

Delaware River Basin Commission Proposes Controversial Fracking Regulations

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On November 8, 2011, the Delaware River Basin Commission (DRBC) released [draft final regulations](#) that are likely to advance fracking operations in Delaware, New Jersey, Pennsylvania, and New York, but not without court challenges and controversy. DRBC is a federal-interstate compact agency which regulates water quality protection, water supply allocation, regulatory permitting, and water conservation initiatives for the Delaware River Basin.

DRBC's draft final regulations would allow fracking operations to take advantage of available water resources while increasing permit requirements in some areas. If passed, the regulations would allow treated wastewater and recovered flowback to be diverted into the Basin. Further, fracking operations that already have approval from the DRBC to withdraw fresh water from the Basin would be granted the right to sell excess allocations to natural gas projects without additional agency approval. However, all fracking operations would be required to obtain a water quality permit for each gas well pad and each project, requiring hydrostatic testing of natural gas lines as well. The regulations would also require untreated fracking wastewater to be stored in closed tanks and removed from the pad site within 90 days.

The draft regulations have met resistance. New York Attorney General Eric Schneiderman and several environmental groups have filed suit in federal court against the DRBC and Army Corps of Engineers, alleging that they have not conducted a full environmental impact study as required by the National Environmental Policy Act.

DRBC published its initial draft regulations on December 9, 2010. It held public hearings and received written comments on the regulations from February through April 2011. The draft final regulations published on November 8 were revised in response to comments DRBC received earlier in the year. DRBC will vote on the proposed final regulations on November 21, 2011.

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