

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

DELAWARE RIVER BASIN COMMISSION

[25 PA. CODE CH. 901]

Amendment to the Administrative Manual—Rules of Practice and Procedure Concerning Fees Associated with Freedom of Information Act Requests

At the May 31, 2002, business meeting of the Delaware River Basin Commission (Commission), the Commission amended its Administrative Manual—Rules of Practice and Procedure concerning fees associated with Freedom of Information Act (FOIA) requests. This final-form rulemaking fulfills a requirement of the Delaware River Basin Compact, Pennsylvania: Acts of 1961, Act No. 268, that rules adopted by the Commission be filed in accordance with the laws of the signatory parties.

Effective Date

The final-form rulemaking is effective immediately.

Supplemental Information

On March 20, 2002, the Commission published on its website a Notice of Proposed Rulemaking to amend the fee schedule associated with Commission responses to FOIA requests. Notice was published in the *Federal Register* on March 15, 2002, the *Delaware Register of Regulations* on April 1, 2002, the *New Jersey Register* on April 15, 2002, the *New York State Register* on March 13, 2002, and at 32 Pa.B. 1661 (March 30, 2002). A public hearing was held on May 31, 2002, and the public was invited to comment, either in person at the hearing or in writing through the close of the hearing. No written or oral comments were received. The Commission approved the final-form rulemaking, as proposed, at the conclusion of its hearing on May 31, 2002.

The Commission's schedule of fees associated with responses to requests for information under FOIA was promulgated in 1975 and has not been updated since. Over the past quarter of a century, computer technologies have introduced new methods of recording and reproducing information that were not contemplated by the 1975 regulation, and administrative costs have increased. The amended fee structure reflects current technologies and costs.

The final-form rulemaking amends Article 8, Section 2.8.10 "Fees" of the Commission's Administrative Manual—Rules of Practice and Procedure by striking the language of subsection A of that section and replacing it with the following:

A. Unless waived in accordance with the provisions of Section 2.8.11, the following fees shall be imposed for production of any record pursuant to this part.

1. *Administrative Fees.*

a. Charges for administrative fees include staff time associated with:

- (i) Processing FOIA requests;
- (ii) Locating and reviewing files;
- (iii) Monitoring file reviews;

(iv) Generating computer records (electronic print-outs); and

(v) Preparing logs of records deemed nonpublic.

b. Administrative charges will be calculated as follows: Administrative charges will be billed to the requester per quarter hour following the first quarter hour. These charges will be billed at the current, hourly paygrade rate (prorated for quarter hour increments) of the personnel performing the service. Administrative charges will be in addition to any copying charges.

c. Appointment Rescheduling/Cancellation—Requesters that do not reschedule or cancel appointments to view files at least 1 full business day in advance of the appointment may be subject to the administrative charges incurred by the Commission in preparing the requested records. The Commission will prepare an itemized invoice of these charges and mail it to the requester for payment.

2. *Photocopying Fees*—The following are charges for photocopies of public records made by Commission personnel:

a. *Standard Sized, Black and White Copies*

The charge for copying standard sized, black and white public records shall be \$0.15 per printed page (that is, single-sided copies are \$0.15 and double-sided copies are \$0.30). This charge applies to copies on the following standard paper sizes:

- (i) 8.5" × 11"
- (ii) 8.5" × 14"
- (iii) 11" × 17"

b. *Color Copies/Printouts*

The charge for color copies or color printouts shall be as follows:

- (i) 8.5" × 11" - \$1.00 per page
- (ii) 8.5" × 14" - \$1.50 per page
- (iii) 11" × 17" - \$2.00 per page

(iv) The charge for all color copies larger than 11" x 17" (including, but not limited to: photographic imagery, GIS print-outs, and maps) shall be calculated at the rate of \$2.50 per square foot.

c. *Electronically Generated Records*

Charges for copying records maintained in electronic format will be calculated by the material costs involved in generating the copies (including, but not limited to: magnetic tape, diskette, or compact disc costs) and administrative costs.

d. *Other Copying Fees*

The Commission, at its discretion, may arrange to have records copied by an outside contractor if the Commission does not have the resources or equipment to copy such records. In this instance, the requester will be liable for payment of these costs.

3. *Forwarding material to destination.* Postage, insurance, and special fees will be charged on an actual cost basis.

The complete Administrative Manual—Rules of Practice and Procedure as amended is available on the Commission's website at <http://www.drbc.net> or upon request from the Delaware River Basin Commission, P. O. Box 7360,

West Trenton, NJ 08628-0360. For further information, contact Pamela M. Bush, Commission Secretary and Assistant General Counsel, Delaware River Basin Commission, (609) 883-9500 Ext. 203.

PAMELA M. BUSH,
Secretary

Fiscal Note: Fiscal Note 68-41 remains valid for the final adoption of the subject regulation.

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 401 (2002) are hereby incorporated by reference and made a part of this title.

[Pa.B. Doc. No. 02-1478. Filed for public inspection August 23, 2002, 9:00 a.m.]
