

4046

2013-2014 Regular Sessions

I N S E N A T E

March 6, 2013

Introduced by Sens. CARLUCCI, KLEIN, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT in relation to high volume horizontal hydraulic fracturing

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

1 Section 1. Legislative Findings. The Legislature hereby finds and
2 declares:

3 1. High volume horizontal hydraulic fracturing (HVHF) is a method of
4 extracting natural gas from underground shale formations. The HVHF proc-
5 ess typically includes the introduction of millions of gallons of frac-
6 turing fluid - a mixture of water, proppants and chemicals - under high
7 pressure into a previously drilled wellbore.

8 2. Studies related to the use of HVHF have shown that inadequate
9 casing and concrete used to line the walls of the wellbore, as well as
10 poor wastewater management practices, can result in the accidental
11 release of fracturing fluid and methane into surface and groundwater.

12 3. For example, on November 4, 2009, the commonwealth of Pennsylvania
13 department of environmental protection entered into a consent decree
14 with Cabot Oil and Gas Corporation, in which the department determined
15 that several of Cabot's wells had excessive pressures and/or insuffi-
16 cient or improper cemented casings that allowed methane gas to vent
17 between or from behind various cemented casings to groundwater used as a
18 source of drinking water.

19 4. In December 2011, the United States environmental protection agency
20 (EPA) released a draft report entitled "Investigation of Ground Contam-
21 ination near Pavillion, Wyoming," in which the agency determined that
22 high concentrations of benzene, xylenes, and other hydrocarbons detected
23 in groundwater samples indicate that pits previously used for the
24 storage/disposal of drilling wastes and produced and flowback waters -
25 related to the use of HVHF - were a source of the contamination. EPA

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

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1 also determined that the impacts to groundwater could also be explained
2 by migration of chemicals from the wellbore during hydraulic fracturing
3 process.

4 5. Only recently has the scientific community begun to examine more
5 comprehensively the potential public health impacts associated with the
6 accidental release of fracturing fluid and methane to the environment,
7 and related impacts associated with truck traffic and changes in commu-
8 nity character.

9 6. Serious potential water-related adverse impacts that are the
10 subject of scientific concern include: Water resources could be contam-
11 inated during many phases of HVHF; potential HVHF impacts could affect
12 surface and groundwater; Drinking water tainted by HVHF-associated chem-
13 icals could result in human health impacts; Exposure to water contam-
14 inants through irrigated crops or through eating fish from polluted
15 surface water could also result in health impacts; Excessive water with-
16 drawals for use in the HVHF process may lead to permanent depletion of
17 public and private water supplies; Drilling through multiple water bear-
18 ing zones increases the potential for water to migrate between zones,
19 which could result in cross-contamination or the loss of freshwater.

20 7. In particular, there are three comprehensive studies of HVHF-relat-
21 ed health impacts that are being undertaken at the state and federal
22 levels:

23 (a) A United States environmental protection agency (EPA) study enti-
24 tled, "Study of the Potential Impacts of Hydraulic Fracturing on Drink-
25 ing Water Resources." The purposes of the study is to assess the poten-
26 tial impacts of hydraulic fracturing on drinking water resources, if
27 any, and to identify the driving factors that may affect the severity
28 and frequency of such impacts. Water samples are being taken in several
29 of the states that allow the use of HVHF. A final draft report is
30 expected to be released for public comment and peer review in 2014.

31 (b) A Geisinger Health System study was announced in August 2012. This
32 study will review detailed health histories of hundreds of thousands of
33 patients who live near wells and other facilities that are producing
34 natural gas from the Marcellus shale formation. Preliminary results of
35 data analysis may be released within the next year.

36 (c) A study of HVHF-related health impacts recently announced by
37 researchers from the University of Pennsylvania in collaboration with
38 scientists from Columbia, Johns Hopkins and the University of North
39 Carolina.

40 8. In recognition of the potential public health and related impacts
41 associated with the use of HVHF, in September 2012, the commissioner of
42 environmental conservation requested that the commissioner of health
43 initiate a public health review of the revised draft supplemental gener-
44 ic environmental impact statement (SGEIS), dated September 7, 2011, for
45 high volume hydraulic fracturing (HVHF) prepared by the department of
46 environmental conservation (DEC).

47 9. On February 12, 2013, the commissioner of health subsequently noti-
48 fied the commissioner of environmental conservation that the public
49 health review was on-going and that the commissioner was evaluating the
50 three comprehensive studies of HVHF-related health impacts in conjunc-
51 tion with outside experts.

52 10. The purpose of this act is to assure the people of the state of
53 New York that all potential public health impacts posed by the
54 extraction of natural gas by means of HVHF are being adequately consid-
55 ered prior to the finalization of the revised SGEIS.

1 11. Natural gas prices have declined to the extent that industry
2 experts believe very limited HVHF would be conducted over the next 24
3 months in New York if HVHF is permitted. Little economic activity or job
4 creation would result until natural gas prices recover. The adequate
5 study and consideration of health impacts therefore will have no impact
6 in the near term on job creation in HVHF shale areas.

7 S 2. The commissioner of environmental conservation shall not proceed
8 to finalize and publish the revised SGEIS prior to the expiration of a
9 24 month period following the effective date of this act or until the
10 commissioner of health determines that the completion of the studies
11 deemed relevant by the commissioner of health have produced data suffi-
12 cient to make a recommendation to the department of environmental
13 conservation regarding the permitting of HVHF in the state.

14 S 3. The commissioner of the department of environmental conservation
15 shall not proceed to finalize and publish the revised SGEIS prior
16 completion of the United States Environmental Protection Agency "Study
17 of the Potential Impacts of Hydraulic Fracturing on Drinking Water
18 Resources" and the Geisinger Marcellus Shale Initiative.

19 S 4. This act shall take effect immediately.