

Hydraulic Fracturing Disclosure Rules

On December 13, 2011, the Colorado Oil and Gas Conservation Commission approved amendments to the state's oil and gas regulations requiring operators to publicly disclose all chemicals used to hydraulically fracture wells in Colorado. At the time, the COGCC rule was the strongest in the country, and many states followed Colorado's model with similar rules in 2012.

The rule builds on current requirements, including rule amendments adopted in 2008 requiring 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 occurring 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.
- Trade Secrets
 - If a vendor, service provider or operator claims 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.
 - The 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.
 - Existing provisions allow any person who believes a trade secret has been inappropriately claimed to seek redress through the Commission and through the courts.
- The rule intends for the FracFocus website to be searchable by chemical ingredient, chemical abstract service number, and time period by January 1, 2013.
- While FracFocus was not entirely searchable on January 1, several elements of the site are searchable today. The COGCC is confident that the entire FracFocus website will be searchable by June 1, 2013 and has elected to continue to utilize FracFocus as the chemical information repository for Colorado.