

# New year prompts slew of fracking bills

**Ellen M. Gilmer, Environment and Energy Publishing, 2-20-13**

State lawmakers are poised for another year of wrangling over hydraulic fracturing. And as many legislatures kick off new sessions this winter, dozens of bills are zeroing in on shale drilling.

The proposals vary in objective. Some aim to tighten specific regulations, while others pitch program overhauls; a few seek to open up states to fracking, while others try to ban the practice entirely. And while some have momentum in state legislatures, many are bound to fall flat.

New York, California and Illinois are all home to high-profile efforts to directly regulate shale drilling for the first time. Though all have broader drilling rules, legislative pushes have accompanied state agency efforts to update rules for horizontal drilling and hydraulic fracturing -- technologies that together have helped the industry break into massive shale plays holding vast amounts of natural gas and oil.

New York currently has a moratorium on fracking while the state muddles through a protracted research and rulemaking period. Meanwhile, Albany lawmakers have introduced two dozen bills to address the issue.

The bills, some of them state Senate and House counterparts, include proposals touching on radioactivity testing, wastewater management, oil and gas taxes, and earthquake research. But the political appetite for such legislation is uncertain as New Yorkers await a repeatedly delayed decision from regulators on whether to allow hydraulic fracturing at all.

California is also seeing action in both the Legislature and state agencies. As the Department of Conservation starts a rulemaking process to address hydraulic fracturing, Rep. Bob Wieckowski and Sen. Fran Pavley, both Democrats, have each resurrected bills from last year to require state permission for fracking and company disclosure of frac fluid ingredients.

Unlike New York, California has no moratorium on fracking. The state implicitly allows the process by requiring no permit or notification -- though a boom in the Monterey Shale has yet to take off. Environmental advocates say that creates a sense of urgency there that will give political legs to Wieckowski's and Pavley's bills. However, some have suggested that Gov. Jerry Brown (D) would not be eager to sign legislation that could be seen as a vote of no confidence in his own administration, which is working on new rules.

Carefully crafted legislation in Illinois is also expected to move forward this year. A bill establishing fracking rules nearly passed last year with support from industry and environmentalists -- but failed after it was gutted and replaced with moratorium language.

The stakeholders are at the table again this year, and passage of fracking rules would signal an open door to companies that have been buying up rights in the New Albany Shale. Another bill, which is unlikely to pass, proposes a ban on hydraulic fracturing in Illinois until a task force studies environmental risk and the Legislature gives permission.

## **Limited resources, unlimited interest**

Non-drilling states are in on the action, too. Despite having limited shale resources, many states have managed to stir up a critical mass of residents who are either drilling-wary or job-hungry.

and new rules for potential interest in slivers of shale in the untapped state. A bill passed last year created the commission but included a provision that required legislative permission before the agency could begin issuing fracking permits. A new proposal would ditch that measure and allow the commission to start issuing permits in 2015 immediately after its ongoing shale study is due to be complete.

Legislators in Kansas, Nebraska and Michigan have also introduced legislation to empower or shape fracking regulations from state agencies.

A group of Maryland lawmakers is working in the other direction, trying to strengthen the state's de facto moratorium with one passed by the Legislature. Though industry's interest centers on the two-county area of Maryland's panhandle, environmentalists, property rights advocates and lawmakers have managed to stir up attention statewide.

A bill has been introduced in the state House to prohibit fracking until a state panel finishes studying health and safety risks.

New Jersey has also weighed in on shale drilling, despite its lack of shale resources. A bipartisan Senate duo introduced a hydraulic fracturing moratorium bill, while a group of House lawmakers has introduced a ban.

Other drilling lightweights considering fracking legislation are Connecticut, Indiana and Iowa.

Many other bills aim to regulate specific aspects of shale drilling. A South Dakota bill author wants fracking notification. A West Virginia bill would adjust oil and gas zoning. In Wyoming and New Mexico, increased frac fluid chemical disclosure requirements have been drafted in legislation.

All of this comes as lawmakers in Washington, D.C., continue to consider whether to beef up federal regulation of fracking. At a House Energy and Commerce subcommittee hearing last week, Republican lawmakers and state officials invited to testify said the authority to regulate shale drilling should remain in states' hands. Democratic Rep. Diana DeGette (Colo.) said she planned to reintroduce the "Fracturing Responsibility and Awareness of Chemicals (FRAC) Act," repealing a fracking exemption from the Safe Drinking Water Act.