

HOUSE BILL No. 4061

January 22, 2013, Introduced by Rep. Irwin and referred to the Committee on Energy and Technology.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding sections 61531, 61532, 61533,
61534, 61535, 61536, and 61537.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 61531. (1) IN ADDITION TO OTHER REQUIREMENTS OF THIS
2 PART, THIS SECTION AND SECTIONS 61532 TO 61537 APPLY TO WELLS THAT
3 ARE USED OR ARE INTENDED FOR USE FOR HYDRAULIC FRACTURING
4 TREATMENTS.

5 (2) AS USED IN THIS SECTION AND IN SECTIONS 61532 TO 61537:

6 (A) "ADDITIVE" MEANS ANY SUBSTANCE OR COMBINATION OF
7 SUBSTANCES FOUND IN A HYDRAULIC FRACTURING FLUID, INCLUDING A
8 PROPPANT, THAT IS ADDED TO A BASE FLUID IN THE CONTEXT OF A

1 HYDRAULIC FRACTURING TREATMENT, WHETHER OR NOT THE FUNCTION OF ANY
2 SUCH SUBSTANCE OR COMBINATION OF SUBSTANCES IS TO CREATE FRACTURES
3 IN A FORMATION.

4 (B) "APPLICANT" MEANS AN APPLICANT FOR A PERMIT UNDER THIS
5 PART FOR A NATURAL GAS WELL.

6 (C) "BASE FLUID" MEANS THE BASE FLUID TYPE USED IN A
7 PARTICULAR HYDRAULIC FRACTURING TREATMENT, SUCH AS WATER, INCLUDING
8 FRESH WATER AND RECYCLED WATER, NITROGEN GAS AND FOAM FLUIDS, AND
9 HYDROCARBON GAS.

10 (D) "CHEMICAL ABSTRACTS SERVICE" MEANS THE CHEMICAL REGISTRY
11 THAT IS THE AUTHORITATIVE COLLECTION OF DISCLOSED CHEMICAL
12 SUBSTANCE INFORMATION.

13 (E) "CAS NUMBER" MEANS THE UNIQUE IDENTIFICATION NUMBER
14 ASSIGNED BY THE CHEMICAL ABSTRACTS SERVICE TO A CHEMICAL
15 INGREDIENT.

16 (F) "CHEMICAL INGREDIENT" MEANS A DISCRETE CHEMICAL
17 CONSTITUENT WITH ITS OWN SPECIFIC NAME OR IDENTITY, SUCH AS A CAS
18 NUMBER, THAT IS CONTAINED IN AN ADDITIVE.

19 (G) "FRACTURING ADDITIVE SYSTEM" MEANS A SPECIFIC COMBINATION
20 OF ADDITIVES THAT IS MADE AVAILABLE AS A TOTAL SYSTEM THAT IS
21 DESIGNED TO SERVE MULTIPLE PURPOSES AND IS ADDED TO A BASE FLUID IN
22 THE CONTEXT OF A HYDRAULIC FRACTURING TREATMENT.

23 (H) "HEALTH PROFESSIONAL" MEANS A PHYSICIAN, INDUSTRIAL
24 HYGIENIST, TOXICOLOGIST, EPIDEMIOLOGIST, NURSE, OR EMERGENCY
25 RESPONDER PROVIDING MEDICAL OR OTHER HEALTH SERVICES TO A PERSON
26 EXPOSED TO A CHEMICAL INGREDIENT.

27 (I) "HYDRAULIC FRACTURING FLUID" MEANS THE FLUID USED TO

1 PERFORM A PARTICULAR HYDRAULIC FRACTURING TREATMENT AND INCLUDES
2 THE APPLICABLE BASE FLUID AND ALL ADDITIVES.

3 (J) "HYDRAULIC FRACTURING TREATMENT" MEANS THE ACTION OF
4 STIMULATING A WELL BY THE APPLICATION OF HYDRAULIC FRACTURING FLUID
5 UNDER PRESSURE TO CREATE FRACTURES IN A FORMATION IN ORDER TO
6 ENHANCE PRODUCTION OF HYDROCARBONS.

7 (K) "MASTER LIST" MEANS A LIST OF ALL CHEMICAL INGREDIENTS,
8 AND THEIR ASSOCIATED CAS NUMBERS, THAT WERE USED BY A PERMITTEE OR
9 A SERVICE COMPANY, OR WERE SUPPLIED BY A SUPPLIER TO A PERMITTEE OR
10 A SERVICE COMPANY, DURING A CALENDAR YEAR IN CONNECTION WITH ANY
11 HYDRAULIC FRACTURING TREATMENTS CONDUCTED IN THIS STATE.

12 (L) "MATERIAL SAFETY DATA SHEET" MEANS A MATERIAL SAFETY DATA
13 SHEET AUTHORIZED UNDER 29 CFR 1910.

14 (M) "PERMITTEE" MEANS A PERSON THAT HAS BEEN ISSUED A PERMIT
15 UNDER THIS PART FOR A NATURAL GAS WELL.

16 (N) "PROPPANT" MEANS SAND OR ANOTHER NATURAL OR MAN-MADE
17 MATERIAL THAT IS USED IN A HYDRAULIC FRACTURING TREATMENT TO
18 PREVENT ARTIFICIALLY CREATED OR ENHANCED FRACTURES FROM CLOSING
19 ONCE THE TREATMENT IS COMPLETED.

20 (O) "PURPOSE", UNLESS THE CONTEXT IMPLIES OTHERWISE, MEANS A
21 BRIEF DESCRIPTOR OF THE INTENDED USE OR FUNCTION OF AN ADDITIVE, OR
22 THE INTENDED USES OR FUNCTIONS OF A FRACTURING ADDITIVE SYSTEM,
23 SUCH AS ACID, BIOCIDES, BREAKERS, CORROSION INHIBITORS, CROSSLINKERS,
24 DEMULSIFIERS, FRICTION REDUCERS, GELS, IRON CONTROL AGENTS, OXYGEN
25 SCAVENGERS, PH ADJUSTING AGENTS, PROPPANTS, SCALE INHIBITORS, OR
26 SURFACTANTS.

27 (P) "SERVICE COMPANY" MEANS A PERSON THAT PERFORMS HYDRAULIC

1 FRACTURING TREATMENTS IN THIS STATE FOR A PERMITTEE.

2 (Q) "SUPPLIER" MEANS A PERSON, INCLUDING AN OPERATOR BUT
3 EXCLUDING A SERVICE COMPANY, THAT PROVIDES AN ADDITIVE OR A
4 FRACTURING ADDITIVE SYSTEM TO A PERMITTEE FOR USE IN CONNECTION
5 WITH A HYDRAULIC FRACTURING TREATMENT.

6 (R) "TRADE NAME" MEANS THE NAME UNDER WHICH AN ADDITIVE OR A
7 FRACTURING ADDITIVE SYSTEM IS SOLD OR MARKETING.

8 (S) "TRADE SECRET" MEANS ANY CONFIDENTIAL FORMULA, PATTERN,
9 PROCESS, DEVICE, INFORMATION, OR COMPILATION OF INFORMATION THAT IS
10 USED IN A PERSON'S BUSINESS AND THAT GIVES THE PERSON AN
11 OPPORTUNITY TO OBTAIN AN ADVANTAGE OVER COMPETITORS THAT DO NOT
12 KNOW OR USE IT.

13 SEC. 61532. (1) THE DEPARTMENT SHALL NOT ISSUE A PERMIT UNDER
14 THIS PART TO DRILL A WELL FOR THE PRODUCTION OF NATURAL GAS THAT
15 WILL USE A HYDRAULIC FRACTURING TREATMENT AS A PRODUCTION TECHNIQUE
16 UNLESS THE APPLICANT PROVIDES TO THE DEPARTMENT ALL OF THE
17 FOLLOWING INFORMATION FOR ITS REVIEW AND APPROVAL:

18 (A) THE TYPE AND VOLUME OF BASE FLUID USED IN THE HYDRAULIC
19 FRACTURING TREATMENT, EXPRESSED IN GALLONS OR OTHER UNITS APPROVED
20 BY THE DEPARTMENT.

21 (B) THE TRADE NAME AND SUPPLIER OF EACH ADDITIVE OR THE TRADE
22 NAME AND SUPPLIER OF THE FRACTURING ADDITIVE SYSTEM, AS APPLICABLE,
23 THAT IS TO BE USED IN THE HYDRAULIC FRACTURING FLUID.

24 (C) THE PURPOSE OF EACH ADDITIVE OR THE PURPOSES OF THE
25 FRACTURING ADDITIVE SYSTEM, AS APPLICABLE.

26 (D) A LIST OF ALL CHEMICAL INGREDIENTS CONTAINED IN EACH
27 ADDITIVE OR IN THE FRACTURING ADDITIVE SYSTEM, AS APPLICABLE,

1 DESCRIBED UNDER SUBDIVISION (B), AND THEIR ASSOCIATED CAS NUMBERS,
2 EXCLUDING ANY CHEMICAL INGREDIENTS ENTITLED TO TRADE SECRET
3 PROTECTION UNDER SECTION 61534.

4 (E) THE ACTUAL OR MAXIMUM CONCENTRATION OF EACH CHEMICAL
5 INGREDIENT LISTED UNDER SUBDIVISION (D), EXPRESSED AS A PERCENT BY
6 MASS OF THE TOTAL VOLUME OF HYDRAULIC FRACTURING FLUID USED.

7 (F) THE MATERIAL SAFETY DATA SHEETS ASSOCIATED WITH CHEMICAL
8 INGREDIENTS TO BE USED IN THE HYDRAULIC FRACTURING TREATMENT.

9 (G) THE NAME OF THE SERVICE COMPANY THAT WILL BE USED, IF
10 KNOWN.

11 (H) AN EVALUATION OF WHETHER THERE ARE ALTERNATIVE HYDRAULIC
12 FRACTURING TREATMENTS THAT COULD BE UTILIZED THAT PROVIDE LESS
13 POTENTIAL RISK TO PUBLIC HEALTH, SAFETY, OR WELFARE OR TO THE
14 ENVIRONMENT THAN THE PROPOSED HYDRAULIC FRACTURING TREATMENT AND,
15 IF AN ALTERNATIVE EXISTS, THE REASONS WHY THE ALTERNATIVE IS NOT
16 BEING PROPOSED.

17 (I) THE INFORMATION REQUIRED UNDER SECTION 61535, IF
18 APPLICABLE.

19 (2) A PERMITTEE THAT INTENDS TO USE A HYDRAULIC FRACTURING
20 TREATMENT THAT WAS NOT PREVIOUSLY AUTHORIZED IN THE PERMIT SHALL
21 PROVIDE THE INFORMATION DESCRIBED IN SUBSECTION (1) TO THE
22 DEPARTMENT FOR ITS REVIEW AND APPROVAL.

23 (3) A PERMITTEE THAT WISHES TO MODIFY HIS OR HER HYDRAULIC
24 FRACTURING TREATMENT IN A MANNER INCONSISTENT WITH THE INFORMATION
25 PROVIDED TO THE DEPARTMENT UNDER SUBSECTION (1) OR (2) SHALL
26 PROVIDE UPDATED INFORMATION TO THE DEPARTMENT FOR ITS REVIEW AND
27 APPROVAL.

1 (4) EXCEPT FOR TRADE SECRETS THAT ARE EXEMPT FROM DISCLOSURE
2 UNDER SECTION 61534, THE DEPARTMENT SHALL POST THE INFORMATION
3 PROVIDED UNDER SUBSECTIONS (1), (2), AND (3) ON THE DEPARTMENT'S
4 WEBSITE FOR A PERIOD OF AT LEAST 60 DAYS PRIOR TO MAKING A DECISION
5 UNDER THIS SECTION, TO ALLOW FOR PUBLIC NOTICE AND COMMENT. THE
6 INFORMATION SHALL REMAIN ON THE WEBSITE UNTIL 3 YEARS AFTER
7 COMPLETION OF THE HYDRAULIC FRACTURING TREATMENT. IN ADDITION, THE
8 DEPARTMENT SHALL PROVIDE NOTICE TO BOTH OF THE FOLLOWING THAT
9 INFORMATION REGARDING A PROPOSED HYDRAULIC FRACTURING TREATMENT HAS
10 BEEN POSTED ON ITS WEBSITE:

11 (A) MEDIA OUTLETS IN THE VICINITY OF THE LOCATION OF THE
12 PROPOSED HYDRAULIC FRACTURING TREATMENT.

13 (B) THE COUNTY OR COUNTIES IN WHICH THE PROPOSED HYDRAULIC
14 FRACTURING TREATMENT WILL OCCUR.

15 (5) FOLLOWING THE PERIOD SPECIFIED FOR PUBLIC NOTICE AND
16 COMMENT UNDER SUBSECTION (4), THE DEPARTMENT MAY APPROVE A PROPOSED
17 HYDRAULIC FRACTURING TREATMENT PROPOSAL SUBMITTED UNDER THIS
18 SECTION. HOWEVER, IF THE DEPARTMENT DETERMINES THAT AN ALTERNATIVE
19 HYDRAULIC FRACTURING TREATMENT THAT PROVIDES GREATER PROTECTION TO
20 PUBLIC HEALTH, SAFETY, OR WELFARE OR TO THE ENVIRONMENT IS
21 FEASIBLE, THE DEPARTMENT SHALL DISAPPROVE THE PROPOSED HYDRAULIC
22 FRACTURING TREATMENT. IF THE DEPARTMENT DISAPPROVES A PROPOSED
23 HYDRAULIC FRACTURING TREATMENT PROPOSAL UNDER THIS SUBSECTION, THE
24 APPLICANT OR PERMITTEE MAY RESUBMIT A MODIFIED HYDRAULIC FRACTURING
25 TREATMENT PROPOSAL FOR THE DEPARTMENT'S CONSIDERATION.

26 (6) AN APPLICANT OR PERMITTEE IS NOT RESPONSIBLE FOR UNKNOWN
27 INACCURACIES IN THE INFORMATION THAT IS PROVIDED TO THE DEPARTMENT

1 UNDER SUBSECTION (1) (B) THAT THE APPLICANT OR PERMITTEE RECEIVED
2 FROM A SUPPLIER OR THIRD-PARTY MANUFACTURER OF THE ADDITIVES.

3 SEC. 61533. (1) ON OR BEFORE FEBRUARY 1 OF EACH YEAR, A
4 PERMITTEE THAT UTILIZED A HYDRAULIC FRACTURING TREATMENT DURING THE
5 PREVIOUS CALENDAR YEAR SHALL SUBMIT TO THE DEPARTMENT BOTH OF THE
6 FOLLOWING RELATED TO THE USE OF HYDRAULIC FRACTURING TREATMENTS
7 DURING THAT YEAR:

8 (A) A MASTER LIST.

9 (B) A REPORT LISTING THE TOTAL QUANTITY OF EACH CHEMICAL
10 INGREDIENT, IDENTIFIED BY NAME AND CAS NUMBER, THAT WAS USED FOR
11 HYDRAULIC FRACTURING TREATMENTS IN THIS STATE DURING THE PREVIOUS
12 CALENDAR YEAR.

13 (2) IF THE SPECIFIC IDENTITY OF ANY CHEMICAL INGREDIENT UNDER
14 SUBSECTION (1) IS ENTITLED TO BE WITHHELD AS A TRADE SECRET UNDER
15 SECTION 61534, THEN ALL OF THE FOLLOWING APPLY:

16 (A) THE PERMITTEE SHALL SUPPLY BOTH THE IDENTITY OF THE
17 CHEMICAL INGREDIENT AND THE CHEMICAL FAMILY ASSOCIATED WITH THE
18 CHEMICAL INGREDIENT.

19 (B) THE DEPARTMENT SHALL PROTECT AND HOLD CONFIDENTIAL THE
20 IDENTITY OF THE CHEMICAL INGREDIENT AND ITS ASSOCIATED CAS NUMBER.

21 (C) THE DEPARTMENT SHALL NOTE THAT THE IDENTITY OF THE
22 CHEMICAL INGREDIENT HAS BEEN WITHHELD AS A TRADE SECRET AND
23 DISCLOSE THE CHEMICAL FAMILY ASSOCIATED WITH THE CHEMICAL
24 INGREDIENT ON THE DEPARTMENT'S WEBSITE.

25 (3) ON OR BEFORE MARCH 1 OF EACH YEAR, THE DEPARTMENT SHALL
26 COMPILE A PUBLICLY AVAILABLE COMPREHENSIVE LIST OF CHEMICAL
27 INGREDIENTS AND QUANTITIES USED AGGREGATED FROM ALL THE INFORMATION

1 SUBMITTED TO THE DEPARTMENT PURSUANT TO SUBSECTION (1).

2 SEC. 61534. (1) TO RECEIVE TRADE SECRET PROTECTION UNDER THIS
3 SECTION, A PERSON, INCLUDING AN APPLICANT FOR A PERMIT UNDER THIS
4 PART, A PERMITTEE, A SERVICE COMPANY, OR A SUPPLIER, SHALL PROVIDE
5 TO THE DEPARTMENT BOTH OF THE FOLLOWING:

6 (A) THE SPECIFIC IDENTITY OF THE RELEVANT CHEMICAL INGREDIENT
7 AND ITS ASSOCIATED CAS NUMBER.

8 (B) A WRITTEN CLAIM THAT THE CHEMICAL INGREDIENT AND ITS
9 ASSOCIATED CAS NUMBER ARE ENTITLED TO THAT PROTECTION.

10 (2) THE DEPARTMENT SHALL PROTECT AND HOLD CONFIDENTIAL THE
11 IDENTITY OF THE CHEMICAL INGREDIENT AND THE CHEMICAL INGREDIENT'S
12 ASSOCIATED CAS NUMBER UNLESS AND UNTIL THE CHEMICAL INGREDIENT AND
13 ITS ASSOCIATED CAS NUMBER ARE DETERMINED UNDER SUBSECTION (7) NOT
14 TO BE ENTITLED TO TRADE SECRET PROTECTION. A CLAIM OF ENTITLEMENT
15 TO TRADE SECRET PROTECTION SHALL INCLUDE SUBSTANTIATING FACTS IN
16 THE FORM OF THE INFORMATION REQUIRED BY 40 CFR 350.7(A). IF
17 REQUESTED BY THE TRADE SECRET CLAIMANT, THE DEPARTMENT SHALL TREAT
18 ANY SUBSTANTIATING FACTS AS CONFIDENTIAL AND SHALL NOT DISCLOSE
19 THEM TO ANY THIRD PARTY OR THE PUBLIC FOR ANY PURPOSE. A CLAIM OF
20 ENTITLEMENT TO TRADE SECRET PROTECTION SHALL BE SUBMITTED TO THE
21 DEPARTMENT ON OR BEFORE THE DATE THE CLAIMANT IS OTHERWISE REQUIRED
22 TO PROVIDE THE IDENTITY OF THE RELEVANT CHEMICAL INGREDIENT TO THE
23 DEPARTMENT OR THE PERMITTEE UNDER SECTION 61532 OR 61533, AS
24 APPLICABLE. A TRADE SECRET CLAIMANT SHALL NOT SUBMIT A CLAIM OF
25 ENTITLEMENT TO TRADE SECRET PROTECTION FOR A CHEMICAL INGREDIENT
26 THAT HAS BEEN DETERMINED NOT TO BE ENTITLED TO TRADE SECRET
27 PROTECTION UNDER SUBSECTION (7) UNLESS THE CLAIM OF ENTITLEMENT TO

1 TRADE SECRET PROTECTION FOR THE CHEMICAL INGREDIENT IS MADE WITH
2 RESPECT TO THE USE OF THE CHEMICAL INGREDIENT IN A DIFFERENT
3 ADDITIVE. SUBJECT TO THE REQUIREMENTS OF SECTION 61536, A CLAIMANT
4 MAY WITHHOLD FROM AN OPERATOR THE SPECIFIC IDENTITY AND ASSOCIATED
5 CAS NUMBER OF THE CHEMICAL INGREDIENT DESCRIBED IN THE CLAIM OF
6 ENTITLEMENT TO TRADE SECRET PROTECTION UNTIL THE CLAIM IS
7 SUCCESSFULLY CHALLENGED UNDER THIS SECTION.

8 (3) ANY PERSON MAY CHALLENGE A CLAIM OF ENTITLEMENT TO TRADE
9 SECRET PROTECTION UNDER THIS SECTION.

10 (4) A PERSON MAY CHALLENGE A CLAIM OF ENTITLEMENT TO TRADE
11 SECRET PROTECTION BY FILING WITH THE DEPARTMENT A CHALLENGE
12 PETITION, ON A FORM DESIGNATED OR APPROVED BY THE DEPARTMENT, NOT
13 LATER THAN 2 YEARS AFTER THE DATE WHEN THE CHEMICAL THAT IS THE
14 SUBJECT OF THE CHALLENGE WAS FIRST USED IN A HYDRAULIC FRACTURING
15 TREATMENT IN THE STATE. HOWEVER, IF THE DEPARTMENT IS THE PERSON
16 CHALLENGING THE TRADE SECRET CLAIM, A PETITION IS NOT REQUIRED. NOT
17 LATER THAN THE TENTH DAY AFTER THE DATE THE DEPARTMENT RECEIVES A
18 CHALLENGE PETITION OR THE DATE THE DEPARTMENT ELECTS TO INSTITUTE
19 ITS OWN CHALLENGE, AS APPLICABLE, THE DEPARTMENT SHALL SUBMIT A
20 WRITTEN REQUEST FOR DECISION TO THE OFFICE OF THE ATTORNEY GENERAL
21 AND SHALL NOTIFY THE TRADE SECRET CLAIMANT OF THE CHALLENGE AND THE
22 REQUEST FOR DECISION. IF THE PARTY NOTIFIED OF A CHALLENGE BY THE
23 DEPARTMENT IS NOT THE OWNER OF THE TRADE SECRET AND IS NOT THE
24 PROPER PARTY TO RESPOND TO THE CHALLENGE, THAT PARTY SHALL PROMPTLY
25 NOTIFY THE DEPARTMENT OF THE IDENTITY OF THE OWNER OF THE TRADE
26 SECRET AND THE DEPARTMENT SHALL NOTIFY THE OWNER OF THE TRADE
27 SECRET OF THE CHALLENGE AND PROVIDE THE OWNER AN OPPORTUNITY TO

1 SUBSTANTIATE ITS TRADE SECRET CLAIM. THE OFFICE OF THE ATTORNEY
2 GENERAL SHALL PROCESS A REQUEST FOR DECISION IN ACCORDANCE WITH THE
3 PROCEDURES PROVIDED BY THE FREEDOM OF INFORMATION ACT, 1976 PA 442,
4 MCL 15.231 TO 15.246.

5 (5) THE OFFICE OF THE ATTORNEY GENERAL SHALL UPHOLD A CLAIM OF
6 ENTITLEMENT TO TRADE SECRET PROTECTION AGAINST A CHALLENGE OF THE
7 CLAIM IF THE OFFICE DETERMINES THAT THE CLAIM SATISFIES THE
8 REQUIREMENTS FOR TRADE SECRET PROTECTION UNDER THE EXCEPTION FOR
9 TRADE SECRETS PROVIDED BY THE FREEDOM OF INFORMATION ACT, 1976 PA
10 442, MCL 15.231 TO 15.246. EXCEPT AS PROVIDED BY SUBSECTION (6),
11 ONCE A DETERMINATION IS MADE BY THE OFFICE OF THE ATTORNEY GENERAL,
12 THE TRADE SECRET STATUS OF THE SPECIFIC IDENTITY OF THE CHEMICAL
13 INGREDIENT AND THE CHEMICAL INGREDIENT'S ASSOCIATED CAS NUMBER
14 SHALL NOT BE CHALLENGED UNDER THIS SECTION UNTIL 5 YEARS AFTER THE
15 DATE WHEN THE DETERMINATION IS MADE.

16 (6) A TRADE SECRET CLAIMANT OR A PERSON CHALLENGING A TRADE
17 SECRET CLAIM UNDER SUBSECTION (4) MAY APPEAL A DETERMINATION BY THE
18 OFFICE OF THE ATTORNEY GENERAL WITH REGARD TO A CLAIM OF
19 ENTITLEMENT TO TRADE SECRET PROTECTION IN THE MANNER PROVIDED BY
20 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201
21 TO 24.328.

22 (7) IF THE OFFICE OF THE ATTORNEY GENERAL OR, IN THE EVENT OF
23 AN APPEAL OF THE DECISION OF THE OFFICE OF THE ATTORNEY GENERAL, A
24 COURT DETERMINES THAT THE SPECIFIC IDENTITY OF THE CHEMICAL
25 INGREDIENT AND THE CHEMICAL INGREDIENT'S ASSOCIATED CAS NUMBER ARE
26 NOT ENTITLED TO TRADE SECRET PROTECTION, THE DEPARTMENT SHALL
27 REQUIRE THE TRADE SECRET CLAIMANT TO DISCLOSE THE SPECIFIC IDENTITY

1 OF THE CHEMICAL INGREDIENT AND THE CHEMICAL INGREDIENT'S ASSOCIATED
2 CAS NUMBER.

3 (8) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE
4 DEPARTMENT MAY DO EITHER OR BOTH OF THE FOLLOWING:

5 (A) DISCLOSE INFORMATION OTHERWISE SUBJECT TO TRADE SECRET
6 PROTECTION UNDER THIS SECTION TO AN ACCREDITED LABORATORY IN
7 CONNECTION WITH THE INVESTIGATION OF A CLAIM OF CONTAMINATION OF
8 SURFACE WATER OR GROUNDWATER IF THE LABORATORY AGREES IN WRITING TO
9 KEEP THE INFORMATION CONFIDENTIAL.

10 (B) USE THE RESULTS OF A TEST CONDUCTED BY AN ACCREDITED
11 LABORATORY IN CONNECTION WITH AN INVESTIGATION OF SURFACE WATER OR
12 GROUNDWATER IN ANY MANNER THE DEPARTMENT CONSIDERS NECESSARY TO
13 PROTECT PUBLIC HEALTH AND THE ENVIRONMENT.

14 SEC. 61535. (1) IF THE SPECIFIC IDENTITY OF A CHEMICAL
15 INGREDIENT AND THE CHEMICAL INGREDIENT'S ASSOCIATED CAS NUMBER ARE
16 CLAIMED OR HAVE BEEN FINALLY DETERMINED TO BE ENTITLED TO
17 PROTECTION AS A TRADE SECRET UNDER SECTION 61534, A PERSON MAY
18 WITHHOLD THE SPECIFIC IDENTITY OF THE CHEMICAL INGREDIENT AND THE
19 CHEMICAL INGREDIENT'S ASSOCIATED CAS NUMBER FROM THE INFORMATION
20 PROVIDED TO THE APPLICANT OR PERMITTEE, AS APPLICABLE. IF THE
21 PERSON ELECTS TO WITHHOLD THAT INFORMATION, THE INFORMATION
22 PROVIDED TO THE APPLICANT OR PERMITTEE, AS APPLICABLE, SHALL
23 INCLUDE BOTH OF THE FOLLOWING:

24 (A) A DISCLOSURE OF THE CHEMICAL FAMILY ASSOCIATED WITH THE
25 CHEMICAL INGREDIENT, ITS TRADE NAME, AND ITS PURPOSE.

26 (B) A STATEMENT THAT THE SPECIFIC IDENTITY OF THE CHEMICAL
27 INGREDIENT AND THE CHEMICAL INGREDIENT'S ASSOCIATED CAS NUMBER ARE

1 ENTITLED TO PROTECTION AS A TRADE SECRET.

2 (2) IF AN APPLICANT OR PERMITTEE SEEKS TO USE A SUPPLIER OR
3 SERVICE COMPANY THAT HAS WITHHELD INFORMATION UNDER A CLAIM OF
4 TRADE SECRET, THAT APPLICANT OR PERMITTEE SHALL REQUEST THAT THE
5 SUPPLIER OR SERVICE COMPANY DISCLOSE THE INFORMATION TO THE
6 DEPARTMENT PURSUANT TO SECTION 61534.

7 (3) AN APPLICANT'S OR PERMITTEE'S APPLICATION TO THE
8 DEPARTMENT UNDER SECTION 61532 SHALL NOT BE CONSIDERED
9 ADMINISTRATIVELY COMPLETE AND SHALL NOT BE GRANTED UNTIL
10 INFORMATION FROM SERVICE COMPANIES AND SUPPLIERS HAS BEEN DISCLOSED
11 AS PROVIDED IN THIS SECTION.

12 SEC. 61536. (1) NOTWITHSTANDING SECTION 61534, A PERSON SHALL
13 SUPPLY THE FOLLOWING INFORMATION TO A HEALTH CARE PROFESSIONAL:

14 (A) INFORMATION REGARDING ADDITIVES OR CHEMICAL INGREDIENTS
15 NEEDED BY THE HEALTH CARE PROFESSIONAL FOR DIAGNOSTIC PURPOSES.
16 THIS INFORMATION SHALL BE PROVIDED DIRECTLY TO THE HEALTH CARE
17 PROFESSIONAL AS FOLLOWS:

18 (i) IMMEDIATELY UPON REQUEST, IN A CASE IDENTIFIED BY THE
19 HEALTH CARE PROFESSIONAL AS A MEDICAL EMERGENCY. THE HEALTH CARE
20 PROFESSIONAL'S INITIAL REQUEST FOR INFORMATION NEED NOT SATISFY THE
21 REQUIREMENTS OF A STATEMENT OF NEED AS DESCRIBED IN SUBSECTION (2).
22 AS SOON AFTER THE EMERGENCY AS CIRCUMSTANCES PERMIT, THE HEALTH
23 CARE PROFESSIONAL SHALL PROVIDE TO THE PERSON DISCLOSING THE
24 INFORMATION A WRITTEN STATEMENT OF THE NEED FOR THE INFORMATION.

25 (ii) UPON RECEIPT OF A WRITTEN STATEMENT OF NEED FROM THE
26 HEALTH CARE PROFESSIONAL, IN CASES THAT ARE NOT MEDICAL
27 EMERGENCIES.

1 (B) ANY OTHER INFORMATION, THE DISCLOSURE OF WHICH IS REQUIRED
2 BY A STATE OR FEDERAL LAW.

3 (2) THE STATEMENT OF NEED REFERRED TO IN SUBSECTION (1) (A) (i)
4 OR (ii) SHALL STATE ALL OF THE FOLLOWING:

5 (A) THE HEALTH CARE PROFESSIONAL HAS A REASONABLE BASIS TO
6 BELIEVE THE INFORMATION IS NEEDED FOR DIAGNOSIS OR TREATMENT OF AN
7 INDIVIDUAL.

8 (B) THE INDIVIDUAL BEING DIAGNOSED OR TREATED MAY HAVE BEEN
9 EXPOSED TO THE CHEMICAL INGREDIENT.

10 (C) KNOWLEDGE OF THE SPECIFIC CHEMICAL INGREDIENT IDENTITY IS
11 LIKELY TO ASSIST IN DIAGNOSIS OR TREATMENT.

12 (3) THE PERSON DISCLOSING INFORMATION PURSUANT TO SUBSECTION
13 (1) (A) SHALL PROVIDE THE HEALTH CARE PROFESSIONAL A STATEMENT OF
14 THE PROFESSIONAL'S CONFIDENTIALITY OBLIGATIONS PURSUANT TO SECTION
15 61537. THIS NOTIFICATION SHALL ACCOMPANY THE DISCLOSURE IN
16 NONEMERGENCY SITUATIONS OR BE MADE AS SOON AS CIRCUMSTANCES PERMIT
17 IN EMERGENCIES.

18 SEC. 61537. A HEALTH PROFESSIONAL TO WHOM INFORMATION IS
19 DISCLOSED UNDER SECTION 61536 SHALL HOLD THE INFORMATION
20 CONFIDENTIAL. HOWEVER, THE HEALTH PROFESSIONAL MAY, FOR DIAGNOSTIC
21 OR TREATMENT PURPOSES, DISCLOSE INFORMATION PROVIDED UNDER THAT
22 SECTION TO ANOTHER HEALTH PROFESSIONAL OR ACCREDITED LABORATORY. A
23 HEALTH PROFESSIONAL OR ACCREDITED LABORATORY TO WHICH INFORMATION
24 IS DISCLOSED BY ANOTHER HEALTH PROFESSIONAL UNDER THIS SECTION
25 SHALL HOLD THE INFORMATION CONFIDENTIAL AND THE DISCLOSING HEALTH
26 PROFESSIONAL SHALL INCLUDE WITH THE DISCLOSURE, OR IN A MEDICAL
27 EMERGENCY, AS SOON AS CIRCUMSTANCES PERMIT, A STATEMENT OF THE

1 RECIPIENT'S CONFIDENTIALITY OBLIGATION PURSUANT TO THIS SECTION.