



Tompkins County Water Resources Council

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December 13, 2011

Mr. Peter Briggs, Director
Bureau of Oil and Gas Regulations
Attn: dSGEIS Comments
New York State Department of Environmental Conservation,
625 Broadway, Albany, NY 12233-6510

Subject: Comments on the Proposed Regulations 6 NYCRR Parts 52, 190, 550-556, 560,
and 750

Dear Mr. Briggs:

Thank you for the opportunity to provide comments on the Proposed Regulations 6 NYCRR Parts 52, 190, 550-556, 560, and 750 for high volume hydraulic fracturing (HVHF) on the Oil, Gas, and Solution Mining Regulatory Program. The Tompkins County Water Resources Council (WRC) appreciates the tremendous effort required by the New York State Department of Environmental Conservation (NYSDEC) to prepare the proposed regulations. However, as detailed in our comments which follow, there are numerous areas where additional measures are warranted to protect the water resources of the State. Key concerns include set back distances from water resources and geologic features such as faults, salt mines and valleys where geologic formations are missing due to glacial erosion and requirements to adequately map faults where drilling will occur.

Part 52.3 and Part 190, Use of State Lands – We agree with the added provision that surface disturbance associated with the drilling of a natural gas well subject to Part 560 on State owned lands is prohibited and no permit shall be issued authorizing such activity. This prohibition shall apply to any pre-existing and new leases issued for oil and gas development on State owned lands.

Part 551.6, Financial Security The operator of a well is only required to file “*financial security for that well in an amount based upon the anticipated costs of plugging and abandoning that well to the satisfaction of the department*”. This is inadequate because 1) it does not address potential remedial costs and 2) it leaves the amount required for financial security to the discretion of the Department. Leaving the amount of financial security up to the discretion of the Department does not reassure the public that adequate financial security will be required for either well plugging or abandonment or for any potential remedial costs.

Part 552.2(f), Verbal Approval of Permit If the director permits the commencement of operations by verbal authority prior to the issuance of a formal permit, the notifications required in Part 560.5 Testing, Recordkeeping and Reporting Requirements must be followed.

Part 554.1, Drilling Practices and Reports We agree with the proposed revisions to this part including requirement for the operator to submit and receive approval for a plan for the environmentally safe and proper disposal or beneficial re-use of drill cuttings on-site or off-site before a permit is issued.

Part 560.3, Application Requirements.

Item (a)(6) The scaled distance from the proposed surface location of the well and the closest edge of proposed well pad to any primary or principal aquifer boundary, perennial or intermittent stream, wetland, storm drain, lake or pond, and any surface water body that is a tributary to a public drinking water supply should be increased to 2,640 to be consistent with other application requirements and recommended setback distances for these resources.

Item (b) Mapping Requirements

A map at the scale of 1:2,400 showing the locations as identified in published documents of faults and fracture-intensive domains (FIDs) within one mile of the proposed edge of the well pad should also be required.

Maps showing primary and principal aquifer maps should be available at a scale of 1:24,000. The existing statewide GIS map (showing principal aquifers) is outdated and highly inaccurate as it was digitized at a scale of 1:250,000 and has not been revised to include information from numerous detailed aquifer studies that have been conducted since the map was digitized in the 1980s There is >30% discrepancy between the aquifer boundaries mapped at scales 1:250,000 and 1:24,000.

Part 560.4, Setbacks

The prohibition of well pads should be expanded to include a prohibition of well pads in the following areas:

- (1) closer than 1,000 feet from a private water well unless waived by the water well owner;
- (2) within the geometric boundary of a primary aquifer and a 2,000-foot buffer from the boundary of a primary aquifer or surface water divide for the aquifer, whichever is closer;
- (3) within a 100-year floodplain and a 500 foot buffer of the 100-year floodplain;
- (4) within 500 feet of a wetland;
- (5) within 2,000 feet of any public water supply (municipal or otherwise) well, reservoir, natural lake or man-made impoundment (except engineered impoundments constructed for fresh water storage associated with fracturing operations), and river or stream intake.
- (6) within 2,500 feet of any faults identified in published documents or fracture intensification domains FIDs that are mapped within 1,000 feet of any public water supply (municipal or otherwise) well, reservoir, natural lake or man-made impoundment (except engineered impoundments constructed for fresh water storage associated with fracturing operations), and river or stream intake.
- (7) within 1,000 feet of any active or abandoned salt mine.

- (8) below a Finger Lake or dry Finger Lake valley and within 500 feet of the Finger Lake.
- (9) within 500 feet of a perennial stream.

Part 560.5, Testing, Recordkeeping and Reporting Requirements.

(d)(4) This section should include the requirement that operators provide copies of test results and documentation related to delivery of test results to local health departments and to the NYSDOH as well as the owners of the water wells tested. The operator shall review the test results and include an analysis of whether there have been deviations from baseline testing in a report to local health departments and NYSDOH.

Part 560.6, Well Construction and Operation

(c) (20) Prior to performing hydraulic fracturing operations, the operator must perform a down hole 3-D seismic survey that covers the full extent of the planned horizontal borehole. A record of the 3-D seismic test must be maintained on-site by the operator and be available to the NYSDEC upon request.

Part 560.7, Waste Management & Reclamation

(f) Flowback water should be classified as hazardous waste and subject to the corresponding regulations.

Part 750-3.3, Prohibited Activities and Discharges

(b) Prohibition of HVHF operations on the ground surface should be expanded to include the following areas:

- (1) closer than 1,000 feet from a private water well unless waived by the water well owner;
- (2) within a the geometric boundary of a primary aquifer and a 2,000-foot buffer from the boundary of a primary aquifer or surface water divide for the aquifer, whichever is closer;
- (3) within a 100-year floodplain and a 500 foot buffer of the 100-year floodplain;
- (4) within 500 feet of a wetland;
- (5) within 2,000 feet of any public water supply (municipal or otherwise) well, reservoir, natural lake or man-made impoundment (except engineered impoundments constructed for fresh water storage associated with fracturing operations), and river or stream intake.
- (6) within 2,500 feet of any faults or FIDs that are mapped within 1,000 feet of any public water supply (municipal or otherwise) well, reservoir, natural lake or man-made impoundment (except engineered impoundments constructed for fresh water storage associated with fracturing operations), and river or stream intake.
- (7) within 1,000 feet of any active or abandoned salt mine.
- (8) below a Finger Lake or dry Finger Lake valley and within 500 feet of the Finger Lake.
- (9) within 500 feet of a perennial stream.

Part 750-3.12, Disposal of HVHF Flowback and Production Water

750-3.12 (d)(1)(vi)(b) references Division of Water Guidance Document 1.3.8.1, Guidance for Acceptance of HVHF Wastewater by POTWs. The DEC website was searched and while the 1994 edition of 1.3.8 was available, it does not seem applicable. A call was placed to Division of Water and staff there thought there must be a typographical error because there was no guidance document with the number 1.3.8.1. If a new document is to be created, it should be available for review with the rest of the proposed regulations.

Part 750-3.21, HVHF SPDES General Permits

(f) (4) HVHF SPDES general permit should also not authorize operations sited within the following buffers (calculated from the closest edge of the gas well pad):

- (1) closer than 1,000 feet from a private water well unless waived by the water well owner;
- (2) within a the geometric boundary of a primary aquifer and a 2,000-foot buffer from the boundary of a primary aquifer or surface water divide for the aquifer, whichever is closer;
- (3) within a 100-year floodplain and a 500 foot buffer of the 100-year floodplain;
- (4) within 500 feet of a wetland;
- (5) within 2,000 feet of any public water supply (municipal or otherwise) well, reservoir, natural lake or man-made impoundment (except engineered impoundments constructed for fresh water storage associated with fracturing operations), and river or stream intake.
- (6) within 2,500 feet of any faults (published...) or FIDs that are mapped within 1,000 feet of any public water supply (municipal or otherwise) well, reservoir, natural lake or man-made impoundment (except engineered impoundments constructed for fresh water storage associated with fracturing operations), and river or stream intake.
- (7) within 1,000 feet of any active or abandoned salt mine.
- (8) below a Finger Lake or dry Finger Lake valley and within 500 feet of the Finger Lake.
- (9) within 500 feet of a perennial stream.

Sincerely,



Frank P. Proto, Chairman
Tompkins County Water Resources Council

cc:

Governor Cuomo
NYS Senators Skelos, Kolb, O'Mara, Seward, and Nozzolio
Speaker Silver
Assemblywoman Lifton
Chair of Senate Committee on Environmental Conservation (via Mark Grisanti)
Chair of Senate Committee on Local Governments (via Jack M. Martins)
Chair of Senate Committee on Health (via Kemp Hannon)
Chair of Assembly Committee on Environmental Conservation (via Robert Sweeney)

Chair of Assembly Committee on Health (via Richard Gottfried)
Chair of Assembly Committee on Local Government (via William Magnarelli)
Chair of Assembly Committee on Science and Technology (via Donna Lupardo)
Chair of Assembly Committee on Toxic Substances and Hazardous Waste (via Mike Spano)
Chair of Assembly Committee on Water Resources Needs of NYS and Long Island (Robert Sweeney)
Members of Assembly Committee on NYSDEC Oversight (Daniel Burling, Crystal Peoples-Stokes,
Matthew Titone)
Attorney General Schneiderman
U.S. Senators Schumer and Gillibrand
Representative Salazar
FRAC Act Sponsors in the House and Senate – Diane DeGette, Maurice Hinchey, 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
Town Supervisors and Clerks
Tompkins County Legislature

Electronic copies to:

Tompkins County Environmental Management Council (EMC)
Tompkins County Council of Governments (TCCOG)
Tompkins County Information Officer
Ithaca Journal
Ithaca Times