

BEFORE THE OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO

IN THE MATTER OF CHANGES TO THE RULES OF ) CAUSE NO. 1R  
THE OIL & GAS CONSERVATION COMMISSION OF )  
THE STATE OF COLORADO TO CONSIDER ) DOCKET NO. 1112-RM-04  
HYDRAULIC FRACTURING DISCLOSURE RULES ) **AMENDED**

NOTICE OF RULEMAKING HEARING

TO ALL INTERESTED PARTIES AND TO WHOM IT MAY CONCERN:

The Oil and Gas Conservation Commission, on its own motion, will consider additions to and amendments of Rules 100, 205, 305, 316, and 523 of the Commission's Rules of Practice and Procedure, 2 CCR 404-1 ("Rules") for purposes of adopting rules governing the public disclosure of hydraulic fracturing chemicals, including notification of hydraulic fracturing operations.

Hydraulic fracturing is the process of creating small cracks, or fractures, in underground geological formations to allow oil or natural gas to flow into the wellbore and thereby increase production. To fracture the formation, special fracturing fluids are injected down the well bore and into the formation. These fluids typically consist of water, sand, and chemical additives.

Members of the public have expressed interest in learning the identity of chemicals in hydraulic fracturing fluids. Many oil and gas operators are voluntarily providing such information through the fracfocus.org website, and several other states have adopted or are adopting regulations on this topic.

The proposed amendments read as follows:

**REVISIONS AND ADDITIONS TO RULES AND REGULATIONS, DEFINITIONS (100 SERIES)**

**BASE FLUID SHALL MEAN THE CONTINUOUS PHASE FLUID TYPE, SUCH AS WATER, USED IN A HYDRAULIC FRACTURING TREATMENT.**

**CHEMICAL ABSTRACTS SERVICE SHALL MEAN THE DIVISION OF THE AMERICAN CHEMICAL SOCIETY THAT IS THE GLOBALLY RECOGNIZED AUTHORITY FOR INFORMATION ON CHEMICAL SUBSTANCES.**

**CHEMICAL ABSTRACTS SERVICE NUMBER OR CAS NUMBER SHALL MEAN THE UNIQUE IDENTIFICATION NUMBER ASSIGNED TO A CHEMICAL BY THE CHEMICAL ABSTRACTS SERVICE.**

**CHEMICAL(S)** shall mean any element, chemical compound, or mixture of elements and/or compounds— **THAT HAS ITS OWN SPECIFIC NAME OR IDENTITY SUCH AS A CHEMICAL ABSTRACT SERVICE NUMBER, WHETHER OR NOT SUCH CHEMICAL IS SUBJECT TO THE REQUIREMENTS OF 29 CODE OF FEDERAL REGULATIONS §1910.1200(G)(2) (2011).**

**CHEMICAL DISCLOSURE REGISTRY SHALL MEAN THE CHEMICAL REGISTRY WEBSITE KNOWN AS FRACFOCUS.ORG DEVELOPED BY THE GROUND WATER PROTECTION COUNCIL AND THE INTERSTATE OIL AND GAS COMPACT COMMISSION. IF SUCH WEBSITE BECOMES PERMANENTLY INOPERABLE, THEN CHEMICAL DISCLOSURE REGISTRY SHALL MEAN ANOTHER PUBLICLY ACCESSIBLE INFORMATION WEBSITE THAT IS DESIGNATED BY THE COMMISSION.**

**CHEMICAL FAMILY SHALL MEAN A GROUP OF CHEMICALS THAT SHARE SIMILAR CHEMICAL PROPERTIES AND HAVE A COMMON GENERAL NAME.**

**HEALTH PROFESSIONAL SHALL MEAN A PHYSICIAN, PHYSICIAN ASSISTANT, NURSE PRACTITIONER, REGISTERED NURSE, OR EMERGENCY MEDICAL TECHNICIAN LICENSED BY THE STATE OF COLORADO.**

**HYDRAULIC FRACTURING ADDITIVE SHALL MEAN ANY CHEMICAL SUBSTANCE OR COMBINATION OF SUBSTANCES, INCLUDING ANY CHEMICALS AND PROPPANTS, THAT**

IS INTENTIONALLY ADDED TO A BASE FLUID FOR PURPOSES OF PREPARING A HYDRAULIC FRACTURING FLUID FOR TREATMENT OF A WELL.

HYDRAULIC FRACTURING FLUID SHALL MEAN THE FLUID, INCLUDING THE APPLICABLE BASE FLUID AND ALL HYDRAULIC FRACTURING ADDITIVES, USED TO PERFORM A HYDRAULIC FRACTURING TREATMENT.

HYDRAULIC FRACTURING TREATMENT SHALL MEAN ALL STAGES OF THE TREATMENT OF A WELL BY THE APPLICATION OF HYDRAULIC FRACTURING FLUID UNDER PRESSURE THAT IS EXPRESSLY DESIGNED TO INITIATE OR PROPAGATE FRACTURES IN A TARGET GEOLOGIC FORMATION TO ENHANCE PRODUCTION OF OIL AND NATURAL GAS.

PROPPANT SHALL MEAN SAND OR ANY NATURAL OR MAN-MADE MATERIAL THAT IS USED IN A HYDRAULIC FRACTURING TREATMENT TO PROP OPEN THE ARTIFICIALLY CREATED OR ENHANCED FRACTURES ONCE THE TREATMENT IS COMPLETED.

TOTAL WATER VOLUME SHALL MEAN THE TOTAL QUANTITY OF WATER FROM ALL SOURCES USED IN THE HYDRAULIC FRACTURING TREATMENT, INCLUDING SURFACE WATER, GROUND WATER, PRODUCED WATER OR RECYCLED WATER

#### REVISIONS AND ADDITIONS TO RULE 205. ACCESS TO RECORDS

- a. All producers, operators, transporters, refiners, gasoline or other extraction plant operators and initial purchasers of oil and gas within this State, shall make and keep appropriate books and records covering their operations in the State, including natural gas meter calibration reports, from which they may be able to make and substantiate the reports required by the Commission or the Director.
- b. Beginning May 1, 2009 on federal land and April 1, 2009 on all other land, operators shall maintain MSDS sheets for any Chemical Products brought to a well site for use downhole during drilling, completion, and workover operations, ~~in~~**EXCLUDING HYDRAULIC FRACTURING TREATMENTS. fracture stimulation.** **WITH THE EXCEPTION OF FUEL AS PROVIDED FOR IN RULE 205.C., THE REPORTING AND DISCLOSURE OF HYDRAULIC FRACTURING ADDITIVES AND CHEMICALS BROUGHT TO A WELL SITE FOR USE IN CONNECTION WITH HYDRAULIC FRACTURING TREATMENTS IS GOVERNED BY RULE 205A.**
- c. Beginning June 1, 2009, operators shall maintain a Chemical Inventory by well site for each Chemical Product used downhole or stored for use downhole during drilling, completion, and workover operations, ~~in~~**EXCLUDING HYDRAULIC FRACTURING TREATMENTS fracture stimulation**, in an amount exceeding five hundred (500) pounds during any quarterly reporting period. Operators shall also maintain a Chemical Inventory by well site for fuel stored at the well site during drilling, completion, and workover operations, including **HYDRAULIC FRACTURING TREATMENTS fracture stimulation**, in an amount exceeding five hundred (500) pounds during any quarterly reporting period.

The five hundred (500) pound reporting threshold shall be based on the cumulative maximum amount of a Chemical Product present at the well site during the quarterly reporting period. Entities maintaining Chemical Inventories under this section shall update these inventories quarterly throughout the life of the well site. These records must be maintained in a readily retrievable format at the operator's local field office. The Colorado Department of Public Health and Environment may obtain information provided to the Commission or Director in a Chemical Inventory upon written request to the Commission or the Director.

- d. Where the composition of a Chemical Product is considered a Trade Secret by the vendor or service provider, Operators shall only be required to maintain the identity of the Trade



Secret Chemical Product and shall not be required to maintain information concerning the identity of chemical constituents in a Trade Secret Chemical Product or the amounts of such constituents. The vendor or service provider shall provide to the Commission a list of the chemical constituents contained in a Trade Secret Chemical Product upon receipt of a letter from the Director stating that such information is necessary to respond to a spill or release of a Trade Secret Chemical Product or a complaint from a potentially adversely affected landowner regarding impacts to public health, safety, welfare, or the environment. Upon receipt of a written statement of necessity, information regarding the chemical constituents contained in a Trade Secret Chemical Product shall be disclosed by the vendor or service provider directly to the Director or his or her designee.

The Director or designee may disclose information regarding those chemical constituents to additional Commission staff members to the extent that such disclosure is necessary to allow the Commission staff member receiving the information to assist in responding to the spill, release, or complaint, provided that such individuals shall not disseminate the information further. In addition, the Director may disclose information regarding those chemical constituents to any Commissioner, the relevant County Public Health Director or Emergency Manager, or to the Colorado Department of Public Health and Environment's Director of Environmental Programs upon request by that individual. Any information so disclosed to the Director, a Commission staff member, a Commissioner, a County Public Health Director or Emergency Manager, or to the Colorado Department of Public Health and Environment's Director of Environmental Programs shall at all times be considered confidential and shall not become part of the Chemical Inventory, nor shall it be construed as publicly available. The Colorado Department of Public Health and Environment's Director of Environmental Programs, or his or her designee, may disclose information regarding the chemical constituents contained in a Trade Secret Chemical Product to Colorado Department of Public Health and Environment staff members under the same terms and conditions as apply to the Director.

- e. The vendor or service provider shall also provide the chemical constituents of a Trade Secret Chemical Product to any health professional who requests such information in writing if the health professional provides a written statement of need for the information and executes a Confidentiality Agreement, Form 35. The written statement of need shall be a statement that the health professional has a reasonable basis to believe that (1) the information is needed for purposes of diagnosis or treatment of an individual, (2) the individual being diagnosed or treated may have been exposed to the chemical concerned, and (3) knowledge of the chemical constituents of such Trade Secret Chemical Product will assist in such diagnosis or treatment. The Confidentiality Agreement, Form 35, shall state that the health professional shall not use the information for purposes other than the health needs asserted in the statement of need, and that the health professional shall otherwise maintain the information as confidential. Where a health professional determines that a medical emergency exists and the chemical constituents of a Trade Secret Chemical Product are necessary for emergency treatment, the vendor or service provider shall immediately disclose the chemical constituents of a Trade Secret Chemical Product to that health professional upon a verbal acknowledgement by the health professional that such information shall not be used for purposes other than the health needs asserted and that the health professional shall otherwise maintain the information as confidential. The vendor or service provider may request a written statement of need, and a Confidentiality Agreement, Form 35, from all health professionals to whom information regarding the chemical constituents was disclosed, as soon as circumstances permit. Information so disclosed to a health professional shall not become part of the Chemical Inventory and shall in no way be construed as publicly available.
- f. Such books, records, inventories, and copies of said reports required by the Commission or the Director shall be kept on file and available for inspection by the Commission for a period of at least five years except for the Chemical Inventory, which shall be kept on file and

available for inspection by the Commission for the life of the applicable oil and gas well or oil and gas location and for five (5) years after plugging and abandonment. Upon the Commission's or the Director's written request for information required to be maintained or provided under this section, the record-keeping entity or third-party vendor shall supply the Commission or the Director with the requested information within three (3) business days in a format readily-reviewable by the Commission or the Director, except in the instance where such information is necessary to administer emergency medical treatment in which case such information shall be provided as soon as possible. Information provided to the Commission or the Director under this section that is entitled to protection under state or federal law, including C.R.S. § 24-72-204, as a trade secret, privileged information, or confidential commercial, financial, geological, or geophysical data shall be kept confidential and protected against public disclosure unless otherwise required, permitted, or authorized by other state or federal law. Any disclosure of information entitled to protection under any state or federal law made pursuant to this section shall be made only to the persons required, permitted, or authorized to receive such information under state or federal law in order to assist in the response to a spill, release, or complaint and shall be subject to a requirement that the person receiving such information maintain the confidentiality of said information. The Commission or the Director shall notify the owner, holder, or beneficiary of any such protected information at least one (1) business day prior to any required, permitted, or authorized disclosure. This notification shall include the name and contact information of the intended recipient of such protected information, the reason for the disclosure, and the state or federal law authorizing the disclosure. Information so disclosed shall not become part of the Chemical Inventory and shall in no way be construed as publicly available. 200-4 As of May 30, 2009

- g. The Director and the authorized deputies shall have access to all well records wherever located. All operators, drilling contractors, drillers, service companies, or other persons engaged in drilling or servicing wells, shall permit the Director, or authorized deputy, at the Director's or their risk, in the absence of negligence on the part of the owner, to come upon any lease, property, or well operated or controlled by them, and to inspect the record and operation of such wells and to have access at all times to any and all records of wells; provided, that information so obtained shall be kept confidential and shall be reported only to the Commission or its authorized agents.
- h. In the event that the vendor or service provider does not provide the information required by Rules 205.d, 205.e, or 205.f directly to the Commission or a health professional, the operator is responsible for providing the required information.
- i. In the event the operator establishes to the satisfaction of the Director that it lacks the right to obtain the information required by Rules 205.d, 205.e, or 205.f and to provide it directly to the Commission or a health professional, the operator shall receive a variance from these rule provisions from the Director.

## **NEW RULE 205A. HYDRAULIC FRACTURING CHEMICAL DISCLOSURE.**

### **RULE 205A. HYDRAULIC FRACTURING CHEMICAL DISCLOSURE.**

**A. APPLICABILITY. THIS COMMISSION RULE 205A APPLIES TO HYDRAULIC FRACTURING TREATMENTS PERFORMED ON OR AFTER FEBRUARY 1, 2012.**

**B. REQUIRED DISCLOSURES.**

**(1) VENDOR AND SERVICE PROVIDER DISCLOSURES. A SERVICE PROVIDER WHO PERFORMS ANY PART OF A HYDRAULIC FRACTURING TREATMENT AND A VENDOR WHO PROVIDES HYDRAULIC FRACTURING ADDITIVES DIRECTLY TO THE OPERATOR FOR A HYDRAULIC FRACTURING**

TREATMENT SHALL FURNISH THE OPERATOR WITH THE INFORMATION REQUIRED BY SUBSECTION 205A.B.(2)(A)(VIII) – (XII) AND SUBSECTION 205A.B.(2)(B), AS APPLICABLE, AND WITH ANY OTHER INFORMATION NEEDED FOR THE OPERATOR TO COMPLY WITH SUBSECTION 205A.B.(2). SUCH INFORMATION SHALL BE PROVIDED AS SOON AS POSSIBLE WITHIN 30 DAYS FOLLOWING THE CONCLUSION OF THE HYDRAULIC FRACTURING TREATMENT AND IN NO CASE LATER THAN 90 DAYS AFTER THE COMMENCEMENT OF SUCH HYDRAULIC FRACTURING TREATMENT.

**(2) OPERATOR DISCLOSURES.**

**(A) WITHIN 60 DAYS FOLLOWING THE CONCLUSION OF A HYDRAULIC FRACTURING TREATMENT, AND IN NO CASE LATER THAN 120 DAYS AFTER THE COMMENCEMENT OF SUCH HYDRAULIC FRACTURING TREATMENT, THE OPERATOR OF THE WELL MUST COMPLETE THE CHEMICAL DISCLOSURE REGISTRY FORM AND POST THE FORM ON THE CHEMICAL DISCLOSURE REGISTRY, INCLUDING:**

**(I) THE OPERATOR NAME;**

**(II) THE DATE OF THE HYDRAULIC FRACTURING TREATMENT;**

**(III) THE COUNTY IN WHICH THE WELL IS LOCATED;**

**(IV) THE API NUMBER FOR THE WELL;**

**(V) THE WELL NAME AND NUMBER;**

**(VI) THE LONGITUDE AND LATITUDE OF THE WELLHEAD;**

**(VII) THE TRUE VERTICAL DEPTH OF THE WELL;**

**(VIII) THE TOTAL VOLUME OF WATER USED IN THE HYDRAULIC FRACTURING TREATMENT OF THE WELL OR THE TYPE AND TOTAL VOLUME OF THE BASE FLUID USED IN THE HYDRAULIC FRACTURING TREATMENT, IF SOMETHING OTHER THAN WATER;**

**(IX) EACH HYDRAULIC FRACTURING ADDITIVE USED IN THE HYDRAULIC FRACTURING FLUID AND THE TRADE NAME, VENDOR, AND A BRIEF DESCRIPTOR OF THE INTENDED USE OR FUNCTION OF EACH HYDRAULIC FRACTURING ADDITIVE IN THE HYDRAULIC FRACTURING FLUID;**

**(X) EACH CHEMICAL INTENTIONALLY ADDED TO THE BASE FLUID.**

**(XI) THE MAXIMUM CONCENTRATION, IN PERCENT BY MASS, OF EACH CHEMICAL INTENTIONALLY ADDED TO THE BASE FLUID; AND**

**(XII) THE CHEMICAL ABSTRACT SERVICE NUMBER FOR EACH CHEMICAL INTENTIONALLY ADDED TO THE BASE FLUID, IF APPLICABLE.**

**(B) IF THE VENDOR, SERVICE PROVIDER, OR OPERATOR CLAIM THAT THE SPECIFIC IDENTITY OF A CHEMICAL, THE CONCENTRATION OF A CHEMICAL, OR BOTH THE SPECIFIC IDENTITY AND CONCENTRATION OF A CHEMICAL IS/ARE CLAIMED TO BE A TRADE SECRET, THE OPERATOR OF THE WELL MUST SO INDICATE ON THE CHEMICAL DISCLOSURE REGISTRY FORM. THE OPERATOR MUST NONETHELESS DISCLOSE ALL INFORMATION**

REQUIRED UNDER SUBSECTION 205A.B.(2)(A) THAT IS NOT CLAIMED TO BE A TRADE SECRET. IF A CHEMICAL IS CLAIMED TO BE A TRADE SECRET, THE OPERATOR MUST ALSO INCLUDE IN THE CHEMICAL REGISTRY FORM THE CHEMICAL FAMILY OR OTHER SIMILAR DESCRIPTOR ASSOCIATED WITH SUCH CHEMICAL.

(C) PRIOR TO OR AT THE TIME OF CLAIMING THAT A HYDRAULIC FRACTURING ADDITIVE, CHEMICAL, OR AMOUNT THEREOF IS ENTITLED TO TRADE SECRET PROTECTION, A VENDOR, SERVICE PROVIDER OR OPERATOR SHALL FILE WITH THE COMMISSION A REGISTRATION FOR OIL AND GAS OPERATIONS, FORM 1, CONTAINING CONTACT INFORMATION. SUCH CONTACT INFORMATION SHALL INCLUDE THE CLAIMANT'S NAME, AUTHORIZED REPRESENTATIVE, MAILING ADDRESS, AND PHONE NUMBER WITH RESPECT TO TRADE SECRET CLAIMS. IF SUCH CONTACT INFORMATION CHANGES, THE CLAIMANT SHALL IMMEDIATELY SUBMIT A NEW FORM 1 TO THE COMMISSION WITH UPDATED INFORMATION.

(D) UNLESS THE INFORMATION IS ENTITLED TO PROTECTION AS A TRADE SECRET, INFORMATION SUBMITTED TO THE COMMISSION OR POSTED TO THE CHEMICAL DISCLOSURE REGISTRY IS PUBLIC INFORMATION.

**(3) ABILITY TO SEARCH FOR INFORMATION.**

(A) IF THE COMMISSION DETERMINES, AS OF JANUARY 1, 2013, THAT:

(I) THE CHEMICAL DISCLOSURE REGISTRY DOES NOT ALLOW THE COMMISSION STAFF AND THE PUBLIC TO SEARCH AND SORT THE REGISTRY FOR COLORADO INFORMATION BY GEOGRAPHIC AREA, INGREDIENT, CHEMICAL ABSTRACT SERVICE NUMBER, TIME PERIOD, AND OPERATOR; AND

(II) THERE IS NO REASONABLE ASSURANCE THAT THE REGISTRY WILL ALLOW FOR SUCH SEARCHES BY A DATE CERTAIN ACCEPTABLE TO THE COMMISSION,

THEN THE PROVISIONS OF SUBSECTION 205A.B.(3)(B) BELOW SHALL APPLY.

(B) BEGINNING FEBRUARY 1, 2013, ANY OPERATOR WHO POSTS A CHEMICAL DISCLOSURE FORM ON THE CHEMICAL DISCLOSURE REGISTRY SHALL ALSO SUBMIT THE FORM TO THE COMMISSION IN AN ELECTRONIC FORMAT ACCEPTABLE TO THE COMMISSION. AS SOON THEREAFTER AS PRACTICABLE, THE COMMISSION SHALL MAKE SUCH FORMS AVAILABLE ON THE COMMISSION'S WEBSITE IN A MANNER THAT ALLOWS THE PUBLIC TO SEARCH THE INFORMATION AND SORT THE FORMS BY GEOGRAPHIC AREA, INGREDIENT, CHEMICAL ABSTRACT SERVICE NUMBER, TIME PERIOD AND OPERATOR, AS PRACTICABLE.

(4) INACCURACIES IN INFORMATION. A VENDOR IS NOT RESPONSIBLE FOR ANY INACCURACY IN INFORMATION THAT IS PROVIDED TO THE VENDOR BY A THIRD PARTY MANUFACTURER OF THE HYDRAULIC FRACTURING ADDITIVES. A SERVICE PROVIDER IS NOT RESPONSIBLE FOR ANY INACCURACY IN INFORMATION THAT IS PROVIDED TO THE SERVICE PROVIDER BY THE VENDOR. AN OPERATOR IS NOT RESPONSIBLE FOR ANY INACCURACY IN INFORMATION PROVIDED TO THE OPERATOR BY THE VENDOR OR SERVICE PROVIDER.



**(5) DISCLOSURE TO HEALTH PROFESSIONALS. VENDORS, SERVICE COMPANIES, AND OPERATORS SHALL IDENTIFY THE SPECIFIC IDENTITY AND AMOUNT OF ANY CHEMICALS CLAIMED TO BE A TRADE SECRET TO ANY HEALTH PROFESSIONAL WHO REQUESTS SUCH INFORMATION IN WRITING IF THE HEALTH PROFESSIONAL PROVIDES A WRITTEN STATEMENT OF NEED FOR THE INFORMATION AND EXECUTES A CONFIDENTIALITY AGREEMENT, FORM 35. THE WRITTEN STATEMENT OF NEED SHALL BE A STATEMENT THAT THE HEALTH PROFESSIONAL HAS A REASONABLE BASIS TO BELIEVE THAT (1) THE INFORMATION IS NEEDED FOR PURPOSES OF DIAGNOSIS OR TREATMENT OF AN INDIVIDUAL, (2) THE INDIVIDUAL BEING DIAGNOSED OR TREATED MAY HAVE BEEN EXPOSED TO THE CHEMICAL CONCERNED, AND (3) KNOWLEDGE OF THE INFORMATION WILL ASSIST IN SUCH DIAGNOSIS OR TREATMENT. THE CONFIDENTIALITY AGREEMENT, FORM 35, SHALL STATE THAT THE HEALTH PROFESSIONAL SHALL NOT USE THE INFORMATION FOR PURPOSES OTHER THAN THE HEALTH NEEDS ASSERTED IN THE STATEMENT OF NEED, AND THAT THE HEALTH PROFESSIONAL SHALL OTHERWISE MAINTAIN THE INFORMATION AS CONFIDENTIAL. WHERE A HEALTH PROFESSIONAL DETERMINES THAT A MEDICAL EMERGENCY EXISTS AND THE SPECIFIC IDENTITY AND AMOUNT OF ANY CHEMICALS CLAIMED TO BE A TRADE SECRET ARE NECESSARY FOR EMERGENCY TREATMENT, THE VENDOR, SERVICE PROVIDER, OR OPERATOR, AS APPLICABLE, SHALL IMMEDIATELY DISCLOSE THE INFORMATION TO THAT HEALTH PROFESSIONAL UPON A VERBAL ACKNOWLEDGEMENT BY THE HEALTH PROFESSIONAL THAT SUCH INFORMATION SHALL NOT BE USED FOR PURPOSES OTHER THAN THE HEALTH NEEDS ASSERTED AND THAT THE HEALTH PROFESSIONAL SHALL OTHERWISE MAINTAIN THE INFORMATION AS CONFIDENTIAL. THE VENDOR, SERVICE PROVIDER, OR OPERATOR, AS APPLICABLE, MAY REQUEST A WRITTEN STATEMENT OF NEED, AND A CONFIDENTIALITY AGREEMENT, FORM 35, FROM ALL HEALTH PROFESSIONALS TO WHOM INFORMATION REGARDING THE SPECIFIC IDENTITY AND AMOUNT OF ANY CHEMICALS CLAIMED TO BE A TRADE SECRET WAS DISCLOSED, AS SOON AS CIRCUMSTANCES PERMIT. INFORMATION SO DISCLOSED TO A HEALTH PROFESSIONAL SHALL IN NO WAY BE CONSTRUED AS PUBLICLY AVAILABLE.**

**C. DISCLOSURES NOT REQUIRED. A VENDOR, SERVICE PROVIDER, OR OPERATOR IS NOT REQUIRED TO:**

**(1) DISCLOSE CHEMICALS THAT ARE NOT DISCLOSED TO IT BY THE MANUFACTURER, VENDOR, OR SERVICE PROVIDER;**

**(2) DISCLOSE CHEMICALS THAT WERE NOT INTENTIONALLY ADDED TO THE HYDRAULIC FRACTURING FLUID; OR**

**(3) DISCLOSE CHEMICALS THAT OCCUR INCIDENTALLY OR ARE OTHERWISE UNINTENTIONALLY PRESENT IN TRACE AMOUNTS, MAY BE THE INCIDENTAL RESULT OF A CHEMICAL REACTION OR CHEMICAL PROCESS, OR MAY BE CONSTITUENTS OF NATURALLY OCCURRING MATERIALS THAT BECOME PART OF A HYDRAULIC FRACTURING FLUID.**

**D. TRADE SECRET PROTECTION.**

**(1) VENDORS, SERVICE COMPANIES, AND OPERATORS ARE NOT REQUIRED TO DISCLOSE TRADE SECRETS TO THE CHEMICAL DISCLOSURE REGISTRY.**

**(2) IF THE SPECIFIC IDENTITY OF A CHEMICAL, THE CONCENTRATION OF A CHEMICAL, OR BOTH THE SPECIFIC IDENTITY AND CONCENTRATION OF A CHEMICAL ARE CLAIMED TO BE ENTITLED TO PROTECTION AS A TRADE SECRET, THE VENDOR, SERVICE PROVIDER OR OPERATOR MAY WITHHOLD THE SPECIFIC IDENTITY, THE CONCENTRATION, OR BOTH THE SPECIFIC IDENTITY AND CONCENTRATION, OF THE CHEMICAL, AS THE CASE MAY BE, FROM THE INFORMATION PROVIDED TO THE CHEMICAL DISCLOSURE REGISTRY. PROVIDED,**

**HOWEVER, OPERATORS MUST PROVIDE THE INFORMATION REQUIRED BY RULE 205A.B.(2)(B) & (C).**

**THE VENDOR, SERVICE PROVIDER, OR OPERATOR, AS APPLICABLE, SHALL PROVIDE THE SPECIFIC IDENTITY OF A CHEMICAL, THE CONCENTRATION OF A CHEMICAL, OR BOTH THE SPECIFIC IDENTITY AND CONCENTRATION OF A CHEMICAL CLAIMED TO BE A TRADE SECRET TO THE COMMISSION UPON RECEIPT OF A LETTER FROM THE DIRECTOR STATING THAT SUCH INFORMATION IS NECESSARY TO RESPOND TO A SPILL OR RELEASE OR A COMPLAINT FROM A PERSON WHO MAY HAVE BEEN DIRECTLY AND ADVERSELY AFFECTED OR AGGRIEVED BY SUCH SPILL OR RELEASE. UPON RECEIPT OF A WRITTEN STATEMENT OF NECESSITY, SUCH INFORMATION SHALL BE DISCLOSED BY THE VENDOR, SERVICE PROVIDER, OR OPERATOR, AS APPLICABLE, DIRECTLY TO THE DIRECTOR OR HIS OR HER DESIGNEE AND SHALL IN NO WAY BE CONSTRUED AS PUBLICLY AVAILABLE.**

**THE DIRECTOR OR DESIGNEE MAY DISCLOSE INFORMATION REGARDING THE SPECIFIC IDENTITY OF A CHEMICAL, THE CONCENTRATION OF A CHEMICAL, OR BOTH THE SPECIFIC IDENTITY AND CONCENTRATION OF A CHEMICAL CLAIMED TO BE A TRADE SECRET TO ADDITIONAL COMMISSION STAFF MEMBERS TO THE EXTENT THAT SUCH DISCLOSURE IS NECESSARY TO ALLOW THE COMMISSION STAFF MEMBER RECEIVING THE INFORMATION TO ASSIST IN RESPONDING TO THE SPILL, RELEASE, OR COMPLAINT, PROVIDED THAT SUCH INDIVIDUALS SHALL NOT DISSEMINATE THE INFORMATION FURTHER. IN ADDITION, THE DIRECTOR MAY DISCLOSE SUCH INFORMATION TO ANY COMMISSIONER, THE RELEVANT COUNTY PUBLIC HEALTH DIRECTOR OR EMERGENCY MANAGER, OR TO THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT'S DIRECTOR OF ENVIRONMENTAL PROGRAMS UPON REQUEST BY THAT INDIVIDUAL. ANY INFORMATION SO DISCLOSED TO THE DIRECTOR, A COMMISSION STAFF MEMBER, A COMMISSIONER, A COUNTY PUBLIC HEALTH DIRECTOR OR EMERGENCY MANAGER, OR TO THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT'S DIRECTOR OF ENVIRONMENTAL PROGRAMS SHALL AT ALL TIMES BE CONSIDERED CONFIDENTIAL AND SHALL NOT BE CONSTRUED AS PUBLICLY AVAILABLE. THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT'S DIRECTOR OF ENVIRONMENTAL PROGRAMS, OR HIS OR HER DESIGNEE, MAY DISCLOSE SUCH INFORMATION TO COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT STAFF MEMBERS UNDER THE SAME TERMS AND CONDITIONS AS APPLY TO THE DIRECTOR.**

**E. INCORPORATED MATERIALS. WHERE REFERENCED HEREIN, THESE REGULATIONS INCORPORATE BY REFERENCE MATERIAL ORIGINALLY PUBLISHED ELSEWHERE. SUCH INCORPORATION DOES NOT INCLUDE LATER AMENDMENTS TO OR EDITIONS OF THE REFERENCED MATERIAL. PURSUANT TO SECTION 24-4-103 (12.5) C.R.S., THE COMMISSION MAINTAINS COPIES OF THE COMPLETE TEXT OF THE INCORPORATED MATERIALS FOR PUBLIC INSPECTION DURING REGULAR BUSINESS HOURS. INFORMATION REGARDING HOW THE INCORPORATED MATERIAL MAY BE OBTAINED OR EXAMINED IS AVAILABLE AT THE COMMISSION'S OFFICE LOCATED AT 1120 LINCOLN STREET, SUITE 801, DENVER, COLORADO 80203.**

**REVISIONS TO RULE 305.E.(1).A CONTENT OF NOTICES.**

**RULE 305.e.(1).A Content of notices.**



**A. Landowner Notice.** The landowner notice shall include the Form 2A itself (without attachments), a copy of the information required under Rule 303.d.(3).B, 303.d.(3).C, and 303.d.(3).E, **THE COGCC'S INFORMATION SHEET ON HYDRAULIC FRACTURING TREATMENTS** and any additional information the operator deems appropriate and inform the recipient that the complete application (including attachments) may be reviewed on the COGCC website and that he or she may submit comments to the Director, as provided on the COGCC website. For the surface owner, this notice shall include a copy of the COGCC Informational Brochure for Surface Owners, a postage-paid, return-addressed post card whereby the surface owner may request consultation pursuant to Rule 306, and, where the oil and gas location is not subject to a surface-use agreement, a copy of the COGCC Onsite Inspection Policy (See Appendix or COGCC website).

**NEW RULE 316C NOTICE OF INTENT TO CONDUCT HYDRAULIC FRACTURING TREATMENT.**

**RULE 316C. NOTICE OF INTENT TO CONDUCT HYDRAULIC FRACTURING TREATMENT.**

**OPERATORS SHALL GIVE AT LEAST 48 HOURS ADVANCE WRITTEN NOTICE TO THE COMMISSION OF A HYDRAULIC FRACTURING TREATMENT AT ANY WELL. SUCH NOTICE SHALL BE PROVIDED ON A FORM 41 NOTICE OF HYDRAULIC FRACTURING TREATMENT.**

**REVISIONS TO RULE 523c BASE FINE SCHEDULE**

Rule 523c. Base fine schedule

Base fine schedule. The following table sets forth the base fine for violation of the rules listed

Rule Number        **205A**

Base Fine        **\$1000**

NOTICE IS HEREBY GIVEN, that the Oil and Gas Conservation Commission of the State of Colorado, pursuant to the above, has scheduled the above-entitled matter for hearing on:

Date:            Monday, December 5, 2011

Time:            9:00 a.m.

Place:            **State Land Board Conference Room  
1127 Sherman Street, Suite 300  
Denver, Colorado 80203**

The Commission has statutory authority to conduct rulemaking pursuant to section 34-60-105 C.R.S. (the power to make and enforce rules, regulations, and orders pursuant to this article, and to do whatever may reasonably be necessary to carry out the provisions of the Oil and Gas Conservation Act) and has specific authority to promulgate these rules under section 34-60-106 (2)(d) C.R.S., (the Commission has the authority to regulate oil and gas operations so as to prevent and mitigate significant adverse environmental impacts on any air, water, soil, or biological resource resulting from oil and gas operations to the extent necessary to protect public health, safety, and welfare, including protection of the environment and wildlife resources, taking into consideration cost-effectiveness and technical feasibility).

The Commission may take actions, including without limitation, modifying or amending the existing rules described or proposed herein and making conforming modifications to other rules, which it determines are reasonably necessary.

In accordance with the Americans with Disabilities Act, if any party requires special accommodations as a result of a disability for this hearing, please contact Margaret Humecki at (303) 894-2100 ext. 5139, prior to the hearing and arrangements will be made.

Copies of the current Rules are available on the Commission internet homepage at <http://www.cogcc.state.co.us>. The reasons and authority for the proposed amendments are set forth in the Proposed Statement of Basis, Specific Statutory Authority, available at the Commission internet homepage at <http://www.cogcc.state.co.us> and clicking on the link Hydraulic Fracturing Disclosure Rulemaking.

Any written comments on the proposed rule changes to be considered are requested to be submitted by November 23, 2011 for more complete consideration by the Commission. Opportunity for testimony from any interested party will be provided at the hearing, however, the time to present testimony may be limited, and parties sharing similar viewpoints are requested to appoint a spokesperson to present their testimony at the hearing.

The Commission will enter its order adopting such rules based on the record made at the hearing and any continuation of the hearing.

IN THE NAME OF THE STATE OF COLORADO

OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO

By   
Peter J. Gowen, Acting Secretary

Dated at Suite 801  
1120 Lincoln Street  
Denver, Colorado 80203  
November 7, 2011

Submit written comments to:  
Colorado Oil & Gas Conservation Commission  
Attn. Peter Gowen, Acting Hearings Manager  
Docket No. 1112-RM-04  
1120 Lincoln Street, Suite 801  
Denver, Colorado 80203