

Susquehanna River Basin Commission

a water management agency serving the Susquehanna River Watershed



Notice of Determination for Natural Gas Well Development Projects

(Originally Issued August 14, 2008)

As Revised October 8, 2008

Effective October 15, 2008, all natural gas well development projects in the Susquehanna River Basin targeting the Marcellus or Utica shale formations for gas exploration or extraction, and involving the withdrawal or consumptive use of waters of the basin, are subject to Susquehanna River Basin Commission (Commission) review and approval.

For purposes of this determination, please be advised that a “project” is defined to encompass the drilling pad upon which one or more target formation exploratory or production gas wells are undertaken, and all appurtenant facilities and activities related thereto. Pursuant to 18 CFR §806.3, a project is deemed to be undertaken upon the “initiation of construction or the operation of a new or expanded project, or the operation of an existing project.” This would include the commencement of drilling (spudding) of a well on or after October 15, 2008, or the hydrofracture treatment of a well on or after that date, regardless of when drilled. Any water withdrawn prior to October 15, 2008, below current regulatory thresholds and staged on-site may be used after that date for hydrofracture treatment in conjunction with an Approval by Rule or other approval issued by the Commission for such project.

This determination is being made pursuant to Section 3.10 of the Susquehanna River Basin Compact (Pub. L. 91-575, 84 Stat. 1509 *et seq.*) and the authority vested in me by 18 CFR §806.5, on the basis that such natural gas well development activity could have an adverse, cumulative adverse, or interstate effect on the water resources of the basin. Specifically, the quantity, rate, and location of groundwater or surface water withdrawals and consumptive use associated with such projects, either individually or cumulatively, or both, have the potential to cause such effects. Furthermore, they have the potential to alter the physical, biological, chemical, or hydrological characteristics of the water resources of the basin and may affect interstate water quality.

As a result of this determination, please note that review and approval are required prior to undertaking such projects, notwithstanding the fact that the anticipated amount of water withdrawal or consumptive water use may not trigger the Commission’s existing regulatory thresholds set forth in 18 CFR §806.4.

In addition to this determination, the Commission acted on September 11, 2008, to publish the proposed rulemaking to further address the water resource aspects and procedures for review of natural gas well development projects. In taking that action, it established a public comment period to run through October 31, 2008, and has scheduled two public hearings to receive comment on the proposal. Public hearings will be held on October 21, 2008, at

7:00 p.m., Lycoming College, Academic Center, Lecture Hall Room D001, Mulberry Street, Williamsport, Pennsylvania, and on October 22, 2008, at 7:00 p.m., Binghamton University, SUNY, Lecture Hall Complex, Lecture Hall 1, Route 434 (Vestal Parkway East), Binghamton, New York. A copy of the proposed rulemaking is attached for your reference.

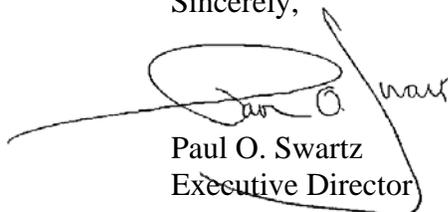
If adopted as recommended, the proposed rulemaking would modify the process for review and approval of natural gas well development projects currently subject to 18 CFR §806.4(a):

- The scope of projects subject to review under 18 CFR §806.4(a) would be expanded to include those now becoming subject to review and approval as a result of the determination noted above.
- For purposes of natural gas well development, projects would be regulated on a drilling pad basis.
- All consumptive use approvals would occur pursuant to an Approval by Rule process substantially similar to the existing Approval by Rule process contained in 18 CFR §806.22(e).
- The new Approval by Rule process would be applicable to all water sources utilized for consumptive use, not just public water supply systems.
- Flow-back or produced fluids, including brines, would be separately accounted for, but would not be included in the calculation of consumptive use amounts.
- Projects would be required to demonstrate compliance with state and/or federal law for the treatment and disposal of flow-back or produced fluids, including brines.
- Approvals would have a term of five (5) years.
- Any withdrawal approval issued by the Commission after issuance of the Approval by Rule could be added as a source for the project by registering it with the Commission.

As provided in 18 CFR §806.5(b), please note that this revised determination may be appealed to the Commission within thirty (30) days, in the manner prescribed by 18 CFR §808.2.

If you have any questions, please contact Michael G. Brownell, Chief of the Water Resources Management Division, at (717) 238-0423.

Sincerely,



Paul O. Swartz
Executive Director

Attachment