

At its meeting on Thursday, the Environmental Standards Committee of the N.C. Mining and Energy Commission will consider a draft rule for chemical disclosure requirements. The essential components of the draft rule are described below. At the meeting on Tuesday, we will talk about these components.

- Requires a service provider who performs any hydraulic fracturing, or a vendor who supplies fracturing fluid to the operator, to disclose the following information about the fracturing fluid (with the exception of trade secrets):
 - a. Each additive used in the hydraulic fracturing treatment including the trade name, supplier, and a description of its purpose
 - b. Each chemical ingredient used in the hydraulic fracturing treatment that is subject to federal requirements for MSDS information.
 - c. The actual or maximum concentration of each chemical ingredient by mass
 - d. The CAS number if available
 - e. A supplemental list of all chemicals and their CAS numbers not subject to federal requirement for MSDS information, and their intended purpose.
 - f. The date the hydraulic fracturing treatment was completed
 - g. The county where the well is located
 - h. The API number of the well
 - i. The well name and number and location in coordinates
 - j. The direction and total length of the well
 - k. The total depth of the well
 - l. The total volume of water used in the treatment or the type and volume of the base fluid if not water.
- This information must be disclosed to the MEC which will establish a public file with the info.
- This information must also be disclosed to the public using FracFocus
- Both Frac Focus and the MEC will publish the information
- The information must be disclosed within 60 days of the conclusion of the fracturing treatment but no more than 120 days from when the fracturing treatment begins.
- For items claimed to be entitled to trade secret protection, the chemical family or more expansive description of the chemical ingredient must be provided, as well as contact information for the organization claiming entitlement to trade secret protection. They may withhold the specific identity, concentration, or both, if it is a trade secret.
- The supplier, service company or operator does not have to disclose chemicals that were not disclosed to them by the manufacturer or vendor, chemicals that were not intentionally added, or chemicals that are present in trace amounts or are naturally occurring materials that became part of the fluid.
- In the case of a spill or release, the Director of the Division of Energy, Mineral and Land Resources may request trade secret information. He or she may share this information with additional Commission members, county public health director or emergency manager, or to the Department of Public Health director of environmental programs. The information must be kept confidential and is not public information, however, the Department of Public health

director of environmental programs may share that information with his or her staff members as long as they keep it confidential.

- A trade secret may be challenged within 24 months by the landowner where the relevant wellhead is located, any adjacent landowner, or a department or agency of the state with jurisdiction over a matter related to the trade secret information.
- The MEC will forward the trade secret challenge request to a civil court and will notify the operator. The civil court will determine the trade secret's validity.
- Vendors, service companies and operators must identify the specific identity and amount of any chemicals that are claimed to be trade secret to any health professional who requests the information in writing if the health professional provides a written statement of the need for the information and executes a confidentiality agreement.
- The written statement of need is based on 1) the information is needed for diagnosis or treatment of an individual; 2) potential exposure to the chemical; and 3) knowing this information will assist in diagnosis or treatment. In an emergency, this information can be requested immediately.