S T A T E O F N E W Y O R K

6097

I N S E N A T E

(PREFILED)

January 4, 2012

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to establish a moratorium upon the disposal and/or processing of any fluid which was used in and cuttings from a hydraulic fracturing process outside of the state pending the issuance of a report thereon by the federal Environmental Protection Agency and certain justifications from the department of environmental conservation; and providing for the repeal of such provisions upon the expiration thereof

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

Section 1. (a) Notwithstanding any provision of law to the contrary, there is hereby established a moratorium upon the acceptance, disposal and/or processing of any drilling fluid or drill cuttings in this state, when such drilling fluid or drill cuttings has been used in a hydraulic fracturing process occurring outside of this state. The purpose of such moratorium shall be to afford the state and its residents the opportunity to review a report to be issued by the federal Environmental Protection Agency on the effects of hydraulic fracturing on public health.

(b) For the purposes of this section, the following terms shall mean:

(i) "Drill cuttings" shall mean solid products removed from the well bore during an oil or gas well drilling operation.

(ii) "Drilling fluids" shall mean drilling mud, chemical additives contained in or added to drilling fluids during the hydraulic fracturing drilling process, flow back water that returns to the surface after the hydraulic fracturing process, or any other residual liquids involved in drilling.

(iii) "Hydraulic fracturing" shall mean the fracturing of rock by man-made fluid-driven fracturing techniques for the purpose of stimulating natural gas or oil well production.

(c) Notwithstanding any other provision of this act, the moratorium established by subdivision (a) of this section shall not be rescinded until the department of environmental conservation shall have provided

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

LBD00768-03-1

the governor and the legislature with proof that such department is capable of:

(i) administering a program for the regulation of hydraulic fracturing drilling fluids, drill cuttings and soil disposal;

(ii) demonstrating the ability to identify all chemical components of drilling fluids;

(iii) establishing monitoring and detection requirements for low-level radioactive materials in drill cuttings and soils from hydraulic drilling operations;

(iv) conducting inspections of any facilities that contract to receive hydraulic fracturing drilling fluids, drill cutting and soil;

(v) establishing appropriate monitoring requirements of any hydraulic fracturing drilling fluids, drill cuttings and soils to be disposed of in this state, for the presence of low-level radioactive material from the hydraulic fracturing drilling process; and

(vi) enforcing all provisions of paragraphs (i) through (v) of this subdivision.

S 2. This act shall take effect immediately, and shall expire and be deemed repealed on the one hundred twentieth day after the federal Environmental Protection Agency issues a report on the effects of hydraulic fracturing on water quality and public health, or the submission to the governor and the legislature of the proof required by subdivision (c) of section one of this act, whichever shall be later. Provided, that the commissioner of environmental conservation shall notify the legislative bill drafting commission upon the issuance by the federal Environmental Protection Agency of the report on the effects of hydraulic fracturing on water quality and public health referred to in subdivision (a) of section one of this act, and the submission to the governor and the legislature of the proof required by subdivision (c) of section one of this act in order that such commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.