

RESOLUTION NO. 2020-02

A RESOLUTION of the Susquehanna River Basin Commission (the “Commission”) adopting and promulgating a final rulemaking action amending the regulations related to consumptive use and consumptive use mitigation and adoption of a consumptive use mitigation policy and providing for implementation.

WHEREAS, the Commission is authorized under Sections 3.4 and 15.2 of the Susquehanna River Basin Compact, P.L. 91-575 (the “Compact”), to “adopt, amend, and repeal rules and regulations to implement the compact;” and

WHEREAS, a proposed rulemaking action was published in the Federal Register on September 13, 2019; New York Register on October 2, 2019; Pennsylvania Bulletin on September 21, 2019; and Maryland Register on October 11, 2019; and

WHEREAS, simultaneously with the proposed rulemaking action, the Commission also placed a companion Consumptive Use Mitigation Policy for public review; and

WHEREAS, in accordance with 18 CFR § 808.1, this proposed rulemaking action and policy were the subject of a public hearing held in Harrisburg, Pennsylvania on October 31, 2019, and the Commission accepted written comments through November 12, 2019; and

WHEREAS, the Commission received and reviewed all public comment on the proposed rulemaking and policy; and

WHEREAS, under the policy the Commission outlines the interpretation of its consumptive use mitigation rules as applied to evaporation on certain ponds; and

WHEREAS, pursuant to Article 15.1(b)(3) of the Compact, the Commissioners shall “[p]rovide for the internal organization and administration of the commission.”; and

WHEREAS, pursuant to 18 CFR § 806.8, the Commission may waive certain regulations as long as the purposes of Part 806 are met.

NOW THEREFORE BE IT RESOLVED THAT:

1. A final rulemaking action amending Title 18, Part 806 of the Code of Federal Regulations, as set forth in the document attached hereto and made a part hereof, is hereby adopted by the Commission.
2. The Executive Director is hereby directed to publish a final rulemaking notice in the Federal Register and comparable member state notice publications in accordance with this final rulemaking action.
3. This final rulemaking action shall be effective as provided in the final rulemaking notice.

4. The Commission also adopts the Consumptive Use Mitigation Policy, Policy No. 2020-01, as set forth in the document attached hereto and made a part hereof.

5. The Policy shall become effective April 1, 2020.

6. The Executive Director shall have all authority necessary to carry out the implementation of the final rulemaking and policy, including where necessary approving any Commission-initiated modifications to consumptive use approvals to modify the mitigation requirements for evaporative losses on ponds that meet the mitigation standard in Policy No. 2020-01.

Dated: March 13, 2020

Aneca Atkinson, Chair
Pennsylvania