

April 17, 2020

Honorable Andrea Stewart-Cousins, Temporary President and Majority Leader  
New York State Senate  
Legislative Office Building, Room 907  
Albany, NY 12247

Honorable Carl Heastie, Speaker  
New York State Assembly  
Legislative Office Building, Room 932  
Albany, NY 12248

Dear Majority Leader Stewart-Cousins and Speaker Heastie:

We, the undersigned organizations, write to express our strong support for S.3392 (May)/A.2655 (Englebright), and to urge its swift passage by the Senate and Assembly. This bill would close a loophole in state regulations that exempts waste generated by the oil and gas industry from hazardous waste testing, transport, and disposal. A growing body of science shows that this loophole endangers public health and the environment.

Despite New York's important ban on high-volume hydraulic fracturing ("fracking"), New York still accepts dangerous oil and gas wastes in its landfills and allows some waste to be used for de-icing or dust suppression on roads. Fracking produces massive quantities of waste, which commonly contains carcinogenic chemicals such as benzene, toluene, and formaldehyde, along with heavy metals and radioactive materials. Additionally, waste from conventional drilling, which still takes place in New York State, often has the same dangerous constituents as fracking waste.<sup>1</sup>

Fracking and drilling waste from states like Pennsylvania is shipped to New York, where it is dumped into landfills. From there, leachate from the landfills can contaminate rivers and streams, some of which serve as sources of drinking water. In fact, **since 2010, over 650,000 tons and 23,000 barrels of oil and gas waste has been disposed of in New York landfills from Pennsylvania's drilling operations.**<sup>2</sup>

New York's Department of Environmental Conservation (DEC) recently revised the state's solid waste regulations; however, the changes do not, and cannot, ensure that this waste is safe for disposal in solid waste facilities. DEC sought to address concerns raised by banning certain types of oil and gas waste, like flowback fluid and brine from the Marcellus shale region, from landfill disposal. However, without required testing of the waste before disposal, there is no way to ensure this waste still isn't making its way to New York's landfills. In fact, according to reporting from Pennsylvania, prohibited waste types are still coming into the state.<sup>3</sup>

Dozens of organizations commented on the proposed regulations to urge the closure of the hazardous waste loophole, because this would institute required testing. Instead of doing this, the Department adopted

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<sup>1</sup> Moran, Elizabeth, "License to Dump," Environmental Advocates of New York, February 2015, <http://eany.org/our-work/reports/license-dump-february-2015>

<sup>2</sup> Troutman, Melissa, "New York Frack Waste Report," Earthworks, July 2019, page 10, <https://earthworks.org/publications/new-york-waste-report/>

<sup>3</sup> Ibid.

requirements for additional tracking and reporting; however, as of January 2019, no reports have been submitted to the department.<sup>4</sup>

Most industries have to test their waste to determine if it is hazardous before disposal; the oil and gas industry should not be treated any differently. As a result, closing this loophole by passing S.3392/A.2655 is the only way to ensure toxic fracking waste isn't improperly disposed of in New York.

We commend the Assembly for having passed this legislation in previous sessions and thank the Senate for passing this legislation for the first time in May 2019. Now, we await the Legislature's passage of this bill to continue the trend of environmental leadership in New York State.

Thank you for your consideration of this important issue.

Sincerely,

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**All Our Energy**  
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<sup>4</sup> Troutman, Melissa, "New York Frack Waste Report," Earthworks, July 2019, page 9,  
<https://earthworks.org/cms/assets/uploads/2019/07/NY-Waste-Report-8-2019-final-web-res.pdf>

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**Sisters of Charity of New York Office of Peace,  
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Terri Thal  
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cc: Honorable John Flanagan, Minority Leader  
Honorable William Barclay, Minority Leader  
Honorable Todd Kaminsky, Chair, Senate Environmental Conservation Committee  
Honorable Steven Englebright, Chair, Assembly Environmental Conservation Committee