



In 2009, the Colorado Oil and Gas Conservation Commission (COGCC) amended its rules regarding the agency's ability to access proprietary information on chemicals and constituents contained in products used in certain oil and gas activities, including hydraulic fracture stimulation.

Chemical Inventories and Record Maintenance: While the amended rules do not require operators to submit regularly-scheduled reports to the COGCC, records including chemical inventories must be maintained in an easily retrievable format at the local field office

- The amended rules require operators to maintain Material Safety Data Sheets (MSDS) for any chemical products brought to a well site for use downhole during drilling, completion, and workover operations, including hydraulic fracture stimulation.
- Operators must maintain an additional inventory of all chemical products and fuel in any amount exceeding 500 pounds that has been used or stored cumulatively during any quarterly reporting period (i.e., the 500 pound threshold is met if an operator takes 200 pounds of chemical X on site in month #1 and 300 pounds of chemical X on site in month #3).
- The 500 pound threshold is intended to avoid an unnecessary reporting burden for small quantities of materials. Nevertheless, the MSDS sheets that must be maintained by operators do not include weight thresholds, so chemical products brought to a well site in any amount must inevitably be identified.
- The inventory must also indicate how and when the chemical product was used.
- Inventories must be updated quarterly (3 consecutive months).
- If a chemical product is considered a Trade Secret by a vendor or service provider, operators will not be required to maintain information concerning the identity of chemical constituents in the product or the amounts of such constituents.
- Operators are NOT required to submit reports.
- Records including chemical inventories and MSDS must be maintained in an easily retrievable format at the local field office.
- Records must be made available to the COGCC for inspection for the life of the well plus 5 years after the well is plugged and abandoned (P&A).
- Operators with oil and gas facilities in Garfield, Mesa, Gunnison, or Rio Blanco County shall retain a 'Compliance Checklist' (form 36), an additional record that demonstrates on-going compliance with requirements relating to stormwater management, protection of surface water drinking water supply areas, odor management, management of exploration and production waste, and maintenance of a Chemical Inventory for each facility.

Disclosure in the event of an emergency or landowner complaint: In addition to the required chemical inventory and MSDS, operators and service providers may be required to immediately disclose information, including the chemical constituents of a trade secret product, to the COGCC and/or health professionals.

- Upon receipt of a letter from the COGCC stating that information is necessary to respond to a spill or release of a chemical product or a complaint from a landowner, the vendor or service provider must provide a list of the chemical constituents contained in a 'Trade Secret Chemical Product' within three business days.
- Vendors or service providers must also provide the chemical constituents of a 'Trade Secret Chemical Product' to any health professional who requests it. Upon making the request, the health professional must provide a reasonable explanation that knowledge of the chemical constituents of 'Trade Secret Chemical Products' will assist in diagnosis or treatment of an individual. The vendor or service provider must then immediately disclose the chemical constituents of a Trade Secret Chemical Product to that health professional upon a verbal acknowledgement that the disclosed information will be maintained as confidential. Thereafter, the operator may then opt into a Confidentiality Agreement (form 35) with the health professional.
- Information disclosed will not become part of the Chemical Inventory and shall in no way be construed as publicly available.
- If the vendor or service provider is unable to provide the information required by the amended rules, the operator is responsible for providing the required information. An operator may apply for a variance from these rule provisions if it can prove it lacks the right to obtain the information from vendors or service providers.

Dissemination of Disclosed Information: Operators and service providers must understand that once information is disclosed, it may be disseminated to other agencies, counties, and other parties.

- Information regarding chemical constituents disclosed to the Director of the COGCC may also be distributed to additional COGCC staff members, any COGCC Commissioner, relevant County Public Health Directors and/or Emergency Managers, the Colorado Department of Public Health and Environment's (CDPHE) Director, and CDPHE staff members.
- COGCC must notify the owner of disclosed information at least one business day prior to any required, permitted, or authorized dissemination of that information to other entities.

For more information, consult the Final Amended Rules and Regulations (200-Series General Rules) and the *Statement of Basis, Specific Statutory Authority, & Purpose* available at: <http://cogcc.state.co.us>.