



New York State Sets the Bar High for Fracking

With the introduction of [Senate Bill S-6906](#) in December 2019, New York Sen. Jen Metzger explained that this new bill intends to shift toward a clean energy economy that does not depend upon fossil fuels. In addition to gelled propane fracking—a new process advocated by the oil and gas industries—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.”

The bill was sent by the Senate Environmental Conservation Committee to the full Senate and focuses on codifying New York Gov. Andrew Cuomo's 2014 executive order offering residents permanent legal protection from hydraulic fracturing activities, and is slated to be addressed in the coming months.

History of Fracking in New York

The ongoing debate over fracking is a contemptuous one, as New York holds the most significant natural deposit of Marcellus Shale in the United States. In 2010, former Gov. David Paterson signed an executive order placing a temporary moratorium on the process until more information was available about the potential impacts on health and the environment that could relate to fracking activity. In 2012, the Cuomo administration extended the deadline for its pending regulations surrounding fracking in the state contingent on the completion of the state-authorized health study. In December 2014, the New York State Department of Health released a long-anticipated report on the impact of high-volume hydraulic fracturing, concluding that the process poses health risks 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. Such outcomes included:

- 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.

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- 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.
- 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:

- [Senate Bill S-437](#) proposed a ban to the acceptance of high volume hydraulic fracturing wastewater from oil and natural gas extraction at wastewater treatment facilities and solid waste management facilities (Jan. 2019).
- [Senate Bill S-1858-A](#) proposed a prohibition on the use of drilling fluids, brine, and flow-back water from wells, pools, or fields on highways for de-icing, dust suppression, or any other use (Jan. 2019).
- [Senate Bill S-3392](#) proposed the uniform treatment of waste resulting from exploration, development, extraction, or production of crude oil or natural gas to be considered hazardous waste according to the Environmental Conservation Law (Feb. 2019).
- [Senate Bill S-6651](#) proposed a ban on waterless fracking (Aug. 2019).
- [Senate Bill S-6683](#) proposed a ban on the issuance of permits for drilling or operation of any well using hydraulic fracturing fluids (Sept. 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 an email statement to WAMC North East 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](#) (CLCPA), signed by Cuomo in July 2019, mandates the Green New Deal’s clean energy targets: nine gigawatts of offshore wind energy by 2025, six gigawatts of distributed solar energy by 2025, and three gigawatts of energy storage by 2030.

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

“New York had the opportunity to revitalize the entire state by embracing this type of technology,” said Goldberg Segalla associate Nicholas Fox. “As we have seen to our south, the economy and employment figures are booming in Pennsylvania, partially due to how well the state has embraced fracking. If New York wants to encourage new businesses to move to the area, we need to find a middle ground where both the environment and economy can flourish cohesively. With the technological advances we have seen in fracking, I sincerely believe that we will find a comfortable middle ground for both residents and industries in the near future.”

Broader Policy Implications

With the 2020 presidential election looming, the implementation of a ban or harsher regulatory controls on hydraulic fracturing is a hot-button topic. The climate change initiatives and proposed fracking legislation in New York preceded a January 28, 2020, 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 February 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 January 1, 2025.

Meanwhile, the current administration is pushing for an expansion of fracking operations nationally. On December 12, 2019, the Bakersfield Field Office of the Bureau of Land Management in California prepared a Record of Decision (ROD), announcing a decision regarding its analysis of a Supplemental Environmental Impact Statement addressing the potential effects of fracking on public lands. It found that such activities do not have adverse environmental impacts that cannot be alleviated. The ROD makes over one 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 is on the horizon. If a fracking ban is eventually signed into law, we can expect to see a continued push for the development of clean energy projects seeking to combat climate change. ➤

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