

WORC

Western Organization of Resource Councils

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Coming Clean

What We Should Know About Oil and Gas Chemicals

Concerns about the effects of oil and gas exploration and production on public health, air, water and land are increasing with the spread of new drilling technology and development in new areas around the country. Expanded production and potential impacts have increased the need for full and effective regulation of all aspects of exploration and production.

Full disclosure of chemicals used in oil and gas development is an important first step towards protection of our water, air and land, and it has become a widespread demand of people and groups affected by oil and gas development. Although it is not a substitute for the effective regulation of well drilling, completions and other aspects of the production process, full public access to information about the chemicals used during the exploration and development is a step forward over current secrecy. With full public access to this information, air and water can be tested for contaminants, health conditions can be diagnosed and treated, and the effects of the chemicals used can be better understood. It's time for the oil and gas industry to come clean.

Policies requiring disclosure of chemicals used in hydraulic fracturing and other stages of oil and gas development can be a significant first step towards effective protection from oil and gas pollution if they are comprehensive and carefully written. *Coming Clean* sets out nine criteria that people and groups affected by oil and gas development can use to evaluate existing and proposed disclosure policies.

Many states require oil and gas operators to keep records or submit reports of some type, but most of these requirements are focused on waste injection wells, and not exploration and production wells.

Just two states – Arkansas and Wyoming – have mandated reporting of hydraulic fracturing constituents and disclose these reports to the public. Although these state requirements are an important step forward, both contain significant loopholes that allow companies to continue to keep important information secret. Similarly, voluntary disclosure programs, while laudable, are no substitute for mandatory disclosure.

As local, state, regional and federal governments consider new disclosure policies, these loopholes must be closed to provide the public – especially people who live in the oil and gas fields – with the information they need to protect their property, and the health and well-being of their families and communities.

1. ***Chemical Abstract Service (CAS) numbers must be reported to provide a unique identifier for each chemical constituent used in a well, as well as the volume and chemical concentration.***

Both Arkansas and Wyoming require CAS numbers to be reported for chemicals used in hydraulic fracturing.

2. ***All chemical constituents used during the entire life cycle of oil and gas exploration and development must be disclosed -- drilling chemicals as well as those used in hydraulic fracturing and any other methods of well stimulation.***

Disclosure of the constituents of hydraulic fracturing has been the subject of most public attention, for good reasons, but all chemicals used in exploration, drilling and production are of as much concern as those used in hydraulic fracturing. Several states require recordkeeping and/or reporting of drilling chemicals, including Colorado, Maryland and Pennsylvania, although this information is not disclosed to the public in these states.

3. ***Any protections for proprietary information must be carefully defined, with a clear decision making process and standard of proof, and must provide for the release of the adverse health effects of each chemical that is kept secret, release of proprietary information in the event of a medical necessity, and regular review and appeal of proprietary designations.***

Wyoming offers fairly broad protections for proprietary information that have allowed at least nine companies to keep at least 107 hydraulic fracturing constituents secret from the public. The Arkansas rules incorporate the trade secret protections in the federal Emergency Planning and Community Right-to-Know Act, which meets the criteria listed above.

4. ***Information must be disclosed to the public.***

Both Arkansas and Wyoming release reports of chemicals used in hydraulic fracturing to the public, although publication of these reports is not required by statute or rules. Public disclosure should be required by statute or rule, so that it cannot be rescinded without a legislative change, or at least a formal rulemaking process.

5. ***Local landowners must be directly notified of chemical use in advance, with sufficient time before drilling or stimulation to conduct baseline tests.***

Wyoming requires operators to file plans for well stimulation in advance of hydraulic fracturing, and this information is made available to the public online. Although no state currently requires advance notice to landowners of chemical use, many states and the U.S. Bureau of Land Management have statutes or policies requiring notification of landowners before entry and/or surface disturbing activities. This notification should be expanded to include notification of chemical constituents to be used.

6. ***A timely final report must be made after drilling or stimulation, with chemical constituents actually used, pressures, fracture lengths and heights, the type, source and quantity of fluid used, and the quantity of fluid recovered.***

Both Arkansas and Wyoming require reports after hydraulic fracturing with chemical constituents used. In Wyoming, pressures used and fluids recovered are required in the completion reports.

The quantity and source of fluids used in well completions is a concern in many areas, particularly where water supplies are limited and there are multiple uses. Arkansas requires disclosure of the type and volume of hydraulic fracturing fluid. Wyoming requires detailed information as to the base stimulation fluid source. New York requires oil and gas operators to submit annual statements showing the volumes of fluids injected and produced.

7. ***Reports must be filed on a well-by-well basis.***

Both Arkansas and Wyoming require most or all reports on a well-by-well basis.

8. ***In order to be effective and to earn the confidence of the public, a disclosure program must be overseen by a regulatory agency with the expertise, resources and authority to monitor and enforce disclosure requirements, recognize the public health consequences of the chemicals used, and take action to protect public health and the environment.***

Hydraulic fracturing disclosure programs in both Arkansas and Wyoming are overseen by Oil and Gas Conservation Commissions, which have the primary task of ensuring efficient oil and gas production. Although some oil and gas commissions are also tasked with protecting public health and the environment but, as a general rule, expertise on the public health effects of chemicals is more likely to reside within health departments. And, all of these agencies have limited manpower.

9. ***Penalties for failure to comply with disclosure requirements should be sufficient to encourage compliance.***