

RESOLUTION NO. 2018-08

A RESOLUTION of the Susquehanna River Basin Commission (the "Commission") outlining the authority of the Executive Director to enter into settlement agreements.

WHEREAS, under Section 15.1(b)(4) of the Susquehanna River Basin Compact, Pub. L. 91-575; 84 Stat. 1509 et seq., the Commissioners shall "appoint the principal officers of the Commission and delegate to and allocate among them administrative functions, powers, and duties;" and

WHEREAS, Section 15.5 of the said compact provides for the appointment of an Executive Director by the Commission; and

WHEREAS, Section 3-2 of the Commission's By-Laws sets forth the duties of the Executive Director as the chief executive officer of the Commission; and

WHEREAS, the Executive Director, under the said By-Laws, is primarily responsible for the "effectuation and enforcement of all policies and resolutions adopted by the Commission;" and

WHEREAS, the Commission revised and adopted 18 CFR § 808.18 that provides that the "Executive Director may enter into settlement agreements to resolve enforcement action" on behalf of the Commission and that the "Commission may, by Resolution, require certain types of enforcement actions to settlements to be submitted to the Commission for action and approval."

NOW THEREFORE BE IT RESOLVED THAT:

1. The Commission hereby requires settlement agreements entered pursuant to § 808.18 to be submitted to the Commission for action under the following circumstances:

- a. Any settlement over \$25,000;
- b. Any settlement with a municipality or municipal authority over \$10,000; or
- c. Any settlement with a repeat violator who has two or more prior enforcement actions within the past five years.

2. The Commission also adopts the Guidelines appended to this Resolution regarding use of the settlement authority under § 808.18. The Executive Director shall consult with the appropriate member jurisdiction prior to entering into a settlement agreement under this delegation.

3. Resolution 2014-15 is rescinded in its entirety.

4. This resolution shall be effective immediately.

Dated: June 15, 2018



Col. Edward Chamberlayne, Chair  
United States

## **GUIDELINES FOR USE OF SETTLEMENT AUTHORITY**

Per Resolution 2018-03, the use of settlement authority under the Resolution and 18 CFR § 808.18 generally should be exercised in accordance with these guidelines. The Commission finds that there are benefits in delegating the settlement of compliance actions to the Executive Director. This delegation allows Commission staff to engage in more timely and efficient resolution of compliance and enforcement matters with alleged violators.

The Commission hereby requires settlement agreements entered pursuant to § 808.18 to be submitted to the Commission for action under the following circumstances:

1. Any settlement over \$25,000;
2. Any settlement with a municipality or municipal authority over \$10,000;
3. Any settlement with a repeat violator who has two or more prior enforcement actions within the past five years.

### **Limits on Delegation Under § 808.18**

- Prior to entering a settlement agreement under the delegation provided in § 808.18, the Executive Director shall consult with the appropriate member jurisdiction.
- The Executive Director shall report to the Commission all settlements entered into under this delegation each quarter and all settlements under this delegation will be publicly available at the Commission's quarterly business meeting.
- Nothing in this Resolution is meant to limit the Executive Director's ability to issue Orders under 18 CFR § 808.14 or make penalty determinations at an Order to Show Cause Proceeding under 18 CFR § 808.15.

### **Effect of Guidelines on Existing Regulations and Policy**

- Settlements under this delegation of authority shall consider the factors for civil penalties and settlement set forth in 18 CFR § 808.16.
- These guidelines are meant to be used along with other Commission policies regarding enforcement actions, including Policy No. 96-01, SRBC Civil Penalty Matrix (March 14, 1996) and Policy No. 2000-01, Policy and Guidance Statement for the Settlement of Civil Penalties/Enforcement Actions (February 10, 2000), and any and all future amendments to these policies or successor policies.
- The Commission's regulations and policies will continue to be utilized in the initial assessment of enforcement actions for alleged violations. The limit for settlements in this resolution should not be a factor used by the Executive Director in determining the proper amount proposed for settlement.