

North Carolina Mining and Energy Commission

Rule Worksheet

Rule Category: Chemical Disclosure

Rule Numbers: Incomplete

Originating Committee: Environmental Standards

Date Approved by Originating Committee: March 25, 2013

Date Approved by Rules Committee:

Date Approved by Commission:

Fiscal Impact Summary: Incomplete

Date Forwarded for Publication in Register:

Date Adopted by Commission:

Date Forwarded to RRC:

Summary of Rules:

- Adoption of this rule would require service companies that perform hydraulic fracturing in North Carolina and vendors that provide hydraulic fracturing additives to operators for hydraulic fracturing in North Carolina to disclose certain information about hydraulic fracturing additives, with some exceptions for trade secrets.
- Information, with the exception of trade secrets, must be posted to the FracFocus website.
- The information to be disclosed includes the trade name of each additive, a description of the purpose of the additive, the name of each chemical ingredient used and its Chemical Abstract Service number, and the actual or maximum concentration of each chemical.
- Service companies or operators must disclose a master list of chemicals they intend to use in hydraulic fracturing at the time the service company or operator submits a request for approved contractor designation.
- Trade secret information will be disclosed to the Department, and the Department shall hold that information confidential, unless there is a spill or other emergency.
- Under certain conditions, health professionals and emergency responders may request information regarding trade secrets when needed to diagnose or treat an individual if the individual may have been exposed to a chemical or for emergency management response and coordination.

- Claims of trade secret protection may be challenged by landowners and those who lease land on a property on which a wellhead is located. Challenges to claims of trade secret protections would be determined by the North Carolina Business Court.

Necessary Statutory Changes:

1. DENR needs explicit statutory authority to withhold information claimed to be protected as a trade secret from any public records request until such time as the North Carolina determines the validity of the trade secret claim.
2. The General Assembly would have to modify the statutes specifying the jurisdiction of the North Carolina Business Court to hear cases involving challenges to claims of trade secret protection arising under the Oil and Gas Conservation Statute.
3. Possible conflict with standing for public records act challenges and limitations on who can challenge claims to trade secret protection

References to other MEC rules:

1. Possible need to write an API number rule based on guidance from PPDM.
2. Need to separate “approved contractor” language into a separate rule. Request Administration of Oil and Gas or Chair for direction on rule assignment.

References to other rules: