

Fracking can begin in Illinois

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Haul out the oil rigs, fracking can begin in Illinois. An obscure arm of state government cleared the way Thursday for oil and gas drillers to apply for permits to begin fracking in Illinois, which could find itself the center of an oil boom by next fall if the energy firms that have leased land here begin to drill.

The Joint Committee on Administrative Rules moved forward regulations that govern hydraulic fracturing, a drilling process that injects water, chemicals and sand at high pressure into shale rock to unleash [oil](#) and gas.

The final rules remain secret. They aren't expected to be made public until they are published in the Illinois Register. That is expected to occur by Nov. 15.

"We don't know if our concerns have been taken into account because we don't know what changes were made," said Jack Darin, director of the Illinois chapter of Sierra Club.

The committee made no comments as it approved the fracking rules in a meeting that lasted 15 minutes.

"There's just very little left to discuss," Sen. Don Harmon, a Democrat and co-chairman of the committee said after the 11-0 vote. Sen. Ira Silverstein, a Democrat, abstained.

Illinoisans are unlikely to see significant fracking activity until next fall

after companies register, apply for permits, go through public hearings, test well sites and, finally, begin drilling.

The process of writing the regulations governing fracking has been controversial. The first draft rules proposed by the Illinois Department of Natural Resources were criticized by environmentalists as being too loose in dealing with issues ranging from the handling of waste water to safety. A second draft of rules was attacked by oil and gas representatives as being too restrictive; some energy companies suggested fracking might not occur in Illinois if the rules weren't relaxed.

As a result, committee staffers spent three months working behind the scenes to deal with an estimated 400 quibbles over the rules. Environmental groups said Thursday they felt they were largely left out of that process.

"It's an iterative process," Harmon said. "Industry would say the changes made between the first (draft) and second (draft) were led by environmental advocates. Now, the pendulum swings back the other way. We aim to displease in equal measure."

Marc Miller, director of the Department of Natural Resources, said Thursday that committee members felt the agency had "gone beyond the scope of the statute" in writing the rules. He would not provide a copy of the final rules nor indicate what had been changed. He said the agency needs to review the document before it is made public.

Those who've closely watched the process say the agency may have been forced to dial back language to align it more closely with the statute. That could lead to litigation as the Department of Natural Resources is forced to interpret parts of the regulations that may be unclear or vague.

"It will be litigated. Courts will generally give an agency discretion to apply rules interpreting the statute. However, where they've clearly overstepped the bounds? Folks will disagree about where that is. And they'll be attacked," said Daniel Deeb, partner at Schiff Hardin in Chicago.

Oil company representatives from Texas and California traveled to Chicago to witness the committee's vote as did environmentalists from southern Illinois, where fracking most likely would occur.

"We will resist this with our bodies, our hearts and our minds. We will block this, we will chain ourselves to trucks," said Braze Smith, an organic farmer who traveled six hours from Union County to be at the hearing.

To gear up for fracking, the Department of Natural Resources has hired 32 people to aid in reviewing applications, mostly lawyers and engineers. Initially, the agency had four staffers assigned to that role. About 20 more people, mostly well inspectors, are called for in the agency's budget.

Oil and gas drillers may apply for a permit to begin operations 30 days after registration by paying a nonrefundable fee of \$13,500. The permit application must disclose how and where the well will be drilled, the amount of fluid to be used and at what pressure it will be injected into the well. Drillers also will have to disclose what chemicals will be used and at what concentration, and plans for everything from well safety to waste containment.

The Department of Natural Resources must post a copy of the permit application on its website within five days of its receipt and provide dates for the public to comment. The department has 60 days to approve or reject applications.

People downstate have been pushing for fracking because they believe it will create jobs, bring money to cash-strapped landowners and deliver tax dollars to counties.

Fracking promises to bring an estimated \$725,000 in new taxes to the state for every successful well drilled over the next 10 years, according to analysis by Headwaters Economics, a Montana-based research company.

Energy companies have invested millions to lease land in anticipation of fracking.

Some, including Strata-X Energy, which has leased land in Clay County, have moved forward with horizontal drilling operations at volumes believed below the threshold set by the new regulations.

David Hettich, chief finance officer and vice president of land for Strata-X, said an initial well in Clay County is producing about 300 barrels of oil a day even with lesser production equipment than is used in high-volume fracking operations.

"Once we get going, imagine what we can do," he said.

The still untapped New Albany shale play in southern Illinois has been compared to the Eagle Ford shale play in Texas, one of the hottest fracking areas of the country.

Landowners in Wayne County recently filed suit against Miller, of Department of Natural Resources, and Gov. Pat Quinn, claiming the state's delay in issuing fracking permits is akin to an illegal land grab. An attorney for the department said Thursday that the suit should be thrown out and that it has no merit.

The road to finish the fracking rules has been long and tortured.

After the law passed and the Department of Natural Resources submitted its first proposed draft rules a year ago, environmentalists were outraged. Hundreds packed hearings; some 30,000 comments were filed about the rules, many of them critical.

Afterward, the Department of Natural Resources submitted a second draft of proposed rules, which oil and gas companies said were so restrictive that they doubted companies would go forward with [fracking](#).

"We believe the extra time it took for the negotiation process will maintain the practical sensibilities that will allow [hydraulic fracturing](#) to create jobs and stimulate the Illinois economy," said Brad Richards, executive vice president of the Illinois Oil and Gas Association. "The labor, environmental and industry groups that worked together for three years to draft this legislation are excited to finally see the implementation of these rules and get the skilled workforce of Illinois working again."

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