

**Susquehanna River Basin Commission Rules & Regulations
(Review and Approval of Projects–Subpart B Only)**

Subpart B -- Application Procedure

§ 803.20 Purpose of this subpart.

The purpose of this subpart is to set forth procedures governing applications required by §§ 803.4 and 803.5.

§ 803.21 Preliminary consultations.

(a) Any sponsor of a proposed project that is or may be subject to the commission's review jurisdiction under §803.4 or §803.5 is encouraged, prior to making application for commission review, to request a preliminary consultation with the commission staff for an informal discussion of preliminary plans for the proposed project. To facilitate preliminary consultations, it is suggested that the sponsor provide a general description of the proposed project, a map showing its location and, to the extent available, data concerning dimensions of any proposed structures and the environmental impacts.

(b) Preliminary consultations shall be optional with the project sponsor and shall not relieve the sponsor from complying with the requirements of the compact or with this part.

§ 803.22 Request for determination.

(a) Sponsors of projects which may require review and approval, as described in 803.5, shall submit a "request for determination" to the executive director with such accompanying information and data as the executive director shall prescribe.

(b) If a project sponsor is uncertain whether a "request for determination" should be filed with the commission, the sponsor may ask for and, within thirty days after submission of information in such form and manner as will allow the executive director to make a decision, receive from the executive director a letter stating whether a "request for determination" should be filed. The executive director may also direct a project sponsor to submit a "request for determination."

(c) Within thirty days of the receipt of such "request for determination," the executive director shall determine whether the said project must be reviewed and approved by the commission. In making such determination, the executive director shall be guided primarily by his/her findings as to the following factors:

- (1) Whether the proposed project will have a significant interstate effect on water supply, stream flows, aquifers, water quality, flooding, sensitive land areas, aquatic or terrestrial forms of plant or animal life, historical or cultural resources, or any other water-related resource.

- (2) Whether the proposed project will have a significant impact upon the goals, objectives, guidelines, plans, or projects included in the comprehensive plan.
- (3) Whether the proposed project may have an adverse or adverse cumulative effect on the water resources of the basin.

(d) The executive director shall notify the sponsor of the project, the agency of the signatory party, if any, reviewing the project, the governing body of each municipality and the planning agency of each county in which the project is located of his/her initial determination under this section. Notice to the sponsor shall be by certified mail, and to all other interested parties by regular, first class mail. At a cost to be assessed to the project sponsor, the executive director shall also publish in a newspaper of general circulation in that municipality, at least once, a notice of such determination. If no objection is made to the executive director's initial determination, it shall become final ten days after publication as set forth in this paragraph.

(e) Any interested party objecting to the determination may, within ten days of the newspaper publication, object to such determination and appeal to the executive director by letter for reconsideration. Following such reconsideration, if requested, the executive director shall serve notice upon the agency of the signatory party, the applicant and each such objector of his/her determination. Any such party may appeal such final determination to the commission by notice in writing served upon the executive director within 14 days after the service of the executive director's decision upon reconsideration. The commission will determine such appeal at a regular meeting thereafter.

§ 803.23 Submission of application.

(a) Sponsors of projects requiring the review and approval of the commission under §803.4, or determined to require the approval of the commission under §803.22, shall, prior to the time the project is undertaken, submit an application to the commission. The application shall be submitted to the commission at its headquarters, 1721 N. Front Street, Harrisburg, Pennsylvania 17102-2391, and shall contain the information prescribed in §803.24.

(b) An application shall not be deemed to be pending before the commission until such time as the information required under §803.24 has been provided and any applicable fee has been paid.

(c) As determined from applications or otherwise, the commission shall review and either approve, approve with conditions or modifications, or disapprove such projects.

§ 803.24 Contents of application.

(a) Applications shall be submitted on forms prescribed by the commission.

(b) If no forms are prescribed by the commission for a particular type of project, the sponsor shall submit an application addressing the following items applicable to the project:

- (1) Identification of sponsor and name of person authorized to speak for the sponsor.
- (2) Description of project and site in terms of:
 - (i) Water use and availability.
 - (ii) Engineering feasibility.
 - (iii) Ability of sponsor to fund the project or action.
 - (iv) Project location.
 - (v) Project purpose.
 - (vi) Identification and description of reasonable alternatives, the extent of their economic and technical investigation, and an assessment of their potential environmental impact. In the case of a proposed diversion, the sponsor should include information:
 - (A) Detailing the efforts that have been made to develop its own in-basin sources of water; and
 - (B) Demonstrating that the proposed diversion will not have substantial adverse effects on the ability of the Susquehanna River basin to meet its own water needs.
 - (vii) Supporting studies, reports and other information upon which assumptions and assertions have been based.
 - (viii) Compatibility of proposed project with existing and anticipated uses.
 - (ix) Plans for avoiding or compensating for consumptive use during low flow periods.
 - (x) Anticipated impact of the proposed project on:
 - (A) Flood damage potential considering the location of the project with respect to the flood plain and flood hazard zones;
 - (B) Surface water characteristics (quality, quantity, flow regimen, other hydrologic characteristics);
 - (C) Recreation potential;
 - (D) Fish and wildlife (habitat quality, kind and number of species);

- (E) Natural environment uses (scenic vistas, natural and manmade travel corridors, wild and wilderness areas, wild, scenic and recreation rivers);
- (F) Site development considerations (geology, topography, soil characteristics, adjoining and nearby land uses, adequacy of site facilities); and
- (G) Historical, cultural and archaeological impacts.

(3) Governmental considerations:

- (i) Need for governmental services or finances.
- (ii) Commitment of government to provide services or finances.
- (iii) Status of application with other governmental regulatory bodies.

(4) Project estimated completion date and estimated construction schedule.

(c) A report about the project prepared for any other purpose, or an application for approval prepared for submission to a signatory party, may be accepted by the commission provided the said report or application addresses the applicable items listed in paragraph (b) of this section.

§ 803.25 Notice of application.

(a) The project sponsor shall, within ten days of the submission of an application to the commission, notify area and regional news media, the municipality(ies) in which the project is situated, the county planning agency of the county(ies) in which the project is situated, and contiguous property owners that an application has been submitted to the commission. The commission shall compile a list of additional interested parties who comment on the application, request a hearing or make inquiries concerning the application. The project sponsor shall also publish at least once in a newspaper of general circulation in that municipality a notice of the submission of the application which contains a sufficient description of the project, its purpose and its location. Both the notification and the notice shall contain the address and phone number of the commission.

(b) The project sponsor shall provide the commission with a copy of the return receipt for the required municipal notification and a proof of publication for the required newspaper notice. The project sponsor shall also provide certification on a form provided by the commission that it has made such other notifications as required under paragraph (a) of this section. Until these items are provided to the commission, processing of the application will not proceed.

§ 803.26 Staff review/action/recommendations.

(a) The commission's staff shall review the application, and if necessary, request the sponsor to provide any additional information that is deemed pertinent for proper evaluation of the project. The staff review shall include:

- (1) Determination of completeness of the application. An application deemed incomplete will not be processed.
- (2) Identification of the issues pertinent to commission review.
- (3) Assessment of the project's compatibility with the compact, comprehensive plan, and with the other requirements of this Part.
- (4) Consultation with the project sponsor if requested or deemed necessary.
- (5) Determination of the appropriate application fee in accordance with the commission's project review fee schedule and the transmission of a billing to the project sponsor for that fee. Applications will not be presented to the commission for review and action until such application fee has been paid.
- (6) Formal docketing of the project and, within 90 days of receipt of a complete application, presentation to the commission along with the recommendations of the staff for disposition of the application. The executive director may, for good cause, extend this review period for up to an additional 60 days. Any further extension must be approved by the commission.

(b) If the project sponsor fails to respond to the commission's request for additional information, the commission may notify the project sponsor that the application process has been terminated. To reactivate the closed file, the project sponsor shall reapply and may be required to submit new or updated evaluations.

§ 803.27 Emergencies.

In the event of an emergency requiring immediate action to protect the public health, safety and welfare or to avoid substantial and irreparable injury to any person, property, or natural resources and the circumstances do not permit a review and determination in the regular course of the regulations in this part, the executive director, with the concurrence of the chairperson of the commission and the member from the affected signatory state, may issue an emergency certificate authorizing a project sponsor to take such action as the executive director may deem necessary and proper in the circumstances, pending review and determination by the commission as otherwise required by this part.

§ 803.28 Application/monitoring fees.

The commission may, by separate resolution, establish and modify fees for the submission and processing of applications and for the monitoring of project compliance with this part.