

2585

Gelnett, Wanda B.

From: Jewett, John H.
Sent: Tuesday, January 02, 2007 1:41 PM
To: Gelnett, Wanda B.
Cc: Stephens, Michael J.; Wilmarth, Fiona E.; Wyatte, Mary S.; Leslie A. Lewis Johnson
Subject: FW: Date: January 2, 2007

Wanda:

This email and its attachments should be filed in "proposed comments" for #2585

-----Original Message-----

From: John Bell [mailto:JJBELL@pfb.com]
Sent: Tuesday, January 02, 2007 1:33 PM
To: IRRRC
Cc: Jewett, John H.
Subject: Date: January 2, 2007

Date: January 2, 2007

To: Alvin C. Bush, Chairman
Independent Regulatory Review Commission
irrc@irrc.state.pa.us

cc: John Jewett, Regulatory Analyst
Independent Regulatory Review Commission

From: John J. Bell, Governmental Affairs Counsel
Pennsylvania Farm Bureau

Re: Comments by Pennsylvania Farm Bureau to Proposed
Rulemaking on Water Resources Planning at
36 Pa. Bulletin 7260 et seq.
ID 7-403 (#2585)

Dear Chairman Bush:

Attached, in PDF format, are comments to the aforementioned proposed rulemaking, which were submitted last week on behalf of Pennsylvania Farm Bureau .

Please confirm by email reply that you have received these comments. Also, please let me know if you have any questions regarding the comments submitted.

Sincerely,

John J. Bell

1/2/2007

Governmental Affairs Counsel
Pennsylvania Farm Bureau
P.O. Box 8736
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Camp Hill, PA 17001-8736
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 **Pennsylvania Farm Bureau**

510 S. 31st Street • P.O. Box 8736 • Camp Hill, PA 17001-8736 •

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December 29, 2006

Kathleen A. McGinty, Chairperson
Environmental Quality Board
P.O. Box 8477
Harrisburg, PA 17105-8477

RE: Proposed rulemaking governing requirements for registration, recordkeeping and reporting of water users pursuant to the Water Resources Planning Act, (Act 220 of 2002, 27 Pa.C.S. Ch. 31) – 36 Pa. Bulletin 7260

**VIA EMAIL TRANSMISSION
(RegComments@state.pa.us)**

Dear Chairperson McGinty:

Pennsylvania Farm Bureau appreciates the opportunity to submit comments regarding the aforementioned proposed rulemaking. We are a statewide general farm organization whose membership is comprised of more than 40,000 farm and rural families in the Commonwealth.

Legislative Background.

During the 2001-2002 legislative term, Farm Bureau and other representatives of water users were engaged in intensive discussions with the Department, members of the General Assembly, and other interested stakeholders in the development and enactment of Act 220 of 2002 – the statute that governs the Department's authority and limitation of authority for this proposed rulemaking. While a review of the particular vehicle utilized in the enactment of Act 220 – House Bill 2302 – will not fully reveal the extent of changes made by the General Assembly during the legislative process relative to the statutory requirements for registration and for measuring, recordkeeping and reporting by water users, a comparison of the enacted version of House Bill 2302 with other bills given serious consideration by the legislature demonstrates a serious change from the legislature's original thought on these matters.

To illustrate, we have included with our comments copies of the enacted provisions of Act 220 governing registration, measuring, reporting and recordkeeping requirements by water users (Appendix 1: 27 Pa.C.S. § 3118) with similar provisions contained in House Bill 2230, Printer's Number 3163 of the 2001-2002 term (Appendix 2). House Bill 2230, Printer's Number 3163 was introduced by then Chair of the House Environmental Resources and Energy Committee, Arthur Hershey, and was the version that was originally endorsed by the Ridge Administration.

The enacted version of House Bill 2302 shows significant changes to provisions House Bill 2230. When comparing these two provisions, several themes clearly emerge on the General Assembly's intended objectives for registration, measuring, recordkeeping and reporting of water use to be performed pursuant to the Water Resources Planning Act:

1. The General Assembly intended that there be consistency between the required activities for quantifying and documenting water use that registered water users must perform under the Act and those required to be performed by water users under interstate river basin compacts. More specifically, the legislature directed that the Act legally treat water users who meet the requirements for quantifying and documenting water use under their river basin compact as meeting the requirements to be imposed under the Water Resources Planning Act. It was not the intention of the legislature to impose or to give the Department authority to impose additional requirements on water users who otherwise comply with their river basin compact's requirements for quantifying and documenting water use.
2. The General Assembly intended that the opportunity and process for private water users between 10,000 gallons and 50,000 gallons per day to meet the Act's requirements for quantifying and documenting water use be much simpler and much less expensive than for water users over 50,000 gallons per day. Unlike House Bill 2230, which would have given the Department authority without distinction or limitation to impose requirements for measuring, monitoring, recordkeeping and reporting of all water users of greater than on 10,000 gallons per day, the enacted version of Section 3118 clearly distinguishes between the requirements that the 10,000-50,000-gallon-per-day water user must perform and those the over-50,000-gallon-per-day water user must perform under the Act.
3. The General Assembly did not intend to require that the "most accurate" method of quantification and documentation be utilized by all water users or to give the Department authority to mandate that the "more accurate" method be used. Subsection (b)(1) of Section 3118 specifically uses the word "reasonable" to condition and place limitations on the Department's authority to require methods for quantifying and documenting water use:

"Where alternative methods exist to obtain a reasonably accurate evaluation of withdrawals or withdrawal uses, consumptive or nonconsumptive uses and return flows, such regulations shall allow for use of the alternative methods to obtain a reasonable estimate or indirect calculation of such in lieu of direct metering or measurement."

4. The General Assembly intended that simple and inexpensive alternatives to costly and complex quantification and documentation activities be particularly developed and recognized in regulation for private water users between 10,000 and 50,000 gallons per day. Subsection (b)(1) of Section 3118 not just allows, but requires, the development and recognition in regulation of alternatives to metering and more costly methods of quantifying and documenting water use for these smaller water users:

“With respect to withdrawal uses, other than public water supply agency withdrawals and hydropower facilities, involving a withdrawal of less than 50,000 gallons per day in a 30-day period, the regulations shall provide for the use of alternative methods to obtain a reasonable estimate or indirect calculation of such in lieu of direct metering or measurement.” (Emphasis added)

5. The General Assembly did not intend that required methods for measuring and quantifying water use be different for water users within critical water areas than for water users outside critical water areas. Nothing in the enacted provisions of the Water Resources Planning Act, and certainly noting in Section 3118 – the statutory provision that governs requirements for registration of water users and for quantification and documentation of water use – states or suggests that water users within critical water areas must perform more detailed measures to quantify and document water use than water users outside these areas.

We strongly believe that it is imperative for the Board to ensure these legislative directives are carried out in the final adoption of the proposed rulemaking.

Specific comments with respect proposed rulemaking.

1. *Failure in the proposed rulemaking to identify alternative methods that smaller water users may utilize to estimate or indirectly calculate water use in lieu of direct metering or measurement.*

As mentioned above, Section 3118(b)(1) of the Act not just authorizes water users between 10,000 and 50,000 gallons per day to use alternative methods to the more complicated and costly measures that larger water users may be required to employ in quantifying and documenting water use. Section 3118(b)(1) requires these alternative methods to be identified and specified in regulations to be promulgated pursuant to the Act.

Nothing in the proposed rulemaking attempts to identify those in-lieu-of methods that farmers and other smaller private water users may employ to comply with their requirements for quantifying and documenting water use. One of the major concerns that Farm Bureau and other stakeholders representing smaller water users sought to address in the Water Resources Planning Act was the need for development and identification of simplified methods for smaller water users to meet their measuring and documenting requirements. Smaller water users were legitimately fearful that the Act's objective in establishing a process for cooperatively updating regional water planning whose products would not cause regulation of water use among individual water users could become the legal and policy justification for imposing on water users a series of complex and costly regulatory mandates for measuring and documenting water use.

Section 3118(b)(1) reflects a clear intent by the legislature that smaller water users be provided simple and inexpensive means to comply with the Act's requirements to quantify and document water use, and that smaller water users not be subject to additional quantification and documentation requirements.

Simple and inexpensive methods to estimate and document water use have been devised for farmers and other groups of water users that provide reasonable accuracy in quantifying water use. We would strongly recommend that there be a sustained effort in the final rulemaking to identify and incorporate these methods in the final rulemaking, and recognize that these methods will meet all of the quantification and documentation requirements that the Act imposes on smaller water users

2. Comment on § 110.501(e)'s requirement for measurement with the more stringent requirement.

We have serious concerns over what we believe is being attempted to be regulated through this subsection. As we read it, it would appear that the subsection is authorizing the Department to apply and regulate the more stringent standard that the water user may need to meet under the river basin compact. We believe, however, that the Water Resources Planning Act has not given the Department any such authority, except in the very limited situation when a water user is attempting to comply with the Act's requirements for quantifying and documenting water use through application of the method that the user is required to perform under a river basin compact.

Section 3118 of the Act only requires the establishment of methods for quantifying and documenting water use that provide reasonable accuracy in the context of the Act's objective to develop voluntary regional water plans. With respect to water users subject to requirements imposed under a river basin compact, Section 3118(b)(4) directs that the Act not establish separate requirements to those already in place under the Clean Streams Law and under administration of river basin compacts. More simply stated, Section 3118(b)(4) requires the Department to recognize the measures for quantifying and documenting water use employed under a river basin compact as meeting the Act's requirements for quantifying and documenting water use. However, Section 3118(b)(4) neither mandates nor gives the Department the authority to mandate that the water user utilize the river basin's method for quantifying and documenting water use.

We believe the Department's authority to mandate compliance with a river basin's method for quantifying and documenting water use would only apply with respect to a water user who is claiming to comply with the Act's requirements through compliance with the river basin compact's requirements.

We would therefore recommend that the requirements of § 110.501(e) be limited to those water users who are attempting to comply with the Act through observance of applicable water basin compact's requirements for quantification and documentation of water use.

3. *Comment on § 110.503's provisions authorizing the Department to impose more accurate methods for measuring and documenting water use in "critical water areas."*

We strongly believe, that the Act does not provide the Department with any authority to impose additional mandates to quantify and document water use within critical water areas than the Act provides for quantifying and documenting water use outside critical water areas. Several reasons soundly support our belief:

- The sole objective of the Water Resources Planning Act is to provide opportunity for development of voluntary measures for regional water planning and management. Neither the Act nor any statewide or regional water plan that may be devised under the Act will trigger any mandate for individual water users to limit or change their current water use or means for water use. It is absurd, in light of the limited objectives of the Act and the absence of regulatory measures that plans developed under the Act will trigger with respect to the future use of water and rights and obligations among individual water users, for additional mandates to be imposed on certain water users, simply because they are determined to be in a critical water area.
- The provisions of Section 3118 that govern requirements for quantifying and documenting water use pursuant to the Act do not direct that water users within critical water areas be subject to additional requirements for quantifying and documenting water use, nor provide the Department or any other agency with any authority to impose additional requirements. The absence of such directive is especially telling when considering the extent of substantive changes that were made to these provisions during the legislative process, and the clear objective reflected in these changes to facilitate uniformity and ease in compliance with quantification and documentation mandates.

In the absence of persuasive evidence to the contrary, there is nothing in the Act or otherwise that provides or suggests that the Department has legal authority to impose additional mandates upon water users in critical water areas. We would therefore recommend that this section be deleted.

Conclusion.

Farm Bureau would request that the Board amend the provisions of the proposed rulemaking consistent with the comments offered above.

Sincerely,



John J. Bell
Governmental Affairs Counsel

Attachments

S:\jjb\DEP2005-2006\Comments to Proposed Water Regs2006Dec29.doc

APPENDIX 1

27 Pa.C.S.A. § 3116

ENVIRONMENTAL RESOURCES

ENVIRONMENTAL

§ 3116. Use of plan

(a) **General use of plan.**—The State water plan is intended to serve as a policy and guidance document, providing information, objectives, priorities and recommendations to be considered and weighed in a broad range of State, local and private decisions. The State water plan is not intended to constitute or contain legally binding regulations, prohibitions or prescriptions.

(b) **Specific uses of plan.**—Among other uses, it is intended that the State water plan will be used to:

(1) Identify and prioritize water resource and water supply development projects to be carried out by private organizations or government agencies.

(2) Provide information to public and private decision makers regarding water availability to help guide efficient investment and economic development.

(3) Identify opportunities for improving operation of this Commonwealth's existing water resources infrastructure.

(4) Guide the development and implementation of policies and programs by State agencies that will reduce the risk of flooding, water shortages from drought and conflicts between water users or uses.

(5) Guide policies on activities that directly and significantly affect the quantity and quality of water available with the objective of balancing and encouraging multiple uses of water resources.

(6) Educate public officials and the public at large regarding the sources and uses of water in this Commonwealth.

2002, Dec. 16, P.L. 1776, No. 220, § 2, effective in 90 days.

Research References

Encyclopedias

Summary Pa. Jur. 2d Environmental Law
§ 9:782, Use of Plan.

§ 3117. Statewide data system

(a) **General rule.**—In cooperation with the Compact Basin Commissions and Federal, State and regional agencies with responsibilities relating to water resources management, the department shall establish and maintain a Statewide system to gather, process and distribute information on the availability, distribution, quality and use of water resources of this Commonwealth.

(b) **Other commissions and agencies.**—The department shall invite interested Compact Basin Commissions and Federal, State and regional agencies with responsibilities relating to water resources management to join the Statewide data system and shall cooperate with any such agency choosing to join the system.

(c) **Fee.**—Information gathered in the Statewide data system, subject to protection provided to confidential business information under section 3119 (relating to confidential information), shall be made available to any person on payment of a reasonable fee, as established by the department with the advice of the Statewide committee, to cover the expenses of making such information available to that person.

2002, Dec. 16, P.L. 1776, No. 220, § 2, effective in 90 days.

Research References

Encyclopedias

Summary Pa. Jur. 2d Environmental Law
§ 9:783, Statewide Data System.

Summary Pa. Jur. 2d Environmental Law
§ 9:787, Administration.

§ 3118. Water use registration and reporting

(a) **Interim registration program.**—Pending the adoption of regulations for registration and reporting under subsection (b), each public water supply agency and each hydropower facility, irrespective of the amount of withdrawal, and each person whose

total withdrawal or withdrawal from a watershed operated as a rate of 10,000 gallons a source, location and amount submitted not later than following the initiation of shall be submitted on for

(b) **General rule;** to provide accurate information with the Statewide Board shall adopt regular reporting and recordkeeping

(1) Each public water supply agency shall provide the amount of withdrawal from one or more points concurrently or sequentially during a 30-day period shall be established by regulation. The department shall require periodic reports more often than once a year from public water supply agencies via internet or other means to obtain a reasonably accurate picture of water use in lieu of direct metering. The department shall provide for the use of alternative methods of calculation of such information.

(2) The regulations shall require recordkeeping or periodic reporting of withdrawal volume or volume of withdrawal required to adequately protect accurate and complete resource plans.

(3) The regulations shall require public water supply agencies to register practice withdrawals or consumption and to enhance water use recognition and credit programs.

(4) To avoid duplication of requirements of this section, the department shall, by the filing of discharge water supply reports and use reports prepared by Delaware River Basin Commission, require other reports submitted that the reports provide

(5) Nothing in this Environmental Quality

(6) Where a registration or reporting is required, the department shall, upon the request of a person, provide a copy of the registration or reporting section.

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total withdrawal or withdrawal use from one or more points of withdrawal within a watershed operated as a system either concurrently or sequentially exceeds an average rate of 10,000 gallons a day in a 30-day period shall register with the department the source, location and amount of withdrawal or use or both. Registrations shall be submitted not later than 12 months after the effective date of this chapter or 30 days following the initiation of any such withdrawal or use, whichever is later. Registrations shall be submitted on forms as prescribed by the department.

(b) **General rule; requirements for registration and reporting.**—In order to provide accurate information for water resources planning, the department in consultation with the Statewide committee shall recommend and the Environmental Quality Board shall adopt regulations establishing requirements for the registration, periodic reporting and recordkeeping of withdrawals in accordance with the following provisions:

(1) Each public water supply agency and each hydropower facility, irrespective of the amount of withdrawal, and each person whose total withdrawal or withdrawal use from one or more points of withdrawal within a watershed operated as a system either concurrently or sequentially exceeds an average rate of 10,000 gallons a day in a 30-day period shall comply with recordkeeping and periodic reporting requirements established by regulation. Such regulations shall require water users subject to the registration requirements of this section to monitor, maintain records and submit to the department periodic reports regarding the source, location and amount of withdrawals or uses or both from surface waters and groundwaters, including the amount of consumptive and nonconsumptive uses, the locations and amounts of any waters returned and discharged and the amounts of water transferred between public water supply agencies via interconnections. Such regulations shall not require submission of periodic reports more frequently than annually. Where alternative methods exist to obtain a reasonably accurate evaluation of withdrawals or withdrawal uses, consumptive or nonconsumptive uses and return flows, such regulations shall allow for use of the alternative methods to obtain a reasonable estimate or indirect calculation of such in lieu of direct metering or measurement. With respect to withdrawal uses, other than public water supply agency withdrawals and hydropower facilities, involving a withdrawal of less than 50,000 gallons per day in a 30-day period, the regulations shall provide for the use of alternative methods to obtain a reasonable estimate or indirect calculation of such in lieu of direct metering or measurement.

(2) The regulations may provide for the adjustment of or variations in registration, recordkeeping or periodic reporting requirements for identified classification of user or volume of withdrawal if such requirements are not necessary to obtain information required to adequately assess water uses, monitor demands and otherwise prepare accurate and complete regional and State water plans and, if applicable, critical area resource plans.

(3) The regulations shall include a process under which water users may document and register practices or projects that they have implemented to reduce water withdrawals or consumptive use, promote groundwater recharge or otherwise conserve or enhance water supplies for consideration and use in providing appropriate recognition and credit during the implementation of existing or future water supply programs.

(4) To avoid duplication of efforts, regulations implementing the periodic reporting requirements of this subsection shall provide that the requirements may be satisfied by the filing of discharge monitoring reports prepared under the Clean Streams Law, water supply reports prepared under the Safe Drinking Water Act, water withdrawal and use reports prepared and submitted pursuant to regulations adopted by the Delaware River Basin Commission and Susquehanna River Basin Commission, or other reports submitted under other applicable statutes and regulations, to the extent that the reports provide the required information.

(5) Nothing in this section shall be construed to authorize the department or the Environmental Quality Board to require metering of homeowner wells.

(6) Where a registered withdrawal is terminated or is reduced to an amount which over a 12-month period is less than the 30-day average threshold amounts requiring registration, the person responsible for such withdrawal may file a written notice with the department of such termination and reduction. After filing such notice, the person shall be relieved of further obligations relating to period reporting under this section.

(7) Persons required to register and report water withdrawals or uses under this section shall keep records required by regulation for a period of five years and make such records available for inspection by the department upon request.

(8) Registration of a withdrawal or use shall not be construed as a determination of a person's water rights or approval of a withdrawal or use by any agency of the Commonwealth or by a Compact Basin Commission.

(c) **Confidentiality of information.**—Information provided to the department under this section shall be subject to the provisions of section 3119 (relating to confidential information).

2002, Dec. 16, P.L. 1776, No. 220, § 2, effective in 90 days.

Research References

Encyclopedias

Summary Pa. Jur. 2d Environmental Law § 9:784, Water Use Registration and Reporting.

Summary Pa. Jur. 2d Environmental Law § 9:787, Administration.

§ 3119. Confidential information

(a) **General rule.**—Except as provided in subsection (b), 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),¹ referred to as the Right-to-Know Law.

(b) **Exception.**—The department, the Statewide committee and any regional committee shall not disclose confidential information required to be submitted to the department under this chapter unless:

(1) the confidential information is contained in a report in which the identity of the submitting person has been removed and the confidential information is aggregated by hydrologic unit or region; or

(2) the confidential information is disclosed to employees, contractors, agents or authorized representatives of the department, including the State and regional planning committees for the purposes of this chapter.

(c) **Confidential information submitted.**—If a person submits confidential information under this chapter, the person must identify the information that is confidential information and provide a justification for its confidential nature. The department, Statewide committee or regional committees shall hold the confidential information in a file separate from the general records relating to the person.

2002, Dec. 16, P.L. 1776, No. 220, § 2, effective in 90 days.

¹ 65 P.S. § 66.1 et seq.

Research References

Encyclopedias

Summary Pa. Jur. 2d Environmental Law § 9:783, Statewide Data System.

Summary Pa. Jur. 2d Environmental Law § 9:784, Water Use Registration and Reporting.

Summary Pa. Jur. 2d Environmental Law § 9:785, Confidential Information.

Summary Pa. Jur. 2d Environmental Law § 9:787, Administration.

§ 3120. Water conservation

(a) **Technical assistance center.**—The department shall establish and maintain a water resources technical assistance center to promote voluntary water conservation and to provide technical assistance on water resources uses issues, including methods for efficient water use, including reduction of unaccounted-for water loss and the replenishment and conservation of water resources. The center shall:

(1) Establish a voluntary Statewide water conservation program for all water users.

(2) Establish guidelines for the development of voluntary water use reduction plans in critical water planning areas.

(3) Establish voluntary water use reduction goals for all water users.

(4) Identify water conservation water users in conserving

(5) Develop a water conservation program for other water users.

(6) Establish a Government conservation of water.

(7) Develop a program to reduce water loss.

(8) Identify principles, standards, and charge.

(b) **Grant approval.**—Water conservation projects that (P.L. 82, No. 16),¹ known as the Pennsylvania Infrastructure funding projects that:

(1) address unaccounted water practices by a public water utility that exceeds 20%, provided that the utility agree to attempt to recover the cost of implementing a water conservation program that meets the standards established by the department or any Compact Basin Commission for leak detection, unaccounted water, or

(2) provide for interconnection of water systems.
2002, Dec. 16, P.L. 1776, No. 135 P.S. § 751.1 et seq.

Encyclopedias

Summary Pa. Jur. 2d Environmental Law § 9:786, Water Conservation

§ 3121. Grants

(a) **Authorization.**—The department shall determine the purposes:

(1) Reimbursement of water conservation plan under section 3120(a).

(2) Water resources education and training for the promotion of voluntary water conservation (a).

(b) **Funding.**—Grants shall be made for water conservation projects.
2002, Dec. 16, P.L. 1776, No. 135 P.S. § 751.1 et seq.

Encyclopedias

Summary Pa. Jur. 2d Environmental Law § 9:786, Water Conservation

SUBCHAPTER C

§ 3131. Administration

(a) **Use of funds.**—The department shall use the Statewide data system to determine the need for (relating to Statewide data reporting).

APPENDIX 2

PRINTER'S NO. 3163

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2230 Session of
2002

INTRODUCED BY HERSHEY, RUBLEY, GEORGE, S. H. SMITH, DeWEESE,
BENNINGHOFF, CAPPELLI, M. COHEN, CREIGHTON, DAILEY, FRANKEL,
GABIG, HALUSKA, HARHAI, HARPER, HENNESSEY, HERMAN, LEH,
MAITLAND, MCGEEHAN, McILHATTAN, MUNDY, READSHAW, ROHRER,
ROSS, SCHRODER, SEMMEL, B. SMITH, SOLOBAY, STEIL,
R. STEVENSON, THOMAS, TIGUE, YUDICHAK, TRICH AND PIPPY,
JANUARY 24, 2002

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
JANUARY 24, 2002

AN ACT

- 1 Authorizing the establishment and administration of a Statewide
- 2 program to promote water conservation and the efficient use
- 3 of existing water resources; requiring a State Water Plan;
- 4 and imposing additional powers and duties on the Department
- 5 of Environmental Protection and the Environmental Hearing
- 6 Board.

- 7 Section 1. Short title.

- 8 Section 2. Definitions.

- 9 Section 3. Powers and duties of department.

- 10 Section 4. State Water Plan.

- 11 Section 5. Statewide Water Resources Advisory Committee.

- 12 Section 6. Registration, reporting and recordkeeping.

- 13 Section 7. Critical water planning areas.

- 14 Section 8. Voluntary water conservation.

- 15 Section 9. Grants.

- 16 Section 10. Public nuisances.

- 17 Section 11. Penalties and remedies.

1 Section 12. Existing rights and remedies preserved.

2 Section 13. Financial provisions.

3 Section 14. Effective date.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Water
8 Resources Conservation and Protection Act.

9 Section 2. Definitions.

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

13 "Conjunctive use." The use of two or more sources of water,
14 either in combination or as components of a single unit, to
15 achieve increased efficiency of use or to enhance conservation,
16 equitable distribution or management of water resources.

17 "Consume or consumptive use." To use, or the use of, water
18 so that through evaporation, transpiration, incorporation into a
19 product, diversion or any other means, some or all of the water
20 withdrawn from a water resource is not returned to the same
21 water resource at or upstream from the point of withdrawal
22 resulting in a diminution in quantity or quality of the water
23 resource.

24 "Critical water planning area." An area identified in an
25 updated State Water Plan under section 4 or designated by the
26 Department of Environmental Protection under section 3(15) where
27 water availability does not meet current or projected future
28 water resources needs.

29 "Department." The Department of Environmental Protection of
30 the Commonwealth.

1 (c) Duties.--The committee shall advise the department in
2 the preparation of the State Water Plan and in implementing
3 other water resources programs under this act.

4 Section 6. Registration, reporting and recordkeeping.

5 (a) Registrations.--Any person whose existing, new or
6 increased withdrawal, diversion or consumptive use from one or
7 more water resources causes a total withdrawal, diversion or
8 consumptive use to equal or exceed an average of 10,000 gallons
9 per day in any 30-day period and all public water supply
10 agencies shall register with the department each source and the
11 amount of each withdrawal, diversion or consumptive use.

12 Registrations shall be submitted to the department no later than
13 twelve months from the effective date of this act or 30 days
14 from the initiation of such withdrawal, diversion or consumptive
15 use, whichever is later. Registrations shall be submitted on
16 forms in a manner and with accompanying data as prescribed by
17 the department.

18 (b) Reporting.--Beginning on the first day of January
19 following the effective date of this act, any person whose
20 existing, new or increased withdrawal, diversion, consumptive
21 use, discharge or return of water from or to one or more water
22 resources causes a total withdrawal, diversion, consumptive use,
23 discharge or return to equal or exceed an average of 10,000
24 gallons per day in any 30-day period and all public water supply
25 agencies shall report to the department annually the source and
26 amount of each withdrawal, diversion, consumptive use,
27 discharge, or return flow. The information shall be submitted to
28 the department on forms, in such manner and with accompanying
29 data as prescribed by the department.

30 (c) Measurements, records and reports.--The department may

1 require any person subject to subsection (a) or (b) to install,
2 use and maintain metering equipment or methods, to perform
3 measuring, to maintain and retain records of information from
4 metering and measuring activities, to submit reports of metering
5 and measuring results and to provide such other information as
6 may be required to determine compliance with this act or with
7 the terms or conditions of any order issued under this act.

8 Section 7. Critical water planning areas.

9 (a) Nomination process.--The department shall establish a
10 process whereby the public may nominate a watershed
11 organization, river basin commission, planning agency or other
12 appropriate entity or combination of entities to prepare an
13 Integrated Water Resources Plan for any watershed in a critical
14 water planning area which is identified by an updated State
15 Water Plan in accordance with section 4 or designated by the
16 department under section 3(15). The nominations shall be subject
17 to public notice and comment.

18 (b) Department to designate.--Based upon nominations under
19 subsection (a), the department is authorized to designate a
20 watershed organization, river basin commission, planning agency
21 or other appropriate entity or combination of entities to
22 prepare an Integrated Water Resources Plan for any watershed in
23 a critical water planning area identified by an updated State
24 Water Plan in accordance with section 4 or designated by the
25 department under section 3(15). The department shall designate
26 only entities that meet all of the following requirements:

27 (1) Are technically capable of completing an Integrated
28 Water Resources Plan that meets the requirements of
29 subsection (c).

30 (2) Are representative of the watershed for which the