

1 **The Disclosure of Hydraulic Fracturing Fluid Composition Act**

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3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF {enter state};

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5 SECTION 1. DISCLOSURE OF COMPOSITION OF HYDRAULIC FRACTURING  
6 FLUIDS

7 (A) The {insert relevant state agency} by rule shall:

8 (1) require an operator of a well on which a hydraulic fracturing treatment  
9 is performed to:

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11 (a) complete the form posted on the hydraulic fracturing chemical  
12 registry Internet website of the Ground Water Protection Council and the  
13 Interstate Oil and Gas Compact Commission with regard to the well;

14  
15 (b) include in the form completed under Paragraph (A):

16 (i) the total volume of water used in the hydraulic  
17 fracturing treatment; and

18 (ii) each chemical ingredient that is subject to the  
19 requirements of 29 C.F.R. Section 1910.1200(g)(2), as provided by  
20 a service company or chemical supplier or by the operator, if the  
21 operator provides its own chemical ingredients;

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23 (c) post the completed form described by Paragraph (A) on the  
24 website described by that paragraph or, if the website is discontinued or  
25 permanently inoperable, post the completed form on another publicly  
26 accessible Internet website specified by the (relevant state agency)

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28 (d) submit the completed form described by Paragraph (A) to the  
29 (relevant state agency) with the well completion report for the well; and

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31 (e) in addition to the completed form specified in Paragraph (D),  
32 provide to the (relevant state agency) a list, to be made available on the  
33 internet website of the Ground Water Protection Council and the Interstate  
34 Oil and Gas Compact Commission or, if necessary, another publicly  
35 accessible website, of all other chemical ingredients not listed on the  
36 completed form that were intentionally included and used for the purpose  
37 of creating a hydraulic fracturing treatment for the well. The (relevant  
38 state agency) rule shall ensure that an operator, service company, or  
39 supplier is not responsible for disclosing ingredients that:

40 (i) were not purposely added to the hydraulic fracturing  
41 treatment;

42 (ii) occur incidentally or are otherwise unintentionally  
43 present in the treatment; or  
44 (iii) in the case of the operator, are not disclosed to the  
45 operator by a service company or supplier. The rule shall not  
46 require that the ingredients be identified based on the additive in  
47 which they are found or that the concentration of such ingredients  
48 be provided;

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50 (2) require a service company that performs a hydraulic fracturing  
51 treatment on a well or a supplier of an additive used in a hydraulic fracturing  
52 treatment on a well to provide the operator of the well with the information  
53 necessary for the operator to comply with Subdivision (1);

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55 (3) prescribe a process by which an entity required to comply with  
56 Subdivision (1) or (2) may withhold and declare certain information as a trade  
57 secret including the identity and amount of the chemical ingredient used in a  
58 hydraulic fracturing treatment;

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60 (4) require a person who desires to challenge a claim of entitlement to  
61 trade secret protection under Subdivision (3) to file the challenge not later than  
62 the second anniversary of the date the relevant well completion report is filed with  
63 the (relevant state agency);

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65 (5) limit the persons who may challenge a claim of entitlement to trade  
66 secret protection under Subdivision (3) to:  
67 (a) the landowner on whose property the relevant well is located;  
68 (b) a landowner who owns property adjacent to property described  
69 by Paragraph (a); or  
70 (c) a department or agency of this state with jurisdiction over a  
71 matter to which the claimed trade secret is relevant;

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73 (6) require, in the event of a trade secret challenge, that the (relevant state  
74 agency) promptly notify the service company performing the hydraulic fracturing  
75 treatment on the relevant well, the supplier of the additive or chemical ingredient  
76 for which the trade secret claim is made, or any other owner of the trade secret  
77 being challenged and provide the owner an opportunity to substantiate its trade  
78 secret claim; and

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80 (7) prescribe a process, consistent with 29 C.F.R. Section 1910.1200, for  
81 an entity described by Subdivision (1) or (2) to provide information, including  
82 information that is a trade secret as defined by Appendix D to 29 C.F.R. Section  
83 1910.1200, to a health professional or emergency responder who needs the  
84 information in accordance with Subsection (i) of that section.

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86 (B) The protection and challenge of trade secrets under this section is governed  
87 by (relevant state trade secret law).

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SECTION 2. This act applies only to a hydraulic fracturing treatment performed on a well for which an initial drilling permit is issued on or after the date the initial rules adopted under that subchapter take effect. A hydraulic fracturing treatment performed on a well for which an initial drilling permit is issued before the date the initial rules take effect is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

*Adopted by the Energy, Environment and Agriculture Task Force at the States & Nation Policy Summit December 2, 2011.*

*Approved by the ALEC Board of Directors, January 17, 2011.*