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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

NY Should Reject Bill That Would Permanently Ban Fracking

By **Nicholas Fox and Scott Press** (March 9, 2020, 5:11 PM EDT)

In December 2019, New York State Sen. Jen Metzger introduced S.B. S6906, and explained that the bill is intended to promote a shift toward a clean energy economy that does not depend upon fossil fuels. The legislation focuses on codifying New York Gov. Andrew Cuomo's 2014 executive order offering residents legal protection from hydraulic fracturing activities.

The proposed bill prohibits high-volume hydraulic fracturing, which the bill defines as "the stimulation of a well using 300,000 or more gallons of water as the base fluid for hydraulic fracturing for all stages in a well completion, regardless of whether the well is vertical or directional, including horizontal." In addition, it prohibits gelled propane fracking — a new process advocated by the oil and gas industries.

The bill was sent by the Environmental Conservation Committee to the full Senate, and is slated to be addressed in the coming months.

History of Fracking in New York

The ongoing debate over fracking is a contentious one, as New York state holds the most significant natural deposit of Marcellus shale in the U.S. In 2010, New York Gov. David Paterson signed an executive order placing a temporary moratorium on fracking in the state until more information was available about the potential impacts on health and the environment of fracking activity.

In 2012, the Cuomo administration extended the deadline for its pending regulations surrounding fracking in the state contingent on the completion of a state-authorized health study. In December 2014, the New York State Department of Health released its long-anticipated report on the impact of high-volume hydraulic fracking, concluding that the process poses health and environmental risks.

In response, Cuomo signed an executive order banning the practice of fracking in New York state, citing various types of potential adverse environmental impacts and public health outcomes, including:

- Air impacts that could affect repository health;
- Climate change impacts due to methane and other volatile organic chemical releases;
- Drinking water impacts from underground migration of methane and/or fracturing fluid chemicals;



Nicholas Fox



Scott Press

- Surface spills potentially resulting in soil, groundwater and surface water contamination;
- Surface water contamination from deficient wastewater treatment;
- Earthquakes and creation of fissures induced during the hydraulic fracturing stage;
- Community character impacts such as increased vehicle traffic, road damage, noise and odor complaints; and
- An increased local demand for housing and medical care, as cited in the report.

Proposed Legislation in New York

The newly proposed legislation is not the first attempt at codifying the fracking ban into law. This past calendar year alone saw many proposed bills seeking to restrict fracking-related activities in the state, including:

- S.B. S437, proposing a ban on the acceptance of high-volume hydraulic fracturing wastewater from oil and natural gas extraction at wastewater treatment facilities and solid waste management facilities (January 2019);
- S.B. S1858A, proposing a prohibition on the use of drilling fluids, brine and flowback water from wells, pools or fields on highways for deicing, dust suppression or any other use (January 2019);
- S.B. S3392, proposing the uniform treatment of waste resulting from exploration, development, extraction or production of crude oil or natural gas to be considered hazardous waste under the Environmental Conservation Law (February 2019);
- S.B. S6651, proposing a ban on waterless fracking (August 2019); and
- S.B. S6683, proposing a ban on the issuance of permits for drilling or operation of any well using hydraulic fracturing fluids (September 2019).

The fundamental development and exploration of the science related to hazardous waste impacts associated with fracking appears to directly align with the introduction of the new legislation.

While the most recently proposed legislation has gained significant support within New York and from environmental groups such as the Sierra Club, the Executive Director of the American Petroleum Institute, Karen Moreau, was discouraged by the law.

"Hydraulic fracturing continues to bring massive benefits to both the United States and global economies, while improved technologies have made it safer than ever," Moreau said in a statement to WAMC Northeast Public Radio in 2019. "New York already benefits from abundant, clean and reliable

natural gas produced by our neighbors in Pennsylvania and elsewhere, and it's a shame that New Yorkers aren't able to tap into those same resources and economic opportunities."

New York's Clean Energy Initiative

Despite what advocates of the fracking industry would argue is a lost opportunity in New York, the fracking ban in the state is consistent with the goals of Cuomo's Green New Deal, which sets nation-leading clean energy targets by reducing reliance on fossil fuels such as natural gas, and seeks to make New York entirely carbon-neutral by 2040.

The Climate Leadership and Community Protection Act, signed by Cuomo in July 2019, mandates the Green New Deal's clean energy targets: 9 gigawatts of offshore wind energy by 2025, 6 gigawatts of distributed solar energy by 2025, and 3 gigawatts of energy storage by 2030.

The act also directs agencies in the state to develop a greenhouse gas reduction plan that cuts emissions by 85% from 1990 levels by 2050. Although these mandates and initiatives will help the state progress toward its goal of independence from fossil fuels, residents seeking employment — especially in the economically depressed Southern Tier region — may suffer as a result.

The Broader Policy Context

With the 2020 presidential election looming, bans or restrictions on hydraulic fracturing are a hot-button topic nationally. New York's climate change initiatives and proposed fracking legislation preceded a Jan. 28 bill introduced in the U.S. Senate by Vermont senator and Democratic presidential candidate Bernie Sanders, which would ban fracking throughout the nation.

The Fracking Ban Act would prevent the issuance of any permits for existing or new hydraulic fracturing operations and fracking-related infrastructure. On Feb. 1, 2021, the law would require the revocation of permits for fracking wells, and well operators would need to immediately cease production. The bill would also prohibit hydraulic fracturing on all onshore and offshore land in the United States by Jan. 1, 2025.

Meanwhile, the current administration is pushing for an expansion of fracking operations nationally. On Dec. 12, 2019, the Bakersfield Field Office of the Bureau of Land Management in California announced a decision regarding the potential effects of fracking on public lands. It found that such activities do not have adverse environmental impacts that cannot be alleviated.

The decision makes over 1 million acres of public land available for lease sales for oil and gas development. The state of California and a coalition of environmental conservation groups filed separate suits in January, seeking to halt new lease sales to stymie any new fracking operations in the state.

Back in New York, it looks as if a permanent fracking ban — including on gelled propane fracking — is on the horizon. If a fracking ban is signed into law, we can expect to see a continued push for the development of clean energy projects seeking to combat climate change.

New York has an opportunity to revitalize the state's economy by embracing fracking technology. While some individuals and organizations are emphatically opposed to any fracking activities, we believe that there must be reconciliation and compromise around this issue in the future. The economy is booming to our south in Pennsylvania, partially due to how thoroughly the state has embraced fracking.

Despite the negative externalities associated with fracking, the economic benefit cannot responsibly be ignored by the Empire State. If New York wants to encourage economic development, we need to find a middle ground, protecting the environment through a regulatory framework that ensures safe fracking without shutting out or stifling the industry.

Nicholas Fox and Scott Press are associates at Goldberg Segalla LLP.

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