

Environmental Review of Hydraulic Fracturing Operations in New York State

Hydraulic Fracturing Digest

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A large part of New York State overlies the Marcellus Shale, a black shale formation that extends deep underground from Ohio and West Virginia northeast into Pennsylvania and southern New York. Geologists estimate that the entire Marcellus Shale formation contains between 168 trillion to 516 trillion cubic feet of natural gas throughout its entire extent. To put this into perspective, New York State uses about 1.1 trillion cubic feet of natural gas per year.

New York's State Environmental Quality Review Act (SEQRA) requires a government agency to prepare an environmental impact statement (EIS) for projects that may have a significant effect on the environment. The Department of Environmental Conservation (DEC) regulates oil and natural gas drilling operations in New York state. In September 2009, the DEC prepared a draft supplemental generic EIS to assess the environmental impacts associated with horizontal drilling and high-volume hydraulic fracturing of the Marcellus Shale and other low permeability reservoirs. Under SEQRA, a generic EIS is used to assess the environmental impacts of separate actions having generic or common impacts.

Pursuant to a December 13, 2010 executive order signed by then-Gov. David Paterson, the DEC was required to prepare a revised draft supplemental generic EIS (RDSGEIS) and circulate it for public review on or around June 1, 2011. A preliminary revised draft supplemental generic environmental impact statement was released by DEC on July 1, 2011 (Preliminary Draft). In order to protect the state's drinking water, the Preliminary Draft includes measures that would prohibit surface drilling within and around, among others, the Syracuse and New York City watersheds, the state's 18 primary aquifers and public and private water supply wells. Further, applicants would be required to disclose all chemical additives used in the process, evaluate the use of alternative additives that pose less potential risk and obtain approval of plans for disposal of flowback water and production brine. Under recently-enacted state legislation, a special permit will also be needed to withdraw large volumes of water for industrial and commercial purposes to ensure there are no adverse impacts.

The DEC is still researching community and socioeconomic impacts of high-volume fracturing. Once that is completed, the RDSGEIS will be released for a formal public review and comment period, probably sometime later this year. Potential hydraulic fracturing operators in New York State should familiarize themselves with the Preliminary Draft and be prepared to carefully review and comment on the RDSGEIS when it is released since the analysis of impacts and proposed mitigation measures contained therein will likely affect their future drilling operations.

For further information about the DEC's review of hydraulic fracturing operations, including accessing the Preliminary Draft and for updates as to status of the RDSGEIS, one can visit the DEC website.

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