

PROPOSED RULEMAKING

DELAWARE RIVER BASIN COMMISSION

[25 PA. CODE CH. 901]

Water Usage Reporting Requirements

The Delaware River Basin Commission (Commission) will hold a public hearing to receive comments on proposed amendments to its Water Code and Comprehensive Plan to establish water usage reporting requirements for source water withdrawals and water service. The Commission established source metering, recording, and reporting requirements in 1986 for withdrawals of surface or ground water in excess of an average of 100,000 gallons per day over a 30-day period, but it did not specify the types of information to be reported. The Commission established service metering and recording requirements in 1987 for purveyors meeting the same volume threshold, but it did not require them to report service by use category. Thus, key pieces of information are missing and reported data are inconsistent among the states, impeding the Commission's ability to perform critical water use analyses. The Commission now proposes to amend its regulations to institute reporting requirements that ensure it has the source and service information needed to evaluate how and where water is being used in the basin.

Dates

The public hearing will be held on Tuesday, January 9, 2001 during the Commission's regular business meeting. The meeting will begin at 1 p.m. and continue until all those present who wish to testify are afforded an opportunity to do so. Persons wishing to testify at the hearing are asked to register in advance with the Commission Secretary.

The deadline for submission of written comments will be December 20, 2000.

Addresses

The public hearing will be held at the Sykes Student Union, Rosedale Avenue, West Chester University, West Chester, Pennsylvania. Directions to that location will be posted on the Commission's web site, www.drbc.net, in December 2000. Written comments should be submitted to Pamela M. Bush, Delaware River Basin Commission, P. O. Box 7360, West Trenton, NJ 08628-0360.

For Further Information Contact

The existing regulations and proposed amendment are posted on the Delaware River Basin Commission web site at www.drbc.net. Please contact Esther Siskind at (609) 883-9500 ext. 202 with questions about the proposed amendment and Pamela M. Bush, ext. 203 with questions about the rulemaking process.

Supplemental Information

Background and Rationale

The Need for Water Use Information Requirements

The Commission needs accurate and consistent basin-wide water use data in order to fulfill its mandate to manage water resources of the Delaware River Basin. The data are critical to many of the Commission's programs and responsibilities, including developing con-

sumptive use estimates, projecting water use trends, determining the effectiveness of water conservation programs, determining the need for new sources of supply and developing a water use budget for the Basin.

The Commission has received data from the four basin states since it adopted source metering requirements in 1986 under Resolution No. 86-12 and service metering requirements the following year under Resolution No. 87-7, revised in 1988. These resolutions are codified at section 2.50.2 and section 2.50.1 of the Commission's Water Code. Under section 2.50.2, Source metering, recording and reporting, users withdrawing over 100,000 gallons of surface or ground water per day on average during any 30-day period are required to report their monthly withdrawals to state agencies. Under section 2.50.1, Service metering, owners of water supply systems serving the public (purveyors) that distribute over 100,000 gallons per day on average over 30 days are required to install meters at all service connections. The data reported under the existing rules are incomplete and inconsistent from state to state, however, because section 2.50.2 does not specify the types of data to be reported and Section 2.50.1 does not require reporting of service metering information such as water uses by usage category.

Deficiencies in current reporting include the following. First, reporting categories vary from state to state. Second, public water suppliers do not provide water use data by use category. Thus residential, commercial and industrial uses cannot be distinguished. Third, some critical data categories are completely lacking. For instance, unaccounted-for water is not reported at all. Information on the location of the service area and wastewater discharge points also are missing. The proposed amendment will standardize reporting requirements to facilitate basin-wide evaluation and provide additional data in key areas.

Development of the Proposed Amendment

On September 12, 2000, the Commission's Water Management Advisory Committee (Committee), composed of members from administrative agencies of the four basin states, the Federal government, the cities of New York and Philadelphia, local water agencies, utilities, industry, agriculture, not-for-profit watershed and civic organizations and academia, formally recommended that the Commission amend its source and service metering, recording and reporting policy to require reporting of specific water use information. On September 28, 2000 the Commission directed Commission staff to provide notice for a public hearing on the proposed amendment establishing consistent reporting requirements for water uses throughout the basin.

Much of the data proposed to be collected already are being collected by the states. This is particularly so in Pennsylvania, where the State currently collects nearly all of the data included in the proposed amendment. New data proposed to be collected are likely to be readily available from purveyors, even though they currently are not reported to the states other than Pennsylvania. In addition, because redundant reporting is not required, a one-time effort is needed to initiate reporting of new data for the year 2000, while a much smaller effort is required to continue reporting in subsequent years. The proposed amendment addresses the existing data gaps and will greatly facilitate the Commission's water use evaluations.

The subject of the public hearing is as follows: An Amendment to the Comprehensive Plan and Water Code of the Delaware River Basin Commission in relation to information requirements for water usage.

It is proposed to:

Amend the Comprehensive Plan and Article 2 of the Water Code of the Delaware River Basin Commission by revising the title of section 2.50 of the Water Code to read as follows: Water Metering and Reporting Requirements, and by adding a new subsection 2.50.3, to read as follows:

2.50.3 Reporting Requirements

A. Year 2000 Reporting Requirements

1. *Water Supply Systems Serving the Public.* The owner(s) of each water supply system serving the public and subject to requirements under subsection 2.50.2 and subsection 2.50.1 shall report the following data for the year 2000 to the designated state agency.

a. *Source Data*

i. *Withdrawals.* The following data shall be reported for each withdrawal source separately (that is, each well or surface water intake).

- Year—2000
- Facility Identification Code (State Code)
- State Permit Number
- DRBC Docket Number(s)
- Facility Name
- Source Type: Surface Water/Ground Water
- Source Name and/or Source ID Number
- Withdrawal Location—Municipality—County—Latitude and Longitude (method used)
- Monthly Withdrawal Amount (million gallons (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.* If the withdrawal or purchased water serves more than one county, the following data shall be reported separately for each county.

- i. Service Area Name(s)
- ii. Service Area Location(s)
 - Municipalities
 - Counties
- iii. Population Served

iv. Total Annual Water Use by Category (mg) (To the extent available, provide a breakdown of water use by the following categories.)

- Residential metered (including apartment complexes)
- Commercial metered
- Institutional metered
- Industrial metered
- Bulk Sales
- Other metered (Specify)

• Unaccounted for (defined as the amount of water entering the distribution system minus the amount of water delivered through service meters)¹

- Total
- v. Wastewater Disposal (if known)
 - Facility Identification Code (State Code)
 - State Permit Number
 - Facility Name

vi. United States Geological Survey (USGS) quadrangle map (1:24K) or other equivalent or higher resolution map identifying withdrawal, service area and discharge locations.

2. *Other Withdrawals.* Each person, firm, corporation, or other entity, except water supply systems serving the public, subject to requirements under subsection 2.50.2 shall report the following data for the year 2000 to the designated state agency. The data shall be reported for each withdrawal source separately (that is, each well or surface water intake).

- a. Year—2000
- b. Facility Identification Code (State Code)
- c. State Permit Number
- d. DRBC Docket Number(s)
- e. Facility Name
- f. Source Type: Surface Water/Ground Water
- g. Source Name and/or Source ID Number
- h. Use Category
 - Self supplied commercial
 - Self-supplied industrial
 - Self-supplied institutional
 - Self-supplied agriculture (including crop irrigation, nurseries, aquaculture & livestock)
 - Self-supplied non-agricultural irrigation (that is, golf course, country club, athletic field)
 - Self-supplied mining
 - Self-supplied thermoelectric power
 - Self-supplied hydroelectric power
 - Self-supplied other (specify) _____

- i. Withdrawal Location
 - Municipality
 - County
 - Latitude and Longitude (method used)
- j. Use Location
 - Municipalities
 - County
 - Latitude and Longitude (method used)(if known)

- k. Monthly Withdrawal Amount (mg)
- l. Evaporative Loss Amount (mg) (if known)
- m. Product Use Amount (mg) (if known)
- n. Are withdrawals metered (Y/N)?

o. Wastewater Disposal (To the extent available, provide the following information on wastewater disposal.)

¹ Further breakdown of unaccounted for water can be provided. For example, estimated fire hydrant use, other unmetered public uses, and leakage losses.

- Type (municipal wastewater treatment plant, package wastewater treatment plant, subsurface discharge system, other)

- Facility Identification Code (State Code)
- State Permit Number
- Facility Name
- Discharge Location—Surface Water Body (wastewater treatment plants only)—Municipality—County— Latitude and Longitude (method used) (if known)
- Estimated Monthly Discharge Amount (mg)

p. USGS quadrangle map (1:24K) or other equivalent or higher resolution map identifying withdrawal, use, and discharge locations.

B. Annual Reporting Requirements for Subsequent Years

1. *Water Supply Systems Serving the Public.* Commencing with reporting year 2001, the owner(s) of each water supply system serving the public and subject to requirements under subsection 2.50.2 and subsection 2.50.1 shall report the following data on an annual basis to the designated state agency. Changes to any other information required under Section 1 above, shall also be reported.

a. *Source Data*

i. *Withdrawal Data.* The following data shall be reported for each withdrawal source separately (that is, 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.* If the withdrawal or purchased water serves more than one county, the following data shall be reported separately for each county.

- Service Area Name(s)
- 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
 - Public metered
 - Bulk Sales
 - Other metered (Specify)

- Unaccounted for (defined as the amount of water entering the distribution system minus the amount of water delivered through service meters)²

- Total

2. *Other Withdrawals.* Commencing with reporting year 2001, each person, firm, corporation, or other entity, except water supply systems serving the public, subject to requirements under subsection 2.50.2 shall report the following data on an annual basis to the designated state agency. The data shall be reported for each withdrawal source separately (that is, each well or surface water intake). Changes to any other information required under Section A above, shall also be reported.

- Year
- Facility Identification Code (State Code)
- State Permit Number
- Facility Name
- Monthly Withdrawal Amount (mg)
- Evaporative Loss Amount (mg) (if known)
- Product Use Amount (mg) (if known)
- Estimated Monthly Wastewater Discharge Amount (mg)

C. 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 and to adopt such rules and regulations of procedure as may be necessary to insure proper administration and enforcement of this regulation. Designated state 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.

PAMELA M. BUSH,
Secretary

Fiscal Note: 68-40. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION PART V. DELAWARE RIVER BASIN COMMISSION CHAPTER 901. GENERAL PROVISIONS

§ 901.2. Comprehensive Plan and water quality.

The Comprehensive Plan regulations as set forth in 18 CFR Part 401, Subpart A [(1996)] (2000) and the Water Quality Standards as set forth in 18 CFR Part 410 [(1996)] (2000) are hereby incorporated by reference and made a part of this title.

[Pa.B. Doc. No. 00-1932. Filed for public inspection November 10, 2000, 9:00 a.m.]

²Further breakdown of unaccounted for water can be provided. For example, estimated fire hydrant use, other unmetered public uses, and leakage losses.

DEPARTMENT OF EDUCATION

[22 PA. CODE CH. 191]

Reimbursement Amounts for National School Lunch and Breakfast Programs

The Department of Education (Department) proposes to add Chapter 191 (relating to school lunch and breakfast reimbursements) which specifies State school lunch and breakfast reimbursement rates, as set forth at Annex A, under the authority of the act of May 10, 2000 (P. L. _____, No. 16) (Act 16) and section 1337 of the Public School Code of 1949 (24 P. S. § 13-1337 (act)).

Purpose

Under section 1337(b) of the act, the Department is authorized to disburse funds appropriated for school meals programs. Act 16 specifies State reimbursement rates for eligible school breakfasts and lunches for Fiscal Year 2000-2001 and subsequent fiscal years.

The act provides a flat reimbursement rate of 10¢ for every eligible school breakfast served and 10, 12 or 14¢ for every eligible school lunch served. "Eligible" means that meals served to children comply with Federal nutrition standards for the Federal National School Lunch or School Breakfast Program, or both.

If a school participates in the National School Lunch Program but does not participate in the School Breakfast Program, the school will earn 10¢ for every lunch served. If a school participates in the National School Lunch and School Breakfast Programs, the school will earn an additional 2¢ (12¢ total) for every lunch served. If more than 20% of the school's enrollment participates in the School Breakfast Program, the school will earn an additional 4¢ (14¢ total) for every lunch served. The differential in reimbursement rates available for school lunches served is intended to provide an incentive for schools to offer new breakfast programs or to increase participation in existing breakfast programs.

Requirements of the Proposed Regulations

These proposed regulations specify the reimbursements to be paid to approved public schools, nonprofit private schools, and public and nonprofit residential childcare institutions participating in the Federal National School Lunch or School Breakfast Program, or both. The regulations also reference the requirement to comply with nutrition and other standards contained in 7 CFR Parts 210, 220 and 245 (relating to National School Lunch Program; School Board Breakfast Program; and determination of eligibility for free and reduced meals and free milk in schools) as criteria for earning meal reimbursements submitted to the Department on monthly claims for reimbursement.

Cost and Paperwork Estimates

The proposed regulations increase reimbursements for eligible meals served in approved entities participating in the Federal National School Lunch or School Breakfast Program, or both. There are no additional paperwork requirements.

The cost of providing reimbursements for school meals for Fiscal Year 2000-2001 is estimated at \$24.2 million. Approximately 44% of this State appropriation (\$10.56 million) amounts to required State matching funds. Fed-

eral reimbursements for school meals in the Commonwealth amounted to approximately \$200 million in Fiscal Year 1999.

Effective Date

The new reimbursement rates will become effective on July 1, 2001, in accordance with Act 16.

Sunset Date

Chapter 191 will be reviewed and the reimbursements for the National School Lunch and School Breakfast Programs fixed every school year as required by Act 16.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (act) (71 P. S. § 745.5(a)), on October 31, 2000, the Department submitted copies of these proposed regulations to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Education Committees. In addition to submitting the proposed regulations, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1 Regulatory Review and Promulgation. A copy of this material is available to the public upon request.

If the Committees have objections to any portion of the proposed regulations, they will notify the Department within 20 days from the beginning of their review period. Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed regulations, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by the Department, the General Assembly and the Governor of objections raised.

Public Comments and Contact Person

Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to Patricia Birkenshaw, Chief, Division of Food and Nutrition, Bureau of Budget and Fiscal Management, Department of Education, 333 Market Street, Harrisburg, PA 17126-0333, within 30 days following publication in the *Pennsylvania Bulletin*. Persons needing additional information regarding this proposal may contact Patricia Birkenshaw at (717) 787-7698 or at pbirkensha@state.pa.us.

Persons with disabilities needing an alternative means of providing public comment may make arrangements by calling Patricia Birkenshaw at the number referenced in this Preamble or TDD (717) 787-7367.

Alternative formats of these proposed regulations (for example, braille, large print, cassette tape) can be made available to members of the public upon request to Patricia Birkenshaw at the telephone and TDD numbers listed above.

EUGENE W. HICKOK,
Secretary

Fiscal Note: 6-271. (1) General Fund; (2) Implementing Year 2000-01 is \$21,186,000; (3) 1st succeeding Year 2001-02 is \$24,414,634; 2nd Succeeding Year 2002-03 is \$24,667,569; 3rd Succeeding Year 2003-04 is \$24,923,514; 4th Succeeding Year 2004-05 is \$25,182,504; 5th Succeeding Year 2005-06 is \$25,444,575; (4) Fiscal Year 1999-00 \$16,383,640; Fiscal Year 1998-99 \$16,301,197; Fiscal Year 1997-98 \$16,018,733; (7) For grants to school districts to

assist in meeting Federal matching requirements for grants received under the Federal Child Nutrition Act and to aid in providing a food program for needy children (8) recommends adoption.

Annex A

TITLE 22. EDUCATION

PART XII. BASIC EDUCATION

CHAPTER 191. SCHOOL LUNCH AND BREAKFAST REIMBURSEMENTS

Sec.	
191.1.	Purpose.
191.2.	Definitions.
191.3.	Payment of State Reimbursements.

§ 191.1. Purpose.

This chapter provides notice of the State reimbursement rates and payment procedures for eligible school breakfasts and lunches for Fiscal Year 2000-2001 and subsequent fiscal years as required by section 1337.1 of the Public School Code of 1949 (24 P. S. § 13-1337.1). The Department's responsibility for providing reimbursements can be found in Article XIII of the Public School Code of 1949 (24 P. S. §§ 13-1301—13-1394).

§ 191.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Department—The Department of Education of the Commonwealth.

Eligible breakfasts and lunches—Breakfasts and lunches that meet Federal nutrition standards for the National School Lunch and School Breakfast Programs as defined in 7 CFR 210.10 and 220.8 (relating to what are the nutrition standards and menu planning approaches for lunches and the requirements for afterschool snacks?; and what are the nutrition standards and menu planning approaches for breakfast?).

Eligible school—A school as the term is defined in 7 CFR 210.2 (relating to definitions).

Reimbursements—State payments to school food authorities that are in compliance with Federal National School Lunch or School Breakfast Programs regulations as specified in 7 CFR Parts 210, 220 and 245 (relating to National School Lunch Program; Child Nutrition Programs; and determination of eligibility for free and reduced price meals and free milk in schools).

School food authority—The governing body responsible for the administration of one or more schools and has the legal authority to operate the National School Lunch or School Breakfast Programs.

School lunch program—The Federal National School Lunch Program as permanently authorized in section 2 of the Richard B. Russell National School Act (42 U.S.C.A. § 1751).

School breakfast program—The Federal School Breakfast Program as permanently authorized in amendments to the Child Nutrition Act of 1966 (42 U.S.C.A. §§ 1771—1791).

Schools that participate—A public school district, intermediate unit, charter school, area vocational-technical school, tax exempt private or parochial school, public residential childcare institution or tax exempt private residential childcare institution, participating in the National School Lunch or School Breakfast Programs as approved by the Department, and in compliance with 7 CFR Parts 210, 220 and 245.

§ 191.3. Payment of State reimbursements.

(a) Reimbursements will be paid to participating school food authorities (SFAs) for eligible breakfasts and lunches served to children.

(b) Reimbursements will be paid to an SFA after the SFA submits a monthly claim for reimbursement to the Department for review and approval.

(c) Reimbursements paid will not be less than the following amounts for State Fiscal Year 2000 and subsequent fiscal years:

(1) Schools that participate in the school breakfast program will receive 10% for every eligible breakfast served.

(2) Schools that participate in the school lunch program will receive 10¢ for every eligible lunch served if the schools do not participate in the school breakfast program.

(3) Schools that participate in both the school lunch and school breakfast programs will receive an incentive reimbursement of 2¢ (12¢ total) for every eligible lunch served if 20% or less of the school's enrollment participates in the school breakfast program.

(4) Schools that participate in both the school lunch and school breakfast programs will receive an incentive reimbursement of 4¢ (14¢ total) for every eligible lunch served if more than 20% of the school's enrollment participates in the school breakfast programs.

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