

The final text of new Part 440 is as follows:

SUBCHAPTER B – SPECIAL REGULATIONS

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PART 440 – HIGH VOLUME HYDRAULIC FRACTURING

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440.1 Purpose, authority and relationship to other requirements

440.2 Definitions

440.3 High volume hydraulic fracturing

440.1 Purpose, authority and relationship to other requirements.

- (a) *Purpose.* The purpose of this part is to protect and conserve the water resources of the Delaware River Basin. To effectuate this purpose, this section establishes standards, requirements, conditions and restrictions to prevent or reduce depletion and degradation of surface and groundwater resources and to promote sound practices of water resource management.
- (b) *Authority.* This part implements Sections 3.1, 3.2(a), 3.2 (b), 3.6(b), 3.6(h), 4.1, 5.2, 7.1, 13.1 and 14.2(a) of the Delaware River Basin Compact.
- (c) *Comprehensive Plan.* The Commission has determined that the provisions of this part are required for the immediate and long range development and use of the water resources of the Basin and are therefore incorporated into the Commission’s Comprehensive Plan.
- (d) *Relationship to other Commission requirements.* The provisions of this part are in addition to all applicable requirements in other Commission regulations, dockets and permits.
- (e) *Severability.* The provisions of this part are severable. If any provision of this part or its application to any person or circumstances is held invalid, the invalidity will not affect other provisions or applications of this part, which can be given effect without the invalid provision or application.
- (f) *Coordination and avoidance of duplication.* In accordance with and pursuant to section 1.5 of the Delaware River Basin Compact, to the fullest extent it finds feasible and advantageous the Commission may enter into an Administrative Agreement (Agreement) with any Basin state or the federal government to coordinate functions and eliminate unnecessary duplication of effort. Such Agreements will be designed to: effectuate intergovernmental cooperation, minimize the efforts and duplication of state and Commission staff resources wherever possible, ensure compliance with Commission-approved requirements, enhance early notification of the general public and other interested parties regarding proposed activities in the Basin, indicate where a host state’s requirements satisfy the Commission’s regulatory objectives and clarify the relationship and project review decision making processes of the states and the Commission for projects subject to review by the states under their state authorities and by the Commission under Section 3.8 and Articles 6, 7, 10 and 11 of the Compact.

440.2 Definitions.

For purposes of this part, the following terms and phrases have the meanings provided. Some definitions differ from those provided in regulations of one or more agencies of the Commission's member states and the federal government.

Basin - the area of drainage into the Delaware River and its tributaries, including Delaware Bay.

Commission - the Delaware River Basin Commission (DRBC) created and constituted by the Delaware River Basin Compact.

Fracturing fluid(s) - a mixture of water (whether fresh or recycled) and/or other fluids and chemicals or other additives, which are injected into the subsurface and which may include chemicals used to reduce friction, minimize biofouling of fractures, prevent corrosion of metal pipes or remove drilling mud damage within a wellbore area, and propping agents such as silica sand, which are deposited in the induced fractures.

High volume hydraulic fracturing (HVHF) - hydraulic fracturing using a combined total of 300,000 or more gallons of water during all stages in a well completion, whether the well is vertical or directional, including horizontal, and whether the water is fresh or recycled and regardless of the chemicals or other additives mixed with the water.

Hydraulic Fracturing - a technique used to stimulate the production of oil and natural gas from a well by injecting fracturing fluids down the wellbore under pressure to create and maintain induced fractures in the hydrocarbon-bearing rock of the target geologic formation.

Person - any natural person, corporation, partnership, association, company, trust, federal, state or local governmental unit, agency, or authority, or other entity, public or private.

Water resource(s) - water and related natural resources in, on, under, or above the ground, including related uses of land, which are subject to beneficial use, ownership or control within the hydrologic boundary of the Delaware River Basin.

440.3 High volume hydraulic fracturing (HVHF)

- (a) **Determination.** The Commission has determined that high volume hydraulic fracturing poses significant, immediate and long-term risks to the development, conservation, utilization, management, and preservation of the water resources of the Delaware River Basin and to Special Protection Waters of the Basin, considered by the Commission to have exceptionally high scenic, recreational, ecological, and/or water supply values. Controlling future pollution by prohibiting such activity in the Basin is required to effectuate the Comprehensive Plan, avoid injury to the waters of the Basin as contemplated by the Comprehensive Plan and protect the public health and preserve the waters of the Basin for uses in accordance with the Comprehensive Plan.
- (b) **Prohibition.** High volume hydraulic fracturing in hydrocarbon bearing rock formations is prohibited within the Delaware River Basin.