

Hydraulic Fracturing Disclosure Rules

On December 13, the Colorado Oil and Gas Conservation Commission approved amendments to the state's oil and gas regulations that will require operators to publicly disclose all chemicals used to hydraulically fracture wells in Colorado.

The rule builds on current requirements. Those include rule amendments in 2008 that required disclosure of such chemicals to state regulators and health professionals on demand. In 2011, Colorado operators began voluntarily disclosing their hazardous fracturing chemicals using the www.FracFocus.org website, a product of the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission.

Highlights of rule changes:

Applies to hydraulic fracturing treatments on or after April 1, 2012.

Operators must complete the chemical disclosure registry form and post it within 60 days after the conclusion of a hydraulic fracturing treatment.

Operators must include all chemicals, hazardous and non-hazardous, in the fracturing fluid. They must also include concentrations of each chemical.

If a vendor, service provider or operator claim a chemical and/or its concentration as a trade secret, a form (Form 41) must be submitted to the director of the Oil and Gas Conservation Commission.

Form 41 must include contact information for a representative should further information be promptly needed regarding the composition of the trade secret chemical claimed.

By signing the Form 41 document, the signer is legally attesting to the legitimacy of the trade secret claim.

Trade secret information must be provided promptly to the COGCC director and health professionals upon request.

The rule intends for the FracFocus website to be searchable by chemical ingredient, chemical abstract service number and time period by January 1, 2013 (Note: the site is already searchable by well, by county and by operator).

If the site is not searchable by those additional parameters by 2013, the COGCC will begin making the information available and searchable on its own site, as soon as practicable.

Existing provisions allow any person who believes a trade secret has been inappropriately claimed to seek redress through the Commission and through the courts.