

Susquehanna River Basin Commission

a water management agency serving the Susquehanna River Watershed



July 31, 2009

SPECIAL NOTICE: DRAFTING ERROR IN PROPOSED RULEMAKING

The Commission has discovered a drafting error in our recent Notice of Proposed Rulemaking published at 74 FR 31647 (July 2, 2009).

As part of the proposed rulemaking, the Commission intends to revise 18 CFR §806.4(a) by adding two new subsections addressing project review and approval for projects undergoing licensing actions by the Federal Energy Regulatory Commission and the Nuclear Regulatory Commission. Consistent with that intent, the preamble contained in the Notice of Proposed Rulemaking speaks to the insertion of additional provisions and makes no mention of any deletion (since none was intended) concerning §806.4(a).

While there was and is no intent to delete any of the existing language, the proposed revision involves a partial renumbering of subsections that effectively would delete the existing §806.4(a)(8), which addresses project review and approval for Marcellus and Utica shale formation natural gas well development projects.

This was not intended and the Commission will address this error at the final rulemaking stage. The following language revisions for §806.4(a) would enable correction of the error upon final adoption:

§ 806.4 – Projects requiring review and approval.

*(a) * * **

(7) Any natural gas well development project in the basin targeting the Marcellus or Utica shale formations, or any other formation identified in a determination issued by the Executive Director pursuant to §806.5, for exploration or production of natural gas involving a withdrawal, diversion or consumptive use, regardless of the quantity.

(8) Any hydroelectric project regulated by the United States Federal Energy Regulatory Commission and initiating a licensing or license amendment process pursuant to 18 CFR Part 4 that may affect the water resources of the basin.

(9) Any nuclear power project regulated by the United States Nuclear Regulatory Commission and initiating a licensing, renewal, license amendment or license uprate process pursuant to 10 CFR Part 55 that may affect the water resources of the basin.

(10) Any other project so determined by the Commissioners or Executive Director pursuant to §806.5 or 18 CFR part 801. Such project sponsors shall be notified in writing by the Executive Director.

Though renumbered from (a)(8) to (a)(7) for organizational purposes, the operative provision is included in the language above and allows it to be maintained in our regulations. The Commission apologizes for any confusion this drafting error may have caused.