

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1226 Session of  
2011

INTRODUCED BY STACK, BOSCOLA, COSTA, GREENLEAF, FARNESE,  
McILHINNEY AND EARLL, AUGUST 30, 2011

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, AUGUST 30, 2011

AN ACT

1 Amending the act of December 19, 1984 (P.L.1140, No.223),  
2 entitled "An act relating to the development of oil and gas  
3 and coal; imposing duties and powers on the Department of  
4 Environmental Resources; imposing notification requirements  
5 to protect landowners; and providing for definitions, for  
6 various requirements to regulate the drilling and operation  
7 of oil and gas wells, for gas storage reservoirs, for various  
8 reporting requirements, including certain requirements  
9 concerning the operation of coal mines, for well permits, for  
10 well registration, for distance requirements, for well casing  
11 requirements, for safety device requirements, for storage  
12 reservoir obligations, for well bonding requirements, for a  
13 Well Plugging Restricted Revenue Account to enforce oil and  
14 gas well plugging requirements, for the creation of an Oil  
15 and Gas Technical Advisory Board, for oil and gas well  
16 inspections, for enforcement and for penalties," providing  
17 for disclosure of composition of hydraulic fracturing fluids.

18 The General Assembly of the Commonwealth of Pennsylvania  
19 hereby enacts as follows:

20 Section 1. The act of December 19, 1984 (P.L.1140, No.223),  
21 known as the Oil and Gas Act, is amended by adding a section to  
22 read:

23 Section 217. Disclosure of composition of hydraulic fracturing  
24 fluids.

25 (a) The department shall establish a rule to:

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

3       (i) complete the form posted on the hydraulic  
4 fracturing chemical registry Internet website of the  
5 Ground Water Protection Council and the Interstate Oil  
6 and Gas Compact Commission with regard to the well;

7       (ii) include in the form completed under  
8 subparagraph (i):

9       (A) the total volume of water used in the  
10 hydraulic fracturing treatment; and

11       (B) each chemical ingredient that is subject to  
12 the requirements of 29 CFR 1910.1200(g)(2) (relating  
13 to hazard communication);

14       (iii) post the completed form described by  
15 subparagraph (i) on the Internet website described by  
16 that subparagraph or, if the Internet website is  
17 discontinued or permanently inoperable, post the  
18 completed form on another publicly accessible Internet  
19 website specified by the department;

20       (iv) submit the completed form described by  
21 subparagraph (i) to the department; and

22       (v) in addition to the completed form specified in  
23 subparagraph (iv), provide to the department a list, to  
24 be made available on a publicly accessible Internet  
25 website, of all other chemical ingredients not listed on  
26 the completed form that were intentionally included and  
27 used for the purpose of creating a hydraulic fracturing  
28 treatment for the well. The department rule shall ensure  
29 that an operator, service company or supplier is not  
30 responsible for disclosing ingredients that:

1           (A) were not purposely added to the hydraulic  
2           fracturing treatment;

3           (B) occur incidentally or are otherwise  
4           unintentionally present in the treatment; or

5           (C) in the case of the operator, are not  
6           disclosed to the operator by a service company or  
7           supplier. The department rule shall not require that  
8           the ingredients be identified based on the additive  
9           in which they are found or that the concentration of  
10          such ingredients be provided;

11          (2) require a service company that performs a hydraulic  
12          fracturing treatment on a well or a supplier of an additive  
13          used in a hydraulic fracturing treatment on a well to provide  
14          the operator of the well with the information necessary for  
15          the operator to comply with paragraph (1);

16          (3) prescribe a process by which an entity required to  
17          comply with paragraph (1) or (2) may withhold and declare  
18          certain information as a trade secret for purposes of section  
19          708(b)(11) of the act of February 14, 2008 (P.L.6, No.3),  
20          known as the Right-to-Know Law, including the identity and  
21          amount of the chemical ingredient used in a hydraulic  
22          fracturing treatment;

23          (4) require a person who desires to challenge a claim of  
24          entitlement to trade secret protection under paragraph (3) to  
25          file the challenge not later than the second anniversary of  
26          the date the completed form specified in paragraph (1)(iv) is  
27          filed with the department;

28          (5) limit the persons who may challenge a claim of  
29          entitlement to trade secret protection under paragraph (3)  
30          to:

1           (i) the landowner on whose property the relevant  
2           well is located;

3           (ii) a landowner who owns property adjacent to  
4           property described by subparagraph (i); or

5           (iii) a department or agency of the Commonwealth;  
6           and

7           (6) prescribe an efficient process for an entity  
8           described by paragraph (1) or (2) to provide information,  
9           including information that is a trade secret as defined by  
10          Appendix D to 29 CFR 1910.1200, to a health professional or  
11          emergency responder who needs the information in accordance  
12          with subsection (i) of that section.

13          (b) This section applies only to a hydraulic fracturing  
14          treatment performed on a well for which an initial drilling  
15          permit is issued on or after the date the initial rules take  
16          effect. A hydraulic fracturing treatment performed on a well for  
17          which an initial drilling permit is issued before the date the  
18          initial rules take effect is governed by the law as it existed  
19          immediately before the effective date of this act, and that law  
20          is continued in effect for that purpose.

21          (c) The department shall adopt rules to implement this  
22          section not later than January 1, 2012.

23          Section 2. This act shall take effect September 1, 2011.