

RESOLUTION NO. 2017-12

A RESOLUTION of the Susquehanna River Basin Commission (the “Commission”) resolving the request for waiver of regulations by the Borough of Middletown (“Middletown”), directing Commission staff to develop a proposed rulemaking, and authorizing the Executive Director to take certain interim actions.

WHEREAS, pursuant to 18 C.F.R. § 806.8, the Commission, in its discretion, may waive or modify any regulatory requirement so long as the essential purposes of 18 C.F.R. § 806.2 are met; and

WHEREAS, Middletown has requested a waiver of 18 C.F.R. § 806.6 due to the transfer of the public water system from the Middletown Borough Authority to the Borough of Middletown; and

WHEREAS, Middletown specifically seeks a waiver of 18 C.F.R. § 806.6(a)(5) and (b) that would require review and approval of four previously unapproved wells that are a part of the water system; and

WHEREAS, at its June 16, 2017, meeting the Commissioners heard the staff recommendation to deny the waiver and Middletown’s statement in favor of the waiver, and after deliberation, the Commission tabled consideration of the waiver until its September 2017 meeting to allow staff to review and evaluate any broader implications to Middletown’s waiver request; and

WHEREAS, the Commission staff have completed their evaluation and recommend that the Commission modify the requirements of the regulation germane to Middletown’s request; and

WHEREAS, the Commission wishes to prospectively apply this modification to similar situations.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Commission hereby grants Middletown’s request for waiver or modification of the regulations under 18 C.F.R. § 806.8, in part, as follows:

a. Middletown will ensure that the project will register its previously unapproved sources under Subpart E of 18 C.F.R. Part 806 after it becomes effective on January 1, 2018.

b. The transfer approval for Middletown shall be issued by staff and conditioned to include monitoring requirements under 18 C.F.R. § 806.30 for all of its previously unapproved sources.

c. During Middletown's next docket renewal, the previously unapproved sources registered under Subpart E will be recognized, assessed, and regulated as part of that docket without the need for Middletown to submit aquifer test plans or waiver requests or applications for those previously unapproved sources.

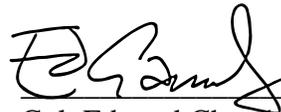
d. Any expressed or implied exemptions herein notwithstanding, the Executive Director may require formal review and approval of any of the previously unapproved sources if those sources show a substantial likelihood of environmental harm, interference with other water users or water availability issues.

2. The Commission directs staff to develop a proposed rulemaking for changes of ownership involving changes of municipal form by and between municipalities and municipal authorities consistent with the waiver and modification of the regulations granted to Middletown herein.

3. The Commission delegates its authority to the Executive Director under 18 C.F.R. § 806.8 to grant any similar requests for waivers or modifications by municipalities or municipal authorities that may arise under 18 C.F.R. § 806.6 for transfers in the interim before a rule can be promulgated. Once a final rule is promulgated, this delegation will terminate.

4. This resolution shall be effective immediately.

Dated: September 7, 2017



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Col. Edward Chamberlayne, Chair  
United States