

The Delaware River Basin Commission (DRBC), at its quarterly public business meeting on December 14, approved several changes to its fee structure. These proposed changes were originally published on May 9, on their website, accompanied with a set of Frequently Asked Questions (FAQs) and a news release.

In response to the proposed fee structure changes, WRA/DRB submitted comments to the DRBC and attended an information meeting and a public hearing for the proposed changes. The three components to the proposed fee restructuring were:

1. project review fees;
2. annual monitoring/compliance fees; and
3. water supply charges.

We supported items 1 and 3, which would fully reimburse DRBC's costs for reviewing new/modified projects and an adjustment for inflation with regard to water supply charges. In reference to 2, however, we felt annual monitoring and compliance fees should be based upon actual flow for discharges or withdrawals of the previous year, not the design flow or maximum flow in a permit, allocation or docket. We did not believe that it was appropriate to charge an annual compliance fee for pre-compact projects who are exempt under Section 15.1(b) of the compact. Also, annual charges should not be applied to projects where a docket holder has provided the initial capital for construction/water supply. This charge contradicts Article 5.1.3(D.) of the DRBC Administrative Rules III—Basin Regulations-Water Supply Charges.

There is no question that DRBC has had a challenging time covering its costs. For many years, several of the signatory parties to the Delaware River Basin Compact have not held up their end of the deal by failing to pay their fair share. DRBC's Executive Director, Steve Tambini said "The fee restructuring will provide a more predictable and sustainable source of revenues to support the costs associated with implementing the DRBC's project review program."

The new approved fee structure will align with the One Process/One Permit Program that became effective on March 4, 2016. For routine DRBC docket applications and renewals that are processed by DRBC's member-state agencies through One Process/One Permit, the DRBC project review fees that had been in effect will be eliminated. DRBC will continue to be involved in the review process, however, a separate DRBC fee will no longer be required at application time to the state agency. DRBC's costs associated with reviews will now be supported by an annual monitoring and coordination fee. This fee will apply to all water withdrawals and wastewater discharges subject to DRBC review and approval under the compact and implementing regulations, including those permits issued under One Process/One Permit. The annual fee will range from \$300 to \$1,000 depending upon the monthly water allocation for withdrawals and the design capacity for wastewater dischargers.

With the approved changes, the project review fee with respect to water withdrawal projects for which the DRBC continues to act as the lead agency will be restructured. The amount will no longer be based upon project costs or a flat renewal rate. Rather, it will be based upon the applicant's requested monthly allocation. The project review fee for most wastewater discharges for which DRBC issues a separate docket will continue to be a flat fee of \$1,000 for private projects and \$500 for publicly sponsored projects. This fee will no longer vary according to the cost of the projects.

There will be no change to fees for DRBC's review of projects that are neither water withdrawals nor wastewater discharges. The DRBC review fees for such projects are, and will continue to be, based upon project costs.

DRBC will now have an annual indexed inflation adjustment for most fees and charges, including water supply charges. Beginning in 2017, increases reflecting inflation adjustments will become effective automatically on July 1. No change to the rate will occur in any year in which the applicable inflation index is flat or negative.

Water supply charges have been collected by DRBC for surface water withdrawals within the basin, when applicable, since the 1970s. These fees have been used to pay the capital and operating costs of water supply and flow augmentation storage owned by the Commission in two reservoirs (Beltsville and Blue Marsh) constructed and maintained by the U.S. Army Corps of Engineers. The water supply charges will now be subject to an annual inflation adjustment, but otherwise there will be no changes to the rate structure or base rates that have been in effect since January 2011.

DRBC has posted on their website a FAQs document for the revisions to its project review fees and water supply charges (http://www.state.nj.us/drbc/library/documents/FAQ_fees-charges121416.pdf). According to this document, the current plan is to send invoices for annual fees to the docket or permit

holders between March 2017 and June 2017. The annual monitoring and coordination fee applies to all existing docket/permit holders – water users with entitlements included. In response to input during the comment period, the originally published draft rule was modified to explain that where the allocated amount exceeds the amount specified in an entitlement, the annual monitoring and coordination fee will be based solely on the allocated amount in excess of the quantity specified in the entitlement.

If you have questions, comments or concerns about the new fees, please contact Chad Pindar at 609-883-9500 ext. 268 or chad.pindar@drbc.nj.gov. You can also contact Kathy Klein at (610) 850-9106 or wra@wradrb.org.