

# The Legislature of Rockland County



**ALDEN H. WOLFE**  
Vice Chairman  
Legislator – District 6

Chair, Environmental Committee

AGENDA  
**ENVIRONMENTAL COMMITTEE**  
WEDNESDAY, FEBRUARY 1, 2012  
6:00 PM

ROLL CALL

ADOPTION OF MINUTES, MEETING OF DECEMBER 28, 2011

1. REF. #4374 - REQUESTING THAT THE NEW YORK STATE ASSEMBLY PASS BILL A.2206 AND THE NEW YORK STATE SENATE PASS BILL S.5126 – AN ACT ENACTING THE “ROCKLAND BERGEN BI-STATE WATERSHED FLOOD PREVENTION AND PROTECTION ACT” AND CREATING THE ROCKLAND BERGEN BI-STATE RIVER COMMISSION  
(HON. ALDEN H. WOLFE, LEGISLATURE)
2. REF. #9461 - REQUESTING THAT THE UNITED STATES HOUSE OF REPRESENTATIVES AND UNITED STATES SENATE PASS H.R. 1084 AND S.587 – THE FRACTURING RESPONSIBILITY AND AWARENESS OF CHEMICALS (FRAC) ACT, AND THE UNITED STATES HOUSE OF REPRESENTATIVES PASS H.R. 1204 – THE BRINGING REDUCTIONS TO ENERGY’S AIRBORNE TOXIC HEALTH EFFECTS (BREATHE) ACT  
(HON. ALDEN H. WOLFE, LEGISLATURE)
3. REF. #8967 - **DISCUSSION ITEM:** UNITED STATES DEPARTMENT OF AGRICULTURE (USDA) NATURAL RESOURCES CONSERVATION SERVICE 2012 PROGRAM SIGN-UP  
(HON. ALDEN H. WOLFE, LEGISLATURE)
4. REF. #4124 - **DISCUSSION ITEM:** REPORT/UPDATE FROM DAN MILLER ABOUT THE STATUS ON DEVELOPING A WATER POLICY  
(HON. ALDEN H. WOLFE, LEGISLATURE)

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ENV020112.AGA.SED

# DRAFT

Introduced by:  
Hon. Alden H. Wolfe, Sponsor

Referral No.  
, 2012

**RESOLUTION NO.        OF 2012**  
**REQUESTING THAT THE NEW YORK STATE ASSEMBLY PASS BILL A.2206**  
**AND THE NEW YORK STATE SENATE PASS BILL S.5126 –**  
**AN ACT ENACTING THE “ROCKLAND BERGEN BI-STATE WATERSHED**  
**FLOOD PREVENTION AND PROTECTION ACT” AND CREATING THE**  
**ROCKLAND BERGEN BI-STATE RIVER COMMISSION**

WHEREAS, the Legislature of Rockland County wishes to express its support for New York State Assembly Bill A.2206 and New York State Senate Bill S. 5126 – an Act enacting The “Rockland Bergen Bi-State Watershed Flood Prevention And Protection Act” and creating the Rockland Bergen Bi-State River Commission; and

WHEREAS, the Legislature finds and declares that the States of New York and New Jersey and their respective citizens share a common concern to protect their personal safety and property through the identification and remediation of potential flood hazards along the Hackensack River, Sparkill Brook/Creek, Saddle River, Ramapo/Mahwah River, and their tributaries and watersheds; and

WHEREAS, because the Hackensack River, Sparkill Brook/Creek, Saddle River, Ramapo/Mahwah River, and their tributaries cross the interstate border region, the identification and remediation of potential flood hazards require a bi-state comprehensive approach; and

WHEREAS, a bi-state comprehensive flood prevention approach will also help ensure the preservation and maintenance of the environmental benefits of the Hackensack River, Sparkill Brook/Creek, Saddle River, Ramapo/Mahwah River, and their tributaries; and

WHEREAS, a bi-state approach will encourage open space preservation and recreational opportunities along the Hackensack River, Sparkill Brook/Creek, Saddle River, Ramapo/Mahwah River, and their tributaries; and

WHEREAS, there has been a long history of cooperation among state and local governmental entities and various private organizations and individuals in the vicinity of the Hackensack River, Sparkill Brook/Creek, Saddle River, Ramapo/Mahwah River, and their tributaries to ensure the preservation of those water bodies and watersheds; and

WHEREAS, the Legislature therefore determines that there is a need to endorse and formalize that bi-state cooperative effort to identify and remediate potential flood hazards and to protect the natural, scenic and recreational opportunities of the Hackensack River, Sparkill Brook/Creek, Saddle River, Ramapo/Mahwah River and their tributaries; and that the creation of a bi-state commission is an appropriate means to accomplish these very important goals; and

WHEREAS, Bill A.2206 and S.5126 create an 18-member bi-state commission, to be known as the Rockland-Bergen Bi-State River Commission, the purpose of which would be to provide a means to effectively facilitate the cooperation of the governments of the States of New York and New Jersey to help ensure that the natural, scenic, and recreational resources of the Hackensack River, Sparkill Brook/Creek, Saddle River, Ramapo/Mahwah River, their tributaries and watersheds are protected from despoliation due to environmental and other threats from both sides of the border, so that the pristine beauty of the area will be preserved and maintained for the enjoyment and recreation of present and future generations, and to ensure the safety of the surrounding communities from flood hazards; and

WHEREAS the State of New Jersey has already enacted similar legislation creating the Rockland Bergen Bi-State River Commission, but the same measure has languished in Albany. The legislation was originally introduced in the 2009/2010 legislative session, but the bills failed to make it out of committee; it was re-introduced in January of 2011, but the bills again failed to make it out of committee. The bills were re-introduced in the New York State Senate and Assembly on January 4, 2012; and

WHEREAS, the \_\_\_\_\_ Committee has met, considered and by a \_\_\_\_\_ vote, approved this resolution; now therefore be it

RESOLVED, that the Legislature of Rockland County hereby requests that the New York State Assembly pass New York State Assembly Bill A.2206 and the New York State Senate pass Bill S.5126 – an Act enacting the "Rockland Bergen Bi-State Watershed Flood Prevention And Protection Act" and creating the Rockland Bergen Bi-State River Commission, and that the Governor of New York sign such legislation; and be it further

RESOLVED, that the Clerk to the Legislature be and is hereby authorized and directed to send a copy of this resolution to Andrew M. Cuomo, Governor of the State of New York; Hon. David Carlucci, New York State Senator, Hon. Kenneth P.

Zebrowski, Jr., Hon. Ellen C. Jaffee, Hon. Nancy Calhoun, and Ann G. Rabbitt, Members of the New York State Assembly; the President Pro Tem of the New York State Senate; the Speaker of the New York State Assembly; the Majority and Minority Leaders of the New York State Senate and Assembly; and to such other persons as the Clerk, in his discretion, may deem proper in order to effectuate the purpose of this resolution.

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1/23/12



Bill No.:

[Summary](#)  [Actions](#)  [Votes](#)  [Memo](#)  [Text \(Printer friendly text\)](#)

#### A02206 Summary:

BILL NO      A02206  
 SAME AS      Same as S 5126  
 SPONSOR      Zebrowski (MS)  
 COSPNSR      Jaffee, Rabbitt, Calhoun  
 MLTSPNSR

Enacts the "Rockland Bergen Bi-State Watershed Flood Prevention and Protection Act"; creates the twelve member Rockland Bergen Bi-State River Commission to identify and remediate the potential flood protection hazards along the tributaries and watersheds of the Hackensack River, Mahwah River, Ramapo River, Saddle River and Sparkill Brook/Creek that cross the interstate border region.

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#### A02206 Actions:

BILL NO      A02206  
 01/14/2011 referred to environmental conservation  
 05/03/2011 reported referred to ways and means  
 01/04/2012 referred to environmental conservation

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#### A02206 Memo:

BILL NUMBER:A2206

TITLE OF BILL:    An act enacting the "Rockland Bergen Bi-state watershed flood prevention and protection act" and creating the Rockland Bergen Bi-state River Commission

#### PURPOSE:

To formalize the existing relationship between the states of New York and New Jersey as it relates to the issues of flooding hazards along the various waterways that cross the interstate border region; more specifically, relating to tributaries and watersheds of the Hackensack River, Mahwah River, Ramapo River, Saddle River, and Sparkill Brook/Creek, within the counties of Rockland, New York and Bergen, New Jersey.

#### SUMMARY OF PROVISIONS:

Section 1: This bill creates the "Rockland Bergen Bi-State Watershed

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Flood Protection Act"

Section 2: Addresses the issues of flood hazards along the various waterways that cross the interstate border region and identifies the necessity for a bi-state approach to flood prevention and identifies the long history of cooperation between the states of New York and New Jersey. This section recognized the need to endorse and formalize such relationship in order to protect the natural, scenic, and recreational opportunities associated with this area; deemed appropriate to accomplish these very goals.

Section 3: Defines the term "Bi-State Region" as tributaries and watersheds of the Hackensack River, Mahwah River, Ramapo River, Saddle River, and Sparkill Brook/Creek, within the counties of Rockland, New York and Bergen, New Jersey. This section continues, and defines the term "Resident Voter" to mean an individual registered to vote and actually votes in an election district within Rockland, NY or Bergen, NJ.

Section 4: (a) Sets forth the commission, number of its members, member qualifications and the origins of the member's appointment within the states of New York and New Jersey. (b) Details successors to the original appointments at a member of the Rockland Bergen Bi-State River Commission shall serve without compensation, but authorizes the State to reimburse members for actual expenses incurred in the course of performing their duties. (d) Expresses that a member serves at the pleasure of the appointing authority.

Section 5(a): This section establishes the commission's hierarchy and the selection of each state's respected co-chairs and their positioning requirements. (b) Codifies that meetings of the commission shall be as regular as the commission determines, and shall be at such times and places as the co-chairpersons deem appropriate. The section further codifies that meeting places will alternate between states and makes the meetings of the commission subject to the statutes of their respected states.

Section 6: Details the express duties of the commission.

Section 7: Requires the commission to submit annual progress reports on its activities, and submit the report along with any recommendations to the Governors and Legislatures of the states of New York and New Jersey.

Section 8: Authorizes the Comptrollers of the states of New York and New Jersey to examine the accounts and books of the commission and report the findings to their respective Governors and Legislatures.

Section 9: This act shall take effect upon enactment into law by the State of New Jersey; however, if New Jersey should enact the same prior to New York, then this act shall take effect immediately.

JUSTIFICATION:

This law addresses the issues of flood hazards along the various waterways that cross the interstate border region and identifies the necessity for a bi-state approach to flood prevention and identifies the long history of cooperation between the states of New York and New Jersey. Furthermore, the legislation compliments the long history of cooperation between the states of New York and New Jersey and formalizes the relationship by creating the "Rockland Bergen Bi-State

Commission", in order to protect the natural, scenic, and recreational opportunities along the "Bi-State Region".

LEGISLATIVE HISTORY:

A.7428 of 2009-2010.

FISCAL IMPLICATIONS:

None to the State.

EFFECTIVE DATE:

This act shall take effect upon enactment into law by the State of New Jersey; however, if New Jersey should enact the same prior to New York, then this act shall take effect immediately.

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**A02206 Text:**

S T A T E   O F   N E W   Y O R K

2206

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 14, 2011

Introduced by M. of A. ZEBROWSKI, JAFFEE, RABBITT, CALHOUN -- read once and referred to the Committee on Environmental Conservation

AN ACT enacting the "Rockland Bergen Bi-state watershed flood prevention and protection act" and creating the Rockland Bergen Bi-state River Commission

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. This act shall be known and may be cited as the "Rockland
- 2 Bergen Bi-state watershed flood prevention and protection act".
- 3 S 2. The legislature finds and declares that the states of New York
- 4 and New Jersey and their respective citizens share a common concern to
- 5 protect their personal safety and property through the identification
- 6 and remediation of potential flood hazards along the tributaries and
- 7 watersheds of the Hackensack River, Mahwah River, Ramapo River, Saddle
- 8 River, and Sparkill Brook/Creek that cross the interstate border region.
- 9 The identification and remediation of potential flood hazards requires a
- 10 bi-state comprehensive approach. A bi-state comprehensive flood
- 11 prevention approach will also help ensure the preservation and mainte-
- 12 nance of the environmentally beneficial impacts of the tributaries and
- 13 watersheds of the Hackensack River, Mahwah River, Ramapo River, Saddle
- 14 River, and Sparkill Brook/Creek. A bi-state approach will encourage
- 15 open space and recreational opportunities along the tributaries and
- 16 watersheds of the Hackensack River, Mahwah River, Ramapo River, Saddle
- 17 River, and Sparkill Brook/Creek. The legislature further finds that
- 18 there has been a long history of cooperation among state and local
- 19 governmental entities and various private organizations and individuals

20 in the vicinity of the tributaries and watersheds of the Hackensack  
 21 River, Mahwah River, Ramapo River, Saddle River, and Sparkill  
 22 Brook/Creek.

23 The legislature therefore determines that there is a need to endorse  
 24 and formalize that bi-state cooperative effort to identify and remediate

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
 [ ] is old law to be omitted.

A. 2206

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1 potential flood hazards and to protect the natural, scenic and recre-  
 2 ational opportunities of the tributaries and watersheds of the Hacken-  
 3 sack River, Mahwah River, Ramapo River, Saddle River, and Sparkill  
 4 Brook/Creek. The legislature further determines that the creation of a  
 5 bi-state commission is an appropriate means to accomplish these very  
 6 important goals.

7 S 3. As used in this act, "Bi-state region" shall mean the tributaries  
 8 and watersheds of the Hackensack River, Mahwah River, Ramapo River,  
 9 Saddle River, and Sparkill Brook/Creek, within the counties of Rockland  
 10 in New York and Bergen in New Jersey. "Resident voter" shall mean an  
 11 individual registered to vote and who actually votes in an election  
 12 district within the county of Rockland in New York or the county of  
 13 Bergen in New Jersey.

14 S 4. a. There is hereby created the Rockland Bergen Bi-state river  
 15 commission, which shall be comprised of twelve voting members. Six  
 16 members of New York shall be appointed as follows: one each, by the  
 17 governor, the temporary president of the senate, the speaker of the  
 18 assembly, the minority leader of the senate, and the minority leader of  
 19 the assembly, of New York, all of whom shall be resident voters of the  
 20 county of Rockland, New York; and the commissioner of the New York state  
 21 department of environmental conservation or a designee thereof, who  
 22 shall serve ex officio. Six members of New Jersey shall be appointed as  
 23 follows: one each, by the governor, the temporary president of the  
 24 senate, the speaker of the assembly, the minority leader of the senate,  
 25 and the minority leader of the assembly, of New Jersey, all of whom  
 26 shall be resident voters from either the county of Bergen, Essex, or  
 27 Hudson; and the commissioner of the New Jersey department of environ-  
 28 mental protection or a designee thereof, who shall serve ex officio.  
 29 Additionally, the commission shall include six non voting members, as  
 30 follows: the commissioner of the New York state department of transpor-  
 31 tation or a designee thereof, who shall serve ex officio; the commis-  
 32 sioner of the New Jersey department of transportation or a designee  
 33 thereof, who shall serve ex officio; the county executive of the county  
 34 of Rockland in New York or a designee thereof who shall serve ex offi-  
 35 cio; the county executive of the county of Bergen in New Jersey, or a  
 36 designee thereof, who shall serve ex officio; a representative of United  
 37 Water Inc. or its successor; and a representative of the United States  
 38 army corps of engineers.

39 b. Vacancies in the appointed positions on the commission shall be  
 40 filled in the same manner as the original appointments were made.

41 c. Members of the commission shall serve without compensation, but the  
 42 commission may, within the limits of funds appropriated or otherwise  
 43 made available to it, reimburse members for actual expenses necessarily  
 44 incurred in the discharge of their official duties.

45 d. Members of the commission shall serve at the pleasure of the rele-  
 46 vant appointing authority.

47 S 5. a. The commission shall organize as soon as may be practicable  
 48 after the appointment of its members, and shall select two co-chairper-  
 49 sons from its members, one from each state, and a secretary who need not  
 50 be a member.

51 b. The commission shall meet regularly as it may determine. Meetings

52 of the commission shall be at such times and places as the co-chairper-  
53 sons of the commission deem appropriate, but to the maximum extent prac-  
54 ticable and feasible, shall be rotated between the two states on an  
55 alternating basis. Meetings held in New Jersey shall be subject to the  
56 provisions and requirements of the "Senator Byron M. Baer Open Public  
A. 2206

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1 Meetings Act," P.L. 1975, c. 231 (C.10:4-6 et seq). Meetings held in New  
2 York shall be subject to the provisions and requirements of that state's  
3 open meetings law, article 7 of the public officers law. The commission  
4 shall also meet at the call of either co-chairperson.

5 c. A majority of the voting membership of the commission shall consti-  
6 tute a quorum for the transaction of commission business. Action may be  
7 taken and motions and resolutions adopted by the commission at any meet-  
8 ing thereof by the affirmative vote of seven members of the commission.

9 d. The commission shall request assistance, and the services of, such  
10 employees of the two states, or any political subdivisions, instrumen-  
11 talities, entities, agencies, or authorities thereof, as it may require  
12 and as may be made available to it for the purpose of carrying out its  
13 duties under this act. If requested by the commission, the New Jersey  
14 department of environmental protection and the New York state department  
15 of environmental conservation shall provide primary staff support.

16 e. The commission may, within the limits of funds appropriated or  
17 otherwise made available to it for those purposes, employ such profes-  
18 sional, technical, and clerical staff and incur such traveling and other  
19 miscellaneous expenses as it may deem necessary in order to perform its  
20 duties.

21 S 6. The duties of the commission shall be to:

22 a. assess present and projected development, land use, and land  
23 management practices and patterns, and identify actual and potential  
24 environmental threats and problems, around the bi-state region, and  
25 determine the effects of those practices and patterns, threats, and  
26 problems upon the natural, scenic, and recreational resources of the  
27 bi-state region;

28 b. develop recommended regulations, procedures, policies, planning  
29 strategies, and model ordinances and resolutions pertaining to the  
30 protection, preservation, maintenance, management, and enhancement of  
31 the bi-state region which would be implemented as appropriate on a  
32 voluntary basis by those municipalities within the bi-state region;

33 c. coordinate environmental cleanup, maintenance, and protection  
34 efforts undertaken, for the benefit of the bi-state region by munici-  
35 palities within the bi-state region;

36 d. coordinate with the New York State department of environmental  
37 conservation and the New Jersey department of environmental protection,  
38 including but not limited to, their watershed management programs, the  
39 United States Army Corps of Engineers and all municipalities within the  
40 bi-state region.

41 e. recommend appropriate state legislation and administrative action  
42 pertaining to the protection, preservation, maintenance, management, and  
43 enhancement of the bi-state region;

44 f. advocate, and where appropriate, act as a coordinating, distribut-  
45 ing, or recipient agency for, federal, state, or private funding of  
46 environmental cleanup, maintenance, protection projects, flood  
47 prevention projects and flood hazard remediation for the bi-state  
48 region, which projects may include the work of the commission;

49 g. identify existing and projected flood hazards in the bi-state  
50 region;

51 h. recommend, propose and coordinate a bi-state comprehensive plan to  
52 remediate existing and projected flood hazards in the bi-state region;  
53 and

54 i. take such other action as may be appropriate or necessary to  
55 further the purpose of this act.

A. 2206

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Watch Live

1 S 7. The commission shall, within 18 months of the date it organizes,  
2 and annually thereafter, prepare a progress report on its activities,  
3 and submit it, together with any recommendations for legislation, admin-  
4 istrative action, or action by local governments, to the governors and  
5 legislatures of the states of New Jersey and New York.

6 S 8. The comptroller of the state of New Jersey and the comptroller of  
7 the state of New York are hereby authorized and empowered from time to  
8 time to examine the accounts and books of the commission, including its  
9 receipts, disbursements, and such other items referring to its financial  
10 standing as such comptrollers may deem proper and to report the results  
11 of such examination to their respective governor and legislature.

12 S 9. This act shall take effect upon the enactment into law by the  
13 state of New Jersey of legislation having substantially similar effect  
14 with this act, but if the state of New Jersey shall have already enacted  
15 such legislation, this act shall take effect immediately; provided that  
16 the Rockland Bergen bi-state river commission shall notify the legisla-  
17 tive bill drafting commission upon the occurrence of the enactment of  
18 the legislation provided for in this act in order that the legislative  
19 bill drafting commission may maintain an accurate and timely effective  
20 data base of the official text of the laws of the state of New York in  
21 furtherance of effecting the provisions of section 44 of the legislative  
22 law and section 70-b of the public officers law.

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# DRAFT

Introduced by:

Hon. Connie L. Coker, Sponsor  
Hon. Alden H. Wolfe, Sponsor

Referral No.  
, 2011

**RESOLUTION NO.        OF 2011**  
**REQUESTING THAT THE UNITED STATES HOUSE OF REPRESENTATIVES**  
**AND UNITED STATES SENATE PASS H.R. 1084 AND S.587 - THE**  
**FRACTURING RESPONSIBILITY AND AWARENESS OF CHEMICALS (FRAC)**  
**ACT, AND THE UNITED STATES HOUSE OF REPRESENTATIVES PASS H.R.**  
**1204 – THE BRINGING REDUCTIONS TO ENERGY’S AIRBORNE TOXIC**  
**HEALTH EFFECTS (BREATHE) ACT**

WHEREAS, hydraulic fracturing - known as “hydrofracking” or “fracking” – is a well stimulation process used to maximize the extraction of underground resources – oil, natural gas and geothermal energy. It involves drilling deep horizontal wells into areas of underground geologic formations, and infusing massive quantities of water (on average, 4.5 million gallons per well) and potentially toxic chemical additives into wells to fracture the geologic formation and release natural gas. The fracturing fluids are then returned to the surface (flowback water); and

WHEREAS, many of the chemical constituents injected during fracking have documented adverse health effects and/or adverse environmental impacts:

- 1) There have been more than 1,000 documented cases of water contamination near fracking sites, while some people who live near these sites can now light their drinking water on fire;
- 2) According to the New York Times, wastewater from fracking can contain radioactive elements and has been discharged into rivers that supply drinking water for millions;
- 3) Use of these fracking mixtures has exposed adjacent land and surface waters to the risk of contamination through open pit storage, truck transport on roadways, and activities during well development;

- 4) The pollution of water caused by fracking threatens the long term, economic well-being of communities, as businesses and consumers depend on clean drinking water; and
- 5) The problems associated with fracking were featured in the Academy Award nominated documentary, Gasland;

and

WHEREAS, in 2005, as part of the federal Energy Policy Act – over the objections of health care, scientific, environmental and conservation communities – regulation of fracking fluids under the Safe Drinking Water Act by the Environmental Protection Agency (which regulates underground endangerment of drinking water sources) was specifically exempted in its definition of “underground injection;” and

WHEREAS, the oil and gas industry is not currently required by federal law to disclose chemical formulas of fracking fluids so that this information is publicly available for health and safety purposes; and

WHEREAS, H.R. 1084 and S. 587 - The Fracturing Responsibility And Awareness Of Chemicals (FRAC) Act - would amend the Safe Drinking Water Act (42 U.S.C. 3h[d]) to repeal the exemption for hydraulic fracturing operations, and insert a paragraph specifically including hydraulic fracturing operations in the definition of underground injection; and

WHEREAS, the FRAC Act would also amend the Safe Drinking Water Act (42 U.S.C. 3h[b]) to require any persons using hydraulic fracturing to disclose to the agency or person with primary enforcement responsibility the chemical constituents (but not the proprietary chemical formulas) used in the fracturing process; and

WHEREAS, H.R. 1204 - the Bringing Reductions To Energy's Airborne Toxic Health Effects (BREATHE) Act – would amend the Clean Air Act to repeal the exemption for aggregation of emissions from oil and gas development sources; and

WHEREAS, protection of water supplies and resources is better accomplished by preventing contamination and environmental degradation, rather than attempting to clean up contamination and restoring degraded environments after the fact; and

WHEREAS, the \_\_\_\_\_ Committee has met, considered and by a vote, approved this resolution; now therefore be it

RESOLVED, that the Legislature of Rockland County hereby requests that the United States House of Representatives and United States Senate pass H.R. 1084 and S.587 - The Fracturing Responsibility And Awareness Of Chemicals (FRAC) Act, and the United States House of Representatives Pass H.R. 1204 – the Bringing Reductions To Energy’s Airborne Toxic Health Effects (BREATHE) Act; and be it further

RESOLVED, that the Clerk to the Legislature be and he is hereby authorized and directed to send a certified copy of this resolution to Hon. Barack H. Obama, President of the United States; Lisa P. Jackson, Administrator of the United States Environmental Protection Agency; Hon. Charles E. Schumer and Hon. Kirsten E. Gillibrand, United States Senators; Hon. Eliot Engel, Hon. Nita Lowey and Hon. Nan Hayworth, Members of the United States Congress; the President Pro Tem of the United States Senate; the Speaker of the United States House of Representatives; the Majority and Minority Leaders of the United States Senate and House of Representatives; and to such other persons as the Clerk, in his discretion, may deem proper in order to effectuate the purpose of this resolution.

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12/8/11

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**112th Congress (2011-2012)**  
**H.R.1084.IH**

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**H.R.1084 -- Fracturing Responsibility and Awareness of Chemicals Act of 2011  
(Introduced in House - IH)**

HR 1084 IH

112th CONGRESS

1st Session

**H. R. 1084**

To repeal the exemption for hydraulic fracturing in the Safe Drinking Water Act, and for other purposes.

**IN THE HOUSE OF REPRESENTATIVES**

**March 15, 2011**

Ms. DEGETTE (for herself, Mr. HINCHEY, Mr. POLIS, Mr. ACKERMAN, Mr. BERMAN, Mrs. CAPPS, Mr. CONNOLLY of Virginia, Mr. ELLISON, Mr. ENGEL, Mr. FARR, Mr. FRANK of Massachusetts, Mr. GRIJALVA, Ms. HIRONO, Mr. HOLT, Mr. HONDA, Mr. KILDEE, Mr. KUCINICH, Mrs. LOWEY, Mrs. MALONEY, Ms. MCCOLLUM, Mr. MORAN, Ms. MOORE, Mr. NADLER, Mr. PALLONE, Ms. PINGREE of Maine, Mr. SARBANES, Ms. SCHAKOWSKY, Mr. STARK, Mr. TONKO, Mr. VAN HOLLEN, Mr. WEINER, and Ms. WOOLSEY) introduced the following bill; which was referred to the Committee on Energy and Commerce

**A BILL**

To repeal the exemption for hydraulic fracturing in the Safe Drinking Water Act, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## **SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Fracturing Responsibility and Awareness of Chemicals Act of 2011'.

## **SEC. 2. REGULATION OF HYDRAULIC FRACTURING.**

(a) Hydraulic Fracturing- Section 1421(d)(1) of the Safe Drinking Water Act (42 U.S.C. 300h(d)(1)) is amended by striking subparagraph (B) and inserting the following:

'(B) includes the underground injection of fluids or propping agents pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities; but

'(C) excludes the underground injection of natural gas for purposes of storage.'

(b) Disclosure of Hydraulic Fracturing Chemicals; Medical Emergencies; Proprietary Chemical Formulas- Section 1421(b) of the Safe Drinking Water Act (42 U.S.C. 300H(b)) is amended by adding at the end the following:

'(4)(A) Regulations included under paragraph (1)(C) shall include the following requirements:

'(i) A person conducting hydraulic fracturing operations shall disclose to the State (or the Administrator if the Administrator has primary enforcement responsibility in the State)--

'(I) prior to the commencement of any hydraulic fracturing operations at any lease area or portion thereof, a list of chemicals intended for use in any underground injection during such operations, including identification of the chemical constituents of mixtures, Chemical Abstracts Service numbers for each chemical and constituent, material safety data sheets when available, and the anticipated volume of each chemical; and

'(II) not later than 30 days after the end of any hydraulic fracturing operations, the list of chemicals used in each underground injection during such operations, including identification of the chemical constituents of mixtures, Chemical Abstracts Service numbers for each chemical and constituent, material safety data sheets when available, and the volume of each chemical used.

'(ii) The State or the Administrator, as applicable, shall make the disclosure of chemical constituents referred to in clause (i) available to the public, including by posting the information on an appropriate Internet Web site.

(iii) Whenever the State or the Administrator, or a treating physician or nurse, determines that a medical emergency exists and the proprietary chemical formula of a chemical used in hydraulic fracturing operations is necessary for medical treatment, the person conducting the hydraulic fracturing operations shall, upon request, immediately disclose the proprietary chemical formulas or the specific chemical identity of a trade secret chemical to the State, the Administrator, or the treating physician or nurse, regardless of whether a written statement of need or a confidentiality agreement has been provided. The person conducting the hydraulic fracturing operations may require a written statement of need and a confidentiality agreement as soon thereafter as circumstances permit.

(B) Subparagraphs (A)(i) and (A)(ii) do not authorize the State (or the Administrator) to require the public disclosure of proprietary chemical formulas.'

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**Bill Text**  
**112th Congress (2011-2012)**  
**S.587.IS**

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**S.587 -- FRAC Act (Introduced in Senate - IS)**

S 587 IS

112th CONGRESS

1st Session

**S. 587**

To amend the Safe Drinking Water Act to repeal a certain exemption for hydraulic fracturing, and for other purposes.

**IN THE SENATE OF THE UNITED STATES**

**March 15, 2011**

Mr. CASEY (for himself, Mr. SCHUMER, Mrs. FEINSTEIN, Mrs. GILLIBRAND, Mr. LAUTENBERG, Mr. WHITEHOUSE, Mr. SANDERS, and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

**A BILL**

To amend the Safe Drinking Water Act to repeal a certain exemption for hydraulic fracturing, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Fracturing Responsibility and Awareness of Chemicals Act' or the 'FRAC Act':

**SEC. 2. REGULATION OF HYDRAULIC FRACTURING.**

(a) Underground Injection- Section 1421(d) of the Safe Drinking Water Act (42 U.S.C. 300h(d)) is amended by striking paragraph (1) and Inserting the following:

'(1) UNDERGROUND INJECTION-

'(A) IN GENERAL- The term 'underground Injection' means the subsurface emplacement of fluids by well Injection.

'(B) INCLUSION- The term 'underground Injection' includes the underground injection of fluids or propping agents pursuant to hydraulic fracturing operations relating to oil or gas production activities.

'(C) EXCLUSION- The term 'underground Injection' does not include the underground injection of natural gas for the purpose of storage.'

(b) Disclosure- Section 1421(b) of the Safe Drinking Water Act (42 U.S.C. 300h(b)) is amended by adding at the end the following:

'(4) DISCLOSURES OF CHEMICAL CONSTITUENTS-

'(A) IN GENERAL- A person conducting hydraulic fracturing operations shall disclose to the State (or to the Administrator, in any case in which the Administrator has primary enforcement responsibility in a State), by not later than such deadlines as shall be established by the State (or the Administrator)--

'(i) before the commencement of any hydraulic fracturing operations at any lease area or a portion of a lease area, a list of chemicals intended for use in any underground injection during the operations (including identification of the chemical constituents of mixtures, Chemical Abstracts Service numbers for each chemical and constituent, material safety data sheets when available, and the anticipated volume of each chemical to be used); and

'(ii) after the completion of hydraulic fracturing operations described in clause (i), the list of chemicals used in each underground injection during the operations (including identification of the chemical constituents of mixtures, Chemical Abstracts Service numbers for each chemical and constituent, material safety data sheets when available, and the volume of each chemical used).

'(B) PUBLIC AVAILABILITY- The State (or the Administrator, as applicable) shall make available to the public the information contained in each disclosure of chemical constituents under subparagraph (A), including by posting the information on an appropriate Internet website.

**(C) IMMEDIATE DISCLOSURE IN CASE OF MEDICAL EMERGENCY-**

**(i) IN GENERAL-** Subject to clause (ii), the regulations promulgated pursuant to subsection (a) shall require that, in any case in which the State (or the Administrator, as applicable) or an appropriate treating physician or nurse determines that a medical emergency exists and the proprietary chemical formula or specific chemical identity of a trade-secret chemical used in hydraulic fracturing is necessary for medical treatment, the applicable person using hydraulic fracturing shall, upon request, immediately disclose to the State (or the Administrator) or the treating physician or nurse the proprietary chemical formula or specific chemical identity of a trade-secret chemical, regardless of the existence of--

**(I)** a written statement of need; or

**(II)** a confidentiality agreement.

**(ii) REQUIREMENT-** A person using hydraulic fracturing that makes a disclosure required under clause (i) may require the execution of a written statement of need and a confidentiality agreement as soon as practicable after the determination by the State (or the Administrator) or the treating physician or nurse under that clause.

**(D) NO PUBLIC DISCLOSURE REQUIRED-** Nothing in subparagraph (A) or (B) authorizes a State (or the Administrator) to require the public disclosure of any proprietary chemical formula.'

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**H.R.1204 -- To amend the Clean Air Act to eliminate the exemption for aggregation of emissions from oil and gas development sources, and for other purposes. (Introduced in House - IH)**

HR 1204 IH

112th CONGRESS

1st Session

**H. R. 1204**

To amend the Clean Air Act to eliminate the exemption for aggregation of emissions from oil and gas development sources, and for other purposes.

**IN THE HOUSE OF REPRESENTATIVES**

**March 17, 2011**

Mr. POLIS (for himself, Mr. HINCHEY, Mr. HOLT, Mr. CONNOLLY of Virginia, Mr. GRIJALVA, Mr. QUIGLEY, Mr. MCDERMOTT, Mr. STARK, and Mr. HONDA) introduced the following bill; which was referred to the Committee on Energy and Commerce

**A BILL**

To amend the Clean Air Act to eliminate the exemption for aggregation of emissions from oil and gas development sources, and for other purposes.

*Be It enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. AMENDMENTS TO THE CLEAN AIR ACT.**

(a) Hydrogen Sulfide as a Hazardous Air Pollutant- Section 112 of the Clean Air Act (42 U.S.C. 7412) is amended by adding 'Hydrogen Sulfide' to the list of hazardous air pollutants under subsection (b)(1) of such section.

(b) Repeal of Exemption for Aggregation of Emissions From Oil and Gas Development Sources- Section 112(n) of the Clean Air Act (42 U.S.C. 7412(n)) is amended by striking paragraph (4).

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### H.R. 1204 -- The Bringing Reductions to Energy's Airborne Toxic Health Effects (BREATHE) Act

As we learn more about the health and environmental impacts of oil and gas development, we are learning that many of the policies we've put in place to spur domestic oil and gas development, have also inadvertently decreased the safety and public health of our local communities. These policies need to be updated. In addition to exemptions contained in the Safe Drinking Water Act, the Clean Water Act, and CERCLA, air quality problems arising near large scale domestic oil and gas development highlight the need to update the Clean Air Act.

The BREATHE Act will ensure reductions in VOC's and ground level ozone by ending this exemption to aggregated air quality standards, requiring easily implemented and inexpensive upgrades to currently available emissions reduction technologies. The BREATHE Act will bring the many small sources of pollution which add up to large major sources rightfully under the National Emission Standards for Hazardous Air Pollutants (NESHAPs). These standards simply require that a company must have the maximum level of emission control for hazardous pollutants that is technically achievable by the cleanest similar facilities. Additionally, the BREATHE Act will remove the exemption for Hydrogen Sulfide, an extremely toxic and even deadly gas, from regulation as a hazardous air pollutant under the Clean Air Act.

#### Bill Text:

- [H.R. 1204 -- The Bringing Reductions to Energy's Airborne Toxic Health Effects \(BREATHE\) Act](#)

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- [3-17 BREATHE fact sheet](#)

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- [3-17-2011 On the Heels of FRAC Act and Air Quality Concerns, Polis, Hinchey, and Holt Introduce BREATHE Act to Close Drilling Industry Exemptions in Clean Air Act](#)

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