

Environmental Impact Statement and Regulations Related to Hydraulic Fracking Released for Public Review

Hydraulic Fracturing Digest

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In September 2011, the New York State Department of Environmental Conservation (DEC) published the long-awaited Revised Draft Supplemental Generic Environmental Impact Statement (RDSGEIS). In accordance with New York State's Environmental Quality Review Act, the RDSGEIS assesses the environmental impacts associated with horizontal drilling and high-volume hydraulic fracturing of the Marcellus Shale, a black shale formation extending from Ohio to New York that is estimated to contain between 168 trillion to 516 trillion cubic feet of natural gas. In October 2011, the DEC released proposed regulations pertaining to hydraulic fracking operations. The comment period on the RDSGEIS and the proposed regulations ends on December 12, 2011.

The RDSGEIS includes measures that would prohibit surface drilling within and around, among others, the New York City and Syracuse watersheds, the state's 18 primary aquifers and public and private water supply wells. According to the DEC, more than 80 percent of viable gas extraction areas will still be available for drilling under these restrictions. Additional measures require operators to include an additional well casing to prevent gas migration, develop plans to properly handle disposal of flowback water and production brine, adhere to local land use and zoning regulations, disclose all chemical additives used in the process and evaluate the use of alternative additives, implement mitigation measures to reduce air quality impacts and greenhouse gas emissions and comply with best management practices for certain disturbances of forest lands and grass lands. Other proposed mitigation measures are specified for traffic, noise and visual impacts.

Under the proposed regulations, operators must obtain a permit to drill and adhere to detailed regulations pertaining to, among other requirements, setbacks, water and pressure testing, well construction & operation and waste management & reclamation. High-volume hydraulic fracking operators must also obtain a State Pollutant Discharge Elimination System (SPDES) permit or coverage under a general SPDES permit and adhere to new strict control measures aimed at

preventing stormwater from contaminating water resources. Other regulations prohibit drilling on certain specified state lands.

Potential hydraulic fracturing operators in New York state should carefully review and comment on the RDSGEIS and proposed regulations since those documents will likely affect their future drilling operations. Operators may also wish to attend one of several public hearings on the RDSGEIS and regulations that are scheduled for November 2011. The RDSGEIS, proposed regulations and hearing schedule can all be viewed on DEC's website at www.dec.ny.gov/energy/75370.html. Comments on the RDSGEIS and proposed regulations will be accepted through 5 p.m. on December 12, 2011.

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