

comments on the ARC recommendations; the FAA is not reopening the comment period on the NPRM.

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Pamela Hamilton-Powell,

Director, Office of Rulemaking.

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SUSQUEHANNA RIVER BASIN COMMISSION

18 CFR Part 806

Review and Approval of Projects

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: This document contains proposed rules that would amend the project review regulations of the Susquehanna River Basin Commission (Commission) by requiring review and approval of any natural gas well development project targeting the Marcellus, Utica or other shale formations and involving the withdrawal or consumptive use of waters of the Susquehanna River Basin, adding a provision providing for a specific approval by rule process for consumptive water use associated with such projects and modifying the definition of project. In addition, two editorial changes are made to the existing approval by rule provision related to the consumptive use of water withdrawn from public water supply systems to make that provision consistent with the new approval by rule provision for natural gas well development projects.

DATES: Public hearings will be held on October 21 and October 22, 2008, beginning at 7 p.m. regarding this proposed rulemaking action. The locations of the hearings are listed in the **ADDRESSES** section of this notice. The deadline for submission of written comments on the proposed rulemaking is October 31, 2008.

ADDRESSES: The October 21 2008, public hearing will be held at Lycoming College, Academic Center, Lecture Hall Room D001, Mulberry Street, Williamsport, PA 17701; the October 22, 2008, public hearing will be held at Binghamton University, State University of New York, Lecture Hall Complex, Lecture Hall 1, Route 434 (Vestal Parkway East), Binghamton, NY 13903. Written comments may be submitted by

mail 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.

FOR FURTHER INFORMATION CONTACT:

Richard A. Cairo, General Counsel, 717-238-0423; Fax: 717-238-2436; e-mail: rcairo@srbc.net. Also, for further information on the proposed rulemaking, visit the Commission's Web site at www.srbc.net.

SUPPLEMENTARY INFORMATION:

Background and Purpose of Amendments

As a result of advances in hydraulic fracturing, and higher natural gas prices, natural gas well development activity in the Susquehanna River Basin has increased dramatically in the past year, resulting in a large number of project applications being filed with the Commission seeking approval for the withdrawal and consumptive use of water for that activity. The Commission is hereby proposing a rulemaking action to handle the large and immediate influx of project applications, and to avoid adverse, cumulative adverse or interstate effects to the water resources of the basin.

The proposed rule modifies the definition of "project" for purposes of natural gas well development, requires review and approval of any natural gas well development project involving the withdrawal or consumptive use of water, and adds a specific approval by rule process associated with the consumptive use of water by such projects. The Commission's current approval by rule process is available for use only if the sole source of water is a public water supply system. Under the contemplated rule change, the approval by rule process would allow for the consumptive use of wastewater, acid mine water and other sources of water for natural gas well development projects. The proposal would not change the current process used to review groundwater or surface water withdrawals.

In addition, two editorial changes are made to the existing approval by rule provision relating to the consumptive use of water withdrawn from public water supply systems to make that provision consistent with the new approval by rule provision for natural gas well development projects.

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 part 806 as follows:

PART 806—REVIEW AND APPROVAL OF PROJECTS

Subpart A—General Provisions

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 "project" to read as follows:

§ 806.3 Definitions.

* * * * *

Project. Any work, service, activity, or facility undertaken, which is separately planned, financed or identified by the Commission, or any separate facility undertaken or to be undertaken by the Commission or otherwise within a specified area, for the conservation, utilization, control, development, or management of water resources, which can be established and utilized independently, or as an addition to an existing facility, and can be considered as a separate entity for purposes of evaluation. For purposes of natural gas well development activity, the project shall be considered to be the drilling pad upon which one or more exploratory or production wells are undertaken, and all water-related appurtenant facilities and activities related thereto.

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3. In § 806.4, amend paragraph (a) by adding paragraph (a)(8) to read as follows:

§ 806.4 Projects requiring review and approval.

(a) * * *

* * * * *

(8) Any natural gas well development project in the basin targeting the Marcellus, Utica or other shale formations for exploration or production of natural gas involving a withdrawal or consumptive use of waters of the basin, regardless of the quantity of such withdrawal or consumptive use. The project sponsor shall submit the appropriate application(s) in accordance with subpart B of this part and the project shall be subject to the applicable standards set forth in subpart C of this part.

* * * * *

4. In § 806.22, revise paragraph (e)(1) introductory text, (e)(1)(ii), and add a new paragraph (f) to read as follows:

§ 806.22 Standards for consumptive uses of water.

* * * * *

(e) * * *

(1) Except with respect to projects involving natural gas well development subject to the provision of paragraph (f) of this section, any project whose sole source of water for consumptive use is a public water supply withdrawal, may be approved under this paragraph (e) in accordance with the following, unless the Commission determines that the project cannot be adequately regulated under this approval by rule:

(i) * * *

(ii) Within 10 days after submittal of an NOI under paragraph (e)(1)(i) of this section, the project sponsor shall submit to the Commission proof of publication in a newspaper of general circulation in the location of the project, a notice of intent to operate under this approval by rule, which contains a sufficient description of the project, its purposes and its location. This notice shall also contain the address, electronic mail address and telephone number of the Commission.

* * * * *

(f) Approval by rule for consumptive use related to natural gas well development.

(1) Any project involving the development of natural gas wells subject to review and approval under §§ 806.4, 806.5, or 806.6 of this part shall be subject to review and approval under this paragraph (f) regardless of the source or sources of water being used consumptively.

(i) Notification of Intent: No fewer than 60 days prior to undertaking a project or increasing a previously approved quantity of consumptive use, the project sponsor shall:

(A) Submit a Notice of Intent (NOI) on forms prescribed by the Commission, and the appropriate application fee, along with any required attachments.

(B) Send a copy of the NOI to the appropriate agencies of the member state, and to each municipality and county in which the project is located.

(ii) Within 10 days after submittal of an NOI under paragraph (f)(1)(i) of this section, the project sponsor shall submit to the Commission proof of publication in a newspaper of general circulation in the location of the project, a notice of intent to operate under this approval by rule, which contains a sufficient description of the project, its purposes and location and the sources, quantities and peak day use of water to be used consumptively by the project. This notice shall also contain the address, electronic mail address and telephone number of the Commission.

(2) The project sponsor shall comply with metering, daily use monitoring and

quarterly reporting as specified in § 806.30, or as otherwise required by the approval by rule. Daily use monitoring shall include amounts delivered or withdrawn per source, per day, and amounts used per gas well, per day, for well drilling, hydrofracture stimulation, hydrostatic testing, and dust control. The foregoing shall apply to all water and fluids, including additives, flowback and brines, utilized by the project.

(3) The standard conditions set forth in § 806.21 above shall apply to projects approved by rule, as well as any special conditions incorporated into such approvals.

(4) The project sponsor shall comply with mitigation in accordance with § 806.22(b)(2) or (b)(3).

(5) Any produced flowback fluids or brines utilized by the project sponsor for hydrofracture stimulation undertaken at the project shall be separately accounted for, but shall not be included in the daily consumptive use amount calculated for the project, or be subject to the mitigation requirements of § 806.22(b).

(6) The project sponsor shall obtain all necessary permits or approvals required for the project from other federal, state or local government agencies having jurisdiction over the project. The Commission reserves the right to modify, suspend or revoke any approval under this paragraph (f) if the project sponsor fails to obtain or maintain such approvals.

(7) The project sponsor shall demonstrate to the satisfaction of the Commission that all flowback and produced fluids, including brines, have been treated and disposed of in accordance with applicable state and federal law.

(8) The Commission will grant or deny approval to operate under this approval by rule and will notify the project sponsor of such determination, including the sources and quantity of consumptive use approved.

(9) Approval by rule shall be effective upon written notification from the Commission to the project sponsor, shall expire five years from the date of such notification, and rescind any previous consumptive use approvals to the extent applicable to the project.

(10) Water withdrawals approved by the Commission pursuant to § 806.4(a)(2) after the date of issuance of the approval by rule may be utilized as a source for the consumptive use authorized for the project provided such withdrawal source is approved for such use and is registered with the Commission at least 10 days prior

thereto on a form and in a manner as prescribed by the Commission.

(11) Approvals issued under this paragraph (f) shall not be transferable under § 806.6.

Dated: September 16, 2008.

Thomas W. Beauduy,

Deputy Director.

[FR Doc. E8-22805 Filed 10-1-08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. EPA-R02-OAR-2008-0659, FRL-8723-8]

Approval and Promulgation of Implementation Plans; New Jersey; Diesel Idling Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan revision submitted by New Jersey to revise its rules regarding the idling of diesel-powered vehicles. Specifically, the State's implementation plan revision revises the exceptions to and exemptions from the State's existing three-minute idling rule. The intended effect of this action is to approve, as consistent with section 110(a)(2) of the Clean Air Act, a control strategy that will help New Jersey achieve attainment of the National Ambient Air Quality Standards for ozone and fine particulate matter.

DATES: Comments must be received on or before November 3, 2008.

ADDRESSES: Submit your comments, identified by Docket ID number EPA-R02-OAR-2008-0659, by one of the following methods:

- <http://www.regulations.gov>: Follow the online instructions for submitting comments.

- *E-mail:* Werner.Raymond@epa.gov.

- *Fax:* 212-637-3901.

- *Mail:* Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866.

- *Hand Delivery:* Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional