

## Delaware River Basin Commission

## § 401.39

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

## § 401.40

Executive Director may reasonably require for the administration of the provisions of the Compact. These shall include without limitation thereto:

(a) *Exhibits to accompany application.* The application shall be accompanied by the following exhibits:

(1) Abstract of proceedings authorizing project, where applicable;

(2) General map showing specific location and dimension of a structural project, or specific language of a standard or policy in the case of a non-structural proposal;

(3) Section of the United States Geological Survey topographic map showing the territory and watershed affected;

(4) Maps, drawings, specifications and profiles of any proposed structures, or a description of the specific effects of a non-structural project;

(5) Written report of the applicant's engineer showing the proposed plan of operation of a structural project;

(6) Map of any lands to be acquired or occupied;

(7) Estimate of the cost of completing the proposed project, and sufficient data to indicate a workable financial plan under which the project will be carried out; and

(8) Analyses and conclusions of regional water supply and wastewater investigations.

(b) *Letter of transmittal.* The application shall be accompanied by a letter of transmittal in which the applicant shall include a list of all enclosures, the names and addresses to which communications may be directed to the applicant, and the names and addresses of the applicant's engineer and counsel, if any.

(c) Unless otherwise ordered by the Commission, two copies of the application and accompanying papers shall be filed. If any application is contested, the Commission may require additional copies of the application and all accompanying papers to be furnished by the applicant. In such cases, certified copies of photographic prints or reproduction may be used.

### § 401.40 Informal conferences and emergencies.

(a) Whenever the Executive Director shall deem necessary, or upon request

## 18 CFR Ch. III (4-1-07 Edition)

of the applicant, an informal conference may be scheduled to explain, supplement or review an application.

(b) In the event of an emergency requiring immediate action to protect the public interest or to avoid substantial and irreparable injury to any private person or property, and the circumstances do not permit a review, hearing and determination in the regular course of the regulations in this part, the Executive Director with the approval of the chairman of the Commission may issue an emergency certificate authorizing an applicant to take such action as the Executive Director may deem necessary and proper in the circumstances, pending review, hearing and determination by the Commission as otherwise required in this part.

### § 401.41 Limitation of approval.

(a) Approval by the Commission under this part shall expire three years from the date of Commission action unless prior thereto the sponsor has expended substantial funds (in relation to the cost of the project) in reliance upon such approval. An approval may be extended or renewed by the Commission upon application.

(b) Any application that remains dormant (no proof of active pursuit of approvals) for a period of three years from date of receipt, shall be automatically terminated. Any renewed activity following that date will require submission of a new application.

## Subpart D [Reserved]

## Subpart E—Appeals or Objections to Decisions of the Executive Director in Water Quality Cases

SOURCE: 62 FR 64158, Dec. 4, 1997, unless otherwise noted.

### § 401.71 Scope.

This subpart shall apply to the review, hearing and decision of objections and issues arising as a result of administrative actions and decisions taken or rendered by the Executive Director under the Compact and the regulations in this chapter. Any hearings