

Major gas-producing states debating Colorado-style drilling regulations

David O. Williams, Colorado Independent, 5-21-10

From Texas to Wyoming to Pennsylvania, a gusher of environmental rules is facing the natural gas industry in the coming months and years, putting Colorado ahead of the regulatory curve when it implemented strict new drilling regs in the spring of 2009, according to the state's top oil and gas official.

Rancher Louis Meeks' well water contains methane gas, prompting an EPA investigation. Now Wyoming is weighing new hydraulic fracturing rules. (Abraham Lustgarten/ProPublica)

"So the regulatory issues that we worked through over the past couple of years with our rulemaking are issues they're just beginning to tackle," said David Neslin, director of the Colorado Oil and Gas Conservation Commission. "There will be additional requirements in Pennsylvania; Wyoming is looking at new requirements applicable to fracking [hydraulic fracturing]; and Texas is looking at new requirements."

A favorite campaign mantra for Colorado Republicans looking to topple Democrats in both the State Legislature and the governor's race this fall is that the drilling regulations pushed through by Gov. Bill Ritter in 2008 and early 2009 eliminated thousands of high-paying energy sector jobs and sent workers scurrying to greener natural gas pastures in other states.

But looming regulations in other top gas-producing states may create a level of uncertainty and political animosity that will make Colorado seem stable by comparison. And statistics indicate the regulatory certainty in Colorado is already resulting in more drilling activity.

"What [Republican gubernatorial candidate Scott McInnis] says a lot is the rules were the best jobs program in four years for Pennsylvania," spokesman Sean Duffy told the Colorado Independent in January. "The exporting of jobs to Pennsylvania is obviously something he's very concerned about and he's trying to recoup some of those jobs as key to economic recovery."

McInnis, a Denver-based oil and gas and natural resources attorney who served six terms in the U.S. Congress, is running in a virtual dead heat with Democratic Denver Mayor John Hickenlooper after Ritter decided not to seek a second term. Attack TV ads paid for by the Republican Governor's Association call Hickenlooper and Ritter "Politicians of the same stripe," specifically targeting the governor's job-killing "taxes" on the natural gas industry.

But Colorado already has issued 2,270 drilling permits this year, which is slightly ahead of the 2,252 permits issued by Pennsylvania through the end of April. At its current pace, Colorado will come close to issuing 7,000 drilling permits this year, approaching its record of 8,027 in 2008.

"One thing Gov. Ritter has done through legislation and rulemaking and his leadership is create some additional certainty for operators in Colorado," Neslin said. "We're not trying to adopt new hydro-fracking rules right now like Wyoming is. We're not significantly revamping protections of surface water like Pennsylvania is. So there's some certainty that operators have under the amended rules that they don't have in these other states."

The new Colorado rules made it one of the few states dealing with hydraulic fracturing, or "fracking" – a

process in which water, sand and undisclosed chemicals are injected under extremely higher pressure deep into gas wells to crack open tight formations and free up more gas.

Environmentalists and some scientists and politicians are concerned the process itself and then the resulting “produced” water can contaminate groundwater and drinking water supplies. Two-term Democratic Wyoming Gov. Dave Freudenthal has ordered the Wyoming Oil and Gas Conservation Commission (WOGCC) to find out what chemicals are going into the ground in order to keep EPA regulators at bay.

“It’s the direction we were given, and as long as he’s my boss that’s the direction we’re headed,” said WOGCC supervisor Tom Doll said, according to the Casper Star-Tribune. “The bottom line is we don’t have the detail that the governor feels we need to have in the files to prove to EPA we are protecting groundwater in the state.” A decision on any new fracking rules was recently deferred until June.

In Pennsylvania, term-limited two-term Democratic Gov. Ed Rendell is working hard to impose a severance tax in the gas-boom state and recently said he would sign a bill to impose a three-year drilling moratorium on state land while environmental regulations are weighed. Republican gubernatorial candidate and Attorney General Tom Corbett opposes a severance tax and the drilling moratorium.

“Even Sarah Palin’s Alaska, Dick Cheney’s Wyoming and George Bush’s Texas all have a severance tax,” said Democratic state Rep. David Levdansky, according to the Ithaca Journal. Levdansky is a co-sponsor of the moratorium bill.

Colorado has a severance tax, but it’s one of the lowest among major gas-producing states. In 2008, Ritter tried unsuccessfully to remove a property tax exemption that would have effectively raised the state oil and gas severance tax for higher education funding. Big oil and gas money poured in to fight Amendment 58.

Democrats in Texas are also calling for drilling permit moratorium in Texas, citing increasing conflicts between drilling activity and residents in urban areas like Fort Worth. Republican state Rep. Jim Keffer, head of the Texas House Energy Resources Committee, said new laws are likely to be passed in the 2011 legislative session.

Keffer, according to the Dallas Fort Worth Star-Telegram, said a moratorium is unlikely because oil and gas interests are “a linchpin of the economy,” but he added, “We’ve got to go forward in a way that’s a lot more considerate to the people around you.”

Neslin, Colorado’s top oil and gas regulator, said it’s really apples to oranges to even compare his state to Texas or Pennsylvania. Other Rocky Mountain gas states like Wyoming and Utah are a better barometer, and Colorado beat all of those states in both permitting and actual production in the recessionary year of 2009. But even some of the surrounding states are ratcheting up regulations the way Colorado did two years ago.

“So natural gas is a critical energy resource in the country and in my mind will only become more important to us over the next decade, but with this expanded production is going to come continued concern about environmental and social impacts and additional adjustment of regulatory regimes in other states as well,” Neslin said.