

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 410

Basin Regulations; Water Code

AGENCY: Delaware River Basin Commission.

ACTION: Notice of proposed rulemaking; public hearing.

SUMMARY: The Commission proposes to amend its *Water Code* and Comprehensive Plan to require water supply systems serving the public (purveyors) to report water use by their largest customers.

DATES: *Written comments:* Written comments will be accepted through 5:00 p.m. EST on Friday, December 4, 2026.

Public hearing: A public hearing will be held remotely *via* Zoom on Wednesday, November 4, 2026, beginning at 1:30 p.m. and ending no later than 3:00 p.m. EST. Details about accessing the hearing are available on the Commission's website, www.drbc.gov.

ADDRESSES: *To submit written comments:* Written comments will be accepted until 5:00 p.m. EST on Friday, December 4, 2026, through the Commission's online public comment collection system at: <https://hearing.drbc.commentinput.com?id=T95htQGAg>. To request an exception from use of the online system based on lack of access to the Internet, please submit your request, along with your comment, to: Commission Secretary, DRBC, P.O. Box 7360, West Trenton, NJ 08628.

To register to speak at the public hearing: Those who wish to provide oral comment at a hearing must register in advance to do so. Registration will be through Zoom. A link to the Zoom registration for the public hearing is posted at www.drbc.gov. Online registration will

remain open until 5:00 p.m. on the day prior to the hearing date or until all available speaking slots have been filled, whichever is earlier. Each person who wishes to provide oral comment may do so at only one public hearing. Registrations will be monitored, and if capacity is not adequate to accommodate all who wish to speak, additional opportunities may be added.

See **SUPPLEMENTARY INFORMATION** for details regarding the substance of written comments.

FOR FURTHER INFORMATION CONTACT: For information regarding the public hearing and submission of written comments, contact Kate Schmidt, Communications Specialist, at contact@drbc.gov (preferred) or 609-477-7205. For information concerning the substance of the proposed amendments, contact Chad Pindar, Manager of Water Resource Planning, at chad.pindar@drbc.gov (preferred) or 609-477-7248.

SUPPLEMENTARY INFORMATION: The Delaware River Basin Commission (“DRBC” or “Commission”) is a Federal-interstate compact agency formed by the enactment of concurrent legislation by four states and the United States in 1961¹ to manage the water resources of the Delaware River Basin (the “Basin”) without regard to political boundaries. The Commission’s members are, *ex officio*, the governors of the basin states (Delaware, New Jersey, New York, and Pennsylvania) and the Division Engineer of the U.S. Army Corps of Engineers North Atlantic Division, who represents the United States.

¹ United States Public Law 87-328, Approved Sept. 27, 1961, 75 Statutes at Large 688; 53 Delaware Laws, Ch. 71, Approved May 26, 1961; New Jersey Laws of 1961, Ch. 13, Approved May 1, 1961; New York Laws of 1961, Ch. 148, Approved March 17, 1961; Pennsylvania Acts of 1961, Act. No. 268, Approved July 7, 1961; commonly known as the “Delaware River Basin Compact,” and referred to hereinafter as the “Compact.”

Background

Water use data are critical for effective management of the Basin's water resources. They are needed to develop consumptive use estimates, project water use trends, establish water budgets, assess water resource needs, and evaluate the effectiveness of water conservation programs. The Commission established annual reporting requirements for water supply systems serving the public (also herein, "purveyors") in 1986 and updated them in 2001 and 2009. The requirements apply to "source data," consisting of monthly withdrawal or bulk purchase information for each system, and "service area data," which identify water uses by category as residential, commercial, institutional, industrial, bulk sale, non-revenue, unaccounted for, or other. See Delaware River Basin Water Code (hereinafter, "Water Code"), secs. 2.50.3 A.1.a.—b.

The proposed amendments would require water supply systems serving the public to furnish the Commission with a third class of supplemental water use data—large customer data. These data would help DRBC characterize the water needs of the largest users that obtain their water from purveyors rather than withdrawing it directly from a surface water or ground water source. The data would contribute to a clearer picture of how the Basin's water resources are used.

Because the proposed amendments include a new section 2.50.1, "Definitions," current sections 2.50.1 through 2.50.3 are to be re-numbered 2.50.2 through 2.50.4. The substantive new requirements appear in proposed new subsection 2.50.4 A.1.c. Additional non-substantive amendments are proposed to the introductory paragraphs of current subsections 2.50.3 A.1., "Annual Reporting Requirements – Water Supply Systems Serving the Public" and A.2., "Annual

Reporting Requirements – Other Withdrawals,” and to current subsection 2.50.3 B., solely for purposes of consistency and clarification. Changes to the latter subsection, in particular, are proposed to continue to ensure that DRBC’s annual reporting requirements do not compel entities to submit the same data to both DRBC and state agencies.

Currently, approximately 300 purveyors in the Basin report source and service area water use to Basin state agencies in accordance with the Water Code provisions cited above. Working closely with our member state agencies, the Commission is able to access, compile, and analyze approximately 30 years of source and service area data from each state for purposes of identifying and projecting water use trends Basin-wide. The Commission now seeks to better understand the role of large customers of water supply systems serving the public in water use across the Basin. It also wishes to better quantify consumptive uses of water—those uses that do not involve return of the water to a surface or ground water source after its use but instead involve evaporative loss or export of the water from the Basin.

Excluding out-of-basin diversions, withdrawals by purveyors in 2024 comprised the second largest water use and second largest consumptive water use in the Delaware River Basin, equal to approximately 15 percent (833 million gallons per day (“mgd”)) of total water use and 28.5 percent (83 mgd) of consumptive water use.² For decades, the Commission has applied a consumptive use coefficient of ten percent (10%) to water withdrawn from the Basin by most water supply systems serving the public. Data obtained as a result of the proposed

² Delaware River Basin Commission. (June 2026). Water Resources Program FY 2027-2029. Sec. 1.2.2. Available at: <https://www.nj.gov/drbc/library/documents/WRPFY27-29.pdf>

amendments would help the Commission determine whether its consumptive use coefficient for water supply systems serving the public remains accurate.

A clearer understanding of water use by large customers of water supply systems serving the public is particularly important in helping develop a more accurate profile of consumptive use in the Basin and evaluating whether current drought management measures and contingency plans will be adequate in the future.

The Commission expects that under the amended rule, a subset of the approximately 300 water supply systems serving the public that are subject to the rule will be required to identify large customers supplied by their systems. The incremental burden on these purveyors is expected to be manageable, as most are already accustomed to furnishing source and service area data electronically to the Commission's respective member states in accordance with subsections 2.50.3 A.1.a. and b. of the Water Code, adopted in 1986, and to providing DRBC with an annual "water audit" report in accordance with section 2.1.8 of the Water Code, adopted in 2012. Data collected pursuant to the proposed amendments would be reported electronically in a manner similar to that currently used by purveyors to report water audit data to the Commission.

Specifically, the proposed amendments would require the owner or operator of each water supply system serving the public with a withdrawal of 100,000 gallons per day ("gpd") or more as an average during any 30-day period to report the following data for each customer to which the system supplies an amount greater than or equal to 50,000 gpd as a 30-day average through one or more proximate connections: the calendar year for which the data are reported; the DRBC docket number and state permit number for the reporting entity; the

identification number assigned by the reporting entity to the customer served by the connection(s); the amount of water supplied monthly to the customer for each of the twelve months for which data are reported; the type or sector to which the customer belongs; and the NAICS code.

The Commission proposes to collect monthly data for large customers beginning with calendar year 2026 data, to be submitted in June 2027. If a purveyor's practice is to bill less frequently than monthly, then less frequent use data for 2026 and any portion of 2027 that precedes the effective date of the final rule would be accepted. Regardless of their current billing practices, all purveyors subject to the rule would be required to report monthly large customer water use for each month following the rule's effective date. Accordingly, if the rule becomes effective in May 2027, the purveyor's report for 2026 (to be submitted in June 2027) may include less-than-monthly data for all of 2026. The purveyor's report for 2027 (to be submitted in 2028) may include less-than-monthly water use data for the months of January through April of 2027 but must include monthly data for each large customer for the months of May through December 2027.

The text of the proposed amendments is available on the Commission's website at https://www.nj.gov/drbc/meetings/proposed/notice_water-reporting.html.

Incorporation by Reference

The entirety of the Water Code, including section 2.50, is incorporated into the Code of Federal Regulations at 18 CFR 410.1 and was last approved for incorporation by reference by the Office of the Federal Register ("OFR") on March 6, 2023. In accordance with OFR's regulations

concerning incorporation by reference, the preamble summarizes the proposed amendments to section 2.50 of the Water Code.

The Commission further proposes to amend section 410.1(c) of title 18 of the Code of Federal Regulations by replacing the date of incorporation by reference there with respect to the Water Code (March 6, 2023) with the date on which the Commission adopts a final rule pursuant to this proposal.

Interested persons may obtain or inspect copies of the Water Code at the Delaware River Basin Commission, 25 Cosey Road, West Trenton, New Jersey, 08628-0360 or on the Commission's website, <https://www.nj.gov/drbc/library/documents/watercode.pdf>.

Public Process

Substance of comments. The Commission welcomes and will consider comments that concern the potential impacts of the proposed amendments on the conservation, utilization, development, management and control of the water and related resources of the Delaware River Basin and on public participation in the Commission's water resource management activities. In particular, the Commission seeks comment on the burden the proposed rule would impose on water supply systems serving the public and large customers.

Non-digitized, voluminous materials such as books, journals and collections of documents will not be accepted. Digital submissions of articles and websites must be accompanied by a statement containing citations to the specific findings or conclusions the commenter wishes to reference.

Submission of written comments. Written comments along with any attachments should be submitted through the Commission's web-based comment system

(<https://drbc.commentinput.com/?id=kciDptC8h>) until 5 p.m. on Friday, December 4, 2026. All materials should be provided in searchable formats, preferably in .pdf searchable text. Notably, a picture scan of a document may not result in searchable text. Comments received through any method other than the designated on-line method, including *via* email, fax, postal/delivery services or hand delivery, will not be considered or included in the rulemaking record unless accompanied by a written request for an exception based on lack of access to the web-based comment system. Such requests and accompanying materials may be sent to: Commission Secretary, DRBC, P.O. Box 7360, West Trenton, NJ 08628.

Public hearing. To ensure an orderly process and to provide access to interested parties regardless of their geographic location, the Commission is conducting its public hearing virtually. Attendance at the hearing is not limited and requires no registration. However, to eliminate uncertainty on the part of attendees about whether they will have an opportunity to provide oral comment, those who wish to speak at a hearing must register in advance to do so, using the link on the Commission's website. Registrations will be monitored, and if capacity is not adequate to accommodate all who wish to speak, additional opportunities may be added. Key elements of the procedure are as follows:

- Online registration to speak at a public hearing will remain open until 5 p.m. on the day immediately before each hearing date.
- Each person who wishes to provide oral comment may do so at only one public hearing.
- Speaking time will be limited to approximately three minutes per speaker.

- Elected government officials and their staff members will have the opportunity to identify themselves when registering to attend a hearing.
- Attendance at the public hearing is not limited and requires no advance registration.
- Written and oral comments will receive equal consideration.

The Commission appreciates the public's participation and input on this matter.

Translation Services for Rulemaking Materials. The Commission will consider requests for translation of this document and the proposed rule text into languages other than English. To request translation of documents related to this rulemaking, please send an e-mail to translate@drbc.gov. Please specify both the requested language and the requested documents.

More Information. Detailed and up-to-date information about the rulemaking, including proposed rule text, a frequently asked questions document, public notices, and links for submitting written comments and for registering online to speak at the scheduled public hearing can be found on the Commission website, www.drbc.gov.

List of Subjects in 18 CFR Part 410

Incorporation by reference, Water pollution control, Water resources, Water supply.

For the reasons set forth in the preamble, the Delaware River Basin Commission proposes to amend title 18, chapter III, subchapter A of the Code of Federal Regulations as follows:

PART 410-BASIN REGULATIONS; WATER CODE AND ADMINISTRATIVE MANUAL—PART III

WATER QUALITY REGULATIONS

1. The authority citation for part 410 continues to read as follows:

Authority: Delaware River Basin Compact, 75 Stat. 688.

2. Amend § 410.1 by revising paragraph (c) to read as follows.

§ 410.1 Basin regulations—Water Code and Administrative Manual—Part III Water Quality Regulations.

* * * * *

(c) Work, services, activities and facilities affecting the conservation, utilization, control, development or management of water resources within the Delaware River Basin are subject to regulations contained within the Delaware River Basin Water Code with Amendments through [EFFECTIVE DATE OF FINAL RULE], and the Administrative Manual—Part III Water Quality Regulations with Amendments through December 7, 2022. Both the Delaware River Basin Water Code and the Administrative Manual—Part III Water Quality Regulations are incorporated by reference into this section with the approval of the Director of the Federal Register under [5 U.S.C. 552\(a\)](#) and [1 C.F.R. part 51](#). You may obtain or inspect this material at the Delaware River Basin Commission (DRBC), 25 Cosey Road, West Trenton, New Jersey 08628-0360, 609-883-9500, www.drbc.gov.

Dated: September 29, 2026.

Naomi Mendelsohn, Esq.

Commission Secretary/Assistant General Counsel.