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BLOG

Colorado Passes Robust Fracking Chemical Disclosure Rule

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On December 13, 2011, the Colorado Oil and Gas Conservation Commission ("COGCC") unanimously approved a statewide rule requiring gas companies to disclose chemicals used during hydraulic fracturing. This is the strictest such rule in the country, primarily because it does not offer the carte blanche trade secrets protection available for fracking chemicals in many states.

The new disclosure rule is the product of collaboration between state officials, major industry, and environmental groups. The Commission's initial proposed rule would have extended broad trade secrets protection to fracking chemicals. However, the final rule strikes a balance that is said to achieve full disclosure of chemicals used in fracking while still protecting confidential business information. The key to achieving this balance is a provision in the rule which allows gas projects to file separate disclosure forms for "additives" and "chemicals" used in those projects. Through this system of separate filing, the chemical ingredients are not linked to their respective hydraulic fracturing additives. This approach makes it much more difficult to reverse engineer proprietary products used in fracking fluid, which is a major concern of companies like Haliburton who manufacture fluids used in fracking operations. David Neslin, director of the COGCC, has stated that this rule reaches a "responsible and durable balance that makes Colorado a model for other states."

The new Colorado disclosure rule is slated to take effect April 1, 2012.

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