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The Center for public Integrity

Environment : Big Oil, Bad Air

Tough new fracking rules in Colorado drawing keen attention in Texas, where boom rages on

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Fracking activity in the Eagle Ford Shale of Texas

Lance Rosenfield

Colorado's tough, new air pollution rules for the oil and gas industry were approved only a month ago but already are making an impact in Texas, where lawmakers and energy companies have long resisted tightening air standards.

Several companies have approached the nonprofit Environmental Defense Fund and expressed interest in discussing whether Colorado's rules make sense for Texas, according to Jim Marston, a vice president at EDF. Marston didn't name the companies.

"The companies are often ahead of the Texas state government," said Marston, who works in the group's Austin office. "If some important industry leaders like the idea, it might move state government." EDF played a leading role among the environmental organizations that helped craft the Colorado rules.

Many energy companies participated in Colorado's rule-making process, but only four of them — Anadarko Petroleum Corp., DCP Midstream, Encana Corp. and Noble Energy, Inc. — fully support the new regulations.

Anadarko and DCP Midstream also operate in Texas.

The Colorado Oil & Gas Association, a trade group, had strong objections to some of the rules. For example, the association argued against requiring regular leak inspections at small storage tanks.

Marston said the individual companies' support was crucial for the rules' approval — and would be necessary in Texas, too. "We don't pretend we could have done it ourselves," he said.

Luke Metzger, director of Environment Texas, a citizen advocacy group, also found hope in Colorado's actions. "Frequently, legislators in this state ask for other models to look to, and Colorado, being a big oil and gas state, is somewhere Texas officials will take seriously," he said.

Neither Metzger nor Marston expects much action in Texas during this election year, when key positions, including governor and energy regulators, are being contested.

In Colorado, Gov. John Hickenlooper's office and the state's Department of Public Health and Environment led the process. "I'd love to think we could have the support of the governor in Texas," Marston said, "but that's probably a lot less likely than in Colorado."

A recent **eight-month investigation** by the Center for Public Integrity, InsideClimate News and The Weather Channel revealed that **nearly one in four of Texas' current legislators or their spouses own stock** or receive royalties from companies operating in the Eagle Ford Shale, one of the nation's most active drilling regions. The report also found that **Texas does little to monitor or limit the industry's air pollution**. The number of drilling permits issued in the Eagle Ford increased 168-fold in six years — from 26 in 2008 to 4,416 in 2013 — while the budget

of the state's environmental regulatory agency was slashed 39 percent. During that period residents filed hundreds of complaints about oil and gas drilling activities.

Colorado's rules require oil and gas companies to regularly monitor and repair unintentional, or "fugitive," leaks of gases that have adverse climate effects, like methane, a potent greenhouse gas. They also rein in gases that can cause health problems, including volatile organic compounds (VOCs) like benzene, a known carcinogen.

The rules exceed regulations issued by the U.S. Environmental Protection Agency in 2012, which won't fully be implemented until 2015. The EPA rules don't directly address methane and some of the most important apply only to gas wells.

A recent study commissioned by EDF and conducted by the consulting firm ICF International found that if the U.S. oil and gas industry adopted many of the same technologies that Colorado now requires, the industry's methane emissions could be cut 40 percent and could save the U.S. economy more than \$100 million a year.

John Christiansen, a spokesman for Anadarko, said the Colorado rules offer "a very common-sense approach to constructively addressing something that is very important to the people of Colorado." He hopes they will help "build public trust as we move forward with our operations there."

Last year, four Colorado communities banned hydraulic fracturing, or fracking, an extraction technique used on oil and gas wells. People who live near drilling sites in other states have also voiced concern about the industry's air pollution, the risk of groundwater contamination and the surge of earthquakes linked to underground disposal of fracking wastewater.

Christiansen said the Colorado rules also make financial sense for the industry. Instead of releasing some of the gases into the air, companies can collect and sell them.

When asked whether Anadarko would voluntarily adopt the Colorado standards at its Texas operations, Christiansen said the company would have to gauge their effectiveness in Colorado before "[we] determine whether or not it applies to other areas." DCP Midstream, which also operates in Texas, did not respond to requests for comment.

The impacts of Colorado's standards, which will be rolled out between this spring and May 1, 2016, are expected to be dramatic. State regulators predict they will eliminate at least 92,000 tons of VOCs annually — more than all the VOCs that Colorado's cars emit each year.

Colorado vs. Texas

The more than 20 pages of rules passed by Colorado's Air Quality Control Commission are groundbreaking because of the scope of gases they target, their rigorous monitoring guidelines and their inclusion of the industry's smallest emitters. Here's a rundown of five significant changes:

- Colorado's rules will be applied statewide, rather than being adjusted for geology or population, as they are in many states. Texas, for instance, has stronger protections in 15 counties in the densely populated Barnett Shale near Dallas-Fort Worth. Other regions of the state, including the booming Eagle Ford Shale, have much weaker regulations.
- The rules directly address methane, a greenhouse gas that is 20 to 100 times more powerful than carbon dioxide. Texas has no methane-specific standards, but like all other states, it enforces EPA regulations that indirectly limit methane.
- The rules recognize that small fugitive emissions can have a major cumulative impact on air quality. Both Colorado and Texas have rules that target these leaks during facility maintenance, startups and shutdowns. But fugitive emissions also occur at other times, and Colorado's rules better address them. For example, Colorado companies will have to inspect their largest-emitting facilities monthly and their smallest ones once a year using advanced technology. In Texas, quarterly inspections are required only for a limited number of facilities in the 15 Barnett counties.
- Colorado gives operators five working days to fix fugitive leaks unless they can prove more time is needed. The EPA rules, which only affect facilities built or modified after Aug. 23, 2011, require repairs within 5 to 15 days. In Texas, operators in the 15 Barnett counties have 30 to 60 days to repair leaks. (A few Texas counties that don't meet federal air quality standards must make the repairs within 15 days.) Thousands of facilities in other Texas counties have no deadlines for repairs. In fact, regulators don't even know that many of them exist, because operators are allowed to audit their own emissions.
- Colorado requires all storage tanks that release more than six tons of VOCs a year to use technology that reduces emissions by at least 95 percent. The EPA has a similar requirement, but it applies only to tanks built or modified after Aug. 23, 2011. In Texas, most tanks can emit up to 25 tons of VOCs per year. In order to meet that limit, the majority of tanks use control devices that reduce VOCs by up to 98 or 100 percent, said spokesman Terry Clawson of the Texas Commission on Environmental Quality.

Change in Texas 'at least thinkable now'

Bruce Baizel, energy program director at the environmental group Earthworks, expects other states to follow Colorado's lead on air quality regulations.

Methane control and leak detection and repair “are the next wave of issues for oil and gas,” Baizel said. Lawmakers in California and Pennsylvania are already considering adopting similar methane rules, he said, and in Texas the possibility “is at least thinkable now. Two years ago I would not have said this, but partly because of this effort, the earthquake issue, the groundwater issue, the situation has changed.”

Some environmentalists, including Sandra Steingraber, an environmental health scientist from New York who founded the nonprofit [New Yorkers Against Fracking](#), believe no amount of regulation can effectively mitigate the health problems associated with natural gas drilling. “What we need is no fracking,” she said.

But Louis Allstadt, a former executive vice president at Mobil who is now an outspoken fracking opponent in New York, said it can't hurt to tighten regulations as long as fracking continues.

“It’s unrealistic to expect existing wells to be shut down...until the production falls off,” Allstadt said. In the meantime, “it is critical that they be required to do the best job possible at containing” emissions.

This report is part of [a joint project](#) by the Center for Public Integrity, InsideClimate News and The Weather Channel. Zahra Hirji and Lisa Song are with InsideClimate News and Jim Morris is with the Center for Public Integrity.