

## DEC Commissioner Says Revised Hydro-Fracking Rules More Protective

*“Preliminary Revised Draft SGEIS” to be released Friday*

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The Department of Environmental Conservation (DEC) will release a “Preliminary Revised Draft SGEIS” this Friday, July 8. The final version of the Supplemental Generic Environmental Impact Statement (SGEIS) on high-volume horizontal hydraulic fracturing is slated for release at the end of the month – after DEC receives an evaluation of social and economic impacts. A 60-day comment period commences August 1. Meanwhile, people can get a head start reviewing the proposed drilling regulations.

On Friday, July 1 DEC Commissioner Joe Martens gave the press and invited landowner groups a preview of what to expect in the hefty (900-plus pages) document. The new rules will be safer and more protective for landowners, he said.

“A lot has happened since 2009,” Martens said, referring to the initial draft of the SGEIS. High volume hydraulic fracturing is a relatively new technology, he said, and noted that over the past two years the DEC has learned more about the process and potential problems.

“Parts of the 2009 SGEIS were not deeply enough done,” Martens said, citing the lack of socio-economic studies on potential impact on local governments. “We’ve also benefitted from the experiences of other states,” he said, referring to negative impacts in Pennsylvania. “We think NY can do it right.”

Martens was referring to a trip that he and five senior DEC staff members made in June. They visited LeRoy Township in Bradford County, PA, site of the most recent blowout, and spent the day listening to PA Department of Environmental Protection officials describe other gas industry impacts.

Most of the problems in Dimock (Susquehanna County) and Bradford County resulted from improper or insufficient casings, equipment failures, lack of adequate stormwater controls and inadequate regulations addressing drilling waste fluids.

The take-home lesson for NY, Martens said, is to prevent water contamination by insisting on better casings, on-site monitoring and stronger regulations. The new SGEIS calls for additional intermediate casings and better and more consistent cement jobs. Martens noted that right now there aren’t a whole lot of DEC field personnel available to monitor the wells, so permit applications may pile up on someone’s desk until that situation changes.

The revised SGEIS prohibits hydro-fracking in the NYC and Syracuse watersheds (to comply with the Filtration Avoidance Determinations) and sets a 4,000-foot wide buffer zone around those areas. New rules call for 500-foot setbacks from primary aquifers, which provide drinking water to most of the state’s urban areas. They can still drill horizontally beneath those water supplies, says DEC, as long as the wellbores are at least 2000 feet below the surface.

According to the document’s executive summary, there is “no likelihood of significant adverse impacts from the underground migration of fracturing fluids.” Still, the revised

SGEIS prohibits hydro-fracking within 2,000 feet of public drinking water supplies and within 500 feet of private water wells. It also prohibits drilling operations at any surface location wholly or partially within 100-year floodplains.

While DEC admits that Marcellus drilling wastes contain higher levels of radioactive waste than other formations, they write it off as insignificant. The levels are “similar to those naturally encountered in the surrounding environment.” The biggest concern regarding NORM (naturally occurring radioactive materials) is the build-up of these materials in pipes and equipment. Workers cleaning or maintaining pipes could be exposed to higher levels.

Increased NORM may not impact the disposal of drill cuttings, but DEC is concerned about the impacts of radioactive constituents, as well as increased salts and other contaminants, on fluid disposal. The SGEIS strengthens regulations regarding disposal of liquid wastes as improperly treated flowback wastes could damage wastewater treatment plants.

Hydro-fracking will use a tremendous amount of fresh water. Using industry estimates of 2,462 active wells per year, DEC calculated a peak annual fresh water usage of 9 billion gallons for drilling. While that represents a very small percentage of water use in the state, the SGEIS does note that the cumulative impact of these additional water withdrawals could “potentially be significant” – especially during droughts or other times when water sources are stressed.

Fracking will not be allowed on state lands because, Martens said, that type of heavily industrialized activity is inconsistent with the other shared uses and purposes of those publicly held lands. In addition to concerns about fragmentation of habitat, introduction of invasive species and threats to endangered and threatened species, Martens noted that drilling has the potential to draw substantial development into those areas. Even with all the new restrictions, he assured landowner groups, gas drillers should be able to access 80-plus percent of the Marcellus shale beneath the state.

Martens may think the new regulations protect NY residents, but not everyone agrees. Mary Sweeney, from Windsor, criticized what she sees as “unequal protection to the aquifers across the state.” Aquifers serving large urban areas are protected while those serving smaller, rural populations aren’t. “A 500-foot buffer zone is certainly too small,” she said. Not only that, she believes Martens has tacitly admitted that aquifer contamination due to shale gas could potentially happen.

But Martens has promised that DEC’s oversight of hydro-fracking will be “rigorous”. Last week he also promised that the agency would read all comments submitted to them, and determine whether DEC will need to re-evaluate their proposed rules. That could take up to six months, Martens said, adding, “At that point and only at that point will DEC consider permits.”

The revised SGEIS will be posted online at <http://www.dec.ny.gov/energy/75370.html>  
For further information or assistance, please contact the DEC's Bureau of Public Outreach at 518-402-8044.