

RESOLUTION

A RESOLUTION directing the Executive Director to publish for public comment revised draft regulations regarding certain natural gas development activities in the Delaware River Basin.

WHEREAS, at a Delaware River Basin Commission (“DRBC”) business meeting on May 5, 2010, the DRBC commissioners unanimously directed DRBC staff “to develop draft regulations on well pads in the shales for notice and comment rulemaking”.

WHEREAS, by Resolution and Order dated December 8, 2010, the Commission postponed the decision on its authority to review natural gas exploratory well activities in shale formations until either the promulgation of final natural gas regulations or the submission of an application;

WHEREAS, the Commission published draft natural gas development regulations on December 9, 2010, and the comment period closed on April 15, 2011. Nearly 69,000 comments were submitted, and revised draft natural gas development regulations were issued on November 8, 2011;

WHEREAS, since the comment period closed, the Commission has continued to receive comments and information from many stakeholders with diverse views about natural gas development activities within the Delaware River Basin and has closely followed the evolving scientific literature on the impacts of natural gas development on water resources;

WHEREAS, the combination of hydraulic fracturing with horizontal drilling and related activities for extracting natural gas from tight shale formations presents risks, vulnerabilities and impacts to surface and ground water resources across the country;

WHEREAS, the DRBC commissioners have conferred in good faith on the complex and evolving science and policy questions related to natural gas development;

WHEREAS, the Delaware River Basin supplies drinking water to over 15 million people, and the health, safety and welfare of the region’s population as well as the viability of its commerce and industry depend upon the use, conservation, management and control of the basin’s water and related natural resources;

WHEREAS, the DRBC’s state and federal commissioners have for decades acted jointly through the DRBC to protect the basin’s shared water resources, for example by adding to the Commission’s Comprehensive Plan the designation of the entire non-tidal main stem Delaware River as DRBC “Special Protection Waters”; by developing and implementing innovative approaches for restoring water quality in the Delaware River Estuary to revive basin fisheries; by cooperatively managing state and federal pollution control regulatory programs; and by managing stored water and water withdrawals to maintain adequate freshwater flows;

WHEREAS since 2010, among the Basin states, Pennsylvania has advanced statutory and regulatory actions regarding natural gas drilling, and New York has completed a state environmental impact analysis to preclude certain natural gas development activities;

WHEREAS, further revision of the draft regulations that the Commission published in 2011 is warranted.

Now therefore, BE IT RESOLVED by the Delaware River Basin Commission that:

1. No later than November 30, 2017, the Executive Director shall prepare and publish for public comment a revised set of draft regulations to address certain natural gas development activities within the Delaware River Basin.
2. The draft regulations directed by this Resolution shall include and seek comment on:
 - a. prohibitions related to the production of natural gas utilizing horizontal drilling and hydraulic fracturing within the Basin;
 - b. provisions for ensuring the safe and protective storage, treatment, disposal and/or discharge of wastewater within the Basin associated with horizontal drilling and hydraulic fracturing for the production of natural gas where permitted;
 - c. regulation of the inter-basin transfer of water and wastewater for purposes of natural gas development where permitted.
3. The Executive Director, in consultation with the Commissioners, may also include in the draft regulations other proposed revisions or additions to DRBC rules and regulations.
4. Public comment on the revised draft natural gas regulations will be included in the Commission's official rulemaking record only if it is submitted in accordance with the procedures set forth in the notice of proposed rulemaking to be issued by DRBC no later than November 30, 2017.

This Resolution shall be effective immediately.