

Dated: March 27, 2009.

A.M. Vallandigham,

*Lieutenant Commander, Judge Advocate
General's Corps, U.S. Navy, Federal Register
Liaison Officer.*

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DELAWARE RIVER BASIN COMMISSION

Proposal To Amend Fees for the Review of Projects in Accordance With Section 3.8 and Article 10 of the Delaware River Basin Compact

AGENCY: Delaware River Basin
Commission (DRBC).

ACTION: Notice of public hearing.

SUMMARY: The DRBC will hold a public hearing during its regularly scheduled business meeting to hear comment on a proposal to amend the Commission's fees for the review of projects in accordance with Section 3.8 and Article 10 of the Delaware River Basin Compact. Existing project review fees are proposed to be increased, effective July 1, 2009, for the first time since June of 2003. The increases are needed in order to partly close a significant gap between annual project review fee revenue and the cost of the Commission's project review function.

DATES: All comments must be received on or before the close of the public hearing on May 6, 2009. The hearing will commence at 1:30 p.m. and is expected to end by 2:30 p.m., but will continue until all those who wish to comment have had an opportunity to do so. The Commission would appreciate receiving written comments in advance of the hearing date in order to have an opportunity to review them prior to the hearing.

ADDRESSES: The public hearing will be held in the Goddard Room of the Commission's office building at 25 State Police Drive in West Trenton, New Jersey. Mail written comments to Ms. Paula Schmitt, Delaware River Basin Commission, P.O. Box 7360, 25 State Police Drive, West Trenton, NJ 08628-0360; fax to Attn: Paula Schmitt, Delaware River Basin Commission, 609-883-9500 ext. 224; or send electronic submissions to paula.schmitt@drbc.state.nj.us. See **SUPPLEMENTARY INFORMATION** for proper labeling of submissions.

SUPPLEMENTARY INFORMATION:

Current Fee Schedule. The Commission's current fee schedule for the review of projects in accordance with Section 3.8 and Article 10 of the

Delaware River Basin Compact is set forth in Resolution No. 2005-1 as amended (also, "schedule" or "current fee schedule"), which is posted on the Commission's Web site at <http://www.state.nj.us/drbc/Res2005-1rev.pdf>. Numbered paragraph 3 of the schedule ("paragraph 3") contains a matrix that establishes review fees based on total project cost. Fees set forth in the matrix range from \$250 for publicly sponsored projects costing \$250,000 or less to a maximum of \$50,000 for a public or private project costing over \$10,000,000. Project review fees calculated in accordance with the matrix are doubled for projects resulting in out-of-basin diversions. In addition to the fees calculated in accordance with the matrix in paragraph 3, the current fee schedule provides in relevant part for the following: (a) Fees of \$250 and \$500 respectively for the review of project renewals involving no substantial revisions or modifications (par. 4); (b) a fee of \$500 for the transfer of a docket upon a change of ownership (par. 6); (c) and an incremental charge of \$1,000 for the review of any renewal application submitted less than 120 calendar days in advance of the docket expiration date (or after such other date specified in the docket or permit for filing a renewal application) (par. 12).

Proposed Fee Schedule. The matrix in paragraph 3 of the current schedule is proposed to be revised as follows: For projects costing \$250,000 or less, the proposed fee is \$500 for publicly sponsored projects (increased from \$250) and \$1,000 for privately sponsored projects (increased from \$500). For all projects costing between \$250,001 and \$10,000,000, the proposed fee is 0.4 percent (increased from 0.2 percent) of project cost. The review of projects costing over \$10,000,000 is proposed to carry a revised fee of 0.4 percent of project cost (increased from 0.2 percent) up to the first \$10,000,000 plus 0.12 percent of project cost (increased from 0.06 percent) above \$10,000,000, not to exceed \$75,000 (increased from \$50,000). Fees calculated in accordance with the revised matrix will continue to be doubled for projects resulting in out-of-basin diversions. In addition to the fees calculated in accordance with the matrix in paragraph 3 as revised, the proposed revised fee schedule includes: (a) Fees of \$500 and \$1,000 respectively for the review of public and private project renewals involving no substantial revisions or modifications (increased from \$250 and \$500 respectively) (par. 4); (b) a fee of \$1,000 for the transfer of a docket upon a

change of ownership (increased from \$500) (par. 6); and (c) an incremental charge of \$2,000 for the review of any renewal application submitted less than 120 calendar days in advance of the docket expiration date (or after such other date specified in the docket or permit for filing a renewal application) (increased from \$1,000) (par. 12).

Other Aspects Unchanged. With minor exceptions, including the deletion of paragraphs for which the applicable dates have passed, other aspects of the Commission's current project review fee schedule will remain unchanged, including but not limited to provisions of current paragraph 4 allowing the Executive Director to determine the fee for review of a project revision not involving an increase in costs; and paragraph 8, authorizing the Executive Director to impose, in addition to the initial project review fee, a fee in an amount equal to up to 100 percent of project review costs deemed by the Executive Director to be exceptional.

Basis for Proposed Increases. The proposed fee increases are needed to address significant revenue shortfalls and maintain adequate levels of service in reviewing projects in accordance with Section 3.8 and Article 10 of the Delaware River Basin Compact. The annual average sum of project review fees collected by the DRBC in Fiscal Years 2005 through 2008 was approximately half the annual cost of the project review function to the agency.

Copy of Proposed Revised Fee Schedule. A copy of this notice, along with the proposed revised fee schedule with changes noted, can be viewed on the Commission's Web site, drbc.net.

Effective Date. The revised fee schedule is proposed to become effective on July 1, 2009, the first day of the Commission's 2010 fiscal year.

Labeling of Written Submissions. Please use "Project Review Fee Changes" in the subject line for all written submissions.

FOR FURTHER INFORMATION CONTACT:

Pamela M. Bush, Commission Secretary and Assistant General Counsel, DRBC, 609-883-9500 ext. 203, pamela.bush@drbc.state.nj.us, or Chad Pindar, Project Review Supervisor, 609-883-9500 ext. 204, chad.pindar@drbc.state.nj.us.

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