Memorandum of Support

A.5424-A Sweeney/S.4236-A Avella

Bill Summary: This bill suspends all permitting for hydraulic fracturing of low permeable natural gas reservoirs, such as the Marcellus and Utica shale formations until May 15, 2015. Such an action will provide an opportunity for the legislature to review and analyze the effects of this type of drilling on water and air quality, environmental safety and public health before the DEC issues permits. This bill also requires a comprehensive health impact assessment, complete with public comment and review.

Justification: Tens of thousands of new natural gas wells could be drilled in the next decade in New York from the Catskills to Lake Erie using a controversial technique – horizontal hydraulic fracturing or “fracking”. This process involves injecting water, sand and chemicals into rock formations at extremely high pressure, separating rock fissures and releasing natural gas. Other states that have embraced this form of drilling have experienced contaminated water, polluted air, and adverse human health effects.

In January 2012, the Department of Environmental Conservation (DEC) received more than 66,000 public comments – mostly negative - on the environmental review (SGEIS) and proposed regulations for the controversial natural extraction technique. In January 2013, an additional 240,000-plus comments were submitted on the draft regulations – in spite of a narrow 30 day public comment period over a busy holiday season. This record breaking public rebuke largely panned the entire process as incomplete, improper and unwise. Aside from having to wade through hundreds of thousands of comments, some of which are lengthy and technical – the DEC has a long list of obligations it must attend to before it can finalize the new regulations and press forward with drilling. Among the outstanding deficiencies: the DEC must still conduct a cumulative impact analysis of the 65,000 projected gas wells in a full build out scenario, redraw its socioeconomic analysis to reflect the true costs of drilling born on host communities, devise a comprehensive plan for where to dispose of the projected billions of gallons of waste water and drill cuttings and initiate a Health Impact Assessment (HIA) for public exposure to fracking operations. To this last point, in September of 2012, Department of Health Commissioner Nirav Shah was directed, by Governor Cuomo, to review the 4000+ page SGEIS on high volume fracking and the supporting regulations to determine if the established mitigation protocols would be sufficient to protect public health. Without this review the SGEIS could not be deemed complete. In other parts of the US, fracking has been linked to a broad spectrum of health impacts ranging from loss of smell, memory problems, and headaches to serious respiratory illnesses, neuropathies, and cancers.

On February 12, 2013, Commissioner Shah declared that his review of the SGEIS and supporting regulations would not be completed in time to meet the statutory deadlines for the revised regulations and the process expired February 27th, 2013. In a letter to DEC Commissioner Joseph Martens, Shah highlighted 3 separate studies on the public health implications of fracking from the University of Pennsylvania, Geisinger Health Systems, and the United Stated Environmental Protection Agency that would be pivotal to his determination. These studies are not expected to be finalized until 2015 at the earliest. Because of this commitment, it would be inconceivable for Dr.Shah to prejudge the outcomes.
of these investigations and advance his own assessment of fracking’s safety. It is unclear, however, if there will be any official order from the Governor to extend the de facto moratorium on HVHF until the conclusions of these studies and proper review of their findings.

Passage of A.5424-A/S.4236-A, will ensure that Dr. Shah is given the appropriate amount of time to wait for emerging information on fracking and to further his own investigation – while relieving the political pressure for him to make a premature decision to advance an ill-conceived policy. In addition, A.5424-A/S.4236-A calls for a comprehensive health impact assessment – including a public comment period and review. This will provide Dr. Shah with a substantive study New York State health concerns with fracking while he awaits the results of studies primarily focusing on the experiences of other states.

In the fall of 2011, over 250 physicians and medical professionals called for a comprehensive public health impact assessment before drilling is to be permitted in New York. The same issue was raised later that year when 19 NY-based cancer advocacy groups called on Governor Cuomo and the Legislature to fund a comprehensive look at health effects associated with fracking. Roxana Witter of the Colorado School of Public Health (one of the 250 medical professionals to appeal to Governor Cuomo) stated, “The purpose of a health impact assessment is to take what’s known and make reasoned professional judgments about what kind of health impacts could occur, and provide recommendations to mitigate those impacts before they happen.” Much more research is needed to understand just how public health will be affected by hydraulic fracturing. To go forward in New York without a proper health impact assessment is unacceptable.

To date, no one in the public or medical community has seen the DEC’s review of health impacts, nor has the Cuomo Administration shared details regarding who or what has been involved in its development and execution. As Dr. Shah continues to examine the DEC’s findings about the impacts of fracking on public health, the public and the medical and scientific communities are still in the dark and no one knows what the process or opportunity for input will be.

A.5424-A/S.4236-A will give us time to look at the potential health impacts of hydraulic fracturing and weigh the risks of this drilling technique, through a NY-focused HIA, before any decision is made to permit fracking in New York State.

Sierra Club Atlantic Chapter Strongly Urges Your Support Of A.5424-A/S.4236-A.