

**Joint Committee on Administrative Rules and Regulations**  
**Comments by Ryan A. Hoffman**  
**Director - Oil and Gas Conservation Division**  
**Kansas Corporation Commission**  
**July 22, 2013**

Chair and members of the Committee, I am Ryan A. Hoffman, Director of the KCC's Conservation Division. Today I will provide comments on these new proposed regulations regarding disclosure of chemicals used during hydraulic fracturing treatments of oil and gas wells. First, I will present a brief overview of the reasoning for the proposed regulations. Then, I will provide a description of each new regulation. Thank you for the opportunity to appear before this Committee.

***I. Summary***

The first well was hydraulically-fractured in Kansas in 1947 using napalm-laced gasoline. Thankfully, since then, the technology has evolved to a technique which uses mostly water and sand. The remaining chemicals serve various purposes toward increasing the productivity of an oil or gas well.

With the increase in activity, especially near larger population areas, regulating hydraulic fracturing is at the forefront of issues facing the oil and gas industry. If an individual were to review the current Kansas Administrative Regulations, they would not find any specific reference to hydraulic fracturing treatments, even though the KCC has been regulating hydraulic fracture treatments without reported incident since the first one in 1947. This is because our current regulations pertain specifically to wellbore construction, waste handling, and disposal. The regulations before this committee do not address the physical hydraulic fracturing act either. Rather, the proposed regulations are designed to collect the non-proprietary chemical constituents which make up hydraulic fracture treatments whose total base fluid volume exceeds 350,000 gallons.

The proposed regulations are a result of a law that became effective in 2012 giving the KCC specific authority to draft regulations for the "supervision and disclosure" of any hydraulic fracturing treatment on a well. The Oil and Gas Advisory Committee first discussed drafting chemical disclosure regulations at the September 26, 2012 meeting, but decided to table the issue until the next meeting so the group could decide on the necessity of the regulations. At the next quarterly meeting on December 5, 2012, the Committee decided it was time to act and advised staff to contact stakeholders and work through a variation of these regulations. Staff worked with stakeholders to craft these regulations to ensure they adequately address disclosure of chemical constituents used in hydraulic fracturing treatments while continuing to protect the usable waters of Kansas.

All of the proposed regulations have been reviewed by the Oil and Gas Advisory Committee pursuant to K.S.A. 55-152, and the Committee voted unanimously in support of the regulations. The Commission has published notice of these regulations, and a public hearing will be held on August 15, 2013. The Notice of Hearing, Economic Impact Statement, and regulations are available on the Commission's website at <http://kcc.ks.gov>.

## ***II. New Regulations***

**K.A.R. 82-3-1400. Hydraulic fracturing treatment; definitions.** The proposed regulation defines terms used in K.A.R. 82-3-1400 through K.A.R. 82-3-1402. This is a definitional section and should have no economic impact on the industry or the Commission.

**K.A.R. 82-3-1401. Hydraulic fracturing treatment; chemical disclosure.** The proposed regulation identifies hydraulic fracturing treatments requiring disclosure and establishes a method to report required information to the Commission. This regulation also provides a provision to protect trade secrets and an alternate disclosure method using [www.fracfocus.org](http://www.fracfocus.org). This new regulation has a small potential economic impact on both the Commission and the industry. The Commission must adapt its current paper and electronic well completion form to accommodate the reporting of this new data; however, the paper and electronic well completion forms are currently subject to an update so this is the ideal time to implement the changes to the forms. The additional cost will be borne out through the extra coding and programming work performed by staff. The cost to industry will likely be relatively small. Many of the operators who will be required to disclose this information already do so voluntarily through the website [www.fracfocus.org](http://www.fracfocus.org). To continue reporting this information will not represent a significant change in business practices for this set of operators. There may be a small impact on several operators who do not already report this information to the website [www.fracfocus.org](http://www.fracfocus.org) in the sense they will have to train their employees to either use the website [www.fracfocus.org](http://www.fracfocus.org) or to submit the information on an electronic form provided by the Commission. In addition, the industry may have to spend some time acquiring the contact information for each entity claiming a trade secret so they are able to adequately and fully complete the disclosure requirements.

**K.A.R. 82-3-1402. Hydraulic fracturing treatment; disclosure of trade secrets.** The proposed regulation establishes the procedure for the Conservation Division Director to obtain trade secret information in order to respond to emergency situations and identifies who the trade secrets could be disclosed to during emergency responses. This regulation also provides a mechanism for health professionals to access trade secret information in order to treat a specific individual. Further, this regulation provides framework by which the trade secrets are to be kept confidential after the limited disclosure instances described within. This regulation is expected to have a minimal economic impact on both the industry and the Commission. The Commission will likely have to adapt a current form to provide for the confidential treatment of trade secret information obtained in the course of responding to a spill or emergency requiring disclosure.

Thank you for consideration of these regulations and I would gladly answer any questions the committee might have at this time.