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18 CFR Ch. III (4-1-10 Edition)

- (2) Withdrawal of ground water;
- (3) Withdrawal of water from impoundment or streams;
- (4) Diversion of water into or out of the Basin;
- (5) Deepening or widening of existing stream beds, channels, anchorages, harbors or turning basins, or the construction of new or enlarged channels, anchorages, harbors or turning basins, or the dredging of the bed of any stream or lake and disposal of the dredged spoil, when the nature or location of the project would affect the quantity or quality of ground or surface waters, or fish and wildlife habitat;
- (6) Discharge of pollutants into surface or ground waters of the Basin;
- (7) Facilities designed to intercept and transport sewage to a common point of discharge; and pipelines and electric power and communication lines;
- (8) Facilities for the direct discharge to surface or ground waters of industrial wastewater;
- (9) Projects that substantially encroach upon the stream or upon the 100-year flood plain of the Delaware River or its tributaries;
- (10) Change in land cover on major ground water infiltration areas;
- (11) Hydroelectric power projects, including pumped storage projects;
- (12) Projects or facilities of Federal, state and local agencies such as highways, buildings and other public works and improvements, affecting the water and related land resources of the Basin;
- (13) Draining, filling or otherwise altering marshes or wetlands;
- (14) Regional wastewater treatment plans developed pursuant to the Federal Water Pollution Control Act;
- (15) Landfills and solid waste disposal facilities affecting the water resources of the Basin;
- (16) State and local standards of flood plain regulation;
- (17) Electric generating or cogenerating facilities designed to consumptively use in excess of 100,000 gallons per day of water during any 30-day period; and
- (18) Any other project that the Executive Director may specially direct by notice to the project sponsor or land owner as having a potential substantial

water quality impact on waters classified as Special Protection Waters.

(c) Whenever a state or federal agency determines that a project falling within an excluded classification (as defined in paragraph (a) of this section) may have a substantial effect on the water resources of the Basin, such project may be referred by the state or federal agency to the Commission for action under this part.

(d) Except as otherwise provided by § 401.39 the sponsor shall submit an application for review and approval of a project included under paragraph (b) of this section through the appropriate agency of a signatory party. Such agency will transmit the application or a summary thereof to the Executive Director, pursuant to Administrative Agreement, together with available supporting materials filed in accordance with the practice of the agency of the signatory party.

§ 401.36 Water supply projects—Conservation requirements.

Maximum feasible efficiency in the use of water is required on the part of water users throughout the Basin. Effective September 1, 1981 applications under Section 3.8 of the Compact for new water withdrawals subject to review by the Commission shall include and describe water-conserving practices and technology designed to minimize the use of water by municipal, industrial and agricultural users, as provided in this section.

(a) Applications for approval of new withdrawal from surface or ground water sources submitted by a municipality, public authority or private water works corporation whose total average withdrawals exceed one million gallons per day shall include or be in reference to a program prepared by the applicant consisting of the following elements:

- (1) Periodic monitoring of water distribution and use, and establishment of a systematic leak detection and control program;
- (2) Use of the best practicable water-conserving devices and procedures by all classes of users in new construction or installations, and provision of information to all classes of existing users

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concerning the availability of water-conserving devices and procedures; and

(3) A contingency plan including use priorities and emergency conservation measures to be instituted in the event of a drought or other water shortage condition. Contingency plans of public authorities or private water works corporations shall be prepared in cooperation with, and made available to, all municipalities in the area affected by the contingency plan, and shall be coordinated with any applicable state-wide water shortage contingency plans.

(b) Programs prepared pursuant to paragraph (a) of this section shall be subject to any applicable limitations of public utility regulations of the signatory party in which the project is located.

(c) Applications for approval of new industrial or commercial water withdrawals from surface or ground water sources in excess of an average of one million gallons per day shall contain

(1) A report of the water-conserving procedures and technology considered by the applicant, and the extent to which they will be applied in the development of the project; and

(2) A contingency plan including emergency conservation measures to be instituted in the event of a drought or other water shortage. The report and contingency plan shall estimate the impact of the water conservation measures upon consumptive and non-consumptive water use by the applicant.

(d) Applications for approval of new agricultural irrigation water withdrawals from surface or ground water sources in excess of one million gallons per day shall include a statement of the operating procedure or equipment to be used by the applicant to achieve the most efficient method of application of water and to avoid waste.

(e) Reports, programs and contingency plans required under this section shall be submitted by the applicant as part of the permit application to the state agency having jurisdiction over the project, or directly to the Commission in those cases where the project is not subject to the jurisdiction of a state agency. State agencies having jurisdiction over a project that is subject to the provisions of this section shall

determine the adequacy and completeness of the applicant's compliance with these requirements and shall advise the Commission of their findings and conclusions.

§ 401.37 Sequence of approval.

A project will be considered by the Commission under Section 3.8 of the Compact either before or after any other state or federal review, in accordance with the provisions of the Administrative Agreement applicable to such project.

§ 401.38 Form of referral by State or Federal agency.

Upon approval by any State or Federal agency of any project reviewable by the Commission under this part, if the project has not prior thereto been reviewed and approved by the Commission, such agency shall refer the project for review under Section 3.8 of the Compact in such form and manner as shall be provided by Administrative Agreement.

(a) The Commission will rely on the appropriate agency in each state to review and regulate the potability of all public water supplies. Applications before the Commission should address the impact of the withdrawal, use and disposal of water on the water resources of the Basin.

(b) The Commission will rely on signatory party reviews as much as possible and generally the Commission will not review the performance standards of individual components of treatment processes but will require compliance with all policies in the Comprehensive Plan including all applicable Water Quality Standards.

§ 401.39 Form of submission of projects not requiring prior approval by State or Federal agencies.

Where a project does not require approval by any other State or Federal agency, or where such approval is required but an Administrative Agreement is not in force, the project shall be submitted directly to the Commission for review and determination of compatibility with the Comprehensive Plan, in such form of application, with such supporting documentation, as the