

Cooperation Frays In Fracking Debate

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CHICAGO (AP) — After environmentalists, lawmakers and the oil industry got together last year to draft Illinois' first regulations for hydraulic fracturing, the rest was supposed to be easy.

The unusual collaboration was praised as a potential model for other states and a rare example of political foes finding common ground on a complex issue.

But six months after the regulations were signed into law, the spirit of cooperation is fraying: Environmentalists worry that state regulators are weakening the rules agreed to at the bargaining table. Industry officials say some policies could stall oil -and gas-drilling permits, and the state Department of Natural Resources insists it's working hard to be fair to everyone involved.

"Different groups maybe had different ideas of what the end-result rule would be," said Kristy Hartman, energy policy specialist at the National Conference of State Legislatures.

A similar situation has unfolded in California, where environmental groups withdrew support for a regulatory bill days before lawmakers approved it. Now they are pressuring the governor — who signed the measure into law — to hit the pause button until more studies are conducted.

The misgivings in both states underscore the lingering mistrust and uncertainty surrounding hydraulic fracturing, even in states that seemed to have found compromise on the practice.

Regulators are "trying to set a land-speed record and ... the sloppiness showed in their draft and the gold-rush mentality," said Ann Alexander, a senior attorney with the Natural Resources Defense Council in Chicago who helped negotiate the Illinois regulations.

Some states adopted regulations after high-volume hydraulic fracturing, or "fracking," had already begun, but California and Illinois are attempting to establish comprehensive safeguards before the practice gets underway in earnest.

Other states looking to join the oil boom are watching closely to see if careful regulations can establish a middle ground somewhere between unrestricted drilling and a total ban on fracking.

Those states can also look to places where fracking is already established. Pennsylvania last year adopted its first comprehensive regulations after years of complaints about possible air and water pollution. Colorado, Ohio, Texas and other

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states also have tightened regulations.

"It's absolutely important to ... learn lessons from other states," said Michigan state Rep. Ellen Cogen Lipton. The Democrat helped introduce bills in 2013 to require such things as chemical disclosure and public notification, but they never received a committee hearing. So she will try again later this year.

Hydraulic fracturing uses a mixture of water, chemicals and sand to crack open previously inaccessible rock formations thousands of feet underground to release trapped oil and gas. Opponents fear it will pollute and deplete groundwater or cause health problems. The industry insists the method is safe and will create thousands of new jobs.

Twenty-four states had bills in 2013 to address the practice, either through regulations or a moratorium, according to the National Conference of State Legislatures, but most either failed outright or never put anything to a vote. Illinois and California were among the exceptions, the NCSL's Harman said.

Other states are likely to see renewed efforts in 2014, making the outcome in California and Illinois even more important, Alexander said.

Proposed rules are "more of a floor than a ceiling," she said. But people are watching, "and that's another reason to get it right."

In Illinois, the latest debate arose as the Department of Natural Resources began to adopt rules to reflect the law.

The agency took public comments on its proposed rules until Jan. 3, and got an earful at five public hearings held between Thanksgiving week and Christmas. California's Conservation Department is gathering public input this month and has received equally strident complaints.

Illinois' law, for example, requires drillers to store wastewater in tanks, rather than open pits — which environmentalists fear could leak or overflow and contaminate surface and groundwater. But exceptions are permitted in an emergency. Environmentalists say the proposed rules could allow companies to routinely use pits by claiming an emergency.

They also say the rules deviate from the law by reducing the number of chemicals that could be used to prove whether fracking caused water pollution. Another point of contention is when companies must share information on fracking chemicals with health workers who might treat affected patients.

Industry officials have their own qualms with the rules, which they say interpret too broadly who may request a public hearing, leaving open the possibility that fracking opponents in other states could delay a project.

"I always go back to the idea that this is a draft of very complicated law," said Tom Wolf, executive director of the Illinois Chamber of Commerce's energy council. "We

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are focusing on the intent and spirit of the law signed by the governor."

In California, environmentalists are pressuring Gov. Jerry Brown to impose a fracking moratorium, like the one in New York. They fear the law would give drillers a pass from state-required environmental reviews, and say the process needs more study.

"Our preference would be to take a time-out ... until the risks are evaluated and we are able to protect public health and the environment," said Damon Nagami, an attorney with the NRDC in California.

Although industry did not support the law, it has shown willingness to accept requirements such as groundwater monitoring and local control to ease public concerns and head off the chance of a moratorium.

"We definitely understood that a comprehensive bill was needed," said Catherine Reheis-Boyd, president of the Western States Petroleum Association. "A lot of things are being required that are unnecessary and unneeded from a technical standpoint, but we understood concerns had to be addressed for anything to happen."

Democratic Sen. Fran Pavley, who introduced the regulatory bill, said she prefers a moratorium but, unless that happens, strong regulations are needed to prevent unchecked drilling in the Monterey Shale, a formation believed to contain even more oil than North Dakota's Bakken.

Illinois DNR spokesman Chris McCloud said the agency had to interpret the law, and the public comments will help identify potential improvements. But none of the suggestions will undo the legislation that was passed.

"The law is the law," he said. "And it says hydraulic fracturing is going to be allowed in Illinois."

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