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# Latest Drilling Rules Draw Objections

By **MIREYA NAVARRO**

Rules proposed recently by New York State for regulating a controversial form of natural gas drilling are drawing expressions of guarded optimism from the natural gas industry but objections from some environmentalists, who say they do not go far enough in protecting water supplies.

Environmental groups say that the state has moved toward a safer plan in its latest draft rules, especially by banning the drilling, known as horizontal hydrofracking, in state parks, wildlife preserves, and watersheds and aquifers that supply drinking water to New York residents. But it is still coming up short, some say, on issues like mapping buffer zones where drilling would be banned.

Those zones may not be big enough to protect old water tunnels that carry water from the watersheds to New York City from drilling vibrations and drilling fluids, those groups argue. Hydrofracking involves blasting millions of gallons of water mixed with chemicals and sand into rock to extract natural gas.

And while the state plans to go further than elsewhere in the country in terms of disclosure — companies will be required to specify the chemicals and formulas they use, even those considered proprietary, to state officials if not always to the public — environmentalists point out that the draft does not prohibit the most toxic chemicals used in fracking, like benzene.

“It’s disappointing,” said Katherine Nadeau, the water and natural resources program director for Environmental Advocates of New York. “New Yorkers have said repeatedly they don’t want their drinking water exposed to toxic chemicals.”

The proposed rules, revised for the second time and issued this month by the State Department of Environmental Conservation, open the last stretch in a contentious three-year effort to open the way for horizontal hydrofracking drilling in New York State. After a consultant reports in a few weeks on the potential impacts on local communities, a two-month period of public comment will follow and then a final state review. Officials predict

that the rules will then be issued and that the state will start issuing drilling permits next year.

Many New York residents and environmentalists have called for an outright ban on fracking. Supporters of drilling counter that it will unlock an abundant source of affordable energy and create thousands of jobs in economically moribund areas upstate.

Jim Smith, a spokesman for the Independent Oil and Gas Association of New York, said the watershed bans in the rules were not particularly troubling to the industry because the areas are not considered “the sweet spot” of the Marcellus Shale, the rich natural gas field where much of the drilling is planned. (Eliminating the watersheds still leaves more than 80 percent of the shale available for drilling.)

Dennis Holbrook, executive vice president of Norse Energy, a gas driller in New York, said one concern for the industry is that the state is requiring that drilling sites comply with local zoning laws, opening the possibility that some towns could prohibit drilling and in effect expand the ban beyond the areas that the state has already declared off-limits.

Some cities, like Buffalo, which sits on another untapped natural gas field known as the Utica Shale, have already passed a ban, and several municipalities are considering similar laws. But Mr. Holbrook said he was “cautiously optimistic.”

“The optimism comes from the fact that after three years of waiting, we finally have a road map for how to proceed to develop the shale in New York State,” he said. “If this is what it takes to reassure the public and have this move forward, then my approach is, we’ll find a way to make it work.”

Another major area of concern for environmentalists is the disposal of drilling waste. The draft calls for drillers to submit a disposal plan for state approval before a permit is issued and for instituting a tracking system so that the state can monitor where all liquids and solid wastes go. Critics say the state should go a step further and designate the waste as hazardous industrial waste, which would require testing it for hazardous materials and treating it at a hazardous waste site.

“Tracking is good, but you need more,” said Kate Sinding, a senior lawyer for the Natural Resources Defense Council and a member of a new panel appointed by the state’s environmental commissioner, Joseph Martens, to advise on the enforcement of the hydrofracking rules.

But Mr. Martens said that existing treatment sites for nonhazardous waste are more plentiful and could safely handle wastewater from drilling with “modest” modifications in their operations.

In an interview, Mr. Martens said his department’s proposals reflected lessons learned from hydrofracking activity in states like Pennsylvania, including leaks and accidents, and will ensure that drilling is done safely.

He said the rules required layers of cemented well casings to prevent the migration of gas. And before using the most toxic chemicals, he said, companies will be required to prove they cannot switch to less toxic ones.

“I feel as if we’ve established a national standard for high-volume hydrofracking,” Mr. Martens said.

The federal Environmental Protection Agency is also studying the safety of hydrofracking, but its initial findings are not expected until late next year. A full report is due from the agency in 2014.

Antidrilling groups contend that no matter what safeguards New York State or the federal government imposes, the drilling method carries an unacceptable level of risk. A coalition led by the consumer group Food & Water Watch opened [a television advertising campaign](#) this week in upstate New York asking people to “tell Governor Cuomo to ban fracking.”

By contrast, the Natural Resources Defense Council and some other major environmental groups say they do not advocate a ban because it would prolong a dependence on coal-fired electricity, which produces more greenhouse gas emissions, and because they expect the state to come up with regulations strict enough to ensure safety.

Based on industry projections, the state expects to receive applications to drill 1,600 to 2,500 wells per year over an estimated 30 years in the Marcellus Shale.