- 805.24 Assessment of a penalty/abatement or remedial action.
- 805.25 Factors to be applied in fixing penalty amount.
- 805.26 Enforcement of penalties/abatement or remedial orders.
- 805.27 Settlement by agreement.

805.28 Effective date.

805.29 Definitions.

Authority: Secs. 3.4(9), 3.5(5), 3.10, 15.2 and 15.17, Pub. L. 91–575, 84 Stat. 1509 *et sea*.

Subpart A—Conduct of Hearing

§ 805.1 Public hearings.

- (a) A public hearing shall be conducted in the following instances:
- (1) Addition of projects or adoption of amendments to the comprehensive plan except as otherwise provided by Section 14.1 of the compact.
 - (2) Rulemaking.
 - (3) Approval of projects.
- (4) Hearing requested by a signatory
- (5) When in the opinion of the commission, a hearing is necessary to give adequate consideration to issues relating to public safety, protection of the environment, or other important societal factors.
 - (6) To decide factual disputes.
- (7) At all other times required by the compact or commission regulations in this chapter.
- (b) Notice of public hearing. At least 20 days before any public hearing required by the compact, notices stating the date, time, place and purpose of the hearing including issues of interest to the commission shall be published at least once in a newspaper or newspapers of general circulation in the area affected. Occasions when public hearings are required by the compact include, but are not limited to, amendments to the comprehensive plan, drought emergency declarations, and review and approval of diversions. In all other cases, at least 10 days prior to the hearing, notice shall be posted at the office of the commission, mailed by first class mail to the parties who, to the commission's knowledge, will participate in the hearing, and mailed by first class mail to persons, organizations, news media and governmental entities who have made requests to the commission for notices of hearings or of a particular hearing. In the case of hearings held in connection with rulemaking, notices need only be forwarded to the directors of the New York Register, the Pennsylvania Bulletin, the Maryland Register, and the Federal Register, and it is sufficient that this notice appear only in the **Federal** Register at least 20 days prior to the hearing and in each individual state

- publication at least 10 days prior to any hearing scheduled in that state.
- (c) Participants to a public hearing. (1) Hearings shall be open to the public. Participants to a public hearing shall be the project sponsor and the commission staff. Participants may also be any person or governmental entity wishing to appear at the hearing and make an oral or written statement. Statements may favor or oppose the project/ proposal or may simply express a position without specifically favoring or opposing the project/proposal. Statements shall be made a part of the record of the hearing, and written statements may be received up to and including the last day on which the hearing is held, or within a reasonable time thereafter as may be specified by the presiding officer, which time shall be not less than ten days nor more than 30 days, except that a longer time may be specified if requested by a participant.
- (2) Participants (except the project sponsor and the commission staff) are encouraged to file with the commission at its headquarters written notice of their intention to appear at the hearing. The notice should be filed at least three days prior to the opening of the hearing.
- (d) Representative capacity.

 Participants wishing to be heard at a public hearing may appear in person or be represented by an attorney or other representative. A governmental entity may be represented by one of its officers, employees or by a designee of the governmental entity. Any person intending to appear before the commission in a representative capacity on behalf of a participant shall give the commission written notice of the nature and extent of his/her authorization to represent the person or governmental entity on whose behalf he/she intends to appear.
- (e) Description of project. When notice of a public hearing is issued, there shall be available for inspection at the commission offices such plans, summaries, maps, statements, orders or other supporting documents which explain, detail, amplify, or otherwise describe the project the commission is considering. Instructions on where and how the documents may be obtained will be included in the notice.
- (f) Presiding officer. A public hearing shall be conducted by the commission, the executive director, or any member or designee of the commission. The presiding officer shall have full authority to control the conduct of the hearing and make a record of the same.

§805.2 Adjudicatory hearing.

- (a) Generally. The commission, upon application by any interested party or upon its own motion, may determine that, due to outstanding issues of fact, an adjudicatory hearing shall be conducted. If, for any reason, the commission determines that there are not sufficient issues of fact to schedule an adjudicatory hearing, it may still require briefs or oral argument on any issues of law.
- (b) Hearing procedure. (1) The presiding officer shall have the power to rule upon offers of proof and the admissibility of evidence, to regulate the course of the hearings, to hold conferences for the settlement or simplification of issues, to determine the proper parties to the hearing, to determine the scope of any discovery procedures, and to delineate the issues to be adjudicated.
- (2) The presiding officer shall cause each witness to be sworn or to make affirmation.
- (3) Any party to a hearing shall have the right to present evidence and to examine and cross-examine witnesses.
- (4) When necessary, in order to prevent undue prolongation of the hearing, the presiding officer may limit the number of times any witness may testify, the repetitious examination or cross-examination of witnesses, or the extent of corroborative or cumulative testimony.
- (5) The presiding officer shall exclude irrelevant, immaterial or unduly repetitious evidence, but the parties shall not be bound by technical rules of evidence, and all relevant evidence of reasonably probative value may be received.
- (6) Any party may appear and be heard in person or be represented by an attorney at law.
- (7) Briefs and oral argument may be required by the presiding officer and shall be permitted upon request made prior to the close of the hearing by any party. They shall be part of the record unless otherwise ordered by the presiding officer.
- (c) Staff and other expert testimony. The executive director shall arrange for the presentation of testimony by the commission's technical staff and other experts, as he/she may deem necessary or desirable, to incorporate in the record or support the administrative action, determination or decision which is the subject of the hearing.
- (d) Written testimony. If the direct testimony of an expert witness is expected to be lengthy or of a complex, technical nature, the presiding officer may order that such direct testimony be submitted to the commission in sworn,