

PROMOTE INTERSTATE COOPERATION FOR THE DELAWARE RIVER BASIN
Act of Apr. 19, 1945, P.L. 272, No. 123
AN ACT

Cl. 32

To promote interstate cooperation for the conservation and protection of water resources in the Delaware River Basin.

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

(1) WHEREAS, the States of New York, New Jersey, Pennsylvania and Delaware have each created and now maintain a Commission (or Committee) on Interstate Cooperation for the purpose of establishing and maintaining governmental machinery to facilitate communication, negotiation, understanding and cooperation between said states respectively, and other states of the Union, both regionally and nationally, with power to establish such committees, subcommittees and advisory boards as are deemed advisable to conduct conferences and to formulate proposals concerning subjects of intergovernmental cooperation; to study the laws of the several states; hold public or private hearings; make findings and recommendations and to submit drafts of legislation; to promote uniform laws for the elimination of the confusion and conflict between the several states of the Union and the Federal government in the matter of laws and administrative practices concerning conservation, prevention, abatement and control of pollution, water supply, public welfare, flood control and other subjects; and

(2) WHEREAS, said Commissions (or Committees) on Interstate Cooperation of said states have organized and established, and are now maintaining as an instrument of governmental machinery, a joint advisory board known as "The Interstate Commission on the Delaware River Basin," as a regional commission, composed of standing subcommittees of said Commissions (or Committees) on Interstate Cooperation respectively, for the purpose of entering upon a program to study the conservation, water supply, pollution and other potential uses and benefits of, and to develop integrated plans to conserve and protect the waters and other resources of the Delaware River Basin in the following specified particulars:

A. To serve as a fact-coordinating body, and to develop the means and procedure by which the general plans and policies proposed for the development of the region may be carried out.

B. To sponsor the carrying out of properly developed plans which result from surveys and research concerning population, land and water resources and uses, and other related subjects.

C. To coordinate the activities of the Commission and Committees on Interstate Cooperation, and their joint agency, the Council of State Governments, with the work of the appropriate state and Federal agencies for the prevention and abatement of pollution for flood control, and for the proper, general use and control of the waters of the Delaware River.

D. To encourage interstate compacts, and the enactment of

uniform state laws, for the abatement of water pollution for flood control, and for the proper general use and control of the waters of the Delaware River.

E. To advance, perpetuate and outline the work recommended by its conferences, and to develop and propose new objectives; and

(3) WHEREAS, it is the purpose of the Commissions (or Committees) on Interstate Cooperation of said four states, acting through said Interstate Commission on the Delaware River Basin, to eliminate confusion and conflict among said states by the promotion and enactment of uniform laws in said states to preserve in a safe and sanitary condition, the waters and watershed of said Delaware River Basin and to provide uniform concurrent regulations for the control and the enforcement of the elimination of pollution in the waters thereof in said states respectively; and

(4) WHEREAS, said Interstate Commission on the Delaware River Basin, in cooperation with the state health departments of said states respectively, has made a study, for the purposes above recited, of said Delaware River and its tributaries in said Delaware River Basin and has formulated proposals for the intergovernmental cooperation of said states in the correction and control of pollution of the waters thereof, which have been formally approved, ratified and accepted by the health departments of said states respectively, in the following form:

A. RECIPROCAL AGREEMENT as drafted and negotiated by the Interstate Commission on the Delaware River Basin, with subsequent formal ratification by the State Departments of Health of Delaware, New Jersey, New York and Pennsylvania, for the Conservation and Control of Pollution of the Waters of the Interstate Delaware River.

WHEREAS, a substantial part of the territory of the states of New York, New Jersey, Pennsylvania and Delaware is situated within the Delaware River drainage basin; and

WHEREAS, the increase in population of the various municipal areas, within the Delaware River Basin, and the growth of industrial activity within the Basin, have resulted in increasingly serious pollution of the waters of the interstate Delaware River and its tributaries; and

WHEREAS, such pollution constitutes a grave menace to the health, welfare and recreational facilities of the people living in the Delaware River Basin and occasions great economic loss; and

WHEREAS, the control of future pollution, and the correction of existing pollution of the waters of the interstate Delaware River and its tributaries, is of prime importance to the people living in the Delaware River Basin and can best be accomplished through the cooperation of the representatives of the people in the Basin in the states of New York, New Jersey, Pennsylvania and Delaware.

Now, therefore, the State of New York, and the State of New Jersey, and the Commonwealth of Pennsylvania, and the State of Delaware agree and are bound as follows:

ARTICLE I

Each of the signatory states pledges to each of the other

signatory states, faithful cooperation in the control of future pollution, and in the correction of existing pollution of the waters of the interstate Delaware River and its West Branch from the New York-Pennsylvania boundary line down to the Atlantic Ocean. In order to effect such objects, each of the states agrees to enact adequate legislation, if necessary, to enable each such state so to require the treatment of sewage, industrial waste or other artificial polluting matter as to place and maintain the waters of the aforesaid interstate Delaware River, and of the tributaries thereof, just above the confluence with the Delaware River in the clean and sanitary conditions required by the provisions of this agreement. Furthermore, each such state agrees so to enforce the provisions of these requirements, and other supplementary applicable legislation, if any, as to bring about the attainment of the objectives of pollution, control, and correction in accordance with such reasonable and effective programs as may be determined from time to time by the states in the manner prescribed herein.

ARTICLE II

It is recognized by the signatory states that due to such variable factors as location, size, character, and flow, and of the many varied uses of the waters of the interstate Delaware River and its aforesaid West Branch, such as water supply, recreation, navigation, industrial developments, maintenance of fish life, shellfish, culture, agriculture and other purposes, that no single standard of sewage and waste treatment, and of quality of receiving waters is practical for all parts of the river. Therefore, in order to apply minimum requirements for the attainment of correction and control of pollution which will be appropriate to the varied factors, including the existing and potential quality and uses of the waters the interstate Delaware River, is hereby divided into four zones, to wit:

ZONE I. Zone 1 is that part of the Delaware River, and its West Branch, extending from the New York-Pennsylvania boundary line to the head of tidewater at Trenton, New Jersey and Morrisville, Pennsylvania.

The drainage basin contributory to this zone, excepting part of the Lehigh River Basin, is relatively sparsely inhabited and contains few sewered communities and relatively few industrial establishments producing waste water. The streams draining this area, being in general relatively clean and of high elevation, are well adapted as sources of public water supplies after treatment or purification.

The principal uses of the waters of the Delaware River in Zone 1 are expected to be for water supply after such treatment or purification as may be necessary and for recreation, bathing, maintenance of fish and aquatic life, agriculture and for other related purposes.

ZONE II. Zone 2 is that part of the Delaware River extending from the head of tidewater at Trenton, New Jersey and Morrisville, Pennsylvania to a line drawn perpendicular to the channel of the Delaware River from the mouth of Pennypack Creek in Philadelphia, Pennsylvania to the corresponding point on the New Jersey shore.

The drainage basin contributory to this zone is somewhat more

densely populated than that of Zone 1 and it contains more sewerred communities and industrial establishments.

The principal uses of the waters of the Delaware River in Zone 2 are expected to be for water supply, after treatment or purification, and for recreation, navigation, maintenance of fish and aquatic life, agricultural, industrial and other purposes.

ZONE III. Zone 3 is that part of the Delaware River extending from the aforesaid line connecting the mouth of Pennypack Creek in Philadelphia, and the corresponding point in New Jersey, to the Pennsylvania-Delaware boundary line.

The drainage basin contributory to this zone contains populous metropolitan areas including Philadelphia, Pennsylvania and Camden, New Jersey.

The principal uses of the waters of the Delaware River in Zone 3 are expected to be for navigation, industrial water supply, and other purposes.

The water in this zone, however, should be of such sanitary quality that it will not be unfit for use as sources of water supply; will not be harmful to fish life; and will not adversely affect the quality of the waters of tidal tributaries.

ZONE IV. Zone 4 is that part of the Delaware River extending from the Pennsylvania-Delaware boundary line to the Atlantic Ocean.

The principal uses of the waters of the Delaware River in Zone 4 are expected to be for navigation, industrial water supplies, commercial fishing, shellfish culture, recreation, and other purposes.

In order to attain conditions of cleanliness and sanitation of the waters of the Delaware River which will be consistent with the appropriate existing and future quality and uses of such waters, the following minimum requirements shall apply to the several zones herein provided. It is the purpose and intent of such requirements to apply to artificial (not natural) causes of pollution.

ARTICLE III

In order to put and maintain the waters of the interstate Delaware River and its West Branch, as aforesaid, in a clean and sanitary condition, no sewage, industrial wastes or other polluting matter shall be discharged into, or be permitted to flow, or fall into, or be placed in, any respective zone of the interstate Delaware River as herein established unless such sewage, industrial waste, or other artificial polluting matter shall first have been so treated as to produce an effluent which will meet the following minimum requirements:

ZONE 1. 1. Such effluent shall be free of noticeable floating solids, color, oil, grease, or sleek and practically free of suspended solids.

2. Such effluent shall be sufficiently free of turbidity that it will not cause noticeable turbidity in the water of the Delaware River.

3. Such effluent shall show a reduction of organic substances of at least eighty-five (85) per cent, as measured by the bio-chemical oxygen demand; and furthermore, such effluent in no case shall exceed a bio-chemical oxygen demand of fifty

(50) parts per million; and furthermore, the discharge of such effluent after dispersion in the water of the river shall not cause a reduction of the dissolved oxygen content of such water of more than five (5) per cent. The aforesaid reduction in dissolved oxygen content shall be determined by the average results obtained from dissolved oxygen tests, made upon samples collected on not less than six (6) consecutive days, from points in the river above and below the point or points of effluent discharge.

4. Such effluent shall be of such quality that the most probable number of organisms of the Coli Aerogenes group shall not exceed one (1) per milliliter in more than ten (10) per cent of the samples of sewage effluent, tested by the confirmed test: And provided further, That no single sample shall contain more than one hundred (100) organisms of the Coli Aerogenes group in one (1) milliliter.

5. Such effluent shall be sufficiently free of acids, alkalis and other toxic or deleterious substances that it will not create a menace to the public health through the use of the waters of the Delaware River for public water supplies, for recreation, bathing, agriculture and other purposes, nor be inimical to fish, animal or aquatic life.

6. Such effluent shall be free of offensive odors, and also be free of substances capable of producing offensive tastes or odors in public water supplies derived from the Delaware River at any place below the discharge of such effluent.

ZONE 2. 1. Such effluent shall be free of noticeable floating solids, color, oil or grease, and practically free of both suspended solids and sleet.

2. Such effluent shall be sufficiently free of turbidity that it will not cause noticeable turbidity in the water of the Delaware River.

3. Such effluent shall show a reduction of organic substance of at least eighty-five (85) per cent, as measured by the biochemical oxygen demand; and furthermore, such effluent in no case shall exceed a bio-chemical oxygen demand of one hundred (100) parts per million; and furthermore, the discharge of such effluent, after dispersion in the water of the river, shall not cause a reduction of the dissolved oxygen content of such water of more than ten (10) per cent. The aforesaid reduction in dissolved oxygen content shall be determined by the average results obtained by dissolved oxygen tests made upon samples collected on not less than six (6) consecutive days from points in the river above and below the point or points of effluent discharge.

4. Such effluent shall be of such quality that the most probable number of organisms of the Coli Aerogenes group shall not exceed one (1) per milliliter in more than twenty-five (25) per cent of the samples of sewage effluent tested by the confirmed test: And provided further, That no single sample shall contain more than one hundred (100) organisms of the Coli Aerogenes group in one (1) milliliter.

5. Such effluent shall be sufficiently free of acids, alkalis, and other toxic or deleterious substances, that it will not create a menace to the public health through the use of the

water of the Delaware River for public water supplies, for recreation, industrial and other purposes, nor be inimical to fish, animal, or aquatic life.

6. Such effluent shall be free of offensive odors, and also be free of substances capable of producing offensive tastes and odors in public water supplies derived from the Delaware River at any place above or below the discharge of such effluent.

ZONE 3. 1. Such effluent shall be free of noticeable floating solids, oil or grease, and substantially free of both settleable solids and sleek.

2. Such effluent shall be sufficiently free of turbidity that it will not cause substantial turbidity in the water of the Delaware River after dispersion in the water of the river.

3. Such effluent shall show a reduction of at least fifty-five (55) per cent of the total suspended solids, and a reduction of not less than thirty-five (35) per cent of the biochemical demand. (It is the intent of this requirement to restore the dissolved oxygen content of the river water in this zone to at least fifty (50) per cent saturation. To accomplish this it may be necessary, in the case of certain wastes, to obtain reductions greater than those required under this item).

4. Such effluent, if it be discharged within two miles of a public water works intake, or within prejudicial influence thereof, shall at all times be effectively treated with a germicide.

5. Such effluent shall be sufficiently free of acids, alkalis, and other toxic or deleterious substances, that it will not create a menace to the public health through the use of the waters of the Delaware River for public water supplies, or render such waters unfit for industrial and other purposes, or cause the water of the Delaware River to be harmful to fish life.

6. Such effluent shall be practically free of substances capable of producing offensive tastes or odors in public water supplies derived from the Delaware River.

ZONE 4. 1. Such effluent shall be free of noticeable floating solids, oil or grease, and substantially free of both settleable solids and sleek.

2. Such effluent shall be sufficiently free of turbidity that it will not cause substantial turbidity in the waters of the Delaware River after dispersion in the water of the river.

3. Such effluent shall show a reduction of at least fifty-five (55) per cent of the total suspended solids and shall be subject to such further treatment as may be needed to prevent a nuisance.

4. Such effluent, if it be discharged within prejudicial influence of a public water works intake, or of recreational areas, or of shell fish grounds, shall at all times be effectively treated with a germicide except that in the case of recreational area influence, such treatment need not be provided during the period from October 15th to May 15th of each year.

5. Such effluent shall be sufficiently free of acids, alkalis, and other toxic or deleterious substances, that it will not create a menace to the public health through the use of the waters of the Delaware River for public water supplies, or

render such waters unfit for commercial fishing, shell fish culture, recreational, industrial or other purposes.

6. Such effluent shall be practically free of substances capable of producing offensive tastes or odors in public water supplies derived from the Delaware River.

It is further recognized by the signatory states that the quality of the waters of the intrastate tributaries of the Delaware River and its aforesaid West Branch are of interstate concern at their points of confluence with the Delaware River and its West Branch. Therefore, it is also agreed that sewage industrial waste, or other artificial polluting matter, discharged into or permitted to flow, or to fall into, or be placed in any intrastate tributary of the aforesaid Delaware River, shall be treated to that degree, if any, necessary to maintain the waters of such intrastate tributary immediately above its confluence with the aforesaid Delaware River in a condition at least equal to the clean and sanitary condition of the waters of the Delaware River immediately above the confluence of such tributary.

Analyses and tests regarding the minimum requirements herein prescribed shall be determined in accordance with the provisions contained in the American Public Health Association's latest edition on "Standard Methods for the Examination of Water and Sewage."

The aforesaid requirements as to treatment of sewage, industrial wastes, or other artificial polluting matter, and as to the sanitary quality of receiving waters are minima. It is the intent and purpose of these requirements to accomplish reasonable and adequate control and correction of pollution. Due to the many variable factors involved, however, and to the impossibility of forecasting future developments with certainty, it may be necessary in the future to impose additional requirements, particularly in Zones 2 and 3.

The minima herein prescribed, therefore, shall be considered the first step toward attaining the objectives sought and, if necessary, may be required to be supplemented in the case that the general application of such minimum requirements does not adequately improve and maintain the sanitary quality of the waters of the Delaware River.

Section 1. That part of the area of the Delaware River Basin lying within this state is hereby established and declared to be a component part of an interstate region for the intergovernmental cooperation by said states in the conservation, protection and development of the water resources thereof by means of integrated plans, and the Delaware River Basin Commission is hereby recognized as the duly established regional commission, or agency, of this state for intergovernmental cooperation. The commission, at its option, may authorize the Department of Property and Supplies to prescribe standards and specifications and make contracts and purchases of various materials and services for the commission, pursuant to the provisions of sections 2409, 2403 and 2403.1 of the act of April 9, 1929 (P.L.177), known as "The Administrative Code of 1929."

(1 amended July 1, 1968, P.L.284, No.137)

Section 2. The reciprocal agreement set forth in paragraph (4) of the above preamble is hereby ratified and applied to the waters and watershed of said Delaware River Basin within the territorial limits of this state, and its terms and provisions shall supersede the terms and provisions of any existing laws and regulations applicable to that area, to the extent only that the terms and provisions of such existing laws and regulations are inconsistent with the terms and provisions set forth in said reciprocal agreement.

Section 3. The Department of Health, or such other agency designated by the law of the respective signatory states to deal with control or abatement of pollution, is hereby empowered and directed to apply, and carry into effect, the proposals, terms and provisions of said reciprocal agreement in the several zones therein prescribed, respectively, within the territorial limits of this state and to enforce the same by the exercise of such administrative and legal authority, and the institution and prosecution of such actions, suits or other proceedings as may be necessary or appropriate as are now, or may hereafter be, provided under the laws and practice of this state.

Section 4. The Department of Health, or such other agency designated by the law of the respective signatory states to deal with control or abatement of pollution, is hereby authorized and directed to cooperate with said Interstate Commission on the Delaware River Basin in the further study of the sanitary condition of the waters of the Delaware River, and its tributaries, in said Delaware River Basin and to approve, adopt and enforce within this state, such reasonable modifications, changes or alterations in the zones or standards of quality of water in said river and tributaries, as may from time to time be recommended by said Interstate Commission on the Delaware River Basin, and approved by the departments of health of the other states constituent to said Delaware River Basin.

Section 5. The terms and provisions of said reciprocal agreement shall become effective upon receipt by the Secretary of State of this state of a certificate from the Executive Secretary of The Interstate Commission on the Delaware River Basin that an act, in substantially the same form as this act, has been passed by the Legislature, and approved by the Governor, of one of the other three states constituent to said Delaware River Basin, together with a certified copy of said act of said state and thereupon the Secretary of State shall advise the Department of Health of this state accordingly.

Section 6. This act shall take effect immediately upon final enactment.