Alternative Review Fee equal to the Commission's actual costs may be imposed. The Executive Director shall inform the project sponsor in writing when the Alternative Review Fee is to be applied and may require advance payment in the amount of the Commission's projected costs. Instances in which the Alternative Review Fee may apply include, but are not limited to, matters in which:

(i) DRBC staff perform a detailed pre-application review, including but not limited to the performance or review of modeling and/or analysis to identify target limits for wastewater discharges;

(ii) DRBC staff perform or review complex modeling in connection with the design of a wastewater discharge diffuser system;

(iii) DRBC manages a public process for which the degree of public involvement results in extraordinary effort and expense, including but not limited to costs associated with multiple stakeholder meetings, special public hearings, and/or voluminous public comment.

(iv) DRBC conducts or is required to engage third parties to conduct additional analyses or evaluations of a project in response to a court order.

(4) *Additional fees.*

(i) *Emergency approval.* A request for an emergency certificate under § 401.40 to waive or amend a docket condition shall be subject to a minimum fee in accordance with paragraph (e) of this section. An Alternative Review Fee also may be charged in accordance with paragraph (b)(3) of this section.

(ii) *Late filed renewal application.* Any renewal application submitted fewer than 120 calendar days in advance of the expiration date or after such other date specified in the docket or permit or letter of the Executive Director for filing a renewal application shall be subject to a Late Filed Renewal Application charge in excess of the otherwise applicable fee.

(iii) *Modification of a DRBC approval.* Following Commission action on a project, each project revision or modification that the Executive Director deems substantial shall require an additional Docket Application Fee calculated in accordance with paragraph (e) of this section and subject to an Alternative Review Fee in accordance with paragraph (b)(3) of this section.

(iv) *Name change.* Each project with a docket or permit issued by the DRBC or by a Signatory Party Agency pursuant to the one permit program rule (§ 401.42) will be charged an administrative fee as set forth in paragraph (e) of this section.

(v) *Change of ownership.* Each project that undergoes a “change in ownership” as that term is defined in section 5.2.1 E.2 of the Commission’s *Water Supply Charges*

Regulations will be charged an administrative fee as set forth in paragraph (e) of this section.

(c) *Indexed adjustment.* On July 1 of every year, beginning July 1, 2017, all fees established by this section will increase commensurate with any increase in the annual April 12-month Consumer Price Index (CPI) for Philadelphia, published by the U.S. Bureau of Labor Statistics during that year.¹ In any year in which the April 12-month CPI for Philadelphia declines or shows no change, the Docket Application Fee and Annual Monitoring and Coordination Fee will remain unchanged. Following any indexed adjustment made under this paragraph, a revised fee schedule will be posted on the Commission’s website. Interested parties may also obtain the current fee schedule by contacting the Commission directly during business hours.

(d) *Late payment charge.* When any fee established by this section remains unpaid 30 calendar days after the payment due date provided on the Commission’s invoice, an incremental charge equal to 2% of the amount owed shall be automatically assessed. Such charge shall be assessed every 30 days thereafter until the total amount owed, including any late payment charges *has been paid in full.*

(e) *Fee schedules.* The fees described in this section shall be as follows.

¹ Consumer Price Index—U/Series ID: CWURA102SA0/Not Seasonally Adjusted/ Area: Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD/Item: All items/Base Period: 1982-84=100.

DOCKET APPLICATION FILING FEE

<i>Project Type</i>	<i>Docket Application Fee</i>	<i>Fee Maximum</i>
Water Withdrawal	\$400 per million gallons/month of allocation ¹ , not to exceed \$15,000 ¹ Fee is doubled for any portion to be exported from the basin.	Greater of: \$15,000 ¹ or Alternative Review Fee
Wastewater Discharge	Private projects: \$1,000 ¹ Public projects: \$500 ¹	Alternative Review Fee
Other	0.4% of project cost up to \$10,000,000 plus 0.12% of project cost above \$10,000,000 (if applicable), not to exceed \$75,000 ¹	Greater of: \$75,000 ¹ or Alternative Review Fee

¹ Subject to annual adjustment in accordance with paragraph (c) of this section.

ANNUAL MONITORING AND COORDINATION FEE

	<i>Annual Fee</i>	<i>Allocation</i>
Water Withdrawal	\$300 ¹	< 4.99 mgm
	\$450 ¹	5.00 to 49.99 mgm
	\$650 ¹	50.00 to 499.99 mgm
	\$825 ¹	500.00 to 9,999.99 mgm
	\$1,000 ¹	> or = to 10,000 mgm
Wastewater Discharge	<i>Annual Fee</i>	<i>Discharge Design Capacity</i>
	\$300 ¹	< 0.05 mgd
	\$610 ¹	0.05 to 1 mgd
	\$820 ¹	1 to 10 mgd
	\$1,000 ¹	>10 mgd

¹ Subject to annual adjustment in accordance with paragraph (c) of this section.

ADDITIONAL FEES

<i>Proposed Action</i>	<i>Fee</i>	<i>Fee Maximum</i>
Emergency Approval Under 18 CFR 401.40	\$5,000	Alternative Review Fee
Late Filed Renewal Surcharge	\$2,000	—
Modification of a DRBC Approval	At Executive Director's discretion, Docket Application Fee for the appropriate project type.	Alternative Review Fee
Name change	\$1,000 ¹	—
Change of Ownership	\$1,500 ¹	—

¹ Subject to annual adjustment in accordance with paragraph (c) of this section.

Part 420—Basin Regulations—Water Supply Charges

is proposed to be amended by revising § 420.41 to read as follows:

§ 420.41 Schedule of water charges.

The schedule of water charges established in accordance with § 420.22 shall be as follows:

(a) \$80 per million gallons for consumptive use, subject to paragraph (c) of this section; and

(b) \$0.80 per million gallons for non-consumptive use, subject to paragraph (c) of this section.

(c) On July 1 of every year, beginning July 1, 2017, the rates established by this section will increase commensurate with any increase in the annual April 12-month Consumer Price Index (CPI) for Philadelphia, published by the U.S. Bureau of Labor Statistics during that year.¹ In any year in which the April 12-month CPI for Philadelphia declines or shows no change, the water charges rates will remain unchanged. Following any indexed adjustment made under this paragraph, revised consumptive and non-consumptive use rates will be posted on the Commission's website. Interested parties may also obtain the current rates by contacting the Commission directly during business hours.

Dated: May 5, 2016

PAMELA M. BUSH, Esq.,
Secretary

Fiscal Note: 68-59. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART V. DELAWARE RIVER BASIN COMMISSION

CHAPTER 901. GENERAL PROVISIONS

§ 901.1. Rules of Practice and Procedure.

The rules of practice and procedure as set forth in 18 CFR Part 401 (2016) are hereby incorporated by reference and made a part of this title.

§ 901.3. Water supply charges.

The Basin Regulations—Water Supply Charges as set forth in 18 CFR Part 420 [(1994)] (2016) are hereby incorporated by reference and made a part of this title.

[Pa.B. Doc. No. 16-977. Filed for public inspection June 10, 2016, 9:00 a.m.]

¹ Consumer Price Index—U/Series ID: CWURA102SA0/Not Seasonally Adjusted/Area: Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD/Item: All items/Base Period: 1982-84=100.

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 93]

Stream Redesignations (Sobers Run, et al.)

The Environmental Quality Board (Board) proposes to amend §§ 93.9c, 93.9f and 93.9i (relating to Drainage List C; Drainage List F; and Drainage List I) to read as set forth in Annex A. This proposed rulemaking fulfills the Commonwealth's obligations under State and Federal laws to review and revise, as necessary, water quality standards that are protective of surface waters.

This proposed rulemaking was adopted by the Board at its meeting on April 19, 2016.

A. Effective Date

This proposed rulemaking will go into effect upon final-form publication in the *Pennsylvania Bulletin*.

B. Contact Persons

For further information, contact Rodney Kime, Bureau of Clean Water, 11th Floor, Rachel Carson State Office Building, P.O. Box 8774, 400 Market Street, Harrisburg, PA 17105-8774, (717) 787-9637; or Michelle Moses, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P.O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposed rulemaking is available on the Department of Environmental Protection's (Department) web site at www.dep.pa.gov (select "Public Participation," then "Environmental Quality Board (EQB)").

C. Statutory and Regulatory Authority

This proposed rulemaking is being made under the authority of sections 5(b)(1) and 402 of The Clean Streams Law (35 P.S. §§ 691.5(b)(1) and 691.402), which authorize the Board to develop and adopt rules and regulations to implement The Clean Streams Law (35 P.S. §§ 691.1—691.1001), and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20), which grants to the Board the power and duty to formulate, adopt and promulgate rules and regulations for the proper performance of the work of the Department. In addition, section 303 of the Federal Clean Water Act (33 U.S.C.A. § 1313) sets forth requirements for water quality standards.

D. Background and Purpose

Water quality standards are in-stream water quality goals that are implemented by imposing specific regula-