

Section 2.30 of the Commission's Water Code prior to the adoption of final rules on December 7, 2022 appears below.

2.30 IMPORTATIONS AND EXPORTATIONS OF WATER

2.30.1 **Definitions** (*Resolution No. 91-9*). An importation of water is water conveyed or transferred into the Delaware River Basin from a source outside the drainage area of the Delaware River and its tributaries, including the Delaware Bay. The water is then used, depleted, or discharged within the Delaware River Basin.

Conversely, an exportation of water is water taken from within the Delaware River Basin and transferred or conveyed to an area outside the drainage area of the Delaware River and its tributaries, including the Delaware Bay, and not returned to the Delaware River Basin.

2.30.2 **Policy of Protection and Preservation** (*Resolution No. 91-9*). The waters of the Delaware River Basin are limited in quantity and the Basin is frequently subject to drought warnings and drought declarations due to limited water supply storage and streamflow during dry periods. Therefore, it shall be the policy of the Commission to discourage the exportation of water from the Delaware River Basin.

However, the Basin waters have limited assimilative capacity and limited capacity to accept conservative substances without significant impacts. Accordingly, it also shall be the policy of the Commission to discourage the importation of wastewater into the Delaware River Basin that would significantly reduce the assimilative capacity of the receiving stream on the basis that the ability of Delaware River Basin streams to accept wastewater discharges should be reserved for users within the Basin.

2.30.3 **Safeguard Public Interest** (*Resolution No. 91-9*). Review and consideration of any public or private project involving the importation or exportation of water shall be conducted pursuant to this policy and shall include assessments of the water resource and economic impacts of the project and of all alternatives to any water exportation or wastewater importation project.

2.30.4 **Commission Jurisdiction and Considerations** (*Resolution No. 91-9*). The Commission shall exercise its jurisdiction over exportations and importations of water as specified in the Administrative Manual - Rules of Practice and Procedure. All projects involving a transfer of water into or out of the Delaware Basin must be submitted to the Commission for review and determination under Section 3.8 of the Compact, and inclusion within the Comprehensive Plan.

The applicant shall address those of the items listed below as directed by the Executive Director, and the Commission will consider (on a case-by-case basis), the following items in addition to issues that may relate specifically to that project:

- A. Efforts to first develop or use and conserve the resources outside of the Delaware River Basin.
- B. Water resource impacts of each alternative available including the "no project" alternative.
- C. Economic and social impacts of the importation or exportation and each of the available alternatives including the "no project" alternative.

- D. Amount, timing and duration of the proposed transfer and its relationship to passing flow requirements and other hydrologic conditions in the Basin, and impact on instream uses and downstream waste assimilation capacity.
- E. Benefits that may accrue to the Delaware River Basin as a result of the proposed transfer.
- F. Volume of the transfer and its relationship to other specified actions or Resolutions by the Commission.
- G. Volume of the transfer and the relationship of that quantity to all other diversions.
- H. Any other significant benefit or impairment which might be incurred to the Delaware River Basin as a result of the proposed transfer.

2.30.5 **Water Charges** (*Resolution No. 91-9*). All water transferred from the Delaware Basin will be subject to the consumptive water charges in effect at the time of transfer and in accordance with Resolution No. 74-6, as amended. In addition, the project sponsor of each and every new exportation shall enter into a contract with the Commission for the purchase of Basin waters.

2.30.6 **Wastewater Treatment Requirements** (*Resolution No. 91-9*). It is the policy of the Commission to give no credit toward meeting wastewater treatment requirements for wastewater imported into the Delaware Basin. Wasteload allocations assigned to dischargers shall not include loadings attributable to any importation of wastewater.

2.30.7 **Existing Allocations** (*Resolution No. 91-9*). It is the policy of the Commission to charge all water transferred from the Basin against any special regional allocation or any depletive use allocation as may exist at the time of receipt of a completed application for transfer.

2.30.8 **Conservation Requirements** (*Resolution No. 91-9*). It is the policy of the Commission that all applications involving out-of-the Basin transfers indicate the conservation measures which have been taken to forestall the need for a transfer of Delaware River Basin water.

2.30.9 **Prior Approvals** (*Resolution No. 91-9*). All importations and exportations of water and wastewater approved by DRBC prior to the adoption of this policy and importations and exportations existing prior to enactment of the Compact shall be exempt from its provisions. Nothing herein shall modify the rights and obligations of the parties to the U.S. Supreme Court Decree of 1954.