

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### SUSQUEHANNA RIVER BASIN COMMISSION

[ 25 PA. CODE CH. 806 ]

#### Review and Approval of Projects

*Summary:* This document contains final rules that would amend the project review regulations of the Susquehanna River Basin Commission (Commission) to modify provisions relating to the issuance of emergency certificates by the Executive Director.

*Dates:* Effective June 1, 2014.

*Addresses:* Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

*For Further Information Contact:* Richard A. Cairo, General Counsel, telephone: 717-238-0423, ext. 1306; fax: 717-238-2436; email: rcairo@srbc.net. Also, for further information on the final rulemaking, visit the Commission's Web site at [www.srbc.net](http://www.srbc.net).

*Supplementary information:*

*Comments and Responses to Proposed Rulemaking*

Notice of proposed rulemaking was published in the *Federal Register* on December 26, 2012 (77 FR 75915); the *New York Register* on January 2, 2013; the *Pennsylvania Bulletin* on February 2, 2013; and the *Maryland Register* on January 11, 2013. The Commission convened a public hearing on February 14, 2013, in Harrisburg, Pennsylvania and a written comment period was held open through February 25, 2013. In addition to proposing modifications to 18 CFR 806.34, the Commission regulation authorizing the issuance of emergency certificates, the proposed rulemaking also advanced a new provision to include in the Commission's project review regulations that would impose limitations on surface and groundwater withdrawals in headwater areas. The Commission received numerous comments on the headwaters proposal. The Commission continues to evaluate those comments and will make an appropriate determination at a future date. Meanwhile, however, for the reasons articulated in the proposed rulemaking notice, the Commission is now proceeding with finalization of the provision in the proposed rulemaking related to the issuance of emergency certificates under 18 CFR 806.34.

The two main comments received on the proposed modifications to the emergency regulation were as follows:

1. The criteria for issuance of an emergency certificate should not be limited to human health and safety, or that of livestock, but should include all animal, aquaculture, agronomic, and horticultural operations for the production of fiber or forage crops.

2. Preservation of employment should be an additional consideration in the issuance of an emergency certificate.

The Commission has made revisions to the final rules in response to these comments, by including the protection of food, fiber or forage crops and the avoidance of significant disruptions in employment as eligible criteria.

*List of Subjects in 18 CFR Part 806*

Administrative practice and procedure, Water resources.

Accordingly, for the reasons set forth in the preamble, the Susquehanna River Basin Commission amends 18 CFR part 806 as follows:

*Part 806—Review and Approval Of Projects*

1. The authority citation for Part 806 continues to read as follows:

*Authority:* Secs. 3.4, 3.5(5), 3.8, 3.10 and 15.2, Pub. L. 91-575, 84 Stat. 1509 et seq.

*Subpart D—Terms and Conditions of Approval*

2. In § 806.34, revise paragraphs (a), (b) introductory text, (b)(2) introductory text, and (b)(2)(iii) to read as follows:

#### § 806.34. Emergencies.

(a) *Emergency certificates.* The other requirements of these regulations notwithstanding, in the event of an emergency requiring immediate action to protect the public health, safety and welfare or to avoid substantial and irreparable injury to any person, property, or water resources when circumstances do not permit a review and determination in the regular course of the regulations in this part, the Executive Director, with the concurrence of the chairperson of the Commission and the commissioner from the affected member state, may issue an emergency certificate authorizing a project sponsor to take such action as the Executive Director may deem necessary and proper in the circumstances, pending review and determination by the Commission as otherwise required by this part. In the exercise of such authority, consideration should be given to actions deemed necessary to sustain human life, health and safety, or that of livestock or food, fiber or forage crops, the maintenance of electric system reliability to serve such needs, to avoid significant disruption of employment, or any other such priorities that the Commission may establish from time to time utilizing its authority under Section 11.4 of the Compact related to drought emergencies.

(b) *Notification and application.* A project sponsor shall notify the Commission, prior to commencement of the project, that an emergency certificate is needed. In the case of a project operating under an existing Commission approval seeking emergency approval to modify, waive or partially waive one or more conditions of such approval, notice shall be provided to the Commission prior to initiating the operational changes associated with the request. If immediate action, as defined by this section, is required by a project sponsor and prior notice to the Commission is not possible, then the project sponsor must contact the Commission within one (1) business day of the action. Notification may be by certified mail, facsimile, telegram, mailgram, electronic mail or other form of written communication. This notification must be followed within one (1) business day by submission of the following:

\* \* \* \* \*

(2) At a minimum, the application shall contain:

\* \* \* \* \*

(iii) Location map and schematic of proposed project, or in the case of a project operating under an existing Commission approval, the project approval reference and a description of the operational changes requested.

\* \* \* \* \*

*Dated:* March 21, 2014.

ANDREW D. DEHOFF,  
*Executive Director*

**Fiscal Note:** Fiscal Note 72-10 remains valid for the final adoption of the subject regulation.

*(Editor's Note:* The regulations of the Commission, 25 Pa. Code Chapter 806, are amended by amending § 806.1 to read as set forth in Annex A.)

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION  
PART IV. SUSQUEHANNA RIVER BASIN  
COMMISSION**

**CHAPTER 806. REVIEW AND APPROVAL OF  
PROJECTS**

**§ 806.1. Incorporation by reference.**

The regulations and procedures for review of projects as set forth in 18 CFR Part 806 (2014) (relating to review and approval of projects) are incorporated by reference and made part of this title.

[Pa.B. Doc. No. 14-917. Filed for public inspection May 2, 2014, 9:00 a.m.]

\_\_\_\_\_