

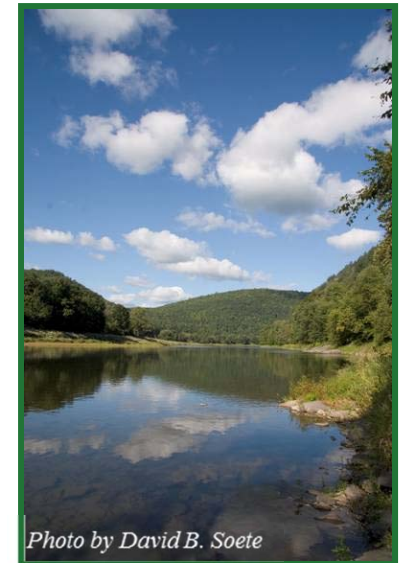
# Delaware River Basin Commission

## One Process/One Permit Program

David Kovach, P.G. DRBC Project Review  
Section Supervisor

NJWEA 100<sup>th</sup> Annual  
Conference

May 13, 2015



*Photo by David B. Soete*



**Delaware River Basin Commission**

DELAWARE • NEW JERSEY  
PENNSYLVANIA • NEW YORK  
UNITED STATES OF AMERICA

# Overview

1. What is the One Process/One Permit Program?
2. Authority for Administrative Agreements
3. Implementing the Program
4. DRBC/NJDEP Administrative Agreement

# What is the One Process/One Permit Program? Why Propose It?

- ❑ Provide for eligible projects to be managed through a single process resulting in one decision or approval.
- ❑ Make process simpler for regulated entities.
- ❑ Improve procedural efficiency.
- ❑ Promote collaboration.
- ❑ Achieve the same or improved environmental results.

**Does not change the authority and/or regulatory standards of the DRBC or any state agency.**

# What authorizes DRBC to use One Process and One Permit?

- ❑ **Compact § 1.5 – authorizes and directs DRBC to utilize and employ existing offices and agencies of government to the fullest extent feasible and advantageous for purposes of the Compact.**
- ❑ **Compact § 3.9 – DRBC shall promote & aid the coordination of the activities and programs of federal, state, municipal and private agencies concerned with water resources administration in the basin.**
- ❑ **RPP § 2.3.3 – authorizes DRBC to enter into administrative agreements with federal & state agencies to meet the objectives of its regulatory programs.**

# Resolution No. 2015-4

## **Authorizes the Executive Director to:**

- initiate rulemaking to provide specific authorization for and define the scope of the One Process/One Permit Program; and**
- enter into an AA with New Jersey to provide for demonstration of the program**

# What needs to be done to implement the One Process/One Permit Program?

- ❑ **Rulemaking to amend the RPP**
  - Publish proposed rule in the federal and state registers
  - Proposed rule posted on DRBC website on May 7, 2015
  - Public Comment period through July 1, 2015
  - Public Hearing on June 9, 2015
  - Opportunities for written and oral comment
  - DRBC prepares a response to comments, incl. any changes as appropriate to the draft based on comments received
  - Commissioners consider and vote on adoption at a public meeting – potentially in September 2015
  - DRBC publishes final rule
  
- ❑ **Develop and execute administrative agreements (AA's) after notice and a public hearing.**

## Which regulatory programs will be included in One Process/One Permit?

The proposed rule provides the basis for a One/Process One Permit approach to activities over which DRBC and a Signatory Party both exercise regulatory authority.

- Initially, water withdrawal & wastewater discharge programs will be included.
- Other programs may be added by amending administrative agreements or entering into additional agreements.

# One Process/One Permit

## DRBC-NJDEP Administrative Agreement

- I. General Provisions
  - II. Review of Wastewater Discharge Projects
  - III. Coordinated Review of Water Withdrawal Projects
  - IV. Projects Not Considered to be Wastewater Discharges or Water Withdrawals Within the Scope of the Agreement
  - V. Review of General Permits
  - VI. Separate Actions by Commission
  - VII. Other Requirements
  - VIII. NJ Demonstration Program**
  - IX. Administrative Provisions
- Appendices





# One Process/One Permit

## DRBC-NJDEP Administrative Agreement

### What are the Principle Provisions of the DRBC – NJDEP Administrative Agreement?

- One lead agency for the water withdrawal and wastewater discharge programs
- Collaborative processes with defined roles and responsibilities of DRBC and NJDEP
- Continued involvement of DRBC in the review of wastewater and water withdrawal projects
- Preservation & recognition of the respective authorities and standards
- One permit that includes DRBC *and* State agency requirements, relying on the most protective/ stringent
- Simplifies & clarifies programs for the regulated community

# One Process/One Permit

## DRBC-NJDEP Administrative Agreement

### What are the Principle Provisions of the Administrative Agreement? (cont'd)

- NJDEP will include a finding, based on DRBC staff's recommendation that the project does not substantially impair or conflict with the Commission's Comprehensive Plan
- Commission approves addition of new projects to the CP
- Executive Director or any Signatory Party can determine that a project should be subject to review and adjudication by the Commission
- Compliance coordination – State lead
- Dispute resolution process
- If issues cannot be resolved each party will issue a separate approval instrument or other determination
- Separate agency fees remain in effect
- **Implementation of a Demonstration Program**

# One Process/One Permit DRBC-NJDEP Administrative Agreement

## What is the Demonstration Program? (Section VIII)

- Opportunity to “practice” using the new collaborative processes provided in the 2015 Administrative Agreement
- Only applies to wastewater discharge projects selected by the DRBC and NJDEP
- Existing 2009 Administrative Agreement remains in effect for other projects
- Where necessary, may result in revisions to the coordinated review processes used

# One Process/One Permit

## DRBC-NJDEP Administrative Agreement

**How are selected wastewater discharge projects processed during the Demonstration program?**

- DRBC and NJDEP will select projects from existing in-house applications
- DRBC and NJDEP will use the processes outlined in the 2015 AA; DRBC will provide conditions recommended to support a finding of consistency with the Comprehensive Plan
- NJDEP will include the more stringent of state or DRBC requirements in the NJPDES permit
- **DRBC and NJDEP will issue separate approvals if the project approval stage is reached during the demonstration period.**

# One Process/One Permit DRBC-NJDEP Administrative Agreement

## What is the Duration of the Demonstration Program?

### The Program will end on the later of:

- Effective date of the new DRBC rules for “One Process/One Permit” (Full AA will go into effect); OR
- January 1, 2016 (If no rule yet in place, continue to work to find an effective cooperative review process); OR
- When 8 demonstration project applications have been processed

**The Demonstration Program may be extended by the Parties.**



# One Process – One Permit AA

## Review of Wastewater Discharge Projects

### Section II:

- ❑ Project Categories:
  - No DRBC Review (WW1)
  - Simple Renewals (WW2)
  - Other Projects (WW3)
- ❑ For Each Category:
  - Definition
  - Respective Agency Responsibilities –  
DRBC degree of involvement and response times vary  
by category
- ❑ Transition

# One Process – One Permit AA “No DRBC Review” Discharge

- **WW1-“No DRBC Review” projects** = those that under the Compact and RPP are presumed to have “no substantial effect” on water resources of the Basin
  - **Domestic Wastewater Treatment and Industrial Discharge Facilities:**
    - Design capacity of less than 10,000 gpd (SPW) or 50,000 gpd (Non-SPW)
    - Including: landfill siting, remediation and hydrostatic testing when under the above thresholds
    - Construction dewatering and swimming pools under NJPDES GPs
  - **Water Withdrawals:**
    - Agricultural
    - Projects withdrawing 100,000 gpd/30 days or less

# One Process - One Permit AA

## “Simple Renewals” - Discharge

- **WW2 “Simple Renewal”** Projects = those that:
  - Already have an NJPDES permit **and** a DRBC docket
  - Constitute an existing discharge to Non-SPW, involving no increase in flow or load
  - Constitute an Existing Discharge to SPW:
    - involving NO increase in flow or load **and**
    - NO Substantial Alterations or Additions (SAA)



# One Process - One Permit AA “Other” - Discharge

- **WW3 “Other”** = all other wastewater projects consisting of:
  - New Discharges
  - Existing Discharges *that lack either* a NJPDES Permit or a DRBC Docket
  - Existing Discharges to Non-SPW Waters involving a proposed increase in flow or load
  - Existing Discharges to SPW waters involving either:
    - a proposed increase in flow or load or
    - Substantial Alterations or Additions

# One Process - One Permit AA “Simple Renewals” and “Other” Agency Responsibilities

## ■ **NJDEP Responsibilities:**

- Serve as lead permitting agency
- Notify DRBC annually of scheduled NJPDES permits
- Provide pre-draft permits to DRBC
  - Include DRBC Water Quality Requirements
  - Include § 3.8 finding based on DRBC input
- Refer applicants to DRBC for waivers or determinations as appropriate
- Issue NJPDES permits
- Conduct enforcement and compliance

# One Process - One Permit AA

## “Simple Renewals” and “Other” Projects

### Agency Responsibilities

#### ■ **DRBC Responsibilities:**

- Provide comments re the § 3.8 finding
- Consider and act on CP amendments where necessary
- Provide comments re DRBC water quality requirements, including those relating to SPW No Measurable Change (NMC) and SAA
- Provide technical assistance to State
- Make determinations re waivers and modifications of DRBC requirements, for inclusion in NJPDES permits

# One Process - One Permit AA Wastewater Discharge Projects

## □ **Transition to One Discharge Permit**

- Applications received by NJDEP after execution of the AA will be processed under the One Permit Program
- For applications received and under review by DRBC or NJDEP prior to execution of the AA:
  - NJDEP and DRBC will confer and determine whether:
    - ✓ DRBC docket and NJPDES permit will be issued, or
    - ✓ Application will be processed under One Permit Program
  - Preference will be to use One Permit Program where feasible

# One Process -One Permit AA

## Coordinated Review of Water Withdrawals

### **Section III Coordinated Review of Water Supply Projects**

#### Project Categories:

- WA-1: No DRBC Review
- WA-2: Notification
- WA-3: Notification and Review

#### For Each Category

- Definition
- Respective Agencies Responsibilities

# One Process -One Permit AA

## Coordinated Review of Water Withdrawals

### **Section III Coordinated Review of Water Supply Projects**

- WA-1 No DRBC Review Required
  - Water withdrawals less than 100,000 gpd/30days
  - Diversions into or out of basin less than 100,000 gpd
  - Withdrawals for agricultural use within NJ
  - Temporary dewatering permits - Section 2.3.5 A.19 RPP
  - Minor modifications of allocation permits N.J.A. C. 7:19-1.5(b)

# One Process -One Permit AA

## Coordinated Review of Water Withdrawals

### **Section III Coordinated Review of Water Supply Projects**

#### WA-2 Notification – Definition

- Commission docket in effect
- Most recent NJDEP water allocation permit includes a finding that the project will not substantially impair or conflict with the Commission's CP
- Water allocation permit renewals do not involve change to the diversion into or out of the basin
- Water allocation permit renewals do not involve change to the approved monthly and annual withdrawal amounts
- Extensions of NJDEP permits

# One Process -One Permit AA

## Coordinated Review of Water Withdrawals

### Section III Coordinated Review of Water Supply Projects

#### WA-2 Notification – Responsibilities

##### ■ NJDEP

- lead permitting agency
- monthly list/description to DRBC
- statement of conformance with CP
- DRBC Water charges (where applicable)
- Water Audit

##### ■ DRBC

- Review the list/ID any projects requiring DRBC review
- Provide Technical Assistance if requested
- Collect any applicable DRBC fees



# One Process -One Permit AA

## Coordinated Review of Water Withdrawals

### Section III Coordinated Review of Water Supply Projects

- WA-3 – Notification and Review – Definition
  - New water withdrawal projects
  - New diversions into or out of basin greater than RPP
  - Renewals/mods that never had a DRBC docket
  - Major Modifications as defined at N.J.A.C. 7:19-1.5(a)
    - Change in monthly or annual withdrawal
  - Projects that involve a change to diversions into or out of the basin

# One Process -One Permit AA

## Coordinated Review of Water Withdrawals

### Section III Coordinated Review of Water Supply Projects

#### □ WA-3 – Notification and Review – Responsibilities

##### ■ NJDEP

- NJDEP lead permitting agency
- Provides Monthly list to DRBC
- Conformity with the CP
- Provides 30 days for DRBC comment
- Advise applicants and DRBC if relief or modification of DRBC requirement is necessary

# One Process -One Permit AA

## Coordinated Review of Water Withdrawals

### **Section III Coordinated Review of Water Supply Projects**

#### WA-3 – Notification and Review – Responsibilities

##### ■ DRBC

- Provide NJDEP Comments within 30 days
- Written recommendation to NJDEP re: CP
- Determine if incorporation into CP is required
- Add project to CP if required
- Provide Technical assistance if requested
- Review and provide determinations regarding relief or modification of DRBC requirement

# One Process - One Permit AA

## Projects Other than Wastewater Discharges and Water Withdrawals

### Section IV

- ❑ Commission conducts no review of the following for conformity with the CP unless requested by the Executive Director or a Signatory Party:
  - Siting, design or construction of industrial/sanitary landfills
  - Electric generation/co-generation facilities with consumptive use greater than 100,000 gpd/30 days when no other aspect of the project requires separate DRBC review

# One Process - One Permit AA

## Separate Action by the Commission

### Section V Review of General Permits

- ❑ Projects eligible for NJDEP Master General Permit (MGP) not covered by the Agreement unless or until the MGP is reviewed and includes all terms and conditions to be in conformance with the CP
- ❑ MGPs expected to be reviewed as they are renewed or modified

# One Process - One Permit AA

## Separate Action by the Commission

### Section VI – Separate Action by Commission

- ❑ Only DRBC can amend the Comprehensive Plan
- ❑ Water withdrawals from the Delaware Bay (NJDEP lacks authority)
- ❑ Prior to issuance of an NJPDES permit that would also constitute a final action of the Commission:
  - The Executive Director or a Signatory Party may determine and the E.D. will advise the host state that the project will be subject to full review and decision making by the Commission
  - State will not make the § 3.8 finding on behalf of the Commission

# One Process - One Permit AA

## Other Provisions

### Section VII – Other Requirements

#### ☐ Compliance

- State exercises its authority and discretion
- State notifies DRBC of automatic or inspection-based enforcement
- State notifies and consults with DRBC when it pursues an administrative consent order

#### ☐ Water Supply and Wastewater Planning

- NJDEP/DRBC confer during development of NJ Water Supply and Area-wide Water Quality Management Plans, including TMDLs
- Commission may adopt the Plans into the Comprehensive Plan
- Commission does not review extensions of water distribution or wastewater collection systems not involving change in service area

# One Process -One Permit AA Administrative Provisions

## **Section IX – Administrative Provisions**

- Amendments
- Project Review Fees
- Termination on written notice
- Reservation of Authority
- Dispute Resolution
  - Water Resources Management Branch Manager and NJDEP Division Director
  - Executive Director and NJDEP DRBC Commissioner
- No Third Party Rights
- Effective Upon Publication of Final Rule



# One Process - One Permit AA

## APPENDICES

- A. Wastewater Program-Specific Implementation Procedures
- B. Definition of Substantial Alterations and Additions (SAA)
- C. List of DRBC Waivers/Variations

# One Process -One Permit AA

## Appendix A

- Substantial Alterations and Additions
- Import and Export
- Mixing Zone Review
- Total Dissolved Solids
- CBOD<sub>20</sub>
- Color
- Temperature
- Whole Effluent Toxicity
- Toxic Limits

# One Process/One Permit Program

Copies of the following documents may be found on the DRBC website:

[http://www.state.nj.us/drbc/meetings/proposed/notice\\_opop-program.html](http://www.state.nj.us/drbc/meetings/proposed/notice_opop-program.html)

- Text of the Draft Rule
- NJAA Approved March 11, 2015
- Frequently Asked Questions

You can also contact either Pam Bush at

[pam.bush@drbc.state.nj.us](mailto:pam.bush@drbc.state.nj.us) or

Bill Muszynski at

[william.muszynski@drbc.state.nj.us](mailto:william.muszynski@drbc.state.nj.us)



**Delaware River Basin Commission**  
DELAWARE • NEW JERSEY  
PENNSYLVANIA • NEW YORK  
UNITED STATES OF AMERICA

# One Process/One Permit Program

**Questions?**

