



## Tompkins County Water Resources Council

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[www.tompkins-co.org/planning/committees.html](http://www.tompkins-co.org/planning/committees.html)

January 28, 2013

Hon. Andrew M. Cuomo  
State Capitol  
Albany, NY 12224

Reference: HVHF

Dear Governor Cuomo:

The New York State Department of Environmental Conservation (NYSDEC) has proposed final regulations for gas drilling using high volume hydraulic fracturing (HVHF) which may be finalized in February despite the numerous unresolved issues identified by NYSDEC and others. Many of these issues are outside the authority of NYSDEC and must be addressed by the legislature. The Tompkins County Water Resources Council strongly objects to allowing HVHF gas drilling in New York State until the unresolved issues discussed below are addressed.

**NYSDEC AND OTHER AGENCY RESOURCES** - The Regulatory Impact Statement (RIS) recognizes that implementation of the proposed rules will require NYSDEC to incur additional costs associated with permitting, compliance monitoring and enforcement. The regulations should not be finalized until the NYS Legislature has identified the appropriate resources for NYSDEC and other affected agencies and a procedure is established for obtaining them.

**REVENUE ALLOCATION AND DELAY** - Local governments are very concerned about significant direct and/or indirect impacts and associated costs. NYSDEC Commissioner Martens appointed a HVHF Advisory Panel charged with *“developing recommendations to avoid and mitigate impacts to local governments and communities”* and *“evaluating the current fee structure and other revenue streams to fund government oversight and infrastructure related to high-volume hydraulic fracturing.”* The work of this Panel should be completed and its results addressed by the Legislature before the regulations are finalized.

Before regulations are issued, NYS must develop revenue streams from gas extraction to pay for the additional costs to both State and local governments, at the time they are incurred, through a blend of permit fees, severance taxes, and impact fees collected by the State, and ad valorem property taxes collected by local governments. These funds are needed to adequately protect human health and environmental resources in NYS, both in counties directly impacted by HVHF as well as adjacent locations.

**THE HEALTH IMPACT REVIEW MUST BE COMPLETED FIRST** - Public Health Commissioner Dr. Shah is providing a review, in consultation with outside experts, of whether NYSDEC has adequately addressed potential impacts to public health. The review of outside experts for the New York State Department of Health of the draft SGEIS will not be completed until after the end of the 30-day comment period on the regulations. The release of the proposed final regulations in December 2012, with a 30-day comment period ending January 11, 2013, eliminated the possibility of incorporating the results of the independent review of potential impacts to public health in the formation of the regulations as presented for public review.

**DRAFT SGEIS** –Although the proposed final regulations have been released, the SGEIS has not been revised since its release in 2011 and remains in draft form. The regulations should be based on the final SGEIS, not a draft version. On November 13, 2012, NYSDEC Commissioner Joe Martens, Deputy Commissioner Gene Leff, and Bob Chinerey of the NYS Department of Health met with representatives of Elected Officials to Protect New York (EOPNY). According to the EOPNY letter to Governor Cuomo, Commissioner Martens, and Commissioner Shah dated December 3, 2012, during the meeting Commissioner Martens stated that there have been substantial changes to and expansions of the SGEIS, and that the public comments on the first two drafts of the SGEIS raised important issues and led to improvements in their understanding and in the document. Under the State Administrative Procedures Act, the public must have an opportunity to see and weigh in on such significant changes. Since the regulations are based on the SGEIS and substantial changes have been made to the draft, the regulations should not be finalized before the SGEIS is finalized.

To reiterate our core concerns relayed to NYSDEC about the release of revised proposed HVHF regulations, 1) the review time allowed by the NYSDEC is totally inadequate for a meaningful, in-depth review of these important regulations, 2) the NYSDEC has released revised regulations prior to completion of the health review and finalization of the SGEIS, and 3) the regulations should not be finalized until the NYS Legislature has identified the appropriate resources for NYSDEC and other affected agencies and a procedure is established for obtaining the needed resources through a blend of permit fees, severance taxes and impact fees collected by the State, and ad valorem property taxes collected by local governments.

Sincerely,



Frank P. Proto, Chairman  
Tompkins County Water Resources Council

*The Tompkins County Water Resources Council is a citizen board that advises the Tompkins County Legislature on matters relating to the management of water resources, and does not necessarily express the views of the Tompkins County Legislature.*

Hard copies to:

Chair of Senate Committee on Environmental Conservation (Mark Grissanti)  
Chair of Senate Committee on Local Governments (Jack Martins)  
Chair of Senate Committee on Health (Kemp Hannon)  
Chair of Assembly Committee on Environmental Conservation (Robert Sweeney)  
Chair of Assembly Committee on Health (Robert Gottfried)  
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Members of Assembly Committee on NYSDEC Oversight (Crystal Peoples-Stokes, Matthew Titone)  
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Chair of Assembly Commission on Water Resources Needs of NYS and Long Island (Robert Sweeney)  
NYS Senators Skelos, Seward, and Nozzolio  
Speaker Silver  
Assemblywoman Lifton  
U.S. Senators Schumer and Gillibrand  
Representative Reed  
FRAC Act Sponsors in the House and Senate – Diana DeGette, Jarid Polis, Bob Casey, Chuck Schumer  
NYSDEC Commissioner Martens  
New York State Association of Counties  
New York State Association of State County Health Officials (NYASCHO)  
Tompkins County Board of Health  
Tompkins County Legislature

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