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ANNEX A
TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION
Subpart C. PROTECTION OF NATURAL RESOURCES
ARTICLE II. WATER RESOURCES
Chapter 110. Water Resources Planning

Subchapter A. GENERAL PROVISIONS

§ 110.1. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

Calculate or calculation – Mathematical computations, or the act of computing, for the purposes of water use registration or reporting, or both, usually based on pump intake rate and duration of pumping or similar factors.

Confidential information

- (i) Records, reports or information, or a particular portion thereof, that if made public would:
 - (A) Divulge production or sales figures or methods, processes or production unique to a person;
 - (B) Otherwise tend to affect adversely the competitive position of a person by revealing trade secrets, including intellectual property rights; or
 - (C) Present threats to the safety and security of water supplies, including information concerning public water supply agency vulnerability assessments.

- (ii) The term does not include any of the following:
 - (A) Information identifying the general source of water used by a facility.
 - (B) Information reporting the total amount of water withdrawn by a facility or the total amount of water used for consumptive uses or nonconsumptive uses by a facility.

Compact basin commission – An interstate commission having jurisdiction with respect to the planning, development or regulation of water resources within a basin in Pennsylvania, created by interstate compact or Federal-interstate compact.

Consumptive use - The loss of water from a groundwater or surface water source through a manmade conveyance system, including such water that is purveyed through a public water supply system, due to transpiration by vegetation, incorporation into products during their manufacture, evaporation, diversion out of a basin or any other process to the extent that the water withdrawn is not returned to the waters of a basin. Deep well injection shall not be considered a return of waters to a basin.

Critical water planning area – An area identified under section 3112(a)(6) or (d)(1) of the act of December 16, 2002 (P.L. 1776, No. 220), known as the Water Resources Planning Act.

Deep well injection - Injection of waste or wastewater substantially below aquifers containing fresh

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water.

Department - The Department of Environmental Protection of the Commonwealth.

Groundwater - Water beneath the surface of the ground within a zone of saturation, whether or not flowing through known and definite channels or percolating through underground geologic formations and regardless of whether the result of natural or artificial recharge. The term includes water contained in aquifers, artesian and nonartesian basins, underground watercourses and other bodies of water below the surface of the earth.

Hydropower facility - a facility that produces electricity by the action of water, not including steam, passing through a turbine

Municipality - Any county, city, borough, town, township or home rule municipality or any agency or authority created by any one or more of the foregoing.

Nonconsumptive use - A use of water withdrawn from water resources of this Commonwealth in such manner that it is returned to its basin of origin. Where only a portion of the water withdrawn is returned to the basin of origin, that portion which is returned is a nonconsumptive use, and the portion of water withdrawn which is not returned to the basin of origin is a consumptive use.

Person - An individual, partnership, association, company, corporation, municipality, municipal authority, Federal or Commonwealth administrative agency or an entity which is recognized by law as the subject of rights and obligations. The term shall include the officers, employees and agents of any legal entity.

Public water supply agency - A community water system as defined by the act of May 1, 1984 (P.L. 206, No. 43), known as the Pennsylvania Safe Drinking Water Act, or any person subject to the act of June 24, 1939 (P.L. 842, No. 365), referred to as the Water Rights Law.

Source - The point of withdrawal of water within a watershed. If the withdrawal use includes the transfer of water through interconnections, the source is the point of the interconnection.

Statewide committee - The Statewide Water Resources Committee.

Surface water - Water on the surface of the earth, including water in a perennial or intermittent watercourse, lake, reservoir, pond, spring, wetland, estuary, swamp or marsh, or diffused surface water, whether such body of water is natural or artificial. The term does not include recirculated process water or wastewater stored in an off-stream impoundment, pond, tank or other device unless such water or wastewater is withdrawn and used by a person other than the person who initially withdrew the water from a water resource or obtained such water from a public water supply agency.

System - Two or more facilities that are adjacent or geographically proximate to each other, operated concurrently or sequentially for use in a common operation and owned, managed or operated by the same person.

Water conservation project or practice - Any project or practice which is technically feasible and economically practicable and which is designed to accomplish any of the following:

- (i) Reduce the demand for water.
- (ii) Improve efficiency in water use and reduce leakage, losses and waste of water.

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- (iii) Improve reuse and recycling of water.
- (iii) Improve land management practices to conserve water or to preserve or increase groundwater recharge.

Watercourse - A distinct natural or artificial body of water flowing perennially or intermittently in a defined channel with bed and banks. The term includes a river, creek, stream, slough or canal.

Water resource - Surface water or groundwater, within or on the boundaries of this Commonwealth.

Watershed - The drainage area of a watercourse of a minimum drainage area determined in accordance with guidelines developed by the Department.

Withdrawal - The removal or taking of water from any water resource, whether or not returned to the water resource.

Withdrawal use - Any use of water which is withdrawn, including, but not limited to, domestic, municipal, public, commercial, industrial, energy development and production and agricultural water supply. The term includes the use of water transferred through interconnections but shall not include transfer of water within a system operated by the same public water supply agency.

§ 110.2. Scope.

This Chapter applies to each person who owns a public water supply agency or hydropower facility and each person whose total withdrawal or withdrawal use from a point of withdrawal, or from multiple points of withdrawal operated as a system either concurrently or sequentially, within a watershed exceeds an average rate of 10,000 gallons per day in any 30-day period.

§ 110.3. General requirements.

(a) Each person subject to this Chapter shall register, monitor, maintain records and submit reports to the Department regarding withdrawals or uses of water in accordance with this Chapter.

(b) Confidential Information

(1) Except as provided in Subsection (2), information required to be submitted to the Department under this Chapter shall be subject to the provisions of the Act of June 21, 1957 (P.L. 390, No. 212), referred to as the Right to Know Act.

(2) Any person who submits information under this Chapter that they claim is confidential information must identify the confidential information and provide a justification for its confidential nature.

§ 110.4. Inspection authorization.

The Department, its employees and duly authorized agents are authorized, during reasonable hours and upon reasonable notice, to make inspections and conduct tests or sampling, or examine books, papers and records, including electronic records, pertinent to any matter under investigation, in order to determine compliance with this Chapter, as it deems necessary. The persons subject to this Chapter shall grant access to, and make available upon request of, the Department, its employees and duly authorized agents, all facilities and records necessary for conducting such inspections, tests, sampling or examinations.

§ 110.5. Coordination with reports under other statutes.

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The persons subject to this Chapter shall cooperate with the Department in its coordination of the submission of reports under this Chapter with reports required under other statutes and regulations administered by the Department, Compact Basin Commissions, or by other Federal and State agencies.

The persons subject to this Chapter shall submit information in accordance with any joint reporting forms developed by the Department to facilitate the submission of information required under other statutes and regulations administered by the Department, Compact Basin Commissions, and other Federal and State agencies, to reduce duplicate and repetitious reporting requirements. The joint forms shall be used in lieu of individual forms for the required reports.

§ 110.6. Effect of registration.

Registration of a withdrawal or use under this Chapter will provide knowledge of existing uses, essential in the state water planning process to the development of accurate watershed water budgets, which are the foundation of comprehensive regional water plans and critical area resource plans. Registration will provide the Department and Compact River Basin Commissions information regarding locations and quantities of existing uses, that can be used to help protect those uses when new projects are under consideration for approval.

Registration of a withdrawal or use under this Chapter shall not be construed as either a determination of a person's water rights or approval of a withdrawal or use by the Department, any other agency of the Commonwealth or a Compact Basin Commission.

Subchapter B. REGISTRATION

§ 110.7 Registration requirement.

The following persons shall register with the Department, in accordance with this subchapter:

- (1) Each owner of a public water supply agency
- (2) Each owner of a hydropower facility
- (3) Each person whose total withdrawal or withdrawal use from a point of withdrawal, or from multiple points of withdrawal operated as a system either concurrently or sequentially, within a watershed exceeds an average rate of 10,000 gallons per day in any 30-day period, except if all water is supplied by a public water supply agency and the average consumptive use does not exceed 100,000 gallons per day over any 30-day period.

§ 110.8. Submission of registrations.

Registrations shall be submitted to the Department not later than March 16, 2004, or 90 days following initiation of a water withdrawal or withdrawal use, whichever is later.

§ 110.9. Content of registration.

Registrant shall provide information, on forms prescribed by the Department and developed in consultation with the Statewide Water Resources Committee, including:

- (1) Registrant identification and description information
- (2) Source, withdrawal, withdrawal use, consumptive use, transfer, return and discharge identification, description and amount

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- (3) Identification and justification of confidential information

§ 110.10. Voluntary registration.

Any person, not subject to the registration requirements of this Chapter, who withdraws or uses water, may voluntarily register with the Department their water withdrawal or use, in accordance with the registration provisions of this subchapter. Sections 110.13 (relating to Reporting requirement) and 110.19 (relating to Monitoring and record keeping requirement) notwithstanding, such registrants shall monitor, keep records and report to the Department in accordance with all other provisions of Subchapters C, D and E, Reporting, Record Keeping, and Monitoring.

§ 110.11. Transfer of registration.

The Department shall transfer a registration, if the following conditions are met:

- (1) The registrant and transferee are in compliance with all requirements of this Chapter.
- (2) No later than 30 days subsequent to the transfer, the transferee submits to the Department:
 - (i) A request for transfer of the registration, on a form prescribed by the Department, and
 - (ii) A written statement signed by the registrant and the transferee, containing the date of the transfer of registration and acknowledgement of the transfer of record-keeping and reporting responsibilities.

§ 110.12. Termination of registration.

Where a registered withdrawal or use is terminated or, if not a public water supply agency or hydropower facility, over a twelve-month period continues to be an amount less than the 30-day average threshold amount requiring registration, the person responsible for such withdrawal or use may file with the Department, on forms provided by the Department, a written request for termination of registration. Upon receipt of proper written request for termination, the Department shall terminate the registration.

Subchapter C. REPORTING

§ 110.13. Reporting requirement.

Each person subject to § 110.7 (relating to Registration requirement) shall submit reports to the Department.

§ 110.14. Submission of reports.

Reports shall be submitted to the Department, on forms prescribed by the Department and developed in consultation with the Statewide Water Resources Committee, annually or less frequently as may be prescribed by the Department, not later than:

- (1) Public water supply agency – March 31
- (2) Bottled water user – March 31
- (2) Agricultural user – March 31
- (3) Golf course user – March 31
- (4) Power generation facility – June 30
- (5) Industrial user – June 30
- (6) Other user – June 30

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§ 110.15. Reporting period.

Reports shall provide information for the calendar year preceding the date of submission.

§ 110.16. General contents of report.

Reports will include all items under §110.9 (relating to Content of registration).

§ 110.17. User-specific contents of report.

In addition to the contents specified in §110.9 (relating to Content of registration), registrants shall submit user-specific information, including:

- (1) Public water supply agency
 - (i) Connections and water transfers
 - (ii) Distribution System map
 - (iii) Metering
 - (iv) Storage information
- (2) Agriculture
 - (i) Irrigation water use
 - (ii) Animal water use
 - (iii) Storage information
- (3) Golf course
 - (i) Irrigated areas and water use by tees, greens, fairways and other land coverages
 - (ii) Irrigation system information
 - (iii) Employment
 - (iv) Storage information
- (4) Power generation facility including hydropower and thermo-electric
 - (i) Energy source type
 - (ii) Generating capacities
 - (iii) Generating units
 - (iv) Storage information
- (5) Manufacturing industry
 - (i) Employment
 - (ii) Storage information
- (6) Mineral industry
 - (i) Types of operations
 - (ii) Water use quantity and quality
 - (iii) Employment
 - (iv) Storage information
- (7) Ski resort
 - (i) Number and acreage of slopes and trails
 - (ii) Areas covered by snowmaking
 - (iii) Snowmaking capacities, and water use

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- (iv) Employment
- (v) Storage information

Subchapter D. RECORD KEEPING

§ 110.18. Monitoring and record keeping requirement.

Each person subject to § 110.7 (relating to Registration requirement) shall make and maintain a record of all the items required under Subchapters B and C, Registration and Reporting, including backup information.

§ 110.19. Retention of records.

All records created pursuant to §110.18 (relating to Monitoring and record keeping requirement), including backup information, shall be kept for a period of no less than five years.

Subchapter E. MONITORING

§ 110.20. Metering and measuring requirement.

(a) Each public water supply agency shall measure their withdrawals or uses by means of an automatic, continuous-recording device, or flow meter, accurate to within five percent of actual flow

(b) Each hydropower facility shall measure their withdrawal or use by means of an automatic, continuous-recording device, or flow meter, or shall calculate their withdrawal or use based upon electrical generation or turbine flow rates, or such other method as may be accurate to within five percent of actual flow.

(c) Each person who is subject to Compact Basin Commission requirements more stringent than those provided in this section shall measure their withdrawal or use in accordance with the more stringent requirements.

(d) Each person whose total withdrawal or withdrawal use from a point of withdrawal, or from multiple points of withdrawal operated as a system either concurrently or sequentially, within a watershed exceeds an average rate of 50,000 gallons per day in any 30-day period, except if all water is supplied by a public water supply agency and the average consumptive use does not exceed 100,000 gallons per day over any 30-day period, shall measure or calculate their withdrawals or uses by means of an automatic, continuous-recording device, or flow meter, or other method accurate to within five percent of actual flow.

(e) Any person who has registered in accordance with Subchapter B, Registration, and is not subject to paragraphs (a) through (d) of this section shall measure or calculate their withdrawals or uses by any means acceptable to the Department.

(f) The Department may grant exceptions to the five-percent performance standard, but no greater than ten percent, if maintenance of the five-percent performance standard is not technically feasible or economically practicable.

§ 110.21. Recording frequency.

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Withdrawals and uses subject to paragraphs 110.20. (a) through (d) (relating to Metering and measuring requirement) shall be recorded on a daily basis. All other withdrawals and uses shall be recorded weekly.

§ 110.22. Measuring requirement in Critical Water Planning Areas

Within any Critical Water Planning Area, the Department may require any person whose total withdrawal or withdrawal use from a point of withdrawal, or from multiple points of withdrawal operated as a system either concurrently or sequentially, within a watershed exceeds an average rate of 10,000 gallons per day in any 30-day period to measure or calculate their withdrawals or uses by means of an automatic, continuous-recording device, or flow meter, or other method accurate to within five percent of actual flow. Upon receipt of written notice from the Department, such persons shall begin such measurements or calculations within 180 days.

Subchapter F. WATER CONSERVATION

§ 110.23. Registration.

Any person who has implemented a water conservation project or practice may register such project or practice with the Department.

§ 110.24. Registration information.

Registration of water conservation projects or practices shall be on forms, prescribed by the Department, containing information including the following:

- (1) Registrant name and address
- (2) A 7.5-minute U.S.G.S. Quadrangle map, or acceptable substitute, showing the location of the project or practice
- (3) A description of the project or practice, including information detailing:
 - (i) Description of project or practice prior and subsequent to implementation of water conservation program
 - (ii) Description of quantity of water use prior and subsequent to implementation of water conservation program
 - (iii) Description of quantity of consumptive use prior and subsequent to implementation of water conservation program
 - (iv) Description of any reuse or recycling of water
 - (v) Description of increase of supply or storage of water
 - (vi) Description of increase of groundwater recharge
 - (vii) Description of conservation-based rate structure
 - (viii) Description of water use efficiency, including plumbing retrofit programs
 - (ix) Description of reduction of water loss
 - (x) Description of water provided to offset water use during drought periods.

§ 110.25. Annual reporting.

Any person who has registered a water conservation project or practice in accordance with this Subchapter shall provide to the Department annually, in a form and containing information as prescribed by the Department, a report documenting the continuing effectiveness of the project or practice.

§ 110.26. Water conservation technical assistance center.

The Department shall establish a water conservation technical assistance center whose responsibilities shall include:

- (1) Through the Governor's Award for Excellence Program, establish a Governor's Water Conservation Award to recognize outstanding conservation of water.
- (2) Provide a means to share among water users information related to conservation of water, as may be determined from registrations received pursuant to this subchapter.
- (3) Develop incentive programs to encourage implementation of water conservation projects and practices.