

Natural Gas Company's Disclosure Decision Could Change Fracking Debate

Mike Soraghan, New York Times, 7-16-10

A Texas natural gas producer's decision to voluntarily disclose the chemicals it injects into the ground could prompt other drillers to do the same, and pave the way for regulators to require such disclosure.

But Range Resources Corp.'s move also reflects the desire of industry to get out ahead of the issue to prevent federal regulation of the key drilling practice called hydraulic fracturing, or fracking.

At least one other major driller, Chesapeake Energy Corp., says it is considering disclosing chemicals used in fracking on a well-by-well basis as Range is planning.

And members of the industry's main trade association, the American Petroleum Institute, are finalizing their own proposal for disclosure, an API spokeswoman said yesterday. But it could provide less information than what environmentalists and lawmakers have sought, and also less than what Range is preparing to disclose.

"API supports transparency regarding the disclosure of the chemical ingredients used in hydraulic fracturing operations to ensure that state regulators have the ability to assess potential incident response needs and plan accordingly, with appropriate confidentiality protections," API spokeswoman Cathy Landry said in an e-mailed statement.

The four basic principles of the disclosure policy, she said, will be "no federal regulation," maintaining state control over regulation of fracturing, "confidentiality of proprietary information," and transparency.

But Range is proposing to disclose the amount of additives used at each well site, along with their classifications, volumes, dilution factors, and specific and common purposes. Some of that information falls under what other companies consider proprietary trade secrets (*Greenwire*, July 14).

And Landry said API supports rules like those in Colorado, which requires disclosure to regulators and physicians in emergency situations, but doesn't provide the information to the public.

Chesapeake has led debate on disclosure of fracturing chemicals. Company CEO Aubrey McClendon shook up the industry last year with a call for increased transparency. Until now, it is not followed up with well-by-well disclosure (*Greenwire*, June 21).

"Since we have been at the forefront of this disclosure effort, we expect to follow suit once we see if our efforts toward establishment of satisfactory disclosure protocols are accepted by the Congress," said Tom Price, Chesapeake's senior vice president of corporate development and government relations. "We have been an industry leader in hydraulic fracturing chemical disclosure for some time, publishing our first fact sheet on the topic nearly two years ago."

Range's willingness to disclose is particularly significant because it was the first gas company to drill and complete a Marcellus Shale well in Pennsylvania. The Fort Worth-based company has become one of the dominant drillers in the burgeoning Marcellus play, with 1.3 million acres under lease.

But the move could also provide ammunition to environmentalists and lawmakers pressing for more complete public disclosure. One of the lawmakers who has pushed federal regulation of fracturing and more disclosure called Range's move a hopeful sign.

"One company in one region is a good start, but any community where fracking is occurring deserves similar information," said Rep. Diana DeGette (D-Colo.). "It is my hope that Range Resources and other companies engaged in fracking will support our efforts to create a more systematic and comprehensive method of disclosure."

Industry groups said the move showed that federal government intervention isn't necessary.

"There's certainly a trend among some producers to announce support for voluntary disclosures, but that will be a business, and sometimes legal, decision that each company will consider for itself," said Jeff Eshelman, spokesman for the Independent Petroleum Association of America, which has lobbied hard against federal regulation of fracturing.

"Between this trend, the information already available and the state regulators' exemplary record of hydraulic fracturing oversight of over 1 million wells, it seems to me that the regulatory process is working without the need for a new federal EPA bureaucracy."

Environmentalists say that voluntary action by companies shouldn't head off a law guaranteeing that neighbors of drill sites will know what to look for when trying to determine if their water has been contaminated.

"One company's efforts at transparency don't substitute for an industrywide requirement that such substances be disclosed to the public," said Dave Alberswerth of the Wilderness Society. "Congress and state legislatures should move forward with requirements that all companies engaged in hydraulic fracturing publicly disclose the chemicals used in this process."

Pressure on industry

Range is making its move against the backdrop of the massive BP oil spill in the Gulf of Mexico, which could erode the public's faith in industry assurances that oil and gas production is safe. And the industry is closely monitoring the well-publicized release of "Gasland," an HBO documentary that lambastes the industry, saying fracturing is fouling groundwater across the country.

All sides in the fracturing debate agree that disclosure is good, in concept. But environmentalists, drillers and lawmakers disagree on what should be disclosed and whom it should be disclosed to.

In fracturing, crews inject tanker-loads of water and sand into gas wells to blow apart the rock and release the gas. A small fraction of that concoction is a mixture of chemicals as mundane as ice cream thickener and as toxic as benzene. In 2005, the Republican Congress and George W. Bush administration exempted fracturing from U.S. EPA regulation under the Safe Drinking Water Act, heading off an appellate court ruling that had said the law should cover fracturing.

Since then, fears have grown among environmentalists, community groups and some Democratic lawmakers that the chemicals used could contaminate groundwater. They are demanding detailed, well-by-well information about the types of chemicals that drillers inject. And they want it put on the Internet for all to see.

But in that time, fracturing has also become even more vital to U.S. natural gas production. Vast shale

formations under Pennsylvania, Texas and Louisiana have doubled U.S. gas reserves by some measures -- but they can be tapped only with fracturing. By providing a stable, long-term supply of natural gas, shale gas could push a transformative switch from coal to gas in power plants and other energy uses. That would reduce greenhouse gas emissions and other pollutants (*Greenwire*, March 11).

Industry groups like IPAA say fracturing is safe and state regulation is sufficient. They maintain that there has never been a proven case of groundwater contamination from the injection process.

The industry has vehemently fought EPA regulation, fearing that the agency would shut down production while it developed rules that could clamp down on gas production.

Companies that have supported disclosure have generally not agreed with environmentalists that they should provide full, well-by-well lists of ingredients and their amounts to the public. Many have said that descriptions in worker-safety documents posted at each work site are sufficient.

Beyond that, they have wanted disclosure limited to state regulators and medical personnel willing to sign confidentiality agreements. Making detailed lists of chemical constituents public, they say, gives away valuable trade secrets. And they worry that the drive for federal disclosure laws will serve as a stalking horse for harsh new restrictions on drilling that would bog down gas production in the United States.

The Senate climate bill authored by Sens. John Kerry (D-Mass.) and Joe Lieberman (D-Conn.) would order fracturing companies to post on the Internet the worker-safety documents for the chemicals, called material safety data sheets. But the bill's future is increasingly uncertain.

In the House, DeGette has pending legislation to rescind fracturing's exemption from federal regulation. Her bill (H.R. 2766) would also require companies to tell regulators the "chemical constituents" in their fracturing fluid, but not the formulas for how those chemicals are mixed together. The legislation would order regulators to make those ingredients public by publishing them on the Internet.

DeGette has said that she is negotiating a disclosure proposal with the industry. But those negotiations appear to have been stymied by a debate within the industry among those willing to have disclosure written into federal law and those who want to resist any federal intervention (*E&E Daily*, June 24).

Varying disclosure plans

Some drillers are worried that some form of regulation is inevitable and insist they be involved in crafting it. Others in the industry are adamant that there should be no compromise on the industry's ability to access a resource that contributes to the country's energy independence.

They're also banking on big Republican gains in Congress in the fall, which would diminish chances for federal regulation or disclosure requirements.

Range Resources, whose chairman, John Pinkerton, also called for disclosure last year, had already disclosed more than other companies by listing the amounts of chemicals it uses on its company website. For example, the chart indicates that the company uses methanol or propargyl, "diluted at two gallons per 1,000 gallons of water."

But the website chart notes that "individual wells may vary based on geologic and other conditions," and it offers no way for a neighbor to find out specifically what chemicals were used in a nearby well.

Range says it will submit the detailed chemical information to Pennsylvania regulators as part of Range's well completion reports and on the company's website.

States have taken widely different approaches to disclosure.

Colorado, which overhauled its oil and gas laws in 2007, requires companies to maintain a well-by-well chemical inventory for the life of the well plus five years. Companies don't have to file the list with state regulators, but are required to provide it to the Colorado Oil and Gas Conservation Commission if asked. The agency can share the information with health officials, or a treating physician, subject to a confidentiality agreement. The inventory can be shared more broadly if the company does not request trade secret protection.

Wyoming's Oil and Gas Conservation Commission decided earlier this year to order drillers to report the chemicals used in hydraulic fracturing to commission staff, the first such requirement in the nation. But the measure specifically shields the information from the public. Gov. Dave Freudenthal (D) directed the agency to draft the rules as a way to assure federal officials that Wyoming adequately regulates fracturing (*Greenwire*, June 9).

The Pennsylvania Department of Environmental Protection requires material safety data sheets to be attached to every drilling plan, which is available to landowners, local governments and emergency responders.