OTHER AGENCIES

(a)

DELAWARE RIVER BASIN COMMISSION

Notice of Proposed Rulemaking and Public Hearing Amendments to the Delaware River Basin Commission Water Code

Authorized By: Delaware River Basin Commission, Naomi Mendelsohn, Commission Secretary.

Proposal Number: PRN 2026-067.

SUMMARY: The Delaware River Basin Commission ("DRBC" or "Commission") will hold a public hearing and accept written comment on a proposal to amend its Water Code and Comprehensive Plan to require water supply systems serving the public (purveyors) to report water use by their largest customers.

DATES: *Written comments*: Written comments will be accepted through 5:00 P.M. EST on Friday, December 4, 2026.

Public hearing: A public hearing will be held remotely using Zoom on Wednesday, November 4, 2026, beginning at 1:30 P.M. and ending no later than 3:00 P.M. Eastern standard time (EST). Details about accessing the hearing are available on the Commission's website, www.drbc.gov.

A notice including the public hearing date, time, and location was posted on the Commission's website on October 1, 2026, and circulated that day directly to Commission notice subscribers interested in this subject matter. Members of the public may sign up through the Commission's website to receive direct notice by email of additions or changes to the information provided above.

ADDRESSES: *To submit written comments*: Written comments will be accepted until 5:00 P.M. EST on Friday, December 4, 2026, through the Commission's online public comment collection system at: https://hearing.drbc.commentinput.com?id=T95htQGAg. To request an exception from use of the online system based on lack of access to the Internet, please submit your request, along with your comment, to: Commission Secretary, DRBC, PO Box 7360, West Trenton, NJ 08628.

To register to speak at the public hearing: Those who wish to provide oral comment at the public hearing must register in advance to do so. Registration will be through Zoom. A link to the Zoom registration for the public hearing is posted at www.drbc.gov. Online registration will remain open until 5:00 P.M. on the day prior to the hearing date or until all available speaking slots have been filled, whichever is earlier. Each person who wishes to provide oral comment may do so at only one public hearing. Registrations will be monitored, and if capacity is not adequate to accommodate all who wish to speak, additional opportunities may be added.

See SUPPLEMENTARY INFORMATION for details regarding the substance of written comments.

FOR FURTHER INFORMATION, CONTACT: For information regarding the public hearing and submission of written comments, contact Kate Schmidt, Communications Specialist, at contact@drbc.gov (preferred) or (609) 477-7205. For information concerning the substance of the proposed amendments, contact Chad Pindar, Manager of Water Resource Planning, at chad.pindar@drbc.gov (preferred) or (609) 477-7248.

SUPPLEMENTARY INFORMATION: The Commission is a Federal-interstate compact agency formed by the enactment of concurrent legislation by four states and the United States in 1961 (see United States Public Law 87-328, Approved Sept. 27, 1961, 75 Statutes at Large 688; 53 Delaware Laws, Ch. 71, Approved May 26, 1961; New Jersey Laws of 1961, Ch. 13, Approved May 1, 1961; New York Laws of 1961, Ch. 148, Approved March 17, 1961; Pennsylvania Acts of 1961, Act. No. 268, Approved July 7, 1961; commonly known as the "Delaware River Basin Compact," and referred to hereinafter as the "Compact") to manage the water resources of the Delaware River Basin (Basin) without regard to political boundaries. The Commission's members are, *ex officio,* the governors of the basin states (Delaware, New Jersey, New York, and Pennsylvania) and the Division Engineer of the U.S. Army Corps of Engineers North Atlantic Division, who represents the United States. The Commission is not subject to the requirements of the New Jersey Administrative Procedure Act. This notice is published by the Commission for information purposes.

Background

Water use data are critical for effective management of the Basin's water resources. They are needed to develop consumptive use estimates, project water use trends, establish water budgets, assess water resource needs, and evaluate the effectiveness of water conservation programs. The Commission established annual reporting requirements for water supply systems serving the public (also referred to herein as "purveyors") in 1986 and updated them in 2001 and 2009. The requirements apply to "source data," consisting of monthly withdrawal or bulk purchase information for each system, and "service area data," which identify water uses by category as residential, commercial, institutional, industrial, bulk sale, non-revenue, unaccounted for, or other. See Delaware River Basin Water Code (Water Code), secs. 2.50.3 A.1.a.–b.

The proposed amendments would require water supply systems serving the public to furnish the Commission with a third class of supplemental water use data—large customer data. These data would help DRBC characterize the water needs of the largest users that obtain their water from purveyors, rather than withdrawing it directly from a surface water or ground water source. The data would contribute to a clearer picture of how the Basin's water resources are used.

As the proposed amendments include new section 2.50.1, Definitions, current sections 2.50.1 through 2.50.3 are to be renumbered 2.50.2 through 2.50.4. The substantive new requirements appear in proposed new subsection 2.50.4 A.1.c. Additional non-substantive amendments are proposed to the introductory paragraphs of current subsections 2.50.3 A.1., Annual Reporting Requirements—Water Supply Systems Serving the Public and A.2., Annual Reporting Requirements—Other Withdrawals, and to current subsection 2.50.3 B., solely for purposes of consistency and clarification. Changes to the latter subsection, in particular, are proposed to continue to ensure that DRBC's annual reporting requirements do not compel entities to submit the same data to both DRBC and state agencies.

Currently, approximately 300 purveyors in the Basin report source and service area water use to Basin state agencies in accordance with the Water Code provisions cited above. Working closely with member state agencies, the Commission is able to access, compile, and analyze approximately 30 years of source and service area data from each state for purposes of identifying and projecting water use trends Basin-wide. The Commission now seeks to better understand the role of large customers of water supply systems serving the public in water use across the Basin. It also wishes to better quantify consumptive uses of water—those uses that do not involve return of the water to a surface or ground water source after its use but instead involve evaporative loss or export of the water from the Basin.

Excluding out-of-basin diversions, withdrawals by purveyors in 2024 comprised the second largest water use and second largest consumptive water use in the Delaware River Basin, equal to approximately 15 percent (833 million gallons per day (mgd) of total water use and 28.5 percent (83 mgd)) of consumptive water use (Delaware River Basin Commission (June 2026)). Water Resources Program FY 2027-2029. Sec. 1.2.2, available at: https://www.nj.gov/drbc/library/documents/WRPFY27-29.pdf). For decades, the Commission has applied a consumptive use coefficient of 10 percent to water withdrawn from the Basin by most water supply systems serving the public. Data obtained as a result of the proposed amendments would help the Commission determine whether its consumptive use coefficient for water supply systems serving the public remains accurate.

A clearer understanding of water use by large customers of water supply systems serving the public is particularly important in helping develop a more accurate profile of consumptive use in the Basin and evaluating whether current drought management measures and contingency plans will be adequate in the future.

The Commission expects that, pursuant to the amended rule, a subset of the approximately 300 water supply systems serving the public that are subject to the rule will be required to identify large customers supplied by their systems. The incremental burden on these purveyors is expected to

be manageable, as most are already accustomed to furnishing source and service area data electronically to the Commission's respective member states in accordance with subsections 2.50.3 A.1.a. and b. of the Water Code, adopted in 1986, and to providing DRBC with an annual "water audit" report, in accordance with section 2.1.8 of the Water Code, adopted in 2012. Data collected pursuant to the proposed amendments would be reported electronically in a manner similar to that currently used by purveyors to report water audit data to the Commission.

Specifically, the proposed amendments would require the owner or operator of each water supply system serving the public with a withdrawal of 100,000 gallons per day (gpd) or more as an average during any 30-day period to report the following data for each customer to which the system supplies an amount greater than or equal to 50,000 gpd as a 30-day average through one or more proximate connections: the calendar year for which the data are reported; the DRBC docket number and state permit number for the reporting entity; the identification number assigned by the reporting entity to the customer served by the connection(s); the amount of water supplied monthly to the customer for each of the 12 months for which data are reported; the type or sector to which the customer belongs; and the NAICS code.

The Commission proposes to collect monthly data for large customers beginning with calendar year 2026 data, to be submitted in June 2027. If a purveyor's practice is to bill less frequently than monthly, then less frequent use data for 2026 and any portion of 2027 that precedes the effective date of the final rule would be accepted. Regardless of their current billing practices, all purveyors subject to the rule would be required to report monthly large customer water use for each month following the rule's effective date. Accordingly, if the rule becomes effective in May 2027, the purveyor's report for 2026 (to be submitted in June 2027) may include less-than-monthly data for all of 2026. The purveyor's report for 2027 (to be submitted in 2028) may include less-than-monthly water use data for the months of January through April of 2027, but must include monthly data for each large customer for the months of May through December 2027.

The Commission further proposes to amend section 410.1(c) of title 18 of the Code of Federal Regulations by replacing the date of incorporation by reference that appears there with respect to the Water Code (March 6, 2023) with the date on which the Commission would adopt a final rule pursuant to this proposal.

The text of the proposed amendments is available on the Commission's website at https://www.nj.gov/drbc/meetings/proposed/notice_water-reporting.html.

Incorporation by Reference

The Water Code of the Delaware River Basin, including section 2.50, is incorporated by reference into the Code of Federal Regulations at 18 CFR 410.

Public Process

Substance of comments. The Commission welcomes and will consider comments that concern the potential impacts of the proposed amendments on the conservation, utilization, development, management, and control of the water and related resources of the Delaware River Basin and on public participation in the Commission's water resource management activities. In particular, the Commission seeks comment on the burden the proposed rule would impose on water supply systems serving the public and large customers.

Non-digitized, voluminous materials, such as books, journals, and collections of documents will not be accepted. Digital submissions of articles and websites must be accompanied by a statement including citations to the specific findings or conclusions the commenter wishes to reference.

Submission of written comments. Written comments along with any attachments should be submitted through the Commission's web-based comment system (https://drbc.commentinput.com/?id=kciDptC8h) until 5:00 P.M. on Friday, December 4, 2026. All materials should be provided in searchable formats, preferably in .pdf searchable text. Notably, a picture scan of a document may not result in searchable text. Comments received through any method other than the designated online method, including by email, fax, postal/delivery services, or hand delivery, will not be considered or included in the rulemaking record unless accompanied by a written request for an exception based on lack of access to the web-based comment system. Such requests and accompanying materials may be sent to: Commission Secretary, DRBC, PO Box 7360, West Trenton, NJ 08628.

Public hearing. To ensure an orderly process and to provide access to interested parties regardless of their geographic location, the Commission is conducting its public hearing virtually. Attendance at the hearing is not limited and requires no registration. However, to eliminate uncertainty on the part of attendees about whether they will have an opportunity to provide oral comment, those who wish to speak at a hearing must register in advance to do so, using the link on the Commission's website. Registrations will be monitored, and if capacity is not adequate to accommodate all who wish to speak, additional opportunities may be added. Key elements of the procedure are as follows:

- Online registration to speak at a public hearing will remain open until 5:00 P.M. on the day immediately before the hearing date.
- Each person who wishes to provide oral comment may do so at only one public hearing.
- Speaking time will be limited to approximately three minutes per speaker.
- Elected government officials and their staff members will have the opportunity to identify themselves when registering to attend a hearing.
- Attendance at the public hearing is not limited and requires no advance registration.
- Written and oral comments will receive equal consideration.

The Commission appreciates the public's participation and input on this matter.

Translation Services for Rulemaking Materials. The Commission will consider requests for translation of this document and the proposed rule text into languages other than English. To request translation of documents related to this rulemaking, please send an email to translate@drbc.gov. Please specify both the requested language and the requested documents.

More Information. Detailed and up-to-date information about the rulemaking, including proposed rule text, a frequently asked questions document, public notices, and links for submitting written comments and for registering online to speak at the scheduled public hearing, can be found on the Commission website, www.drbc.gov.

For the reasons set forth in the preamble, the Delaware River Basin Commission proposes to amend its Water Code (incorporated by reference in the Code of Federal Regulations at 18 CFR Part 410) as set forth below.

DELAWARE RIVER BASIN COMMISSION

ARTICLE 2—CONSERVATION, DEVELOPMENT AND UTILIZATION OF DELAWARE RIVER BASIN WATER RESOURCES

[INCORPORATED BY REFERENCE AT 18 CFR Part 410]

(Office of Administrative Law's Note: New text appears in bold face with underscore **thus**, and text to be deleted appears in bold face and strikethrough within brackets **[~~thus~~]**.)

2.50 WATER METERING

2.50.1 Definitions. For purposes of this Section 2.50:

A. "Large Customer" means a customer of a "water supply system serving the public" (a "purveyor") as defined herein, that takes 50,000 gallons per day ("gpd") or more as a 30-day average from such purveyor through one or more "proximate connections" as defined herein; provided, however, that for purveyors invoicing only quarterly, for calendar year 2026 and any portion of calendar year 2027 that precedes the effective date of Section 2.50.4 A.1.c. hereof, "large customer" shall mean a customer that purchases 50,000 gpd or more as a 90-day average.

B. "Large Customer Service Data" means the information to be reported annually, as set forth in Section 2.50.4 A.1.c., provided, however, that for any water supply system serving the public (purveyor), as defined herein, that invoices customers on a quarterly

basis, the "amount supplied monthly for each of 12 months (MG)" for calendar year 2026 and any portion of calendar year 2027 that precedes the effective date of Section 2.50.4 A.1.c., shall be calculated by dividing the customer's quarterly use by three. After the effective date of Section 2.50.4 A.1.c, the "amount supplied monthly for each of 12 months (MG)" shall mean the actual quantity supplied by month, in millions of gallons.

C. "Proximate connections" means service connections of a water supply system serving the public (purveyor) that may be metered separately but that serve a single customer at a single location, facility, or campus.

D. "Water supply system serving the public" or "purveyor" means any water utility—public or private—that delivers water to customers. The terms "water supply system serving the public" and "purveyor" are used interchangeably throughout Section 2.50.

2.50.**2**~~[1]~~ **Service Metering** (Resolution No. 87-7 Revised, amended by Resolution No. 2001-8).

A. Owners of water supply systems serving the public (purveyors) in the Basin that distribute water supplies in excess of an average of 100,000 gallons per day during any 30-day period shall install, or require to be installed, water meters incident to the provision or maintenance of service at the retail level.

B. (1) Meters shall be installed so as to record water use at all service connections; (2) water furnished for fire suppression purposes shall be exempt from metering provided that fire suppression (sprinkler) systems are equipped with detector check or flow detection devices; and (3) water removed from fire hydrants shall be exempt from metering unless otherwise required by a purveyor, or state or local government.

C. Water use shall be recorded or measured by means of a metering device that conforms to the performance specifications of the American Water Works Association. Purveyors shall adopt and implement a program for periodic maintenance, calibration, and replacement of meters to ensure meter accuracy.

D. Water charges collected by purveyors shall be based in part on metered usage.

E. It is recommended that, at least once a year, each purveyor: (1) provide each metered residential customer with information on savings available through water conservation; and (2) explain different methods of residential water conservation and their cost-effectiveness, and the availability of water conservation devices.

F. Installation of meters at existing unmetered connections shall be completed within ten years of the effective date of this regulation.

G. To avoid duplication of effort and to insure proper enforcement of this regulation, the Executive Director is hereby authorized to enter into administrative agreements with the Delaware Department of Natural Resources and Environmental Control, New Jersey Department of Environmental Protection, New York Department of Health, Pennsylvania Department of Environmental Protection, and other state agencies where appropriate, authorizing such agencies to administer and enforce the provisions of this regulation to the extent practicable and to adopt such rules and regulations of procedure as may be necessary to insure the proper administration and enforcement of this regulation. In the absence of an administrative agreement, the Commission shall serve as the administration and enforcement agency for this regulation.

2.50.**3**~~[2]~~ **Source metering, recording and reporting** (Resolution No. 86-12, amended by Resolution No. 2001-8).

A. Each person, firm, corporation, or other entity whose cumulative daily average withdrawal(s) from the surface and/or ground waters of the Basin from any surface water intake, spring, or well, or any combination of surface water intakes, springs, or wells operated as a system, exceeds 100,000 gallons per day during any 30-day period shall meter or measure and record their withdrawals and report such withdrawals to the designated agency. Withdrawals shall be measured by means of an automatic continuous recording device, flow meter, or other method, and shall be measured to within five percent of actual flow. Exception to the five percent performance standard, but no greater than ten percent, may be granted for surface water withdrawals by the designated agency if maintenance of the five percent performance standard is not technically feasible or economically practicable. Meters or other methods of measurement shall be subject to approval and inspection by the designated agency as to type, method, installation, maintenance, calibration, reading, and accuracy. Withdrawals shall at a minimum be recorded on a daily basis for public water supply use and on a biweekly basis for all other water uses and reported as monthly totals annually. More frequent recording or reporting may be required by the designated agency or the Commission.

B. The following water uses and operations are exempt from the metering or measurement requirements of subsection (A): agricultural irrigation; snowmaking; dewatering incidental to mining and quarrying; and dewatering incidental to construction. Persons engaged in such withdrawals in excess of 100,000 gallons per day during any 30-day period shall record the pumping rates and the dates and elapsed hours of operation of any well or pump used to withdraw water and report such information as required in subsection (A).

C. The following are the designated agencies for the purposes of this regulation: Delaware Department of Natural Resources and Environmental Control; New Jersey Department of Environmental Protection; and Pennsylvania Department of Environmental Protection. The Delaware River Basin Commission shall serve as the designated agency for administering and enforcing this regulation in the New York portion of the Basin.

D. Pursuant to Section 11.5 of the Compact, the designated agencies shall administer and enforce programs for metering, recording and reporting of water withdrawals, in accordance with this regulation and any applicable state regulations.

E. This regulation shall be effective January 1, 1987.

2.50.**4**~~[3]~~ **Reporting Requirements** (*Resolutions Nos. 2001-8*, ~~[and]~~ 2009-1, ***and 2027-***_).

A. Annual Reporting Requirements.

1. Water Supply Systems Serving the Public. **Subject to Section 2.50.4 B.,** **t**~~[T]~~he owner(s) of each water supply system serving the public and ~~[subject to]~~**required to comply with** subsection 2.50.**2**~~[1]~~**,** subsection 2.50.**3**~~[2]~~, ~~[and]~~ **or** the Ground Water Protected Area Regulations for Southeastern Pennsylvania shall report the following data on an annual basis to the designated agency.

a. Source Data

i. Withdrawal Data. The following data shall be reported for each withdrawal source separately (i.e., each well or surface water intake):

– Year
– Facility Identification Code (State Code)
– State Permit Number
– Facility Name
– Monthly Withdrawal Amount (MG)

ii. Bulk Purchases from Other Suppliers. The following data shall be reported for each bulk purchase separately:

– Bulk Supplier Name
– Bulk Supplier's Source Name(s)
– Monthly Bulk Purchase Amount (MG)

b. Service Area Data. The following data shall be reported separately for each county served:

i. Service Area Name(s)

ii. Total Annual Water Use by Category (MG). All usage shall be reported according to the following categories:

– Residential metered (including apartment complexes)
– Commercial metered
– Institutional metered
– Industrial metered
– Bulk Sales
– Other metered (Specify)
– Non-revenue water, including unbilled authorized consumption, apparent losses, and real losses computed in accordance with Section 2.1.8 D. of this *Water Code*
– Unaccounted for water (defined as the amount of water entering the distribution system minus the amount of water delivered through service meters)
– Total

c. Large Customer Service Data. Commencing with data for calendar year 2026, the following shall be reported separately for

each "large customer" as defined in Section 2.50.1, on a form prescribed by the Executive Director:

– Year
– DRBC Docket Number
– State Permit Number or Facility ID
– Customer Facility ID
– Customer Facility Name
– Amount supplied monthly for each of 12 months (MG)
– Customer type/sector
– NAICS code

2. Other Withdrawals. **If a [~~Each~~]** person, firm, corporation, or **[~~other~~]** entity**, other than [~~except~~] a** water supply system**[s]** serving the public **is** subject to **the** requirements **of [~~under~~]** subsection 2.50.**3[~~2~~] hereof [~~and~~] or to** the Ground Water Protected Area Regulations for Southeastern Pennsylvania**, the entity** shall report the **below [~~following~~]** data on an annual basis to the designated agency. The data shall be reported for each withdrawal source [**~~separately~~]** (i.e., each well or surface water intake) **separately**. Changes to any other information required **by [~~under~~]** Section **2.50.4** A. **hereof [~~above,~~]** shall also be reported. All information required **by** [**~~under~~]** Section **2.50.4** A. **[~~above~~]** shall be **[~~completed~~] reported** for new withdrawals **beginning with [~~for~~]** the first year of operation.

a. Year
b. Facility Identification Code (State Code)
c. State Permit Number
d. Facility Name
e. Monthly Withdrawal Amount (MG)
f. Evaporative Loss Amount (MG) (if known)
g. Product Use Amount (MG) (if known)
h. Estimated Monthly Wastewater Discharge Amount (MG)

B. **[~~To avoid duplication of effort and to insure proper enforcement of this regulation, the Executive Director is hereby authorized to enter into administrative agreements with the following designated agencies: Delaware Department of Natural Resources and Environmental Control, New Jersey Department of Environmental Protection, New York Department of Health, Pennsylvania Department of Environmental Protection, and other state agencies where appropriate, authorizing such agencies to administer and enforce the provisions of this regulation and to adopt such rules and regulations of procedure as may be necessary to insure proper administration and enforcement of this regulation. In the absence of an administrative agreement, the Commission shall serve as the designated agency. Designated agencies are encouraged to implement and maintain automated data collection and reporting systems to facilitate the efficient transfer of data to the Delaware River Basin Commission. The administrative agreements shall specify the format for data submission.~~] To avoid duplication of effort, data to be reported under Section 2.50.4 of the Water Code shall be submitted to the state agency, if any, tasked with implementing and maintaining automated data collection and reporting systems, and which possesses the capability and authority to efficiently transfer these data to the Delaware River Basin Commission. In any instance in which no member state agency performs the necessary data collection and transfer functions, data subject to the Annual Reporting Requirements set forth in Section 2.50.4 A. hereof shall be reported directly to the Delaware River Basin Commission in such manner as the Executive Director may prescribe. Because state agencies and functions may periodically change, the Executive Director shall maintain and make available to all entities subject to the Annual Reporting Requirements of Section 2.50.4 A. an up-to-date list identifying the agency to which required data are to be reported within each member state.**

For the reasons set forth in the preamble, the Delaware River Basin Commission proposes to amend title 18, chapter III, subchapter A of the Code of Federal Regulations as follows:

PART 410-BASIN REGULATIONS; WATER CODE AND ADMINISTRATIVE MANUAL—PART III WATER QUALITY REGULATIONS

(Office of Administrative Law's Note: New text appears in bold face with underscore **thus**, and text to be deleted appears in bold face and strikethrough within brackets **[~~thus~~]**.)

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410.1 Basin regulations—Water Code and Administrative Manual—Part III Water Quality Regulations.

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(c) Work, services, activities and facilities affecting the conservation, utilization, control, development or management of water resources within the Delaware River Basin are subject to regulations contained within the Delaware River Basin Water Code with Amendments through **EFFECTIVE DATE OF FINAL RULE [~~December 7, 2022~~]**, and the Administrative Manual—Part III Water Quality Regulations with Amendments through December 7, 2022. Both the Delaware River Basin Water Code and the Administrative Manual—Part III Water Quality Regulations are incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain or inspect this material at the Delaware River Basin Commission (DRBC), 25 Cosey Road, West Trenton, New Jersey 08628-0360, 609-883-9500, www.drbc.gov.