

**§ 806.44 Determination of grandfathered quantities.**

(a) For each registration submitted, the Executive Director shall determine the grandfathered quantity for each withdrawal source and consumptive use.

(b) In making a determination, the following factors should be considered:

(1) The withdrawal and use data and the peak consecutive 30-day average shown by the data;

(2) The reliability and accuracy of the data and/or the meters or measuring devices;

(3) Determination of reasonable and genuine usage of the project, including any anomalies in the usage;

(4) Whether the grandfathered amount includes an operational margin of safety; and

(5) Other relevant factors.

(c) The Executive Director, in lieu of a determination under paragraph (b) of this section, may accept a previous grandfathering determination by the Commission at the request of the project sponsor.

**§ 806.45 Appeal of determination.**

(a) A final determination of the grandfathered quantity by the Executive Director must be appealed to the Commission within 30 days from actual notice of the determination.

(b) The Commission shall appoint a hearing officer to preside over appeals under this section. Hearings shall be governed by the procedures set forth in part 808 of this chapter.

**PART 807—WATER WITHDRAWAL REGISTRATION**

Sec.

807.1 Requirement.

807.2 Time limits.

807.3 Administrative agreements.

807.4 Effective date.

807.5 Definitions.

AUTHORITY: Secs. 3.4(2) and (9), 3.8, 3.10 and 15.2, Pub. L. 91-575, 84 Stat. 1509 *et seq.*

SOURCE: 71 FR 78588, Dec. 29, 2006, unless otherwise noted.

**§ 807.1 Requirement.**

In addition to any other requirements of Commission regulations, and subject to the consent of the affected

member state to this requirement, any person withdrawing or diverting in excess of an average of 10,000 gpd for any consecutive 30-day period, from ground or surface water sources, as defined in part 806 of this chapter, shall register the amount of this withdrawal with the Commission and provide such other information as requested on forms prescribed by the Commission.

**§ 807.2 Time limits.**

(a) Except for agricultural water use projects, all registration forms shall be submitted within one year after May 11, 1995, or within six months of initiation of the water withdrawal or diversion, whichever is later; provided, however, that nothing in this section shall limit the responsibility of a project sponsor to apply for and obtain an approval as may be required under part 806 of this chapter. All registered withdrawals shall re-register with the Commission within five years of their initial registration, and at five-year intervals thereafter, unless the withdrawal is sooner discontinued. Upon notice by the Executive Director, compliance with a registration or reporting requirement, or both, of a member state that is substantially equivalent to this requirement shall be considered compliance with this requirement.

(b) Project sponsors whose existing agricultural water use projects i.e., projects coming into existence prior to March 31, 1997) withdraw or divert in excess of an average of 10,000 gpd for any consecutive 30-day period from a ground or surface water source shall register their use no later than March 31, 1997. Thereafter, project sponsors of new projects proposing to withdraw or divert in excess of 10,000 gpd for any consecutive 30-day period from a ground or surface water source shall be registered prior to project initiation.

**§ 807.3 Administrative agreements.**

The Commission may complete appropriate administrative agreements or arrangements to carry out this registration requirement through the offices of member jurisdictions. Forms developed by the Commission shall apprise registrants of any such agreements or arrangements, and provide

## § 807.4

appropriate instructions to complete and submit the form.

### § 807.4 Effective date.

This part shall be effective on January 1, 2007.

### § 807.5 Definitions.

Terms used in this part shall be defined as set forth in § 806.3 of this chapter.

## PART 808—HEARINGS AND ENFORCEMENT ACTIONS

### Subpart A—Conduct of Hearings

Sec.

- 808.1 Public hearings.
- 808.2 Administrative appeals.
- 808.3 Hearings on administrative appeal.
- 808.4 Optional joint hearing.

### Subpart B—Compliance and Enforcement

- 808.10 Scope of subpart.
- 808.11 Duty to comply.
- 808.12 Investigative powers.
- 808.13 Notice of violation.
- 808.14 Orders.
- 808.15 Show cause proceeding.
- 808.16 Civil penalty criteria.
- 808.17 Enforcement of penalties, abatement or remedial orders.
- 808.18 Settlement by agreement.
- 808.19 Effective date.

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

SOURCE: 71 FR 78589, Dec. 29, 2006, unless otherwise noted.

### Subpart A—Conduct of Hearings

#### § 808.1 Public hearings.

(a) *Required hearings.* A public hearing shall be conducted in the following instances:

- (1) Addition of projects or adoption of amendments to the comprehensive plan, except as otherwise provided by section 14.1 of the compact.
- (2) Review and approval of diversions.
- (3) Imposition or modification of rates and charges.
- (4) Determination of protected areas.
- (5) Drought emergency declarations.
- (6) Hearing requested by a member jurisdiction.
- (7) As otherwise required by sections 3.5(4), 4.4, 5.2(e), 6.2(a), 8.4, and 10.4 of the compact.

## 18 CFR Ch. VIII (4-1-25 Edition)

(b) *Optional hearings.* A public hearing may be conducted by the Commission or the Executive Director in any form or style chosen by the Commission or Executive Director in the following instances:

- (1) Proposed rulemaking.
- (2) Consideration of projects, except projects approved pursuant to memoranda of understanding with member jurisdictions.
- (3) Adoption of policies and technical guidance documents.
- (4) When it is determined that a hearing is necessary to give adequate consideration to issues related to public health, safety and welfare, or protection of the environment, or to gather additional information for the record or consider new information on a matter before the Commission.

(c) *Notice of public hearing.* At least 20 days before any public hearing required by the compact, notices stating the date, time, place and purpose of the hearing including issues of interest to the Commission shall be published at least once in a newspaper of general circulation in the area affected. In all other cases, at least 20 days prior to the hearing, notice shall be posted on the Commission Web site, sent to the parties who, to the Commission's knowledge, will participate in the hearing, and sent to persons, organizations and news media who have made requests to the Commission for notices of hearings or of a particular hearing. With regard to rulemaking, hearing notices need only be forwarded to the directors of the *New York Register*, the *Pennsylvania Bulletin*, the *Maryland Register* and the FEDERAL REGISTER, and it is sufficient that this notice appear in the FEDERAL REGISTER at least 20 days prior to the hearing and in each individual state publication at least 10 days prior to any hearing scheduled in that state.

(d) *Standard public hearing procedure.*

- (1) Hearings shall be open to the public. Participants may be any person, including a project sponsor, wishing to appear at the hearing and make an oral or written statement. Statements shall be made a part of the record of the hearing, and written statements may be received up to and including the last day on which the hearing is held, or