

# CHEMICAL DISCLOSURE OF HYDRAULIC FRACTURING TREATMENT

## 82-3-1400. HYDRAULIC FRACTURING TREATMENT; DEFINITIONS.

The terms and definitions in K.A.R. 82-3-101 shall apply to K.A.R. 82-3-1400 through 82-3-1402, in addition to the following terms and definitions:

- (a) "Base fluid" means the primary fluid, as measured by volume, used in a hydraulic fracturing treatment.
- (b) "Chemical" means any element, chemical compound, chemical substance, or combination thereof that has a specific identity.
- (c) "Chemical abstracts service registry number" and "CAS number" mean the unique identification number assigned to a chemical by the chemical abstracts service.
- (d) "Chemical constituent" means any chemical or chemical concentration intentionally added to a base fluid.
- (e) "Chemical disclosure registry" means the publicly available web site database managed by the ground water protection council and the interstate oil and gas compact commission and known as "fracfocus," or any other database authorized by order of the commission.
- (f) "Health professional" means a physician, physician assistant, nurse practitioner, registered nurse, emergency medical technician, or similar individual who is licensed in that individual's state of practice.
- (g) "Hydraulic fracturing fluid" means the base fluid, each proppant, and all chemical constituents used in a hydraulic fracturing treatment.
- (h) "Hydraulic fracturing treatment" means all stages in a well completion utilizing hydraulic fracturing fluid under pressure to create fractures in a targeted geological formation.
- (i) "Manufacturer" means an entity that produces finished goods from raw materials.
- (j) "Proppant" means each material used in a hydraulic fracturing treatment for the purpose of propping open fractures.
- (k) "Service company" means an entity that performs a hydraulic fracturing treatment.
- (l) "Supplier" means an entity that provides chemical constituents for hydraulic fracturing fluid.
- (m) "Trade secret" has the meaning specified in K.S.A. 60-3320, and amendments thereto.

(Authorized by and implementing K.S.A. 2012 Supp. 55-152; effective Dec. 2, 2013.)

## 82-3-1401 HYDRAULIC FRACTURING TREATMENT; CHEMICAL DISCLOSURE.

- (a) Applicability. This regulation shall apply to each hydraulic fracturing treatment that uses more than 350,000 gallons of base fluid.
- (b) Operator disclosures. Unless the operator submits all information to the chemical disclosure registry under subsection (f), the operator shall submit to the commission a list of each hydraulic fracturing treatment as part of the completion report required by K.A.R. 82-3-130. The list shall include the following information, as a percentage by mass of the total amount of hydraulic fracturing fluid:
  - (1) The base fluid used, including its total volume;

- (2) each proppant; and
  - (3) each chemical constituent at its maximum concentration in the hydraulic fracturing fluid and its CAS number.
- (c) Disclosures not required. No operator shall be required to disclose any chemical constituent that meets any of the following conditions:
- (1) Is the incidental result of a chemical reaction or chemical process;
  - (2) is a component of a naturally occurring material and becomes part of the hydraulic fracturing fluid during the hydraulic fracturing treatment; or
  - (3) is a trade secret.
- (d) Trade secrets. Each operator reporting that a chemical constituent is a trade secret shall indicate to the commission that disclosure of the chemical constituent is being withheld pursuant to a trade secret claimed by the operator, manufacturer, supplier, or service company. The operator shall provide the name of the chemical family or a similar descriptor and the name, authorized representative, mailing address, and phone number of the party claiming the trade secret.
- (e) Inaccurate or incomplete information. No operator shall be responsible for inaccurate or incomplete information provided by a manufacturer, supplier, or service company.
- (f) Alternate disclosure mechanism. In lieu of complying with subsection (b), the operator may submit the information required by subsection (b) to the chemical disclosure registry. The operator shall submit verification of prior submission to the chemical disclosure registry as part of the completion report required by K.A.R. 82-3-130. Each submission to the chemical disclosure registry shall also include the following information:
- (1) The operator's name;
  - (2) the date on which the hydraulic fracturing treatment began;
  - (3) the county in which the treated well is located;
  - (4) the American petroleum institute number for the well;
  - (5) the well name and number;
  - (6) the global positioning system (GPS) location of the wellhead; and
  - (7) the true vertical depth of the well.

(Authorized by and implementing K.S.A. 2012 Supp. 55-152; effective Dec. 2, 2013.)

**82-3-1402 HYDRAULIC FRACTURING TREATMENT; DISCLOSURE OF TRADE SECRETS.**

- (a) Director.
- (1) The manufacturer, supplier, service company, or operator shall provide the specific identity of a chemical constituent reported to be a trade secret to the director under the following circumstances:
    - (A) Within two business days after receipt of a letter from the director stating that the information is necessary to investigate a spill or contamination of fresh and usable water relating to a hydraulic fracturing treatment; or
    - (B) immediately following notice from the director that an emergency requiring disclosure exists.
  - (2) The director may authorize disclosure of a trade secret disclosed under paragraph (a)(1) to any of the following persons:
    - (A) Any commissioner or commission staff member;

- (B) the secretary or any staff member of the department of health and environment; or
- (C) any relevant public health officer or emergency manager.

(b) Health professionals.

- (1) A manufacturer, supplier, service company, or operator shall provide the specific identity of a chemical constituent reported to be a trade secret to any health professional who meets one of the following requirements:
  - (A) Provides a written statement of need and signs a confidentiality agreement on a form provided by the commission; or
  - (B) determines that the information is reasonably necessary for emergency treatment, verbally agrees to confidentiality, and provides a written statement of need and signed confidentiality agreement as soon as circumstances permit.
- (2) Each statement of need shall state that the health professional has reasonable basis to believe that the information will assist in diagnosis or treatment of a specific individual who could have been exposed to the chemical constituents.
- (3) Each confidentiality agreement shall state that the health professional will not disclose or use the information for any reason other than those reasons asserted in the statement of need.

- (c) Continued confidentiality. A trade secret disclosed pursuant to this regulation shall not be further disclosed except as authorized by this regulation, K.S.A. 66-1220a and amendments thereto, or K.A.R. 82-1-221a.

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