

§ 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

Delaware River Basin Commission

§ 401.74

shall be conducted pursuant to the provisions of subpart F of this part.

§ 401.72 Notice and request for hearing.

The Executive Director shall serve notice of an action or decision by him under the regulations in this chapter by personal service or certified mail, return receipt requested. The affected discharger shall be entitled (and the notice of action or decision shall so state) to show cause at a Commission hearing why such action or decision should not take effect. A request for such a hearing shall be filed with the Secretary of the Commission not more than 30 days after service of the Executive Director's determination. Failure to file such a request within the time limit shall be deemed to be an acceptance of the Executive Director's determination and a waiver of any further hearing.

[62 FR 64158, Dec. 4, 1997, as amended at 63 FR 45943, Aug. 28, 1998]

§ 401.73 Form of request.

(a) A request for a hearing may be informal but shall indicate the name of the individual and the address to which an acknowledgment may be directed. It may be stated in such detail as the objector may elect. The request shall be deemed filed only upon receipt by the Commission.

(b) Whenever the Executive Director determines that the request for a hearing is insufficient to identify the nature and scope of the objection, or that one or more issues may be resolved, reduced or identified by such action, he may require the objector to prepare and submit to the Commission, within such reasonable time (not less than 30 days) as he may specify, a technical report of the facts relating to the objection prior to the scheduling of the hearing. The report shall be required by notice in writing served upon the objector by certified mail, return receipt requested, addressed to the person or entity filing the request for hearing at the place indicated in the request.

§ 401.74 Form and contents of report.

(a) *Generally.* A request for a report under this subpart may require such

information and the answers to such questions as may be reasonably pertinent to the subject of the action or determination under consideration.

(b) *Waste loading.* In cases involving objections to an allocation of the assimilative capacity of a stream, wasteload allocation for a point source, or load allocation for a new point source, the report shall be signed and verified by a technically qualified person having personal knowledge of the facts stated therein, and shall include such of the following items as the Executive Director may require:

(1) A specification with particularity of the ground or grounds for the objection; and failure to specify a ground for objection prior to the hearing shall foreclose the objector from thereafter asserting such a ground at the hearing;

(2) A description of industrial processing and waste treatment operational characteristics and outfall configuration in such detail as to permit an evaluation of the character, kind and quantity of the discharges, both treated and untreated, including the physical, chemical and biological properties of any liquid, gaseous, solid, radioactive, or other substance composing the discharge in whole or in part;

(3) The thermal characteristics of the discharges and the level of heat in flow;

(4) Information in sufficient detail to permit evaluation in depth of any in-plant control or recovery process for which credit is claimed;

(5) The chemical and toxicological characteristics including the processes and/or indirect discharges which may be the source of the chemicals or toxicity;

(6) An analysis of all the parameters that may have an effect on the strength of the waste or impinge upon the water quality criteria set forth in the regulations in this chapter, including a determination of the rate of biochemical oxygen demand and the projection of a first-stage carbonaceous oxygen demand;

(7) Measurements of the waste as closely as possible to the processes where the wastes are produced, with the sample composited either continually or at frequent intervals (one-half hour or, where permitted by the Executive Director, one hour periods), so as