

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1943 Session of 2024

INTRODUCED BY McNEILL, D. MILLER, HILL-EVANS, MADDEN, WEBSTER, FREEMAN, GALLOWAY, HANBIDGE, KHAN, HOHENSTEIN, DELLOSO, KRAJEWSKI, STURLA, MAYES, SANCHEZ AND VITALI, JANUARY 3, 2024

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 9, 2024

AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated
2 Statutes, in development, further providing for hydraulic <--
3 fracturing chemical disclosure requirements. PROVIDING FOR <--
4 DOWNHOLE OPERATION CHEMICAL DISCLOSURE.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 3222.1 of Title 58 of the Pennsylvania <--
8 Consolidated Statutes is amended to read:

9 § 3222.1. Hydraulic fracturing chemical disclosure
10 requirements.

11 (a) Applicability. This section applies to hydraulic
12 fracturing of unconventional wells performed on or after the
13 effective date of this section.

14 (b) Required disclosures.

15 (1) [Except as provided under subsection (d), a] A
16 service provider who performs any part of a hydraulic
17 fracturing treatment and a vendor who provides hydraulic
18 fracturing additives directly to the operator for a hydraulic

1 ~~fracturing treatment shall furnish the operator with the~~  
2 ~~information required under paragraph (2) [not later than 60~~  
3 ~~days after the commencement of the hydraulic fracturing].~~

4 ~~(2) [Within 60 days following the conclusion of~~  
5 ~~hydraulic fracturing, the] The operator of the well shall~~  
6 ~~complete the chemical disclosure registry form and post the~~  
7 ~~form on the chemical disclosure registry in accordance with~~  
8 ~~regulations promulgated under this chapter in a format that~~  
9 ~~does not link chemicals to their respective hydraulic~~  
10 ~~fracturing additive at least 14 days prior to the usage in~~  
11 ~~each stage of the unconventional oil and gas process,~~  
12 ~~including drilling.~~

13 ~~{(3) If the vendor, service provider or operator claims~~  
14 ~~that the specific identity of a chemical or the concentration~~  
15 ~~of a chemical, or both, are a trade secret or confidential~~  
16 ~~proprietary information, the operator of the well must~~  
17 ~~indicate that on the chemical disclosure registry form, and~~  
18 ~~the vendor, service provider or operator shall submit a~~  
19 ~~signed written statement that the record contains a trade~~  
20 ~~secret or confidential proprietary information. If a chemical~~  
21 ~~is a trade secret, the operator shall include in the chemical~~  
22 ~~registry disclosure form the chemical family or similar~~  
23 ~~description associated with the chemical.~~

24 ~~(4) At the time of claiming that any of the following~~  
25 ~~are entitled to protection under paragraph (3), a vendor,~~  
26 ~~service provider or operator shall file a signed written~~  
27 ~~statement that the record contains a trade secret or~~  
28 ~~confidential proprietary information:~~

29 ~~(i) A hydraulic fracturing additive.~~

30 ~~(ii) A chemical.~~

1           ~~(iii) A concentration.~~

2           ~~(iv) Any combination of subparagraphs (i), (ii) and~~  
3           ~~(iii).]~~

4           ~~(5) [Unless the information is entitled to protection as~~  
5           ~~a trade secret or confidential proprietary information,~~  
6           ~~information] Information submitted to the department or~~  
7           ~~posted to the chemical disclosure registry shall be a public~~  
8           ~~record.~~

9           ~~(6) By January 1, 2013, the department shall determine~~  
10           ~~whether the chemical disclosure registry allows the~~  
11           ~~department and the public to search and sort Pennsylvania~~  
12           ~~chemical disclosure information by geographic area, chemical~~  
13           ~~ingredient, chemical abstract service number, time period and~~  
14           ~~operator. If the department determines that there is no~~  
15           ~~reasonable assurance that the registry will allow for~~  
16           ~~searches by geographic area, chemical ingredient, chemical~~  
17           ~~abstract service number, time period and operator, at a date~~  
18           ~~acceptable to the department, the department shall~~  
19           ~~investigate the feasibility of making the information under~~  
20           ~~paragraph (2) available on the department's Internet website~~  
21           ~~in a manner that will allow the department and the public to~~  
22           ~~search and sort the information by geographic area, chemical~~  
23           ~~ingredient, chemical abstract service number, time period and~~  
24           ~~operator and shall report to the General Assembly whether~~  
25           ~~additional resources may be needed to implement the searches~~  
26           ~~and sorting.~~

27           ~~(7) A vendor shall not be responsible for any inaccuracy~~  
28           ~~in information that is provided to the vendor by a third~~  
29           ~~party manufacturer.~~

30           ~~(8) A service provider shall not be responsible for any~~

1 ~~inaccuracy in information that is provided to the service~~  
2 ~~provider by the vendor.~~

3 ~~(9) An operator shall not be responsible for any~~  
4 ~~inaccuracy in information provided to the operator by the~~  
5 ~~vendor or service provider or manufacturer.~~

6 ~~(10) A vendor, service company or operator shall~~  
7 ~~identify the specific identity and amount of any chemicals~~  
8 ~~[claimed to be a trade secret or confidential proprietary~~  
9 ~~information to any health professional who requests the~~  
10 ~~information in writing if the health professional executes a~~  
11 ~~confidentiality agreement and provides a written statement of~~  
12 ~~need for the information indicating all of the following:~~

13 ~~(i) The information is needed for the purpose of~~  
14 ~~diagnosis or treatment of an individual.~~

15 ~~(ii) The individual being diagnosed or treated may~~  
16 ~~have been exposed to a hazardous chemical.~~

17 ~~(iii) Knowledge of information will assist in the~~  
18 ~~diagnosis or treatment of an individual.] within five~~  
19 ~~days of a written request by a health professional.~~

20 ~~(11) If a health professional determines that a medical~~  
21 ~~emergency exists and the specific identity and amount of any~~  
22 ~~chemicals claimed to be a trade secret or confidential~~  
23 ~~proprietary information are necessary for emergency~~  
24 ~~treatment, the vendor, service provider or operator shall~~  
25 ~~immediately disclose the information to the health~~  
26 ~~professional, [upon a verbal acknowledgment by the health~~  
27 ~~professional that the information may not be used for~~  
28 ~~purposes other than the health needs asserted and that the~~  
29 ~~health professional shall maintain the information as~~  
30 ~~confidential. The vendor, service provider or operator may~~

1 ~~request, and the health professional shall provide upon~~  
2 ~~request, a written statement of need and a confidentiality~~  
3 ~~agreement from the health professional as soon as~~  
4 ~~circumstances permit, in conformance with regulations~~  
5 ~~promulgated under this chapter.]~~

6 ~~(c) Disclosures not required. Notwithstanding any other~~  
7 ~~provision of this chapter, a vendor, service provider or~~  
8 ~~operator shall not be required to do any of the following:~~

9 ~~(1) Disclose chemicals that are not disclosed to it by~~  
10 ~~the manufacturer, vendor or service provider.~~

11 ~~(2) Disclose chemicals that were not intentionally added~~  
12 ~~to the stimulation fluid.~~

13 ~~(3) Disclose chemicals that occur incidentally or are~~  
14 ~~otherwise unintentionally present in trace amounts, may be~~  
15 ~~the incidental result of a chemical reaction or chemical~~  
16 ~~process or may be constituents of naturally occurring~~  
17 ~~materials that become part of a stimulation fluid.~~

18 ~~[(d) Trade secrets and confidential proprietary~~  
19 ~~information.—~~

20 ~~(1) Notwithstanding any other provision of this chapter,~~  
21 ~~a vendor, service company or operator shall not be required~~  
22 ~~to disclose trade secrets or confidential proprietary~~  
23 ~~information to the chemical disclosure registry.~~

24 ~~(2) The following shall apply:~~

25 ~~(i) If the specific identity of a chemical, the~~  
26 ~~concentration of a chemical or both the specific identity~~  
27 ~~and concentration of a chemical are claimed to be a trade~~  
28 ~~secret or confidential proprietary information, the~~  
29 ~~vendor, service provider or operator may withhold the~~  
30 ~~specific identity, the concentration, or both the~~

1 ~~specific identity and concentration, of the chemical from~~  
2 ~~the information provided to the chemical disclosure~~  
3 ~~registry.~~

4 ~~(ii) Nothing under this paragraph shall prohibit any~~  
5 ~~of the following from obtaining from a vendor, service~~  
6 ~~provider or operator information that may be needed to~~  
7 ~~respond to a spill or release:~~

8 ~~(A) The department.~~

9 ~~(B) A public health official.~~

10 ~~(C) An emergency manager.~~

11 ~~(D) A responder to a spill, release or a~~  
12 ~~complaint from a person who may have been directly~~  
13 ~~and adversely affected or aggrieved by the spill or~~  
14 ~~release.~~

15 ~~(iii) Upon receipt of a written statement of need~~  
16 ~~for the information under subparagraph (ii), the~~  
17 ~~information shall be disclosed by the vendor, service~~  
18 ~~provider or operator to the requesting official or entity~~  
19 ~~authorized under subparagraph (ii) and shall not be a~~  
20 ~~public record.~~

21 ~~(e) Disclosure prevented. The department shall prevent~~  
22 ~~disclosure of trade secrets or confidential proprietary~~  
23 ~~information under this section pursuant to the requirements of~~  
24 ~~the Right to Know Law or other applicable State law.]~~

25 ~~(e.1) Emergency response reporting. Notwithstanding any~~  
26 ~~other provision of law, a vendor, service provider or operator~~  
27 ~~shall immediately disclose all information necessary to respond~~  
28 ~~to a spill or release to the following:~~

29 ~~(1) The department.~~

30 ~~(2) A public health official.~~

1 ~~(3) An emergency manager.~~

2 ~~(4) A responder to a spill, release or complaint from a~~  
3 ~~person that may have been directly and adversely affected or~~  
4 ~~aggrieved by the spill or release.~~

5 ~~(f) Well reporting. Notwithstanding any other provision of~~  
6 ~~law, nothing in this section shall be construed to reduce or~~  
7 ~~modify the disclosure requirements for conventional well~~  
8 ~~operators contained in 25 Pa. Code Ch. 78 Subch. E (relating to~~  
9 ~~well reporting).~~

10 SECTION 1. TITLE 58 OF THE PENNSYLVANIA CONSOLIDATED  
11 STATUTES IS AMENDED BY ADDING A SECTION TO READ:

<--

12 § 3222.2. DOWNHOLE OPERATION CHEMICAL DISCLOSURE.

13 (A) DUTY TO FILE REPORT WITH DEPARTMENT.--NOTWITHSTANDING  
14 ANY OTHER PROVISION IN THIS SUBCHAPTER OR OTHER LAW TO THE  
15 CONTRARY, A PERSON MAY NOT COMMENCE DOWNHOLE OPERATIONS IN AN  
16 UNCONVENTIONAL GAS WELL UNLESS AT LEAST 30 DAYS PRIOR TO THE  
17 COMMENCEMENT OF THE DOWNHOLE OPERATIONS THE PERSON FILES A  
18 REPORT WITH THE DEPARTMENT THAT CONTAINS THE FOLLOWING  
19 INFORMATION FOR EACH WELL:

20 (1) AN ALPHABETICAL LIST OF THE NAMES AND CHEMICAL  
21 ABSTRACT SERVICE NUMBERS OF ALL CHEMICALS TO BE USED IN THE  
22 DOWNHOLE OPERATIONS.

23 (2) LATITUDE AND LONGITUDE OF THE WELL.

24 (3) THE COUNTY WHERE THE WELL IS LOCATED.

25 (4) AMERICAN PETROLEUM INSTITUTE WELL NUMBER AND UNITED  
26 STATES WELL NUMBER, IF APPLICABLE.

27 (B) DUTY OF DEPARTMENT.--THE DEPARTMENT SHALL POST ON A  
28 PUBLICLY ACCESSIBLE INTERNET WEBSITE THE INFORMATION REPORTED  
29 UNDER SUBSECTION (A). THE DEPARTMENT SHALL NOT INCLUDE IN THE  
30 CHEMICAL DISCLOSURE LIST:

1           (1) THE TRADE NAME OF A CHEMICAL PRODUCT USED IN  
2           DOWNHOLE OPERATIONS AT THE WELL SITE; OR

3           (2) THE TOTAL AMOUNT OF A CHEMICAL IN A CHEMICAL  
4           PRODUCT.

5           (C) CONFIDENTIALITY.--NOTWITHSTANDING ANY LAW TO THE  
6           CONTRARY, THE DEPARTMENT SHALL INCLUDE THE NAME AND CHEMICAL  
7           ABSTRACT SERVICE NUMBER OF ALL CHEMICALS USED IN DOWNHOLE  
8           OPERATIONS ON A PUBLICLY ACCESSIBLE INTERNET WEBSITE AND MAY NOT  
9           DEEM THE NAMES OR CHEMICAL ABSTRACT SERVICE NUMBER OF ANY  
10           CHEMICAL AS A TRADE SECRET OR PROPRIETARY INFORMATION UNDER THE  
11           ACT OF FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN AS THE RIGHT-TO-  
12           KNOW LAW. THE DEPARTMENT SHALL MAINTAIN CONFIDENTIALITY OF A  
13           FORMULA OR PROCESS REPORTED UNDER THIS SECTION.

14           (D) DUTY OF CHEMICAL MANUFACTURER.--IF A PERSON CANNOT  
15           DISCLOSE A COMPLETE LIST OF CHEMICALS USED IN DOWNHOLE  
16           OPERATIONS AS REQUIRED UNDER SUBSECTION (A), THE CHEMICAL  
17           MANUFACTURER SHALL PROVIDE A COMPLETE LIST OF NAMES AND CHEMICAL  
18           ABSTRACT SERVICE NUMBERS TO THE DEPARTMENT.

19           (E) CONSTRUCTION.--NOTWITHSTANDING ANY LAW TO THE CONTRARY,  
20           NOTHING IN THIS SECTION OR THE RULES PROMULGATED BY THE  
21           ENVIRONMENTAL QUALITY BOARD UNDER THIS SECTION SHALL BE  
22           CONSTRUED TO PREVENT THE DEPARTMENT, THE COMMONWEALTH OR A LOCAL  
23           GOVERNMENT FROM COLLECTING UNDER ANY OTHER PROVISION OF LAW  
24           CHEMICAL DISCLOSURE INFORMATION FROM A PERSON REQUIRED TO COMPLY  
25           WITH THIS SECTION.

26           (F) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
27           WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
28           SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

29           "DOWNHOLE OPERATIONS." OIL AND GAS PRODUCTION OPERATIONS  
30           THAT ARE CONDUCTED UNDERGROUND, INCLUDING DRILLING AND HYDRAULIC



1 FRACTURING.

2 Section 2. This act shall take effect in 60 days.