

By: Morales Shaw

H.B. No. 4320

A BILL TO BE ENTITLED

AN ACT

relating to the disclosure of certain chemicals included in hydraulic fracturing treatments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 91.851(a), Natural Resources Code, is amended to read as follows:

(a) The commission by rule shall:

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

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

(B) include in the form completed under Paragraph (A):

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

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

(C) post the completed form described by Paragraph (A) on the website described by that paragraph or, if the website is discontinued or permanently inoperable, post the

1 completed form on another publicly accessible Internet website
2 specified by the commission;

3 (D) submit the completed form described by
4 Paragraph (A) to the commission with the well completion report for
5 the well; and

6 (E) in addition to the completed form specified
7 in Paragraph (D), provide to the commission a list, to be made
8 available on a publicly accessible website, of all other chemical
9 ingredients not listed on the completed form that were
10 intentionally included and used for the purpose of creating a
11 hydraulic fracturing treatment for the well. The commission rule
12 shall ensure that an operator, service company, or supplier is not
13 responsible for disclosing ingredients that:

14 (i) were not purposely added to the
15 hydraulic fracturing treatment;

16 (ii) occur incidentally or are otherwise
17 unintentionally present in the treatment; or

18 (iii) in the case of the operator, are not
19 disclosed to the operator by a service company or supplier. The
20 commission rule shall not require that the ingredients be
21 identified based on the additive in which they are found or that the
22 concentration of such ingredients be provided;

23 (2) require a service company that performs a
24 hydraulic fracturing treatment on a well or a supplier of an
25 additive used in a hydraulic fracturing treatment on a well to
26 provide the operator of the well with:

27 (A) the information necessary for the operator to

1 comply with Subdivision (1); and

2 (B) each chemical ingredient included in the
3 hydraulic fracturing fluids provided to the operator that is
4 subject to the requirements of 29 C.F.R. Section 1910.1200(g)(2);

5 (3) prescribe a process by which an entity required to
6 comply with Subdivision (1) or (2) may withhold and declare certain
7 information as a trade secret for purposes of Section 552.110,
8 Government Code, including the [~~identity and~~] amount of the
9 chemical ingredient used in a hydraulic fracturing treatment;

10 (4) require a person who desires to challenge a claim
11 of entitlement to trade secret protection under Subdivision (3) to
12 file the challenge not later than the second anniversary of the date
13 the relevant well completion report is filed with the commission;

14 (5) limit the persons who may challenge a claim of
15 entitlement to trade secret protection under Subdivision (3) to:

16 (A) the landowner on whose property the relevant
17 well is located;

18 (B) a landowner who owns property adjacent to
19 property described by Paragraph (A); or

20 (C) a department or agency of this state with
21 jurisdiction over a matter to which the claimed trade secret is
22 relevant;

23 (6) require, in the event of a trade secret challenge,
24 that the commission promptly notify the service company performing
25 the hydraulic fracturing treatment on the relevant well, the
26 supplier of the additive or chemical ingredient for which the trade
27 secret claim is made, or any other owner of the trade secret being

1 challenged and provide the owner an opportunity to substantiate its
2 trade secret claim; and

3 (7) prescribe a process, consistent with 29 C.F.R.
4 Section 1910.1200, for an entity described by Subdivision (1) or
5 (2) to provide information, including information that is a trade
6 secret as defined by Appendix E [~~D~~] to 29 C.F.R. Section 1910.1200,
7 to a health professional or emergency responder who needs the
8 information in accordance with Subsection (i) of that section.

9 SECTION 2. This Act takes effect September 1, 2023.