

Delaware River Basin Commission Postpones Vote on Fracking Regulations

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In an interesting development, the Delaware River Basin Commission (“DRBC”) announced on November 18th that it would postpone the vote on fracking regulations that was originally scheduled for November 21, 2011. The proposed regulations were predicted to substantially advance fracking operations in the Delaware River Basin, and had been met with fierce resistance from several quarters. New York Attorney General Eric Schneiderman and several environmental groups filed suit in federal court to block the regulations, alleging that the Army Corps of Engineers had not conducted a full environmental impact study as required by the National Environmental Policy Act.

DRBC published draft regulations on December 9, 2010, and accepted public comment on them through April 15, 2011. On November 8, 2011, DRBC published draft final regulations.

The Commission postponed its vote on the final regulations because the Commissioners needed more time to review the proposed rules. DRBC is comprised of five Commissioners: the Governors of Delaware, New Jersey, New York, and Pennsylvania, and the Commander of the U.S. Army Corps of Engineers, North Atlantic Division. Delaware Governor Jack Markell recently stated that he would vote against the regulations because he believes they do not go far enough to protect public health. The Governor of New York is also expected to vote against the regulations. It is widely expected that the Governors of Pennsylvania and New Jersey will vote in favor of the regulations, while the U.S. Army Corps of Engineers has not indicated how it plans to vote.

DRBC has not yet rescheduled the vote.

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