

**Adirondack Mountain Club • Catskill Mountainkeeper • Citizen Action of NY
• Citizens Campaign for the Environment • Delaware Riverkeeper Network •
Earthworks • Environmental Advocates of NY • League of Women Voters of
NYS • NRDC New York • NYPIRG • Riverkeeper • Sierra Club Atlantic
Chapter**

June 8, 2016

To: Honorable Members of the New York State Assembly

Re: A.6859, Closure of the Hazardous Waste Loophole

Dear Assembly Members:

We, the undersigned, write to express our strong support for A.6859, which is critical and timely legislation to close an existing loophole in State law and regulations, commonly known as the “hazardous waste loophole,” that exempts waste from the oil and gas industry from being subject to hazardous waste testing, transport and disposal. This loophole endangers public health and our environment.

Unfortunately, Governor Andrew Cuomo’s ban on High Volume Hydraulic Fracturing (fracking) has not remedied the importation and lack of oversight of other states’ oil and gas waste. The Department of Environmental Conservation (DEC) is in the rulemaking process to make changes to the state’s Solid Waste Management regulations (the NYCRR Part 360 series). Some of the changes DEC has proposed would impact disposal and road spreading of oil and gas waste; however, DEC does not propose to close the hazardous waste loophole which means the dangers will continue.

Between 2010 and 2015, five **landfills in New York State accepted at least 570,500 tons and 23,000 barrels of fracking waste** from operations in Pennsylvania, and some landfills are looking to accept more of it in the coming years. Additionally, waste, including fracking fluids, from New York’s own low-volume drilling operations are already disposed of in New York landfills and used as a de-icing agent despite having many of the same chemical constituents as high-volume fracking waste. This bill ensures that fracking waste brought into New York for processing is handled properly, and managed under the most stringent public health, safety, and environmental standards, just like any other hazardous waste.

Benzene, toluene, and formaldehyde are known or suspected human cancer agents and are also common ingredients found in oil and gas waste along with naturally occurring corrosive salts, heavy metals, and radioactive materials. Fracking waste that enters local sewage treatment plants or landfills, sometimes with radiation levels hundreds of times above the safe limits for drinking water, could go right back into the rivers and streams- some of which are a source of drinking water.

Most industries in New York State are required to test their waste to see if it qualifies as hazardous – waste from the oil and gas industry should not be treated any differently than waste from other industries.

We commend the New York Assembly for leading on this issue and passing this bill in years past.

Now that New York has banned the practice of high-volume hydraulic fracturing and is looking to address the issue of oil and gas waste through a regulatory process, it is more important than ever that this loophole is closed to ensure the strongest regulations on this waste stream. Waste that is hazardous must be treated as such. **We urge the Assembly to pass A.6859 this legislative session.**

Sincerely,

Neil Woodworth
Executive Director and Counsel
Adirondack Mountain Club

Elizabeth Moran
Environmental Advocates of NY
Water & Natural Resources Associate

Wes Gillingham
Program Director
Catskill Mountainkeeper

Elisabeth Radow
Chairwoman, Committee on Energy,
Agriculture and the Environment
League of Women Voters of NYS

Bob Cohen, Esq.
Policy Director
Citizen Action of NY

Richard Schrader
New York Legislative Director
Natural Resources Defense Council

Brian Smith
Associate Executive Director
Citizens Campaign for the Environment

Russ Haven
Legislative Counsel
New York Public Interest Research Group

Maya Van Rossum
The Delaware Riverkeeper
Delaware Riverkeeper Network

John Parker
Director of Legal Programs
Riverkeeper

Nadia Steinzor
Eastern Program Coordinator
Earthworks

Roger Downs
Conservation Director
Sierra Club Atlantic Chapter