DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration
14 CFR Part 121
[Docket No.: FAA–2016–9526; Amdt. No. 121–377A]

RIN 2120–AK95
Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers; Related Aircraft Amendment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; Correction.

SUMMARY: The FAA is correcting a final rule published on December 16, 2016. In that final rule, which becomes effective on January 17, 2017, the FAA will allow air carriers to seek a deviation from the flight simulation training device (FSTD) requirements for related aircraft proficiency checks. As a result, that rule will eliminate an inconsistency that currently permits carriers that have obtained FAA approval to modify the FSTD requirements for related aircraft differences training, but not for corresponding proficiency checks. The FAA inadvertently listed an incorrect Amendment Number for that final rule. This document corrects that error.


FOR FURTHER INFORMATION CONTACT: Sheri Pippin, Air Transportation Division, AFS–200, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8166; email sheripippin@faa.gov.

SUPPLEMENTARY INFORMATION:
Background. On December 16, 2016, the FAA published a final rule entitled, “Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers; Related Aircraft Amendment.” 81 FR 90979. In that final rule, effective January 17, 2017, the FAA inadvertently listed the incorrect Amendment Number for part 121 in the heading information of the final rule as 121–397. The correct amendment number is 121–377.

Correction
In the final rule, FR Doc. 2016–30211, published on December 16, 2016, at 81 FR 90979 make the following correction: 1. On page 90979 in the heading of the final rule, revise “Amdt. No. 121–397” to read as “121–377.”

Issued in Washington, DC, under the authority provided by 49 U.S.C. 106(f), on December 22, 2016.

Lirio Liu,
Director, Office of Rulemaking.

BILLING CODE 4910–13–P

DELAWARE RIVER BASIN COMMISSION
18 CFR Parts 401 and 420
Regulatory Program Fees and Water Supply Charges

AGENCY: Delaware River Basin Commission.

ACTION: Final rule.

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

DATES: This final rule is effective January 1, 2017.

FOR FURTHER INFORMATION CONTACT: Richard C. Gore, Director of Administration and Finance, 609–883–201.

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 on behalf of the federal government, the North Atlantic Division Commander of the U.S. Army Corps of Engineers.

By Resolution No. 2016–8 on December 14, 2016 the Commission approved a comprehensive revision of its project review fee structure, including an automatic annual indexed inflation adjustment for most fees. An inflation adjustment was also approved for DRBC’s water supply charges regulations and the changes to DRBC’s Water Supply Storage Facilities Fund keep pace with inflation.

Public Process. A Notice of Proposed Rulemaking and Public Hearing was posted to the Commission’s Web site on May 9, 2016. A detailed set of questions and answers about the proposal (“FAQs”) and a press release accompanied the May 9, 2016 web posting. On May 10, 2016, an email alert, including a link to the notice and supporting documents, was transmitted to all parties subscribed to DRBC’s list serve. Notice of the proposed rules was published in the Federal Register at 81 FR 35662, June 3, 2016 and appeared in the Delaware Register of Regulations, 46 DE Reg., 1052, June 1, 2016; New Jersey Register, 48 N.J.R. 949, June 6, 2016; New York State Register, May 25, 2016 (page 1); and Pennsylvania Bulletin, 46 Pa.B. 2967, June 11, 2016. DRBC staff hosted a public informational meeting on the proposal on Wednesday, June 15, 2016 in Washington Crossing, Pa., including presentations by staff and informal questions and answers. The FAQs posted on the Commission’s Web site were thereafter supplemented with questions and responses offered during the informational meeting. A public hearing on the proposed amendments took place at the Commission’s office building in West Trenton, N.J. on July 27, 2016 and written comments were accepted through August 12, 2016.

In response to the written and oral comments submitted on the draft rules, staff developed a detailed comment and response document, including modest changes to the rule text. After careful consideration and consultation with staff on the comments and proposed changes to the draft rules, the Commissioners determined that the changes were appropriate, responsive to the public’s concerns and a logical outgrowth of the rules as proposed. The changes and the staff response to comments were adopted by unanimous vote of the Commissioners to approve Resolution No. 2016–8 at the Commission’s public business meeting on December 14, 2016.

Additional materials. The following additional materials can be found on the Commission’s Web site, www.drbc.net:
Resolution No. 2016–8, at http://www.nj.gov/drbc/library/documents/Res2016-09_Fee-Rule.pdf. Attachments to the resolution include a redline version of the regulatory program fees rule text, showing changes between the draft and final versions of the new rule; and a redline version of the schedule of water charges, comparing the text that has been in place since 2011 with the text of this final rule.


A questions and answers document (“FAQs”) prepared by staff to explain the purpose and effect of the rule changes, at http://www.nj.gov/drbc/library/documents/FAQ_fees-charges121416.pdf.


List of Subjects
18 CFR Part 401
Administrative practice and procedure. Project review, Water pollution control, Water resources.

18 CFR Part 420
Water supply.

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

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.

Subpart C—Project Review Under Section 3.8 of the Compact

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)(ii) of this section, the docket application fee shall apply to:

(A) Any project for which 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.

(B) Any project for which an agency, authority or commission of a signatory state 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 §401.42 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)(1) of this section.

(ii) Late filed renewal application. Any renewal application submitted 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.
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. 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
(c), a revised fee schedule will be
published in the Federal Register by
July 1 and posted on the Commission’s
Web site. Interested parties may also
obtain the 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:

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<tr>
<th>TABLE 1 TO § 401.43—DOCKET APPLICATION FILING FEE</th>
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<tr>
<td>Project type</td>
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<td>Water Allocation</td>
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<td>Wastewater Discharge</td>
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<td>Other</td>
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¹ Subject to annual adjustment in accordance with paragraph (c) of this section.

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<tr>
<th>TABLE 2 TO § 401.43—ANNUAL MONITORING AND COORDINATION FEE</th>
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<th>TABLE 3 TO § 401.43—ADDITIONAL FEES</th>
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<td>Proposed action</td>
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<tr>
<td>Emergency Approval Under 18 CFR 401.40</td>
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<td>Late Filed Renewal Surcharge</td>
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<td>Modification of a DRBC Approval</td>
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<tr>
<td>Name change</td>
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<tr>
<td>Change of Ownership</td>
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¹ Subject to annual adjustment in accordance with paragraph (c) of this section.
rule describing when FDA will refuse to accept a tobacco product submission (or application) because the application has not met a minimum threshold for acceptability for FDA review. Under the rule, FDA will refuse to accept a tobacco product submission, for example, that is not in English, does not pertain to a tobacco product, or does not identify the type of submission. By refusing to accept submissions that have the deficiencies identified in the proposed rule, FDA will be able to focus our review resources on submissions that meet a threshold of acceptability and encourage quality submissions.

DATES: This rule is effective January 30, 2017.

FOR FURTHER INFORMATION CONTACT: Annette Marthaler or Paul Hart, Office of Regulations, Center for Tobacco Products (CTP), Food and Drug Administration, Document Control Center, Bldg. 71, Rm. G335, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 877–287–1373, CTPRegulations@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:
I. Executive Summary
A. Purpose of the Rule
FDA is issuing this refuse to accept rule to identify deficiencies that will result in FDA’s refusal to accept certain tobacco product submissions under sections 905, 910, and 911 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (21 U.S.C. 387e, 387, and 387k).1 Because these submissions will be refused before they enter FDA’s review queue, more resources will be available for submissions that are ready for further review. This rule establishes a refuse to accept process for premarket tobacco product submissions, including premarket tobacco product applications (PMTAs), modified risk tobacco product applications (MRTPAs), substantial equivalence (SE) applications (also called SE reports), and exemption requests (including subsequent abbreviated reports).

B. Summary of the Major Provisions of the Regulatory Action

The rule explains when FDA will refuse to accept a premarket submission, including PMTAs, MRTPAs, SE applications, and exemption requests (including subsequent abbreviated reports). The rule is based on FDA’s experience in reviewing these submissions. Under the rule, FDA will refuse to accept a premarket submission that: (1) Does not pertain to a tobacco product; (2) is not in English (or does not include a complete translation); (3) is submitted in an electronic format that FDA cannot process, read, review, or archive; (4) does not include the applicant’s contact information; (5) is from a foreign applicant and does not include the name and contact information of an authorized U.S. agent (authorized to act on behalf of the applicant for the submission); (6) does not include a required form(s); (7) does not identify the tobacco product; (8) does not identify the type of submission; (9) does not include the signature of a responsible official authorized to represent the applicant; or (10) does not include an environmental assessment or claim of a categorical exclusion, if applicable. Under the rule, if FDA refuses to accept the submission, FDA will send the contact (if available) a notification. If the submission is accepted for further review, FDA will send an acknowledgement letter.

II. Background

FDA published two rulemaking documents concerning refuse to accept procedures in the Federal Register of August 8, 2016: A direct final rule (81 FR 52329) and a companion proposed rule (81 FR 52371). We published the direct final rule because we believed that the rule was noncontroversial, and we did not anticipate that it would receive any significant adverse comments. As a companion to the direct final rule, we published a proposed rule with the same codified language published in the proposed rules section of the Federal Register. The companion proposed rule provides a procedural framework to finalize the rule in the event that the direct final rule receives any adverse comment and is withdrawn. We received adverse comment on the direct final rule and withdrew the direct final rule by issuing a notice in the Federal Register of November 16, 2016 (81 FR 80567). We are now finalizing the proposed rule and responding to the comments we received.