

# Proposed Rules

Federal Register

Vol. 72, No. 189

Monday, October 1, 2007

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## SUSQUEHANNA RIVER BASIN COMMISSION

### 18 CFR Parts 806 and 808

#### Review and Approval of Projects

**AGENCY:** Susquehanna River Basin Commission (SRBC).

**ACTION:** Notice of proposed rulemaking and public hearing.

**SUMMARY:** This document contains proposed rules that would amend project review regulations to clarify the definition of "agricultural water use" and to provide a qualified exception to the consumptive use approval requirements for agricultural water use projects. In addition, this proposed rule would make a technical correction to an error in the "Authority" citation for Part 808.

**DATES:** The Commission has scheduled a public hearing on the proposed rules on Wednesday, November 7, 2007, at 2 p.m. Comments on these proposed rules may be submitted to the SRBC on or before November 15, 2007.

The location of the public hearing is listed in the addresses section of this document. Additionally, individuals wishing to testify are asked to notify the Commission in advance, if possible, at the regular or electronic addresses given below.

**ADDRESSES:** Comments may be mailed to: Mr. Richard A. Cairo, Susquehanna River Basin Commission, 1721 N. Front Street, Harrisburg, PA 17102-2391, or by e-mail to [rcairo@srbc.net](mailto:rcairo@srbc.net).

The public hearing will be held in the Goddard Conference Room, Pennsylvania Department of Environmental Protection, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701.

Those wishing to testify are asked to notify the Commission in advance, if possible, at the regular or electronic addresses given below

**FOR FURTHER INFORMATION CONTACT:** Richard A. Cairo, General Counsel, 717-238-0423; fax: 717-238-2436; e-mail: [rcairo@srbc.net](mailto:rcairo@srbc.net). Also, for further

information on the proposed rulemaking, visit the Commission's Web site at <http://www.srbc.net>.

#### SUPPLEMENTARY INFORMATION:

##### Background and Purpose of Amendments

The SRBC adopted final rulemaking on December 5, 2006, published at 71 FR 78570, December 29, 2006 establishing: (1) The scope and procedures for review and approval of projects under Section 3.10 of the Susquehanna River Basin Compact, Pub. L. 91-575; 83 Stat. 1509 *et seq.* (the compact); (2) special standards under Section 3.4(2) of the compact governing water withdrawals, consumptive use of water; diversions of the basin's waters, water conservation, and water use registration; and (3) procedures for hearings and enforcement actions.

The December 2006 rulemaking made extensive revisions to project review regulations that were promulgated in May 1995. Since 1995, SRBC has continued to suspend the application of its consumptive use regulation to agricultural water uses pending the implementation of a mitigation method that is more suited to agriculture's unique circumstances.

The Commission's member states have taken definitive steps to support projects that will provide storage and release of water to mitigate agricultural water use in their jurisdictions and thus satisfy the standards for consumptive use mitigation set forth in 18 CFR 806.22. The proposed rulemaking would amend 18 CFR 806.4(a)(1) to provide an exception for agricultural water use projects from the consumptive use review and approval requirements of 18 CFR 806.4(a)(1) and (3), unless water is diverted for use beyond lands that are at least partially in the basin, and provided the Commission makes a determination that the state-sponsored projects are sufficient to meet the consumptive use mitigation standards contained in 18 CFR 806.22.

A second amendment clarifies the definition of "agricultural water use" in 18 CFR 806.3, 806.4 and 806.6 by inserting the word "products" after the word "turf." This will clarify that the maintenance of turf grass as part of a project or facility, such as a golf course, does not constitute an agricultural water use. Only the raising of turf products for sale such as sod would constitute an

agricultural water use with this clarification.

A third amendment corrects an error made as part of the December 5, 2006 rulemaking in the "Authority" citation to Part 808 by replacing the erroneous Sec. 3.5(9) with the correct Sec. 3.4(9).

#### List of Subjects in 18 CFR Part 806

Administrative practice and procedure, Water resources.

For the reasons set forth in the preamble, the Susquehanna River Basin Commission proposes to amend 18 CFR parts 806 and 808 and 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.*

2. In § 806.3, revise the definition of "agricultural water use" to read as follows:

##### § 806.3 Definitions.

\* \* \* \* \*

*Agricultural water use.* A water use associated primarily with the raising of food, fiber or forage crops, trees, flowers, shrubs, turf products, livestock and poultry. The term shall include aquaculture.

\* \* \* \* \*

3. In § 806.4, revise paragraphs (a)(1) introductory text, (a)(3) introductory text and (b)(3) to read as follows:

##### § 806.4 Projects requiring review and approval.

(a) \* \* \*

(1) *Consumptive use of water.* Any consumptive use project described below shall require an application to be submitted in accordance with § 806.13, and shall be subject to the standards set forth in § 806.22, and, to the extent that it involves a withdrawal from groundwater or surface water, shall also be subject to the standards set forth in § 806.23. Except to the extent that they involve the diversion of the waters of the basin, public water supplies shall be exempt from the requirements of this section regarding consumptive use; provided, however, that nothing in this section shall be construed to exempt individual consumptive users connected to any such public water supply from the requirements of this section. Provided the commission

determines that low flow augmentation projects sponsored by the commission's member states provide sufficient mitigation for agricultural water use to meet the standards set forth in § 806.22, and except as otherwise provided below, agricultural water use projects shall not be subject to the requirements of this paragraph (a)(1).

Notwithstanding the foregoing, an agricultural water use project involving a diversion of the waters of the basin shall be subject to such requirements unless the property, or contiguous parcels of property, upon which the agricultural water use project occurs is located at least partially within the basin.

\* \* \* \* \*

(3) *Diversions.* Except with respect to agricultural water use projects not subject to the requirements of paragraph (a)(1), the projects described below shall require an application to be submitted in accordance with § 806.13, and shall be subject to the standards set forth in § 806.24. The project sponsors of out-of-basin diversions shall also comply with all applicable requirements of this part relating to consumptive uses and withdrawals.

\* \* \* \* \*

(b) \* \* \*

(3) Transfer of land used primarily for the raising of food, fiber or forage crops, trees, flowers, shrubs, turf products, livestock, or poultry, or for aquaculture, to the extent that, and for so long as, the project's water use continues to be for such agricultural water use purposes.

\* \* \* \* \*

3. In § 806.6, revise paragraph (b)(3) to read as follows:

**§ 806.6 Transfers of approval.**

\* \* \* \* \*

(b) \* \* \*

(3) A project involving the transfer of land used primarily for the raising of food, fiber or forage crops, trees, flowers, shrubs, turf products, livestock or poultry, or for aquaculture, to the extent that, and for so long as, the project's water use continues to be for such agricultural water use purposes.

\* \* \* \* \*

**PART 808—HEARINGS AND ENFORCEMENT ACTIONS**

5. Revise the authority citation for part 808 to read as follows:

**Authority:** Secs. 3.4 (9), 3.5 (5), 3.8, 3.10 and 15.2, Pub. L. 91-575, 84 Stat. 1509 *et seq.*

Dated: September 21, 2007.

**Paul O. Swartz,**

*Executive Director.*

[FR Doc. E7-19290 Filed 9-28-07; 8:45 am]

**BILLING CODE 7040-01-P**

**DEPARTMENT OF JUSTICE**

**Drug Enforcement Administration**

**21 CFR Part 1314**

[Docket No. DEA-298P]

**RIN 1117-AB13**

**Combat Methamphetamine Epidemic Act of 2005: Fee for Self-Certification for Regulated Sellers of Scheduled Listed Chemical Products**

**AGENCY:** Drug Enforcement Administration (DEA), Department of Justice.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** As part of its implementation of the Combat Methamphetamine Epidemic Act of 2005 (CMEA), "regulated sellers" or persons and entities selling scheduled listed chemical products at retail locations are required to self-certify with DEA relative to certain requirements of the CMEA. The Diversion Control Program is required to recover the full costs of the certification process, under the Controlled Substances Act; as such the DEA is proposing to charge regulated sellers, who are not DEA registrants, a fee for self-certification.

**DATES:** Written comments must be postmarked, and electronic comments must be sent, on or before November 30, 2007.

**ADDRESSES:** To ensure proper handling of comments, please reference "Docket No. DEA-298" on all written and electronic correspondence. Written comments being sent via regular mail should be sent to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative/ODL. Written comments sent via express mail should be sent to DEA Headquarters, Attention: DEA Federal Register Representative/ODL, 2401 Jefferson-Davis Highway, Alexandria, VA 22301. Comments may be directly sent to DEA electronically by sending an electronic message to [dea.diversion.policy@usdoj.gov](mailto:dea.diversion.policy@usdoj.gov).

Comments may also be sent electronically through <http://www.regulations.gov> using the electronic comment form provided on

that site. An electronic copy of this document is also available at the <http://www.regulations.gov> Web site. DEA will accept attachments to electronic comments in Microsoft Word, WordPerfect, Adobe PDF, or Excel file formats only. DEA will not accept any file formats other than those specifically listed here.

*Posting of Public Comments:* Please note that all comments received are considered part of the public record and made available for public inspection online at <http://www.regulations.gov> and in the DEA's public docket. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also place all the personal identifying information you do not want posted online or made available in the public docket in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted online or made available in the public docket.

Personal identifying information and confidential business information identified and located as set forth above will be redacted and posted online and placed in the DEA's public docket file. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

**FOR FURTHER INFORMATION CONTACT:** Mark W. Caverly, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537; Telephone (202) 307-7297.

**SUPPLEMENTARY INFORMATION:**