

Critics say disclosure rule on 'fracking' not strong enough

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By John Lyon
Arkansas News Bureau

LITTLE ROCK — A rule approved earlier this month by the Arkansas Oil and Gas Commission to require disclosure of the chemicals used in the natural gas drilling process known as “fracking” does not go far enough, some landowners and environmentalists say.

The commission gave tentative approval Dec. 7 to a rule requiring drillers to disclose what chemicals they use in hydraulic fracturing, the practice of injecting water, sand and chemicals into a well to fracture rock and free natural gas. The rule will take effect Jan. 15 unless anyone on the nine-member panel pulls it back for changes.

Environmentalists give Arkansas credit for being one of the first states to approve such a rule, but they say the commission gave natural gas drillers a significant loophole. If a company claims that disclosing the chemicals it uses would reveal trade secrets, it can disclose the chemical family names instead.

“They made some last-minute changes ... to add some trade-secret protections that I think have concerned many activists,” said Craig Segall, project attorney for the Sierra Club.

Segall said that if the companies can claim trade-secret exemptions, the public should have a right to challenge those claims. He said the Sierra Club will send a letter to the Oil and Gas Commission this week asking that the public be given a way to challenge companies’ claims.

“Where we come from is, you’ve got a baseline right to know what’s going on. If there’s any risk to your water supply, you (have a right to) know exactly what that risk is and have to be able to advocate to control it,” Segall said.

Logan County resident Andy Cheshier, co-founder and chairman of the groups Citizens Against Resource Exploitation and Arkansans for Gas Drilling Accountability, said landowners need to know exactly what chemicals are being used, not just the chemical family names.

“The family could be anything,” he said. “We want to know what the chemicals are so we know what to test for.”

Cheshier called the new rule “a publicity stunt.”

“It just made for good headlines, is all it did,” he said.

The Oil and Gas Commission and the Arkansas Department of Environmental Quality investigate complaints of possible water contamination caused by natural gas drilling. So far, “there has been no correlation,” said Shane Khoury, deputy director of the Oil and Gas Commission.

“We have not collected any water quality samples that indicate domestic drinking water well contamination caused by gas well construction,” said Cecillea Pond-Mayo, spokeswoman for ADEQ.

Mark Raines, spokesman for Chesapeake Energy, said the company has “always and will continue to operate in a very sound manner.”

Chesapeake is one of the largest operators in Arkansas’ Fayetteville Shale play in North Central Arkansas, which has seen a boom in natural gas drilling. The University of Arkansas’ Center for Business and Economic Research has estimated that drilling activity in the Fayetteville Shale play that began in 2004 will have a \$22 billion economic impact by 2012.

Raines said Chesapeake has no objection to the new rule and will comply with it.

Environmentalists and landowners aren’t satisfied with companies’ assurances that fracking is safe.

"It's real hard to know that unless you know what's coming in and out of those trucks and pipes," Segall said. "There's certainly plenty of incidents all over the country where we've got serious contamination, from Pavillion, Wyo., to Dimock, Penn."

In September, Wyoming became the first state to require natural gas drillers to disclose the chemicals they use in fracking — with an exception to protect companies' trade secrets. Pennsylvania is in the process of adopting a similar rule, and the U.S. Department of the Interior is considering adopting a policy to require disclosure of chemicals used in fracking on federal land.

Earlier this month, outgoing New York governor David Paterson ordered a moratorium on fracking until July 1 so the state's Department of Environmental Conservation can complete a study of the practice.

The federal Environmental Protection Agency also is studying fracking and is expected to issue a report in 2012.

Arkansas is not doing a study, but Khoury and Pond-Mayo said state regulators look forward to reviewing the EPA's study. They cited the prohibitive expense of a comprehensive study and the lack of any positive findings of contamination from fracking in Arkansas.

"You have to have something to study," Khoury said.

Cheshier said Arkansas should follow New York's example and impose a moratorium on fracking while it conducts a study. He said he and his neighbors in the Arkklahoma gas field have encountered oddities such as water levels in wells suddenly dropping, water turning dark, trees dying and water catching on fire.

"We have nothing but water problems here," he said.

In 2005, the natural gas industry successfully lobbied for an exemption for fracking from the federal Safe Drinking Water Act. The Sierra Club wants Congress to eliminate the exemption and impose federal regulations on the process and wants states to impose regulations as well.

In a speech last month to oil and gas industry officials, Republican strategist Karl Rove said federal action on fracking is unlikely.

With the GOP about to take control of the U.S. House, "I don't think you need to worry" about new regulations, Rove told the industry leaders gathered in Pittsburgh, according to a report on Philly.com.

Segall said he remains hopeful.

"I think more of the Republican Party than Karl Rove does, I guess," he said. "I think people need to represent their constituents no matter what party they're a member of, and clean drinking water is not a partisan issue, or shouldn't be."

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