

April 2007

# INTERSTATE COMPACTS

## An Overview of the Structure and Governance of Environment and Natural Resource Compacts





Highlights of [GAO-07-519](#), a report to congressional requesters

## Why GAO Did This Study

Interstate compacts are legal agreements between states that are designed to resolve concerns that transcend state lines, such as allocating interstate waters. While some compacts assign their administration to existing state agencies, compacts requiring greater coordination among states may establish an interstate agency, typically called a commission, to administer their provisions.

Congress must give its consent to compacts that affect the balance of power between the states and the federal government. An example of a congressionally approved environment and natural resource compact is the Tahoe Regional Planning Compact, which created the Tahoe Regional Planning Agency (TRPA) to administer its provisions. For such compacts, GAO determined (1) the organizational structures, powers and authorities, and dispute resolution and public accountability mechanisms; (2) the extent to which concerns have been raised about the structure and governance of compacts that have commissions; and (3) how the structure and governance of TRPA compares to those of other similar compact commissions.

GAO reviewed 59 congressionally approved compacts and surveyed those 45 that had commissions. To view selected results from GAO's survey of interstate compact commission officials, go to [www.gao.gov/cgi-bin/getrpt?GAO-07-524SP](http://www.gao.gov/cgi-bin/getrpt?GAO-07-524SP).

[www.gao.gov/cgi-bin/getrpt?GAO-07-519](http://www.gao.gov/cgi-bin/getrpt?GAO-07-519).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Anu Mittal at (202) 512-9846 or [mittala@gao.gov](mailto:mittala@gao.gov).

## INTERSTATE COMPACTS

# An Overview of the Structure and Governance of Environment and Natural Resource Compacts

## What GAO Found

Forty-six of the 59 congressionally approved environment and natural resource compacts that GAO reviewed had established interstate commissions to administer the compact, while the remainder relied on existing state agencies. The 46 compacts with commissions varied in their organizational structure, powers and authorities, and means of resolving disputes, but were similar in how they ensured public accountability. For example, commission size ranged from 2 to 48 members, and some commissions had regulatory authority, while others had only advisory authority. Twenty-six percent of the compacts had provisions for resolving disputes. However, about 36 percent of the commissions responding to GAO's survey reported that they had used means other than litigation to resolve disputes. Significantly more, about 94 percent, of the commissions reported having procedures for ensuring public accountability, such as holding public meetings and allowing public input. For the 13 compacts that did not have commissions, GAO found variations in their powers and authorities, and few of these compacts provided mechanisms for dispute resolution or public accountability.

Interstate compact commissions reported that significant concerns about their structure and governance have rarely been raised. When concerns did arise about organizational structure and public accountability, they varied from commission to commission. However, concerns about regulatory authority largely centered on the scope of the commission's authority. In addition, a number of compact officials believed that concerns about commission structure and governance often reflected disagreements with specific commission actions rather than actual concerns about the organizational structure, public accountability, or regulatory authority of the commission itself.

The Tahoe Regional Planning Agency is generally similar in organizational structure and governance to three other interstate compact commissions with comparable functions—the Columbia River Gorge, Delaware River Basin, and Susquehanna River Basin Commissions. All four commissions consist of appointed representatives, although their size and composition vary; they all have an administrative appeals process to resolve disputes, and they use similar accountability mechanisms. A major difference between the Tahoe Regional Planning Agency and the other commissions relates to the breadth of its authority regarding land use issues. This authority extends to water, air, and other natural resources, as well as public health and safety, whereas the Columbia River Gorge Commission has more limited land use authority, and the Delaware and Susquehanna River Basin Commissions have no land use authority.

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## Abbreviations

CRGC	Columbia River Gorge Commission
DRBC	Delaware River Basin Commission
FTE	full-time equivalent
SRBC	Susquehanna River Basin Commission
TRPA	Tahoe Regional Planning Agency

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United States Government Accountability Office  
Washington, DC 20548

April 3, 2007

The Honorable Don Young  
Ranking Minority Member  
Committee on Natural Resources  
House of Representatives

The Honorable John T. Doolittle  
House of Representatives

Interstate compacts are legal agreements between two or more states that are designed to resolve problems or concerns that transcend state lines. Such compacts enable states to act jointly and collectively to devise solutions for matters that are beyond the authority of an individual state but which are not within the immediate purview of the federal government or easily resolved through a purely federal response. Prior to the twentieth century, interstate compacts were used almost exclusively to settle state boundary disputes. In more recent times, their use has expanded to include such diverse purposes as allocating interstate waters, developing regional transportation systems, and enhancing law enforcement. More than 200 interstate compacts exist today, according to the Council of State Governments. At least 76 of these compacts are designed to address environment and natural resource management issues such as conservation and environment (fisheries, forest fire protection, and water pollution control), energy (low-level radioactive waste), planning and development (land use planning for environment and natural resource protection), and water resource management (water apportionment and flood control).

To form a compact, two or more states typically negotiate an agreement, and then each state legislature enacts a law that is identical to the agreement reached. Once all states specified in the compact have enacted such laws, the compact is formed. In some cases, if a compact affects the balance of power between the states and the federal government or affects a power constitutionally delegated to the federal government, it must also obtain congressional consent. In consenting to a compact, Congress may add certain conditions, such as specifying that compact disputes be resolved in federal courts. Otherwise, the compact's subject matter and substance are largely left to the discretion of the negotiating parties.

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When negotiating a compact, the states typically establish a framework for administering and implementing the compact's provisions. The framework varies widely and depends largely on the subject matter, scope, and complexity of the compact agreement. In some cases, the compact does little more than prescribe certain conditions with which the member states must comply or require the states to cooperate in furthering the purposes of the compact. In such cases, the states often assign the compact's administration and implementation to existing agencies or officials within the member states. By doing so, the states can coordinate their resources to avoid duplicating efforts or costs, take advantage of economies of scale, and promote more effective management of issues common to the member states. For example, some interstate water allocation compacts that distribute fixed quantities of water to each of the member states—such as the Snake River Compact—assign administrative responsibility to the official in each state who is in charge of managing the public water supply.

In contrast, some compacts involve more complex interstate matters that require greater coordination among states, such as the disposal of low-level radioactive waste. In such cases, states are more likely to delegate authority to an interstate agency—typically called a commission—that is created to administer and implement the compact's provisions.<sup>1</sup> The nature of each commission's authority varies and can range from advising states on interstate problems to regulating activities of mutual concern. In general, compact commissions consist of representatives of the member states, typically called commissioners. The commissioners are usually appointed by elected officials or serve by virtue of their elected position, such as governor, or their role as a federal, state, or local government official. For example, to administer the provisions of the Tahoe Regional Planning Compact, the states of California and Nevada created the Tahoe Regional Planning Agency (TRPA), which includes representatives from the two states and the federal government. Many compact commissions are funded, in whole or in part, by the member states. Although the federal government may provide grants or participate in some compact programs, compact commissions generally operate independently of the federal government. Since interstate compact commissions are neither federal in nature nor state in scope, they occupy what some have referred to as a “third tier” of government.

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<sup>1</sup>For purposes of this report, the term “commission” includes agencies, authorities, and boards created to administer interstate compacts.

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Because of your interest in congressionally approved interstate compacts<sup>2</sup> that address environment and natural resource issues and, in particular, the Tahoe Regional Planning Compact, this report describes (1) the approaches used to administer congressionally approved environment and natural resource compacts, including their organizational structure, powers and authorities, and mechanisms for resolving disputes and providing public accountability; (2) the extent to which concerns have been raised regarding the structure and governance of those compacts, like the Tahoe Regional Planning Compact, that have commissions; and (3) specifically, how the structure and governance of TRPA compares to those of other similar compact commissions.

To conduct this review, we identified and reviewed 59 congressionally approved interstate compacts that address environment and natural resource management issues, interviewed compact experts and officials, and surveyed compact commission officials on the approaches used to structure and govern their compacts and the extent to which concerns have been raised regarding these approaches. We surveyed officials from only 45 of the 46 compacts that established commissions, because 1 commission was not yet operational at the time of our review. We received responses from 36 of the 45 compact commissions we surveyed, for a response rate of 80 percent. In addition, using the survey results, we identified 3 compact commissions that have functions similar to those of TRPA: the Columbia River Gorge Commission, the Delaware River Basin Commission, and the Susquehanna River Basin Commission. To compare TRPA to these three commissions, we interviewed commission staff in Stateline, Nevada; White Salmon, Washington; West Trenton, New Jersey; and Harrisburg, Pennsylvania. In addition, we reviewed commission documents and activities, and interviewed compact stakeholders, including commission members; federal, state, and local government officials; environmentalists; and members of the business community, among others. See appendix I for additional details on our scope and methodology and appendix II for additional details on the 59 congressionally approved environment and natural compacts we reviewed. A more complete summary of the results of our survey of compact commission officials can be viewed on our Web site at [www.gao.gov](http://www.gao.gov) in an electronic supplement that we are issuing concurrent with this report—[GAO-07-524SP](#). We conducted our review from April

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<sup>2</sup>For purposes of this report, the phrase “congressionally approved interstate compacts” refers to compacts for which Congress provided consent through legislation.

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2006 through March 2007 in accordance with generally accepted government auditing standards.

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## Results in Brief

Most congressionally approved interstate compacts that address environment and natural resource issues have established commissions to administer the compact's provisions. Of the 59 compacts that we reviewed, 46 established interstate commissions, while the remaining 13 were administered by existing agencies or officials in the member states. Among the 46 compacts with commissions, we found variations in organizational structure, powers and authorities, and provisions for resolving disputes, but several similarities in how they provided for public accountability. For example, the number of commissioners ranged from 2 to 48, and some commissions included a representative of the federal government, while others did not. Additionally, some commissions had regulatory authority, while others were limited to more of an advisory role. For example, the Ohio River Valley Water Sanitation Commission has regulatory authority to set water pollution control standards for the Ohio River, while the Gulf States Marine Fisheries Commission is limited to making recommendations to help member states promote the conservation, development, and utilization of fishery resources in the Gulf of Mexico. With regard to dispute resolution, although only 26 percent of the compacts with commissions specified ways to resolve disputes other than litigation, 36 percent of them had used processes such as arbitration, mediation, administrative appeals, and negotiations to resolve disputes. Compact commissions generally used similar means of providing public accountability. For example, almost all of the commissions had procedures in place, such as giving the public access to commission documents, holding public meetings, and allowing public input, to ensure public accountability, even when not required by their compact. For the 13 compacts that do not establish commissions, we found that their powers and authorities also varied. Eight of these compacts had authorized member states to develop regulations jointly to further the compact's objectives, while five required member states only to coordinate resources to meet the compact's goals. Compacts without commissions did not typically contain provisions addressing dispute resolution or public accountability, but their administering agencies or officials are subject to state requirements and procedures. Only 3 of the 13 compacts without commissions specified methods for resolving disputes, and one specified mechanisms for providing public accountability.

Significant concerns about the structure and governance of interstate compact commissions have not been frequently raised. Specifically, less



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than half of the compact commissions that responded to our survey reported that concerns had been raised infrequently about the organizational structure and public accountability of their commissions, and about two-thirds of the commissions with authority to issue regulations reported that concerns had been infrequently raised about their regulatory authority. Concerns regarding organizational structure varied by commission and ranged from issues such as who should be represented on the commission to whether commissioners should be elected or appointed. Concerns regarding public accountability also varied, from issues such as whether the commission had adequate oversight to whether the commission was sufficiently independent of its member states. Concerns about the commissions' regulatory authority have generally focused on the extent of the commission's power, and were more frequently raised when the issues being addressed by the compact were highly controversial. Moreover, a number of compact officials believe that the concerns raised about the commission's structure and governance often reflected disagreements with specific commission actions or decisions, rather than general concerns about the commission's organizational structure, public accountability, or regulatory authority.

TRPA's organizational structure and governance are generally similar to those of other interstate compact commissions with similar functions, but TRPA has greater land use planning authority. Specifically, we identified three interstate compact commissions that perform similar functions to TRPA—the Columbia River Gorge, Delaware River Basin, and Susquehanna River Basin Commissions. These commissions are similar to TRPA in that they have the authority to issue regulations and they have developed comprehensive management plans that address at least six of the following issues: land use, transportation, conservation, recreation, public services and facilities, water pollution, flood control, and waste disposal. TRPA and the three other commissions have similar organizational structures, with each having appointed representatives, a staff, and advisory committees. However, the commissions differ in size, interests represented, and the role of the federal representative. As for governance, all four commissions generally use similar means, such as an administrative appeals process, to resolve disputes that may arise with those they regulate. In addition, all four commissions also use similar public accountability mechanisms, such as undergoing an annual financial audit, regularly reporting their activities to member states, and holding public meetings where the public can provide input. A major distinction between TRPA and the three other compact commissions is that TRPA has broad land use authority that extends to water, air, and other natural resources, as well as public health and safety, while the Columbia River

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Gorge Commission only regulates land use when it affects cultural, natural, recreational, or scenic resources, and decisions made by the Delaware River Basin and Susquehanna River Basin Commissions only indirectly affect land use.

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## Background

Interstate compacts are legal agreements between states that bind member states to their provisions in the same manner as contracts entered into by individuals or corporations. Traditionally, compacts were negotiated by special joint commissions appointed by the state governors. Increasingly, however, compacts have been formulated by interested groups of state officials or other stakeholders and then recommended to the state legislatures. In either case, each state legislature accepts the compact by enacting a law that adopts the terms of the agreement. When the required number of states have enacted such a law, the compact is formed.

In cases where the compact affects the balance of power between the federal government and the states, the states must obtain the consent of Congress for the compact to be valid. Congress generally gives its consent in one of three ways: (1) after the fact, by passing legislation that specifically recognizes and consents to the compact as enacted by the states; (2) in advance, by passing legislation encouraging states to enter into a specified compact or compacts for specified purposes; or (3) implied after the fact, when actions by the states and the federal government indicate that Congress has granted its consent even in the absence of a specific legislative act. In addition, Congress may impose conditions as part of granting its consent, and it typically reserves the right to alter, amend, or repeal its consent. Any proposed amendment to a compact must follow the compact approval process, unless the compact specifies otherwise.

The use of interstate compacts has changed over time in terms of number, subject matter, and scope. Of the 32 compacts enacted between 1789 and 1920, most resolved boundary disputes between 2 neighboring states. As the twentieth century progressed, states increasingly used interstate compacts to address complex problems that were not confined to their borders, such as apportioning interstate waters, supervising out-of-state offenders under community supervision, and constructing and administering bridges and shared port facilities. According to the Council of State Governments, more than 200 interstate compacts exist nationwide, with each state belonging to an average of 25 compacts. Along with the increasing numbers and subjects covered, interstate compacts

have also expanded their range of coverage from 2 states to as many as 50 and may also include the District of Columbia, Puerto Rico, U.S. territories, and Canadian provinces as signatories.

Over one-third of the compacts that exist today deal with environment and natural resource issues. Although a large number of these compacts deal with water allocation, they address other subjects as well.

**Table 1: Environment and Natural Resource Compacts, by Subject Matter**

<b>Subject matter</b>	<b>Number</b>	<b>Number with congressional approval</b>
Water apportionment	22	22
Water resources and flood control	12	9
Low-level radioactive waste disposal	12	10
Water pollution control	7	4
Fisheries conservation	6	6
Forest fire protection	6	4
Conservation and environment (other than water pollution control, fisheries conservation, and forest fire protection)	5	1
Energy (other than low-level radioactive waste disposal)	4	2
Planning and development (land use planning involving environment and natural resource protection)	2	1
<b>Total</b>	<b>76</b>	<b>59</b>

Source: GAO analysis of Council of State Governments' data.

In addition to addressing a variety of subjects, the scope of these environment and natural resource compacts ranges from 2 to as many as 30 states, and includes, in some cases, the District of Columbia, Canadian provinces, or the United States as signatories. As table 1 shows, about three-fourths of these compacts have received congressional approval.

Prior to the 1920s, existing agencies and officials within compact states routinely administered interstate compacts. However, as states began to jointly tackle issues of greater complexity and broader geographic scope, the use of interstate commissions gained popularity. The majority of the compacts enacted since 1970 have established interstate commissions. These commissions consist of appointed representatives of each compacting state, called commissioners, who are responsible for administering the compact's provisions. Additionally, commissions may employ technical and other staff to assist in the compact's administration. In some cases, commissions will hire an executive director who is

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responsible for administering the commission's daily operations in accordance with the commission's direction and policies. In addition, commissions may have advisory committees that study issues and make recommendations to the commissioners. These committees may be permanent or temporary in nature, depending on need.

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## Most Environment and Natural Resource Compacts Are Administered by Commissions

Of the 59 interstate compacts we reviewed, 46 established commissions to administer the compact's provisions, while the remaining 13 were administered by existing agencies or officials in the member states. Among the compacts with commissions, we found variations in organizational structure, powers and authorities, and provisions for resolving disputes, but similarities in how the compacts provided for public accountability. The 13 compacts without commissions also varied in powers and authorities. In addition, they generally did not contain provisions for alternative dispute resolution or public accountability, but their administering agencies or officials are subject to state requirements and procedures.

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## Organizational Structure and Governance Generally Varied among Compacts Administered by Commissions

The 46 compacts with commissions that we reviewed varied in organizational structure, such as the number of commissioners and staff; powers and authorities, including whether the compact granted advisory or regulatory authority; and the dispute resolution mechanisms provided as alternatives to litigation.<sup>3</sup> However, the compacts shared similarities in their approaches for providing public accountability.

### Organizational Structure

The 46 compacts with commissions that we reviewed generally varied in organizational structure, including the composition and size of the commission, use of administrative staff, and use of advisory committees.

*Commission composition.* The commissions established by the 46 compacts we reviewed varied in size and interests represented. In all cases, the commissioners were appointed to serve—generally by elected officials or by virtue of their state office, such as governor or head of a state natural resources department. However, the number of commissioners ranged from 2 to 48, with each state generally having an equal number of commissioners. For example, the Rocky Mountain Low-Level Radioactive Waste Compact required that each of its three member

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<sup>3</sup>One of the 46 commissions was not yet operational at the time of our review.

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states appoint one representative to the commission, while the New England Interstate Water Pollution Control Compact required that each of its seven member states appoint 5 commissioners. Depending on the compact, there were as few as 1 and as many as 7 commissioners from each state. Of the 46 compacts, 15 explicitly required member states to appoint commissioners to represent additional interests. For example, 11 compacts provided for local representation, 4 required the appointment of a knowledgeable citizen from each state, and 1 required the appointment of an industry representative from each state. In addition, 18 of the 46 compacts, such as the Connecticut River Valley Flood Control Compact, specified the number of commissioners from each state, but left it to each state to decide how to choose its commissioners.

Of the 46 compacts with commissions that we reviewed, 21 provided for a federal representative on the commission. For 16 of these compacts, the President appointed the federal representative; the other 5 compacts named an official of a specified federal agency, such as the Director of the U.S. Geological Survey. While nearly half of the compacts with commissions had federal representation, only 4 of these compacts—the Connecticut River Atlantic Salmon, the Delaware River Basin, the Susquehanna River Basin, and the Upper Colorado River Basin Compacts—explicitly gave the federal representative the power to vote on commission decisions or actions.

*Staff.* Compacts also varied in their provisions for staff to conduct day-to-day operations and provide technical assistance to the commissions. Only 8 of the 46 compacts explicitly required that their commissions hire staff, an additional 34 compacts left it to the commissions' discretion to hire staff, and 4 compacts made no provisions for staff. In practice, we found that 67 percent of the commissions that responded to our survey reported having an administrative staff. Among these commissions, the number of full-time equivalent staff ranged from 1 to 85.

*Advisory committees.* The way compacts provided for committees to advise the commission varied. Only 4 of the 46 compacts we reviewed expressly required their commissions to establish an advisory committee, while another 13 expressly authorized them. For example, the Pacific States Marine Fisheries Compact required that its commission establish a permanent advisory committee to represent the interests of the commercial fishing industry on an ongoing basis, as well as short-term advisory committees to draft position papers on a specific commission issue, such as ecosystem management. In practice, however, about 75 percent of the commissions responding to our survey reported having at

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least one advisory committee, and about 56 percent of these commissions reported that members of the public served on at least one of their advisory committees.

## Powers and Authorities

The powers and authorities granted to the compact commissions also varied. In some cases, the commission only had advisory authority. For example, the Gulf States Marine Fisheries Commission makes recommendations to its member states on the conservation, development, and utilization of fishery resources in the Gulf of Mexico, but it does not have the authority to implement its recommendations. In other cases, the compacts explicitly granted commissions the authority to issue regulations. For example, the Ohio River Valley Water Sanitation Commission has the authority to set water pollution control standards for the Ohio River. We also found cases where the commissions had both advisory and regulatory authority. For example, the Delaware River Basin Commission studies and advises states on approaches to water management, but also regulates water quality and water supply. In some cases, we had difficulty determining from a compact's language whether the commission was advisory or regulatory in nature. However, over 55 percent of the commissions that responded to our survey reported that they had the authority to issue regulations, with 95 percent of these commissions reporting that they have sufficient authority to enforce the regulations they issue.

## Dispute Resolution

The 46 compacts with commissions that we reviewed also differed in their provisions for resolving disputes among the compact states or between the commission and those it regulates. While compact disputes generally can be brought before a court for review, litigation can be expensive. Possible alternatives to litigation include the following:

- Arbitration—a process by which the parties refer a dispute to an agreed-upon, independent third party for resolution.
- Mediation—a process by which a neutral person facilitates discussion between the disputing parties to help them reach agreement.
- Administrative appeals—a process by which an action of the commission can be appealed to the commission itself.
- Negotiation—a process by which the parties attempt to reach agreement through discussion and compromise.

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Only 12 of the 46 compacts with commissions that we reviewed (26 percent) specified alternative approaches for resolving disputes. Of these compacts, 9 made provisions for the use of arbitration, 2 provided for negotiations, and 1 called for mediation. For example, the Klamath River Basin Compact—which manages water resources for irrigation, fish and wildlife protection, and domestic and industrial use, among other things—required that if the commission’s two voting members failed to agree on any matter before the commission, the commission must refer the matter to an independent third party for resolution. However, while 12 compacts expressly mentioned the use of arbitration, mediation, administrative appeals, or negotiation for resolving disputes, 36 percent of our survey respondents reported that they have used one or more of these dispute resolution mechanisms. Among these respondents, 7 had used mediation, 5 had used an administrative appeals process, 5 had used negotiations, and 1 had used arbitration.

## Public Accountability

While compact commissions varied with respect to organizational structure, powers and authorities, and methods for resolving disputes, they generally used similar approaches to provide accountability to the public, even when not required by their compact. For example, while only 18 of the 46 compacts expressly required that commission documents be made available to the public, all of the commissions that responded to our survey reported that they have given the public access to commission meeting minutes, and 94 percent reported that they also make available to the public documents used in preparation for commission meetings. Further, 94 percent of the survey respondents reported that they had established procedures—such as holding public meetings and allowing public input—to ensure public accountability. In addition, 78 percent of the commissions reported that they have conducted some form of public outreach. These commissions used various outreach approaches, such as meeting with stakeholders to discuss their needs and concerns, operating a commission Web site, distributing newsletters and press releases, holding symposiums, producing public service announcements, and making educational presentations to schoolchildren.

In addition, 6 of the 46 compacts that established commissions explicitly required representatives from the public to sit on advisory committees. However, according to our survey responses, at least an additional 9

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commissions have allowed representatives from the general public to serve on advisory committees, although they were not required to do so.<sup>4</sup>

Financial reporting by the compact commissions was frequently practiced as a means of providing accountability to both the public and member states. Among the 46 compacts administered by commissions, 25 required that the commission undergo an annual financial audit. Of the commissions responding to our survey, 86 percent reported undergoing financial audits. Of the commissions that undergo financial audits, 90 percent told us that they undergo annual financial audits, with the rest undergoing financial audits somewhat less frequently. All of the commissions that undergo financial audits told us that they reported their audit results to the member states, and 71 percent of these commissions made their audits available to the public.

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## Compacts without Commissions Varied in Their Powers and Authorities

The 13 compacts administered by existing agencies or officials also had varied powers and authorities. Compacts administered by state agencies or officials contained few provisions for dispute resolution and accountability. However, these agencies and officials are required to follow state requirements.

### Powers and Authorities

Eight of the 13 compacts administered by existing agencies or officials authorized member states to jointly develop regulations for achieving compact objectives, while 5 required member states only to coordinate resources to meet compact goals. In general, the 8 regulatory compacts required that the member states mutually consent to any regulations issued under the compact. For example, the Columbia River Compact mandated that laws and regulations for protecting fish in the Columbia River be created or amended only with the mutual consent of both states. The 5 compacts that called for coordination among member states typically called for either sharing expenses among the member states or joint oversight of the compact's subject matter. For example, the Middle Atlantic Interstate Forest Fire Protection Compact requires member states to help each other in combating, controlling, or preventing forest fires.

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<sup>4</sup>While 6 of the 46 compacts that established commissions explicitly required representatives from the public to sit on their advisory committees, only 3 of these compacts required that the commission actually establish an advisory committee. The other 3 compacts gave their commissions the authority to create one or more advisory committees, but did not require them to do so.



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## Dispute Resolution

Only 3 of the 13 compacts administered by existing agencies or officials specified methods for resolving disputes. However, the state agencies and officials that administer these compacts are already subject to state dispute resolution requirements or procedures. One of the 3 compacts that specified methods for resolving disputes is the Colorado River Compact—a highly controversial water allocation compact—that gives the governors of the member states the authority to appoint individuals to consider and resolve certain conflicts that arise between member states regarding a compact issue. Similarly, the New Hampshire-Vermont Interstate Sewage and Waste Disposal Facilities Compact and the New Hampshire-Vermont Interstate Public Water Supply Compact, which authorize municipalities to enter into agreements to establish joint waste facilities and public water supplies, respectively, require that these agreements include provisions for arbitration and dispute resolution.

## Public Accountability

Of the 13 compacts administered by existing agencies or officials, only 1 contained any provision relating to public accountability. However, as with dispute resolution, the state agencies or officials that administer these compacts are already subject to state requirements for providing public accountability. The Jennings Randolph Lake Project Compact, which provides for Maryland and West Virginia to jointly manage the natural resources of Jennings Randolph Lake, is the only compact administered by existing agencies that includes provisions for accountability. It called for the states to encourage the dissemination of “joint publications, press releases, or other public information.”

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## Significant Concerns about Compact Commissions’ Structure and Governance Have Not Been Frequently Raised

Interstate compact commissions reported that significant concerns about their structure and governance have rarely been raised. While almost two-thirds of the 36 commissions responding to our survey reported that significant concerns have been raised at least once about their commission’s organizational structure, public accountability, or regulatory authority, none of the commissions reported that these concerns have been raised frequently. Moreover, a number of officials responding to our survey believed that these concerns often reflected disagreements with specific commission actions rather than general concerns about organizational structure, public accountability, or regulatory authority.

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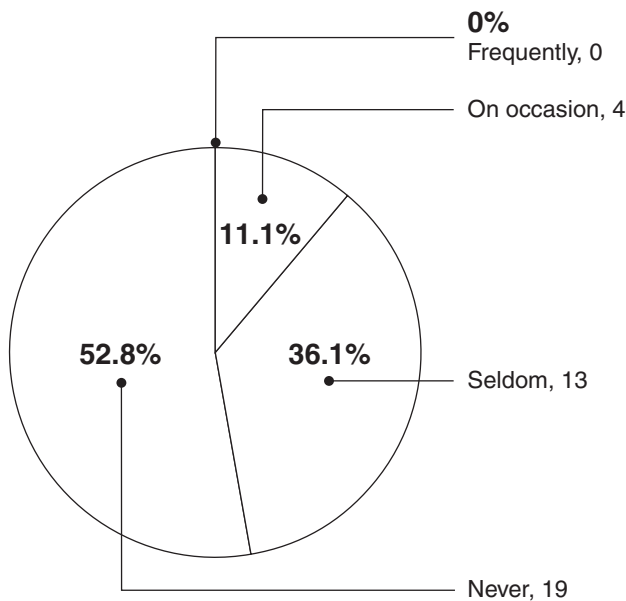
## Concerns about Organizational Structure

Survey respondents reported that concerns about organizational structure have been raised infrequently. As shown in figure 1, less than half of the 36 compact commissions responding to our survey reported that significant concerns have been raised about their commission’s structure or

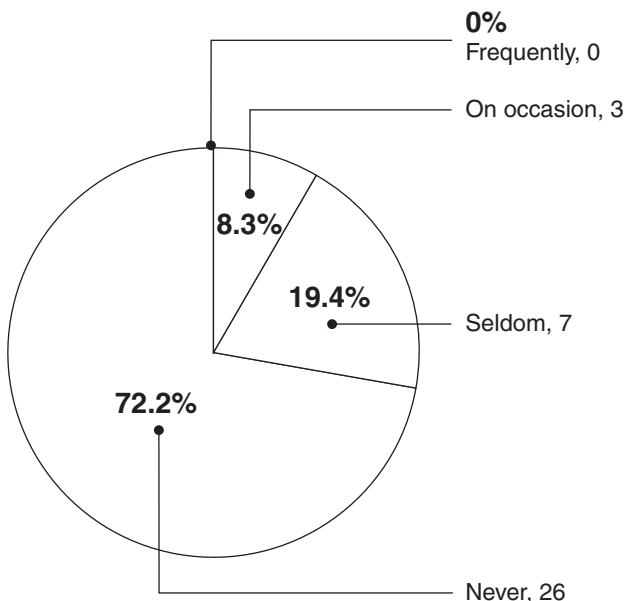
composition—with 13 commissions reporting such concerns as seldom and 4 reporting such concerns as occasional. We found no consistent theme among the concerns identified. Examples of concerns included whether the appropriate interests were represented on the commission, whether the balance of state and local interests on the commission was fair, where the commission should be located, and how many votes each state should have. Regarding concerns about the method of selecting commissioners, less than one-third of the 36 commissions reported that such concerns had been raised at all—with 7 reporting such concerns as seldom and 3 as occasional (see fig. 1). When concerns were identified, they also varied by commission and included, for example, whether commissioners should be directly elected to the commission and whether commission appointments were too political.

**Figure 1: Frequency of Concerns regarding Organizational Structure**

**Frequency of concerns regarding structure or composition**



**Frequency of concerns regarding the method of selecting commissioners**



Source: GAO.

Note: Totals may not equal 100 percent because of rounding.

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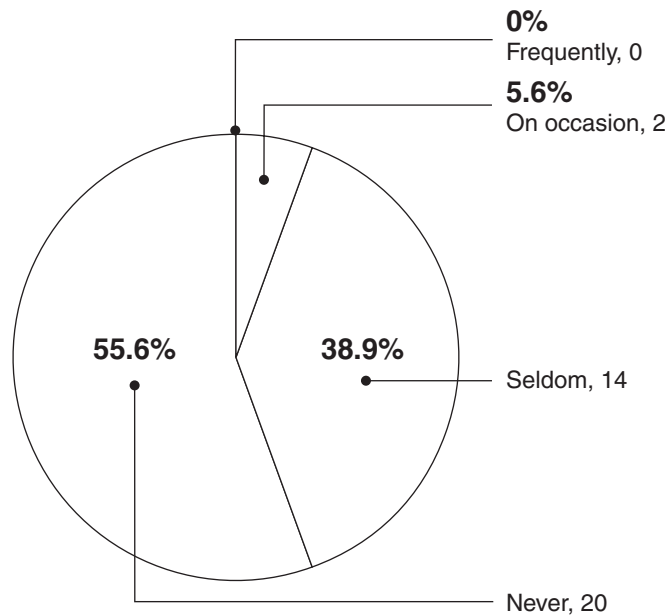
## Concerns about Public Accountability

Survey respondents also reported that concerns about public accountability have been raised infrequently. As shown in figure 2, less than half of the 36 compact commissions responding to our survey reported that significant concerns have been raised about their commission's public accountability—with 14 respondents reporting such concerns as seldom and 2 reporting such concerns as occasional. Again, there was no consistent theme among the concerns identified. For example, 1 commission reported that a concern had been raised about whether the commission had adequate oversight, while another commission reported that concerns had been raised about whether the commission was sufficiently independent of its member states. Some concerns about public accountability have resulted in lawsuits. For example, the Susquehanna River Basin Commission was sued in 2006 for allegedly failing to provide adequate notice of public hearings on proposed changes to its water regulations.<sup>5</sup>

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<sup>5</sup>Complaint at 11, *Pennsy Supply, Inc. v. The Susquehanna River Basin Commission*, Civil Action No. 1:06-CV-02454 (C.D. Pa. 2006). This suit, which was filed in the U.S. District Court for the Middle District of Pennsylvania, was still pending at the time of our review.

**Figure 2: Frequency of Concerns regarding Public Accountability**



Source: GAO.

Note: The total does not equal 100 percent because of rounding.

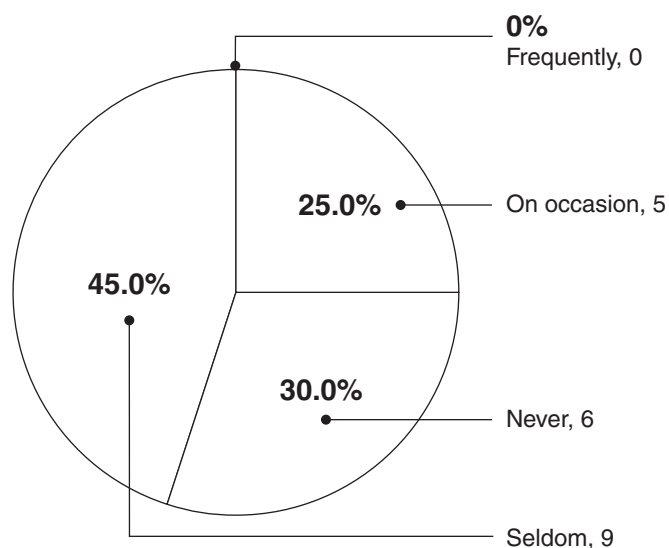
## Concerns about Regulatory Authority

Twenty of the 36 compact commissions responding to our survey reported that they have the authority to issue regulations. As shown in figure 3, over two-thirds of these commissions reported that significant concerns about their current regulatory authority have been raised infrequently—with 9 reporting such concerns as seldom and 5 as occasional. Although the specific concerns varied from commission to commission, the concerns often involved the scope of the commission’s authority. For example, 1 commission reported that concerns had been raised about whether it had the authority to regulate certain types of water rights, while another commission reported that concerns had been raised about whether it had too much regulatory authority. Commissions have also been sued over the scope of their authority. For example, a group of landowners unsuccessfully sued the Columbia River Gorge Commission and the Secretary of Agriculture on a number of grounds, including that the commission’s decision to deny the landowners’ applications to develop their properties resulted in an illegal taking of private property under the

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U.S. Constitution.<sup>6</sup> Notably, survey responses indicated that concerns about regulatory authority were more frequently raised in cases where the compact had addressed highly controversial issues.

**Figure 3: Frequency of Concerns regarding Regulatory Authority**



Source: GAO.

Note: The total number of responses equals 20, because only 20 of the 36 commissions responding to our survey reported that they had the authority to issue regulations.

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### Concerns Have Reflected Disagreement with Commission Actions or Decisions

A number of commission officials told us they believed that when concerns have been raised about a commission's structure and governance, they often reflected underlying disagreements with specific commission decisions or actions. Officials repeatedly reported that some of the concerns about organizational structure, public accountability, and regulatory authority were raised only when an individual objected to a specific commission decision or action. For example, an official from one commission believed that a concern raised about the commission's accountability to the public actually reflected an individual's anger over a particular commission decision, while an official from another

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<sup>6</sup>*Columbia Gorge United-Protecting People & Property v. Yeutter*, 1990 WL 357613, CV No. 88-1319-PA (D. Or. May 23, 1990), *aff'd by* 960 F.2d 110 (9th Cir. 1992).

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commission stated that concerns about the methods used to select commissioners have been raised only when someone dislikes a particular regulation issued by the commission. Similarly, an official from a third commission stated that people have raised concerns about the commission's organizational structure and authority when they simply disliked the commission's actions and that such concerns arise as the commission deals with controversial or high-visibility issues.

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### While the Structure and Governance of TRPA Are Generally Similar to Those of Other Compact Commissions, Its Regulatory Authority Is Broader

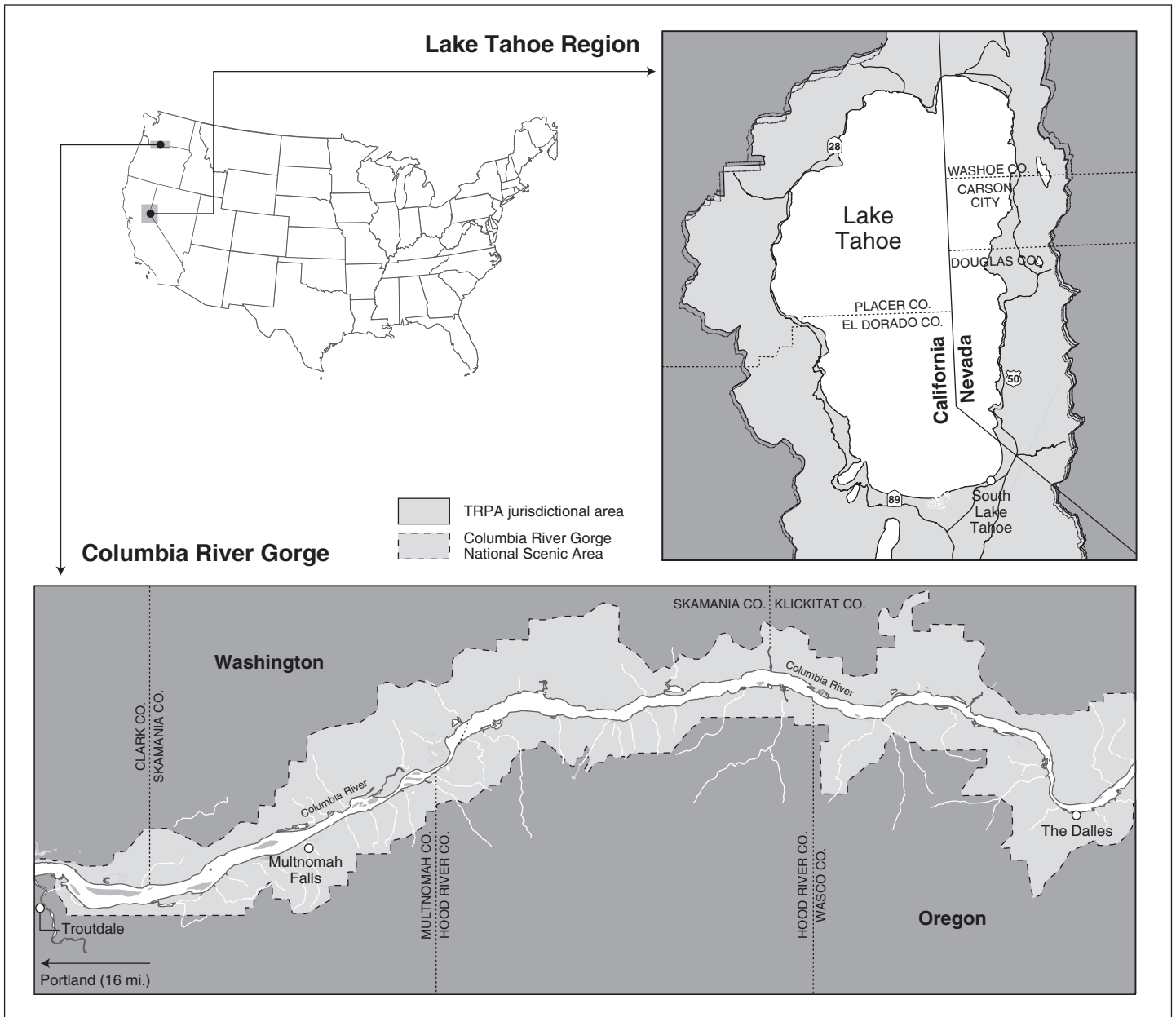
TRPA's organizational structure and governance are generally similar to those of three other interstate compact commissions with similar functions—the Columbia River Gorge, Delaware River Basin, and Susquehanna River Basin Commissions. However, TRPA has greater regulatory responsibility and more extensive land use planning authority than these commissions.

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### Three Interstate Compact Commissions Perform Similar Functions to TRPA

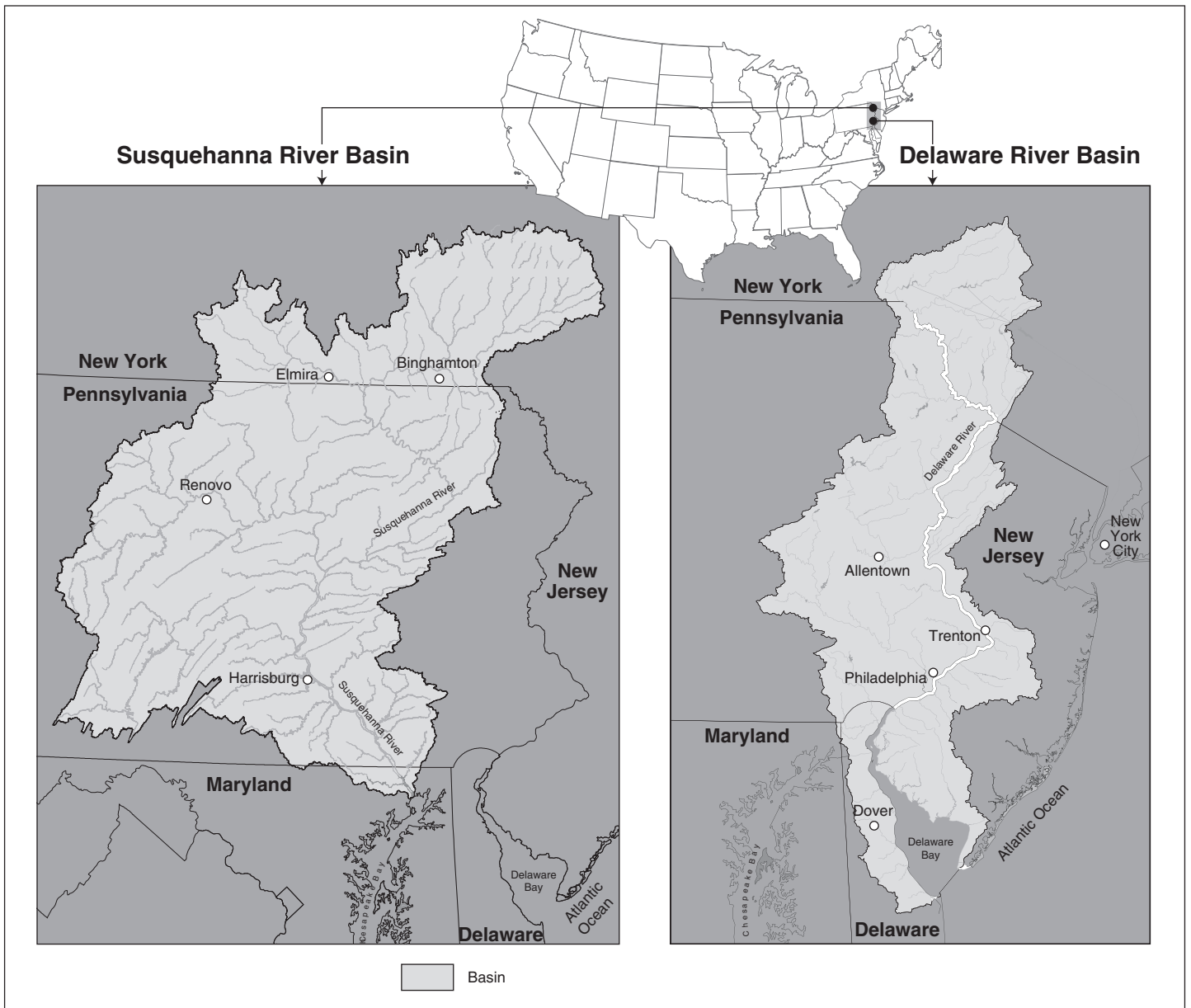
We identified three interstate compact commissions that perform similar functions to TRPA, including the Columbia River Gorge Commission (CRGC), the Delaware River Basin Commission (DRBC), and the Susquehanna River Basin Commission (SRBC). TRPA is responsible for developing and implementing an environmental and land use plan to preserve the natural quality of the Lake Tahoe region (see fig. 4). The CRGC is responsible for developing and adopting a management plan that regulates, through land use ordinances, the development and use of various categories of land within the Columbia River Gorge National Scenic Area (see fig. 4). Both the DRBC and the SRBC are responsible for multipurpose planning, development, and management of the water and water resources in the Delaware and Susquehanna River Basins, respectively (see fig. 5). (For more information on these compacts, see app. III.)

**Figure 4: Map of the United States Showing the Jurisdictions of TRPA and the CRGC**



Sources: TRPA (basin map); CRGC and Oregon Department of Transportation (gorge map); Map Resources (U.S. map).

**Figure 5: Map of the United States Showing the Jurisdictions of the DRBC and the SRBC**



Sources: DRBC, SRBC (basin maps); Map Resources (U.S. map).



Like TRPA, these three commissions have the authority to issue regulations. Also, like TRPA, these three commissions have developed a comprehensive plan for achieving their compact's objectives. While their compact objectives differ, at least six of the issues addressed in their comprehensive plans are similar to those addressed in TRPA's plan, including land use, transportation, conservation, recreation, public services and facilities, water pollution, flood control, and waste disposal. See table 2 for a comparison of issues addressed by the four management plans.

**Table 2: Comparison of Commission Management Plan Issues**

Issue	Tahoe Regional Planning Agency	Columbia River Gorge Commission	Delaware River Basin Commission	Susquehanna River Basin Commission
Land use	x	x	x	x
Transportation	x	x		
Conservation	x	x	x	x
Recreation	x	x	x	x
Public services and facilities	x	x	x	x
Water pollution	x	x	x	x
Flood control	x		x	x
Waste disposal	x	x		

Source: GAO.

## TRPA's Organizational Structure and Governance Are Generally Similar to Those of Three Other Compact Commissions

### Organizational Structure

TRPA and the three other compact commissions have similar organizational structures, but differ in size, composition, and role of the federal representative. In terms of governance, the four commissions also use similar means for resolving disputes and providing accountability.

TRPA and the three other commissions have similar organizational structures that consist of appointed commissioners, a staff, and advisory committees. However, commission composition differs in terms of size, interests represented, and role of the federal representative.

*Commission composition.* TRPA's governing board is similar to those of the three other commissions in that it consists of appointed members, including a representative of the federal government. However, TRPA is more like the CRGC in terms of its size, interests represented, and role of

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the federal representative. Specifically, TRPA's governing board has 15 members. California and Nevada each have 7 members, including 4 statewide and 3 local representatives, and the federal government has a representative.<sup>7</sup> All 7 California board members are appointed by elected officials. Four Nevada board members are appointed by elected officials, 2 serve by virtue of their state office, and 1 is appointed at-large by the other Nevada members. The federal representative is appointed by the President. All board members, except the federal representative, can vote on matters before the commission. In comparison, the CRGC has 13 members, including 3 appointees of each governor, 1 appointee of each of the 6 counties in the Scenic Area, and a federal representative who is a member of the U.S. Forest Service appointed by the Secretary of Agriculture. As with TRPA, all of the CRGC's commissioners are voting members except the federal representative.

The remaining two commissions are much smaller than TRPA. The DRBC and the SRBC have only 5 and 4 members, respectively, including a representative of the federal government. Unlike TRPA and the CRGC, each state has one commissioner—the governor or a designee. According to DRBC and SRBC officials, the designee is typically the head of the state's natural resources or environmental protection department. The federal representative is an officer of the U.S. Army Corps of Engineers appointed by the President. Unlike the federal representatives on TRPA and the CRGC, the federal representatives on the DRBC and the SRBC can vote on commission matters, because the United States is a party to the compacts.

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<sup>7</sup>Originally, the compact provided for an 11-member governing board, with each state having 3 local and 2 statewide representatives. However, the compact was amended in 1980 by adding 2 statewide representatives from each state, increasing the board's size to 15 members.

**Table 3: Summary of the Composition of TRPA and Three Other Compact Commissions**

Item	Tahoe Regional Planning Agency	Columbia River Gorge Commission	Delaware River Basin Commission	Susquehanna River Basin Commission
Compacting parties	2 states	2 states	4 states and the United States	3 states and the United States
Number of commissioners	15	13	5	4
State members	7 from each state, including 4 statewide and 3 local representatives	6 from each state, including 3 state and 3 local appointees	1 from each state	1 from each state
Method of selection	Appointed by elected officials or by virtue of their state office; at-large member appointed by the other Nevada board members	Appointed by elected officials	Appointed by virtue of their state office	Appointed by virtue of their state office
Special requirements	All California state representatives and at least 1 from Nevada must reside outside the region; local representatives must reside in their appointing body's jurisdiction	1 state representative from each state must reside in the Scenic Area; local representatives must reside in their respective counties	None	None
Federal member	Appointed by the President	An employee of the Forest Service appointed by the Secretary of Agriculture	An officer of the U.S. Army Corps of Engineers appointed by the President	An officer of the U.S. Army Corps of Engineers appointed by the President
Role of federal member	Nonvoting	Nonvoting	Voting	Voting

Source: GAO analysis of interstate compacts.

*Staff.* Like the three other commissions, TRPA employs an executive director who is responsible for administering the commission's day-to-day operations in accordance with the commissioners' direction and policies. The executive director is assisted by a staff of technical and other employees. At the time of our review, TRPA had the largest staff, with 85 full-time equivalent (FTE) positions.<sup>8</sup> In comparison, the DRBC had 43 FTEs, the SRBC had 35 FTEs, and the CRGC had 8.75 FTEs.

*Advisory committees.* All four commissions rely on advisory committees to study issues and make recommendations to the commissioners. For

<sup>8</sup>An FTE generally consists of one or more employed individuals who collectively complete 2,080 work hours in a given year. Therefore, either one full-time employee or two half-time employees equal one FTE.

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example, TRPA has a 19-member advisory planning commission—composed of planning and natural resource management professionals in the region, as well as members of the public—that assists the governing board with technical and scientific issues dealing with land use planning. The advisory planning commission holds hearings, reviews proposed amendments to TRPA’s plans and ordinances, and makes recommendations to the governing board. In addition, TRPA’s governing board has formed four advisory committees, composed of board members, to review and make recommendations to the board on legal, operational, public education and outreach, and local government matters. Similar to TRPA, both the DRBC and the SRBC have established ongoing issue-related advisory committees that sometimes include members of the public. For example, the DRBC has established a flood advisory committee and the SRBC an agricultural water use committee. Moreover, officials of the CRGC, the DRBC, and the SRBC reported that their commissions set up short-term committees, which may include members of the public, to provide input on specific issues or concerns that arise.

## Dispute Resolution

To avoid litigation, TRPA and the three other commissions generally use similar mechanisms for resolving disputes between the commission and those it regulates. These mechanisms include administrative appeals, mediation, and negotiation. Specifically, TRPA, like the three other compact commissions, has an administrative appeals process that allows individuals to appeal a final action of the executive director to the governing board without proceeding directly to court. In addition, TRPA, like the CRGC and the DRBC, also uses mediation as an alternative process for resolving disputes. However, only the CRGC explicitly provides for mediation as part of its administrative appeals process. Lastly, TRPA, like the CRGC and the SRBC, uses negotiation to resolve cases involving noncompliance with its regulations.

## Public Accountability

In addition to using similar mechanisms for resolving disputes, the four commissions use similar mechanisms to help ensure accountability. Some mechanisms serve to help ensure accountability and transparency of commission decisions, while others provide financial accountability. Generally, all four commissions:

- *Report their activities to state or federal agencies or officials.* TRPA, like the CRGC and the SRBC, regularly reports to its member states’ budget committees during its budget cycles. According to TRPA and CRGC officials, TRPA and the CRGC have also been required to report to state legislative oversight committees. Both the DRBC and the SRBC are required by their compacts to prepare an annual report to the legislative

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bodies of their member states. In contrast, TRPA and the CRGC are not required by their compacts to issue an annual report. In addition to their regular reporting, all four commissions report to state or federal agencies or officials when requested.

- *Conduct periodic progress reviews.* As required by their compacts, all four commissions conduct periodic reviews of their progress toward meeting compact objectives and make the results available to the states and the public. Specifically, TRPA assesses its progress toward achieving the goals of its comprehensive plan every 5 years and issues a report. The CRGC conducts a similar assessment every 10 years. The DRBC evaluates its progress toward its strategic plan every year, and the SRBC does so from time to time, but not according to a set schedule.
- *Undergo state evaluations of their performance.* TRPA, like the CRGC and the DRBC, undergoes state evaluations of its performance. However, such evaluations do not occur on a regular basis. The most recent TRPA evaluation occurred in 2004, the CRGC in 2003, and the DRBC in 2006. While no member state has evaluated the SRBC's performance, officials reported that state member representatives have on occasion audited the commission's financial records.
- *Make commission meetings and records available to the public.* All four commissions hold meetings that the public can attend, and provide opportunities for the public to provide input into decision making. They also make commission records available to the public, such as commission meeting minutes and records of individual members' votes, enabling the states and the public to hold individual commissioners accountable for their decisions.
- *Conduct public outreach.* All four commissions use various approaches to conduct public outreach, such as press releases, commission Web sites, workshops, presentations, newsletters, and speakers' bureaus.
- *Undergo annual financial audits.* All four commissions are audited annually and the results are presented to each commission in a public meeting. Such audits are required for the CRGC, the DRBC, and the SRBC by their compacts. In the case of the DRBC and the SRBC, the audits must be performed by third parties.
- *Submit grant reports.* All four commissions submit reports to the appropriate state and federal agencies, as required by the agencies, for grant monies received.

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## TRPA Has More Extensive Land Use Planning Authority than the Three Other Commissions

While all four commissions have the authority to adopt and enforce regulations, a major distinction between TRPA and the three other compact commissions is that TRPA has broad land use planning authority that requires it to address a wide range of environmental issues. Specifically, under its compact, TRPA is required to adopt environmental standards to protect the natural environment and to maintain public health and safety within the Tahoe region. The nine standards adopted by TRPA address air quality, water quality, soil conservation, wildlife habitat, fish habitat, vegetation preservation, noise, recreation, and scenic resources. After setting the standards, TRPA was required to adopt a regional plan and ordinances to achieve and maintain the standards. The ordinances were required to contain, at minimum, standards for water purity and clarity; subdivision; zoning; tree removal; solid waste disposal; sewage disposal; landfills; excavations; cuts and grading; piers, harbors, breakwaters or channels, and other shoreline developments; waste disposal in shoreline areas; waste disposal from boats; mobile home parks; house relocation; outdoor advertising; flood plain protection; soil and sedimentation control; air pollution; and watershed protection. Further, these ordinances preempt the regulations of local and state agencies in the region, unless such regulations are stricter, and must be interpreted consistently with federal laws that may also apply within the Lake Tahoe region. Any project that may substantially affect the land, water, or any other natural resources of the Lake Tahoe region must comply with applicable provisions of the compact, the regional plan, ordinances, and rules and regulations.

In comparison to TRPA, the CRGC is more limited in its land use planning authority. Whereas TRPA is broadly responsible for how and to what extent land—as well as water, air, and other natural resources—is used within the region, the CRGC only regulates the use of land when it affects cultural, natural, recreational, or scenic resources. For example, unlike TRPA, the CRGC cannot regulate land use for public health and safety, such as natural hazards, or for noise. Further, the CRGC can set and enforce standards only when a county fails to enact land use ordinances consistent with the commission’s management plan, and only one of the six counties in the Scenic Area has failed to do so. In contrast, neither the DRBC nor the SRBC has regulatory authority over land use; instead, local jurisdictions have such authority. However, the decisions of the DRBC and the SRBC, which both regulate water consumption and withdrawal, indirectly affect land use because the water withdrawal requirements each commission sets to manage water resources in its respective basin can influence how land can be used.

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As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to interested congressional committees. We will also provide copies to others upon request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-3841 or [mittala@gao.gov](mailto:mittala@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix IV.



Anu K. Mittal  
Director, Natural Resources  
and Environment

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# Appendix I: Objectives, Scope, and Methodology

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Our review focused on congressionally approved interstate compacts that address environment and natural resource issues. Specifically, we were asked to determine (1) the approaches used to administer congressionally approved environment and natural resource compacts, including their organizational structure, powers and authorities, and mechanisms for resolving disputes and providing public accountability; (2) the extent to which concerns have been raised regarding the structure and governance of those compacts, like the Tahoe Regional Planning Compact, that have commissions; and (3) specifically, how the structure and governance of the Tahoe Regional Planning Agency (TRPA) compares to those of other similar compact commissions.

To determine the approaches used to administer congressionally approved interstate compacts that address environment and natural resource issues, we used *Interstate Compacts & Agencies 2003*, a directory compiled by the Council of State Governments, and prepared a list of 76 such compacts.<sup>1</sup> From this list, we identified and reviewed 59 compacts with congressional approval. We also obtained and reviewed relevant compact documents, such as bylaws, rules of procedure, and management plans, for information on the compact's organizational structure, powers and authorities, and mechanisms for resolving disputes and providing public accountability. In addition, we developed and distributed a Web-based survey to officials from the 45 compacts with an operational commission to obtain additional information on the structure and governance of their compacts, as well as the extent to which significant concerns have been raised regarding commission structure or composition, method of selecting commissioners, current regulatory authority, and public accountability.<sup>2</sup>

The practical difficulties of conducting any survey may introduce nonsampling error. For example, differences in how a particular question is interpreted, the sources of information available to respondents, or the types of people who do not respond can introduce unwanted variability into the survey results. Therefore, we included steps in developing and administering the survey for the purpose of minimizing such nonsampling errors. For example, we pretested the survey with three compact commission officials and used their feedback to refine the survey. Also, to

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<sup>1</sup>This directory is the most recent compilation of interstate compacts available.

<sup>2</sup>The Texas Low-Level Radioactive Waste Compact established a commission, but at the time of our review, the commission was not yet operational.



reduce survey nonresponse, we sent e-mail reminders and conducted follow-up telephone calls with nonrespondents. Overall, officials from 36 of the 45 compacts in our sampling frame responded to our survey, for a response rate of 80 percent. Where necessary, we conducted follow-up telephone interviews with commission officials to clarify survey responses and obtain additional information on the concerns raised regarding their commission's structure and governance.

In addition to our survey, we contacted officials of compacts without commissions to obtain information on the administration of these compacts.

To determine the extent to which concerns have been raised regarding the structure and governance of compacts with commissions, we used the results of our survey of compact commission officials to identify commissions where significant concerns about commission composition, method of selecting commissioners, current regulatory authority, and public accountability have been raised. We conducted follow-up interviews with commission officials to obtain additional information on the nature and frequency of these concerns. We also reviewed relevant documents, such as studies, news articles, and court cases for information on concerns. We also interviewed interstate compact experts to obtain their views on issues related to the organizational structure, authority, and public accountability of compact commissions.

To determine how TRPA compares to other interstate compact commissions, we used the results of our survey of compact commission officials to identify commissions that are similar to TRPA. The criteria for selecting similar commissions included (1) having the authority to issue regulations and (2) having a plan for achieving the compact's objectives that addresses at least six of the following issues: land use, transportation, conservation, recreation, public services and facilities, water pollution, flood control, and waste disposal. We identified three commissions that met these criteria—the Columbia River Gorge Commission, the Delaware River Basin Commission, and the Susquehanna River Basin Commission. To obtain information on each of these commission's structure and governance, we obtained and reviewed relevant documents, such as compact plans, commission meeting minutes, reports, and news articles. We interviewed commission staff in Stateline, Nevada; White Salmon, Washington; West Trenton, New Jersey; and Harrisburg, Pennsylvania; and attended meetings of TRPA, the Columbia River Gorge Commission, and the Nevada legislative oversight committee on TRPA. In addition, we interviewed compact stakeholders, such as commissioners; federal, state,

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and local government officials; environmentalists; business community members; and representatives of groups regulated by the commissions to obtain their views on the organizational structure and governance of their commissions.

We conducted our work from April 2006 through March 2007 in accordance with generally accepted government auditing standards.

# Appendix II: Descriptions of Interstate Compacts Included in Our Review

This appendix provides information on the 59 congressionally approved environment and natural resource compacts that we included in our review.

**Table 4: Congressionally Approved Environment and Natural Resource Compacts**

Compact	Members	Description
Appalachian States Low-Level Radioactive Waste Compact	4 states	Establishes a commission to manage and dispose of low-level radioactive waste generated within member states' borders.
Arkansas River Basin Compact of 1970	2 states	Apportions the waters of the Arkansas River Basin and creates a commission to administer the agreement, encourage pollution abatement programs, and facilitate cooperation for total development and management of water resources in the river basin.
Arkansas River Compact of 1949	2 states	Apportions the waters of the Arkansas River and establishes an administration as the supervising agency.
Arkansas River Compact of 1965	2 states	Apportions the waters of the Arkansas River Basin, establishes a commission to administer the agreement, and encourages further pollution-abatement programs.
Atlantic States Marine Fisheries Compact	15 states	Establishes a commission to promote better utilization of fisheries along the Atlantic seaboard.
Bear River Compact	3 states	Apportions the waters of the Bear River and establishes a commission to administer the agreement. Also allocated new blocks of water for future development in the three member states.
Belle Fourche River Compact	2 states	Apportions the waters of the Belle Fourche River with particular emphasis on administering public water supplies in the two member states.
Big Blue River Compact	2 states	Establishes a commission to promote interstate comity and equitably apportion the waters of the Big Blue River Basin to promote orderly development of water resources and to continue active water pollution abatement programs.
Canadian River Compact	3 states	Establishes a commission to apportion the waters of the Canadian River in New Mexico, Oklahoma, and Texas, and to perform all functions required by the compact.
Central Interstate Low-Level Radioactive Waste Compact	4 states	Establishes a commission to manage and dispose of low-level radioactive waste generated within member states' borders.
Central Midwest Low-Level Radioactive Waste Compact	2 states	Establishes a commission to manage and dispose of low-level radioactive waste generated within member states' borders.
Colorado River Compact	7 states	Apportions the waters of the Colorado River Basin.
Columbia River Compact	2 states	Provides for the regulation, preservation, and protection of fish in the waters of the Columbia River.
Columbia River Gorge Compact	2 states	Establishes a regional agency to govern the planning and development of the area designated by the Columbia River Gorge National Scenic Area Act. Powers include disapproving county land use ordinances that are inconsistent with the area's management plan and enacting ordinances setting standards for using nonfederal land within the scenic area.

**Appendix II: Descriptions of Interstate  
Compacts Included in Our Review**

<b>Compact</b>	<b>Members</b>	<b>Description</b>
Connecticut River Atlantic Salmon Compact	3 states	Promotes the restoration of anadromous Atlantic salmon by developing a joint interstate program for stocking, protection, management, research, and regulation.
Connecticut River Valley Flood Control Compact	3 states	Establishes a commission to provide for financial reimbursement by downstream states for economic losses to political subdivisions in which flood control reservoirs are located.
Costilla Creek Compact	2 states	Apportions the waters of Costilla Creek and creates the necessary administrative structure. Amended in 1963 to perfect further utilization of interstate waters.
Delaware River Basin Compact	4 states & U.S.	Establishes a commission as a regional multipurpose water resources regulatory agency.
Great Lakes Basin Compact	8 states	Establishes a commission to advise and make recommendations to the member states concerning regional water resources matters.
Gulf States Marine Fisheries Compact	5 states	Establishes a commission to promote the better utilization of the fisheries of the seaboard of the Gulf of Mexico by developing a joint program for promoting and protecting such fisheries and preventing the physical waste of the fisheries from any cause.
Interstate Compact to Conserve Oil and Gas	30 states	Establishes a commission to study and make recommendations about energy efficiency that would help member states' economies and encourage energy independence.
Jennings Randolph Lake Project Compact	2 states	Provides for concurrent jurisdiction among West Virginia, Maryland, and the U.S. Army Corps of Engineers to enforce civil and criminal laws of these states concerning natural resources, boating, and other regulations over the land and waters of the Jennings Randolph Lake Project.
Klamath River Basin Compact	2 states	Establishes a commission to promote comprehensive development, conservation, and control of the resources of the Klamath River.
La Plata River Compact	2 states	Apportions the waters of the La Plata River and creates a commission to administer the compact.
Merrimack River Flood Control Compact	2 states	Establishes a commission to coordinate flood control planning and water resource management in the basin of the Merrimack River and its tributaries.
Middle Atlantic Forest Fire Protection Compact	7 states	Provides mutual assistance in forest fire protection and control.
Midwest Interstate Low-Level Radioactive Waste Compact	6 states	Establishes a commission to manage and dispose of low-level radioactive waste generated within member states' borders.
New England Interstate Water Pollution Compact	7 states	Establishes a commission to coordinate the water pollution control activities of the signatory states as they pertain to the waters of the compact area. Other activities include assurance of water quality planning and standards in the compact area, improving groundwater program coordination, and distributing public-oriented information addressing current environmental issues.
New Hampshire-Vermont Interstate Public Water Supply Compact	2 states	Authorizes local governments in New Hampshire and Vermont to enter into agreements for jointly erecting and maintaining public water supply facilities.

**Appendix II: Descriptions of Interstate  
Compacts Included in Our Review**

<b>Compact</b>	<b>Members</b>	<b>Description</b>
New Hampshire-Vermont Interstate Sewage and Waste Disposal Facilities Compact	2 states	Authorizes local governments and sewage districts in New Hampshire and Vermont to engage in programs for abatement of pollution through joint facilities for the disposal of sewage and other waste products.
Northeast Interstate Low-Level Radioactive Waste Management Compact	3 states	Establishes a commission to manage and dispose of low-level radioactive waste generated within member states' borders.
Northeastern Forest Fire Protection Compact	7 states, 1 national forest, & 3 provinces	Establishes a commission to promote effective prevention and control of forest fires in the New England states, New York, and adjoining Canadian provinces.
Northwest Compact on Low-Level Radioactive Waste Management	8 states	Establishes a commission to manage and dispose of low-level radioactive waste generated within member states' borders.
Ohio River Valley Water Sanitation Compact	8 states	Establishes a commission for the purpose of maintaining waters in the river basin in a satisfactory condition, available for use as public and industrial water supply after reasonable treatment, suitable for recreational use, and capable of maintaining healthy aquatic communities.
Pacific Marine Fisheries Compact	5 states	Establishes a commission to promote the conservation, development, and management of Pacific coast fishery resources through coordinated regional research, monitoring, and utilization.
Pecos River Compact	2 states	Establishes a commission to administer the compact and apportion the waters of the Pecos River.
Potomac River Compact of 1958	2 states	Establishes a commission to conserve and improve fishing resources in the tidewater portion of the Potomac River.
Potomac Valley Compact	3 states, D.C., & U.S.	Creates a conservancy district and establishes a commission to cooperatively preserve water quality and to conserve water and related land resources of the Potomac River Basin.
Red River Compact	4 states	Provides for the equitable apportionment of the waters and tributaries of the Red River.
Republican River Compact	3 states	Establishes an agency to provide for the most efficient use of basin waters for multiple purposes and to provide for the equitable division of water.
Rio Grande Compact	3 states	Establishes a commission to administer the compact and apportion water.
Rocky Mountain Low-Level Radioactive Waste Compact	3 states	Establishes a commission to manage and dispose of low-level radioactive waste generated within member states' borders.
Sabine River Compact	2 states	Establishes a commission to apportion the waters of the Sabine River and to plan, develop, and conserve the water resources of the river basin.
Snake River Compact	2 states	Apportions the waters of the Snake River.
South Central Forest Fire Protection Compact	5 states	Provides mutual aid in forest fire protection and control among the states in the south central area.
South Platte River Compact	2 states	Apportions the waters of the South Platte River.
Southeast Interstate Low-Level Radioactive Waste Compact	7 states	Establishes a commission to manage and dispose of low-level radioactive waste generated within member states' borders.

**Appendix II: Descriptions of Interstate  
Compacts Included in Our Review**

<b>Compact</b>	<b>Members</b>	<b>Description</b>
Southeastern Forest Fire Protection Compact	10 states	Provides mutual aid in forest fire prevention and control among states in the southeastern area.
Southern Compact	16 states	Provides for regional cooperation in the proper utilization of energy and environmental resources in the southern states.
Southwestern Low-Level Radioactive Waste Disposal Compact	4 states	Establishes a commission to manage and dispose of low-level radioactive waste generated within member states' borders.
Susquehanna River Basin Compact	3 states & U.S.	Establishes a federal-interstate administrative commission to engage in comprehensive planning, development, and management of water and related resources of the Susquehanna River Basin.
Tahoe Regional Planning Compact	2 states	Establishes a regional planning agency with power to adopt and enforce a regional plan of resource conservation and development and to exercise various environmental controls over the Tahoe Basin. Amended in 1980 to require adoption of environmental threshold capacities for the Tahoe Basin.
Texas Low-Level Radioactive Waste Disposal Compact	2 states	Establishes a commission to manage and dispose of low-level radioactive waste generated within member states' borders.
Thames River Flood Control Compact	2 states	Establishes a commission to administer the compact and promote the cooperation in flood control and in the use of water resources of the Thames River Basin.
Tri-State Sanitation Compact	3 states	Creates a commission to promote water pollution abatement and control within the tidal and coastal waters in the adjacent portions of Connecticut, New Jersey, and New York. Since 1962, the commission has served as the coordinating and planning agency for air quality control within the tristate boundary area.
Upper Colorado River Basin Compact	5 states	Establishes a commission to administer apportionment of the waters of the Upper Colorado River Basin System and to promote agricultural and industrial development.
Upper Niobrara River Compact	2 states	Apportions the waters of the Upper Niobrara River Basin and the ground waters common to Nebraska and Wyoming.
Wheeling Creek Watershed Protection and Flood Prevention District Compact	2 states	Establishes a commission for the purpose of administering programs of flood control and preservation of natural resources and recreational facilities in the Wheeling Creek watershed.
Yellowstone River Compact	3 states	Establishes a commission to apportion the waters of the Yellowstone River.

Sources: The Council of State Governments' *Interstate Compacts & Agencies 2003* and GAO analysis.

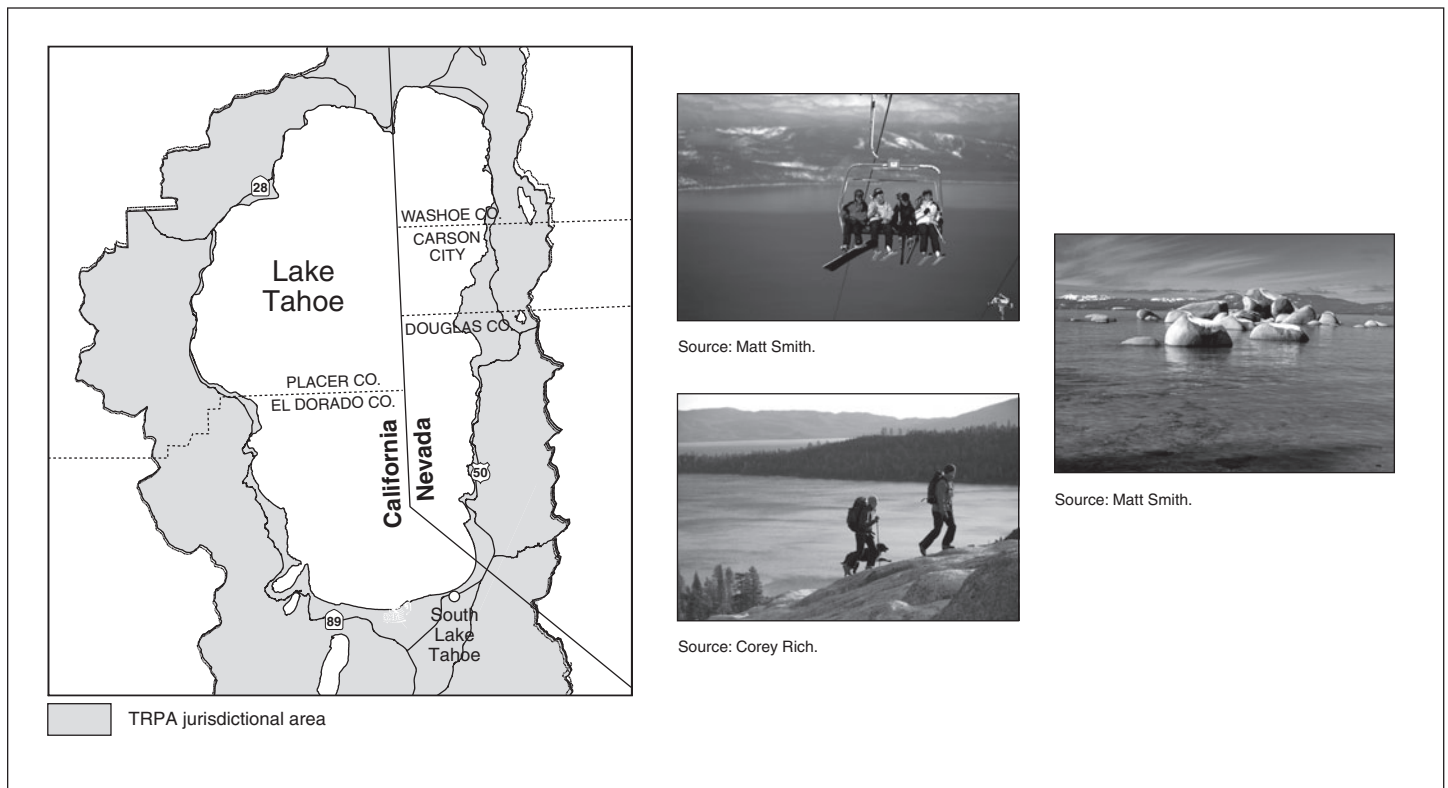
# Appendix III: Descriptions of TRPA and Three Selected Compact Commissions

This appendix describes the Tahoe Regional Planning Agency (TRPA) and three compact commissions that perform similar functions to TRPA.

## Tahoe Regional Planning Agency

Lake Tahoe is located in the Sierra Nevada Mountains on the border of California and Nevada (see fig. 6). Approximately two-thirds of the lake lies in California and one-third in Nevada. Lake Tahoe is about 22 miles long and 12 miles wide and has a surface area of 191 square miles. With an average surface elevation of 6,225 feet above sea level, Lake Tahoe is the highest lake of its size in the United States. The lake, which is known for its exceptional purity and clarity, has been called a national treasure.

**Figure 6: Map and Photographs of the Lake Tahoe Region**



Source: TRPA (basin map).

Reports of Lake Tahoe's beauty did not go unnoticed. By the turn of the twentieth century, the lake had become a summer resort, primarily for the wealthy. Following World War II, the Tahoe region experienced rapid growth with the availability of modern snow removal equipment, which

enabled the states to keep the highways into Lake Tahoe open during the winter months, coupled with the establishment of year-round casinos in Nevada and the 1960 Winter Olympic Games in nearby Squaw Valley, which further stimulated development of the winter sports industry. Postwar affluence and increased leisure time, along with rapid population growth in urban centers in northern California, resulted in a large increase in the number of tourists and seasonal residents at Lake Tahoe. In response to growing concerns about the impact of development on Lake Tahoe and its environment—particularly a proposal for a four-lane freeway with a bridge over Lake Tahoe’s famed Emerald Bay, the states of California and Nevada negotiated a bistate compact that created a regional planning agency to oversee development at Lake Tahoe. Congress gave its consent to the compact in 1969.<sup>1</sup>

The Tahoe Regional Planning Compact established the Tahoe Regional Planning Agency (TRPA) to administer the compact. It also created a governing board that, according to TRPA officials, functioned like a regional planning board. The majority of the board members were local residents. Project approval required a majority of votes from each state. Further, the compact had a provision that if a project was not acted upon within 60 days, the project would automatically be deemed approved. Under this provision, development continued unchecked, and the compact was amended and ratified by Congress in 1980 to give more control to statewide rather than local representatives and to eliminate the 60-day provision.<sup>2</sup>

The compact, as amended, grants TRPA the authority to establish environmental quality standards, called thresholds, and to adopt and enforce a regional plan and ordinances for achieving and maintaining the standards while providing opportunities for orderly growth and development consistent with the standards.

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## Columbia River Gorge Commission

The Columbia River Gorge is a canyon up to 4,000 feet deep that stretches for over 85 miles as the Columbia River cuts through the Cascade Mountains, forming the boundary of the states of Washington and Oregon (see fig. 7). Because of its scenic beauty, abundant natural resources, and multicultural history, the Columbia River Gorge has been called a national

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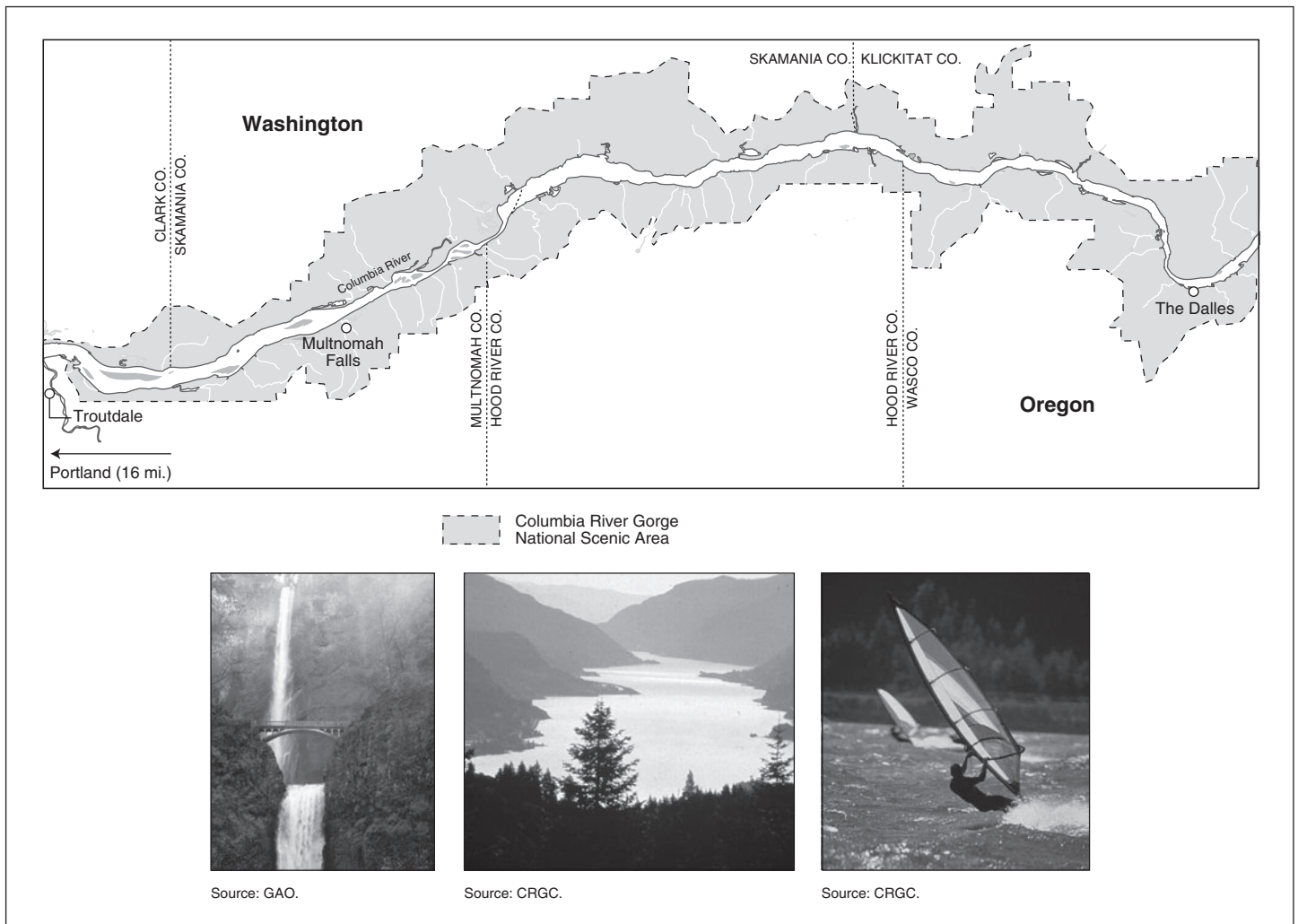
<sup>1</sup>Pub. L. No. 91-148, 83 Stat. 360 (1969).

<sup>2</sup>Pub. L. No. 96-551, 94 Stat. 3233 (1980).



treasure. In addition, the gorge provides many recreational opportunities—such as fishing, hiking, rock climbing, and world-class windsurfing—that attract millions of visitors a year.

Figure 7: Map and Photographs of the Columbia River Gorge National Scenic Area



Sources: CRGC and Oregon Department of Transportation.

The completion of a highway along the Columbia River in 1915 opened up the gorge to recreation and stimulated growth on both sides of the river. By the 1930s, development impacts on the gorge were becoming a source of concern and, by the 1950s, both Oregon and Washington had created individual gorge commissions. However, their effectiveness became

limited by inadequate funding, lack of authority, and opposition from various sources. In 1980, an attempt to build a subdivision in Skamania County, Washington, across the Columbia River from Multnomah Falls, one of Oregon's premier tourist attractions, provided the catalyst to find permanent protection for the gorge's natural resources, and, in 1986, Congress passed the Columbia River Gorge National Scenic Area Act.<sup>3</sup> The Scenic Area, which totals about 292,500 acres, stretches for 85 miles on either side of the Columbia River and includes portions of three counties in Oregon and three counties in Washington.

The purpose of the Scenic Area Act is to (1) establish a national scenic area to protect and provide for the enhancement of the gorge's scenic, cultural, recreational, and natural resources and (2) protect and support the economy of the Columbia River Gorge area by encouraging growth in urban areas and allowing economic development that is consistent with the first purpose. The act authorized Oregon and Washington to enter into a compact that would create a regional agency known as the Columbia River Gorge Commission and required that the commission carry out its functions and responsibilities in accordance with the compact and the act. These functions and responsibilities included, among others, adopting a management plan for the Scenic Area, administering the plan, reviewing the plan periodically, and amending it as necessary.

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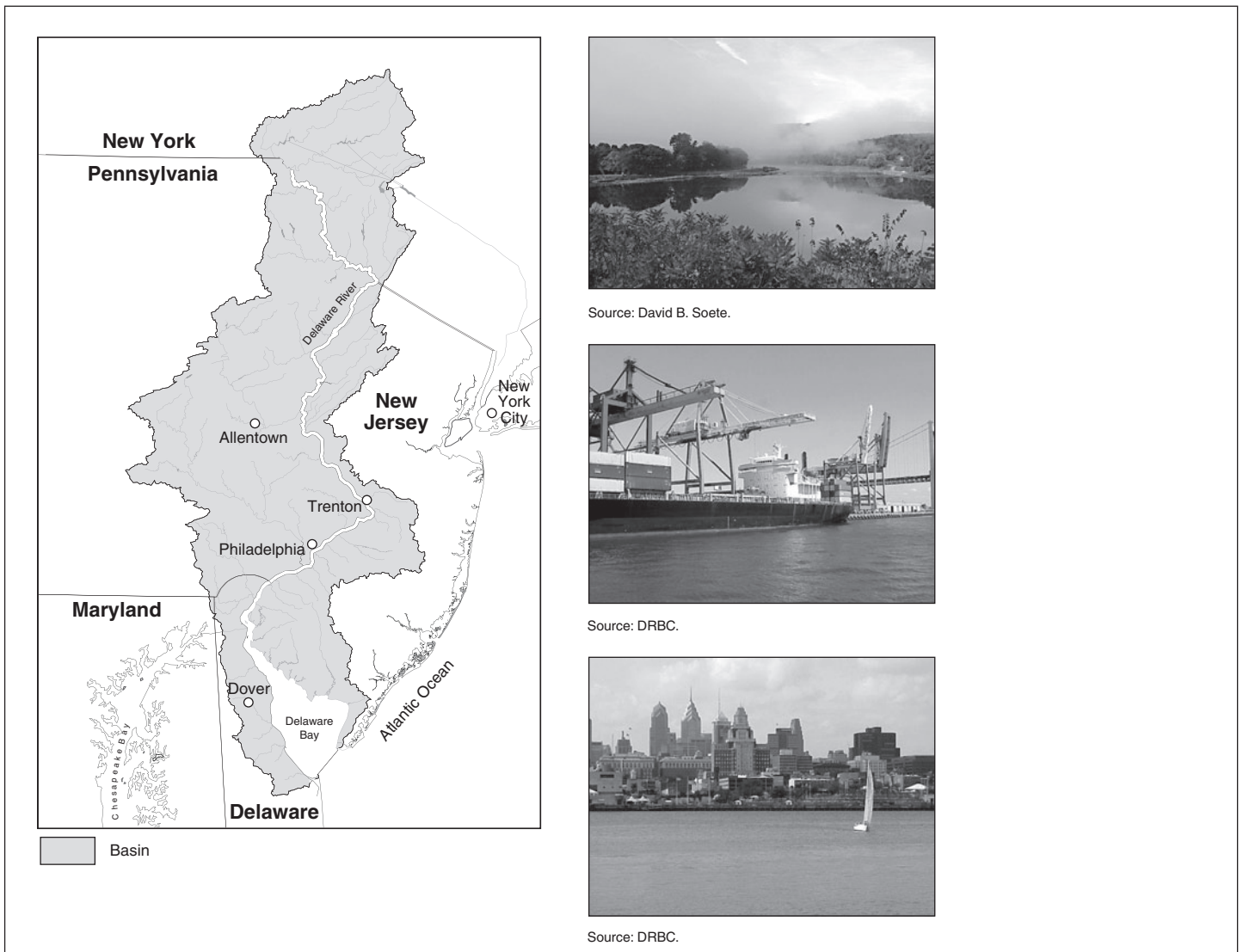
## Delaware River Basin Commission

The Delaware River Basin consists of 13,539 square miles, draining parts of Pennsylvania, New Jersey, New York, and Delaware (see fig. 8). Nearly 15 million people rely on the waters of the basin for drinking and industrial use, including 7 million people in the New York City area and northern New Jersey who live outside the basin. New York City gets nearly half of its water from three large reservoirs located on the tributaries to the Delaware, and Philadelphia gets 100 percent of its water supply directly from the Delaware and Schuylkill Rivers. In addition, the Delaware River Port Complex (including docking facilities in Pennsylvania, New Jersey, and Delaware) is the largest freshwater port in the world.

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<sup>3</sup>Pub. L. No. 99-663, 100 Stat. 4274 (1986).

Figure 8: Map and Photographs of the Delaware River Basin



In 1954, the United States Supreme Court resolved years of interstate conflict over water rights by apportioning the waters of the Delaware River among the four states and New York City. In doing so, the Court did not guarantee a final apportionment of water resources, but allowed the parties to return to court if circumstances changed. Instead of risking future litigation, Pennsylvania, New York, New Jersey, Delaware, and the

United States created the Delaware River Basin Compact to provide a unified approach to managing the river system without regard to political boundaries. Congress granted its consent to the agreement in 1961.<sup>4</sup>

The compact created the Delaware River Basin Commission (DRBC) to administer its provisions. The DRBC was given broad authority to plan, regulate, and coordinate management of the basin's waters. The commission regulates water supply allocation and water quality protection and has the authority to issue pollution control standards. In addition, the commission, acting on information from its advisory committees, makes recommendations to its member states on issues such as toxic pollutants, water quality, flooding, and flow management.

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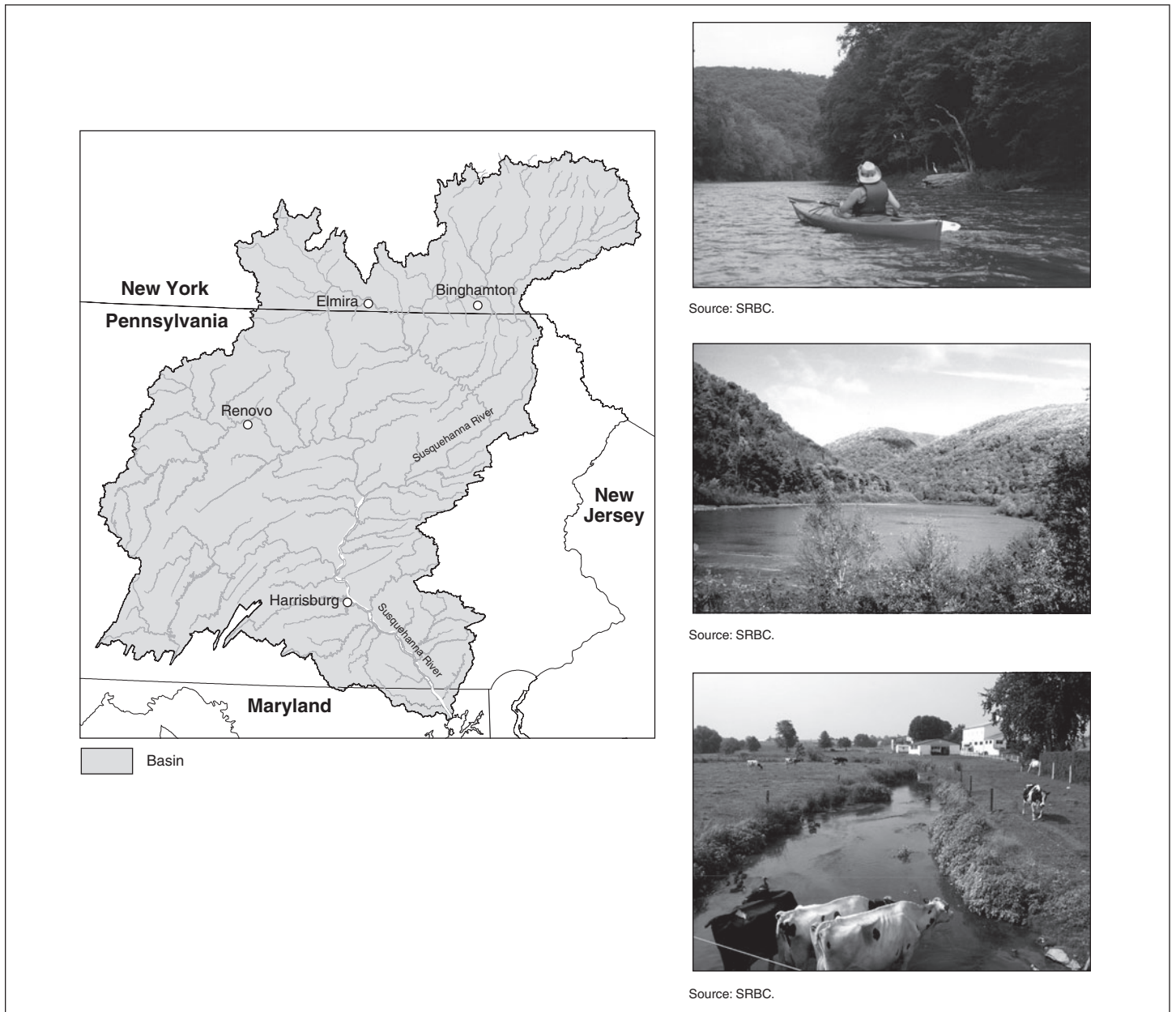
### **Susquehanna River Basin Commission**

The Susquehanna River is the nation's 16th largest river, originating near Cooperstown, New York, and emptying into the Chesapeake Bay at Havre de Grace, Maryland (see fig. 9). Along with its tributaries, the river drains 27,510 square miles, an area nearly the size of South Carolina. It is also the largest river lying entirely in the United States that flows into the Atlantic Ocean, and it provides 50 percent of the fresh water entering into the Chesapeake Bay.

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<sup>4</sup>Pub. L. No. 87-328, 75 Stat. 688 (1961).

Figure 9: Map and Photographs of the Susquehanna River Basin



Source: SRBC.

New York, Pennsylvania, Maryland, and the United States created the Susquehanna River Basin Compact to plan and manage the development of the basin's water resources, among other purposes. The compact was modeled after the Delaware River Basin Compact. The compact received congressional consent in 1970.<sup>5</sup> However, unlike the Delaware compact, which was created after its member states had litigated before the Supreme Court over water distributions, the Susquehanna compact was created to avoid such a dispute by providing for interstate coordination of efforts to develop and administer the water resources of the river basin.

The compact established the Susquehanna River Basin Commission (SRBC) to administer its provisions. The SRBC regulates water withdrawals, diversions, and releases, and is authorized to issue water quality standards and enforce those standards. The commission also has established several permanent advisory committees that develop recommendations for member states to consider on a variety of issues, including water resources management, water quality, agricultural water use, and drought management. In addition, the commission establishes short-term committees as specific needs dictate.

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<sup>5</sup>Pub. L. No. 91-575, 84 Stat. 1509 (1970).

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# Appendix IV: GAO Contact and Staff Acknowledgments

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## GAO Contact

Anu K. Mittal, (202) 512-3841 or [mittala@gao.gov](mailto:mittala@gao.gov).

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## Staff Acknowledgments

In addition to the contact named above, Sherry McDonald, Assistant Director; Fatema Choudhury; Christopher Ferencik; Katherine Freeman; Susan Malone; Roderick Moore; and Tama Weinberg made key contributions to this report. Also contributing to this report were Kevin Bray, Thomas James, Alison O'Neill, and John Smale, Jr.

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