CO Requires Disclosure of Fracking Chemicals

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DENVER (AP) — Environmentalists and regulators in Colorado will have more information than any state about what chemicals energy companies are pumping into the earth as they try to extract gas from rock formations deep underground.

Starting in April, energy companies will have to disclose the concentrations of the chemicals used in hydraulic fracturing, which some environmentalists and residents fear is contaminating groundwater and tainting the air.

Colorado regulators unanimously approved the new rules Tuesday. Drillers also will have to make public some information about chemicals considered trade secrets, and give 48 hours' notice before pumping the chemicals into the ground.

The rules are similar to those in a first-in-the-nation law that Texas regulators implemented Tuesday, but Colorado's go further by requiring the concentrations of chemicals to be disclosed.

"That's the big advancer here. We're getting a full picture of what's in that fracking fluid," said Michael Freeman, an attorney for Earthjustice who worked with the industry to write the rules for Colorado.

Halliburton Co. and other drilling companies had opposed the rules, saying the chemicals were proprietary. Both environmental groups and industry attorneys hammered out the regulations in what both described as an informal atmosphere.

"It yielded a good rule for the state and a workable rule for the industry," said Jep Seman, an attorney for the Colorado Petroleum Association.

The Environmental Protection Agency last week found a possible link between groundwater pollution and hydraulic fracturing beneath Pavillion, Wyo. The EPA found compounds likely associated with fracking chemicals in the groundwater beneath the small central Wyoming community where residents complain their well water smells like chemicals. Health officials last year advised residents not to drink their well water after the EPA found low levels of hydrocarbons.

Industry officials pointed out that the EPA announcement didn't focus on the domestic water wells but two wells drilled somewhat deeper into the aquifer specifically to test for pollution. The owner of the Pavillion gas field, Calgary, Alberta-based Encana Corp., said the compounds could have had other origins not related to gas development.

Dave Neslin, director of the Colorado Oil and Gas Conservation Commission, said commissioners are reviewing the draft EPA report but the state already has implemented regulations meant to protect its groundwater. Those rules include how to properly encase and cement wells, clean up spills and properly dispose of waste.

"Disclosure is important for transparency and public education, but it's not our first line of defense," he said.

Also, if Colorado drillers claim a trade secret, they have to certify it's a trade secret but would still have to disclose the ingredient's chemical family. In emergencies, companies would have to tell health care workers what those secret ingredients are. The public can challenge whether a company in Colorado can claim something's a trade secret.

Texas' regulations allow companies to claim trade secrets unless the attorney general or a court determines the information doesn't qualify.

Companies have been fracking for decades, but as drilling expands to more populated areas, residents near wells are concerned about the effects on their health and drinking water. Texas, in passing its law this summer, noted that fracking has been done safely in that state for 60 years.

Arkansas, Montana, Texas and Wyoming all require companies to disclose the chemicals in fracking fluid but not their concentrations, said Matt Watson, senior energy policy manager for the Environmental Defense Fund. Louisiana and New Mexico only require disclosure of some chemicals deemed workplace hazards by the Occupational Safety and Health Administration. Other states, including Michigan and Pennsylvania, have proposed similar regulations.

Both Colorado and Texas require companies to list fracking fluid chemicals on FracFocus.org, a national website created by two intergovernmental agencies. Companies in Texas must begin complying starting in February.

Gov. John Hickenlooper had called for Colorado to draft a disclosure rule.

"I think we've reached the fairest and most transparent rules on the transparency of frack fluids of any state in the country," the Democratic governor said. "I think this will likely become a national model that if other states they don't copy it, they will certainly use it as a touch point."

Commission staff said a survey of Colorado disclosures on FracFocus.org shows a small percentage claim trade secrets, though the website includes only voluntary disclosures. Companies on the website say their fracking fluid is mostly water mixed with sand and small percentages of petroleum chemicals and alcohols such as isopropanol, which is used in rubbing alcohol. Some fluids contain hydrochloric acid, which can cause irritation and burns.

Freeman said some fracking fluids also might contain diesel fuel, benzene and other chemicals commonly found in gasoline.

The database is searchable by company, well location and type of chemical used.

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