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

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:

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

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

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

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

4. In December 2011, the United States environmental protection agency (EPA) released a draft report entitled "Investigation of Ground Contamination near Pavillion, Wyoming," in which the agency determined that high concentrations of benzene, xylenes, and other hydrocarbons detected in groundwater samples indicate that pits previously used for the storage/disposal of drilling wastes and produced and flowback waters - 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.

LBD09481-02-3

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

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

6. Serious potential water-related adverse impacts that are the subject of scientific concern include: Water resources could be contaminated during many phases of HVHF; potential HVHF impacts could affect surface and groundwater; Drinking water tainted by HVHF-associated chemicals could result in human health impacts; Exposure to water contaminants through irrigated crops or through eating fish from polluted surface water could also result in health impacts; Excessive water withdrawals for use in the HVHF process may lead to permanent depletion of public and private water supplies; Drilling through multiple water bearing zones increases the potential for water to migrate between zones, which could result in cross-contamination or the loss of freshwater.

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

(a) A United States environmental protection agency (EPA) study entitled, "Study of the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources." The purposes of the study is to assess the potential impacts of hydraulic fracturing on drinking water resources, if any, and to identify the driving factors that may affect the severity and frequency of such impacts. Water samples are being taken in several of the states that allow the use of HVHF. A final draft report is expected to be released for public comment and peer review in 2014.

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

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

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

9. On February 12, 2013, the commissioner of health subsequently notified the commissioner of environmental conservation that the public health review was on-going and that the commissioner was evaluating the three comprehensive studies of HVHF-related health impacts in conjunction with outside experts.

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

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

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

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

S 4. This act shall take effect immediately.