

DEC fracking deadline could be Feb. 13

Agency must give public time to review

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ALBANY — New York regulators may have to signal a decision on hydraulic fracturing by Feb. 13 if they hope to meet an end-of-the-month deadline for finalizing a set of proposed regula-

tions. The state Department of Environmental Conservation faces a Feb. 27 deadline to either finalize the planned hydrofracking rules or allow them to expire.

But an extensive environmental review — known as the Supplemental Generic Environmental Impact Statement, or the SGEIS — has to be released first. State law mandates that the SGEIS must be released to the public at least 10 days be-

fore the DEC issues a “findings statement,” which would include an ultimate decision on whether to allow fracking in New York.

The document, which totaled 1,500 pages in a 2011 draft, would have to be published in the DEC’s official bulletin, which is printed each Wednesday. The final Wednesday that meets the 10-day advanced notice period would be Feb. 13.

“We’re optimistically hopeful something will be

released by (Feb. 13),” said Yvonne Hennessey, who represents the oil-and-gas industry as an Albany-based lawyer with Hiscock & Barclay LLP. The DEC declined to respond to inquiries about the deadline.

While much of the focus has been on the Feb. 27 deadline, Feb. 13 could prove to be just as important in the fracking debate.

The proposed regulations, due Feb. 27, include the limitations and rules

that would govern the natural-gas industry. The SGEIS, however, includes the reasoning behind the DEC’s decision making and will ultimately decide whether high-volume fracking can move forward in New York.

The review process was first launched in July 2008, with large-scale hydrofracking on hold in New York in the meantime.

“Since the regulations are based upon the SGEIS for compliance (with state

See **FRACKING**, Page 4B

Fracking

Continued from Page 3B

quire the state to restart the formal proceedings, which could push a decision back months.

“We continue to urge the department not to be bound by an arbitrary deadline, but rather to let the environmental and health review processes unfold on their own time,” Sinding said.

Proponents of fracking — who say drilling in the state’s gas-rich Marcellus Shale formation could boost the economy — have held out hope that the February deadline could finally put an end to the 4½-year review and spur the DEC to make a decision. Critics say the process can lead to environmental harm.

When asked in De-

ember whether the DEC plans to decide on fracking by the end of February, DEC Commissioner Joseph Martens said: “We hope so.”

If the SGEIS isn’t issued by Feb. 13, it “certainly wouldn’t be a good sign” for the gas industry, Hennessey said.

The DEC, however, has its hands full. Opponents of fracking said they submitted a total of 204,000 comments to the agency on Friday, the last day for the public to weigh in on the proposed regulations.

The agency now has to review those comments and respond to any substantive issues that were raised. The DEC’s response would have to be released to the public before the Feb. 27 deadline.