



**To Frack or Not to Frack:**  
**Drilling Moratorium and Proposed Natural Gas Development Regulations**  
**in the Delaware River Watershed**



***The Delaware River***

The Delaware River Basin Commission (DRBC) instituted a moratorium on natural gas drilling in the Delaware River Basin in May 2010 when they began developing gas-specific regulations since gas and oil extraction had not been an activity there previously. DRBC issued draft natural gas development regulations on December 9, 2010 with a public comment period that closed April 15, 2011 (<http://www.state.nj.us/drbc/naturalgas->

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[draftregs.pdf](#)). A cumulative impact analysis was going to be done to provide data and scientific analysis of gas development's potential impacts.

The draft rules were published despite a storm of protest and requests from thousands that the needed comprehensive environmental analysis had not yet been done by the agency, including cumulative impact studies, of the potential effects of gas development on the Delaware River Watershed and the water supply of 15 million people. Unfortunately, the DRBC ignored this public concern. 69,800 submissions (a record number) were received by the DRBC from the public on the proposal. Many agencies, elected officials, businesses and other constituencies have opposed the DRBC's actions towards allowing gas drilling in the Basin. Portions of New York, Pennsylvania, New Jersey, and Delaware drain to the Delaware River; these states and a federal representative (Army Corps of Engineers) are the voting members of the DRBC.

The DRBC was formed in 1961 following a Compact that resulted from a Supreme Court Decree settling water wars amongst the states over the allocation of the Delaware River's resources. The agency has broad powers and is ultimately responsible for the management and protection of the ~13,000 square mile Watershed, the Wild and Scenic Delaware River (designated as Special Protection Waters, an anti-degradation regulatory program) and National Estuary, which supplies water to over 15 million people.

Since the drilling moratorium was enacted by the DRBC, many studies have been done of the damage caused by natural gas development, including the unavoidable pollution to water resources caused by hydraulic fracturing ("fracking"), its infrastructure and processing facilities and other gas-related operations. The scientific evidence has emerged that make it clear that fracking simply cannot be made safe. As the DRBC continues its analysis of the impacts that gas drilling would have on the Delaware River Watershed's water resources and assets, the negative impacts across shale regions grow, mounting more evidence of the short term, long term, and generational-level pollution and degradation of the environment and communities caused by shale gas development.

On November 8, 2011, the DRBC issued revised draft natural gas regulations but did not open these for further public comment despite the substantial changes that were made to the draft. A special meeting, with no public hearing, was scheduled by the DRBC for November 21, 2011 to consider approval of the regulations, which would allow drilling and fracking to commence in the Delaware River Watershed. The result was stinging and wide public criticism of the both the process (no public comment or opportunity to participate in the revised rule adoption) and the substance of the proposed regulations (in several aspects the regulations were weakened, such as waterway setbacks from gas well construction reduced to 300 feet from 500 feet).

The State of New York had already announced it would vote against the adoption of the proposed regulations since they were in the midst of their own environmental review of fracking. On November 17, Delaware Governor Jack Markell announced that he would vote against approving the draft regulations. Explaining his decision, the Governor stated “This risk is a significant concern for Delaware and therefore, until we have confidence that the Commission's Natural Gas Development Regulations, coupled with the state and local regulations upon which they rely, are adequately protective of this water supply, I have a duty to current and future generations of Delawareans to vote no.” Apparently, no other member of the DRBC wanted to be the “swing vote” that would decide the issue so their planned November 21 meeting was abruptly cancelled on November 18. There has been no new meeting date set regarding action on the proposed regulations.

In the meantime, the drilling moratorium in the Delaware River Basin remains in place. DRBC is charged with a legal mandate to protect the waters of the basin. The DRBC's Special Protection Waters designation of the nontidal Delaware River, the longest stretch of anti-degradation waters in the U.S., is the foundation of the need for a moratorium and eventual ban. The DRBC MUST, under their existing regulations, maintain the exceptional water quality that now exists in the Wild and Scenic-designated River and improve it where it needs help.

The proposed rules do not meet that standard. They do not protect from the adverse impacts of individual wells in the short or long term, nor do they address the cumulative impacts of water pollution of groundwater and surface water, water withdrawal, land transformation, habitat loss, frack waste handling and disposal, well construction, and more. DRBC's path to preventing the inevitable degradation and pollution that natural gas drilling will cause to the River's water resources including its habitats, streams, and communities, is, simply, a prohibition of natural gas development.

**To see information on recent court actions regarding the future of gas development:**

Supreme Court Ruling on Act 13 against gas drilling takeover: <http://bit.ly/1oqXknq>

PA Auditor General Report criticizing PADEP: <http://bit.ly/1kQFpq6>

Federal Court ruling against FERC on gas pipelines: <http://bit.ly/1yfFJal>

**To take action to protect the Delaware River Watershed from gas drilling and fracking and learn more about these issues:**

Pipelines: <http://bit.ly/X1GFBD>

Fracking and Gas development in the four watershed states: <http://bit.ly/XDY5o6>

**To get involved as an e-activist on these and other environmental issues:**

<http://www.delawariverkeeper.org/join/eactivist.aspx>