

BILL ANALYSIS

Senate Research Center

S.B. 1930
By: Nelson
Natural Resources
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, operators of natural gas wells that perform hydraulic fracturing treatments in this state are not required to disclose information regarding water usage or chemical ingredients included in this process.

S.B. 1930 would direct the Railroad Commission of Texas (railroad commission) to require operators of natural gas wells that perform hydraulic fracturing to disclose the amount of water used in each treatment as well as the chemicals that were included. The railroad commission would also be required to prescribe a process to allow entities tasked with the disclosure to withhold and declare certain information as a trade secret, and a process by which information classified as a trade secret may be provided to a health professional or emergency responder in certain situations.

As proposed, S.B. 1930 amends current law relating to the disclosure of the composition of hydraulic fracturing fluids used in hydraulic fracturing treatments.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Railroad Commission of Texas in SECTION 1 (Section 91.851, Natural Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 91, Natural Resources Code, by adding Subchapter S, as follows:

SUBCHAPTER S. DISCLOSURE OF COMPOSITION OF HYDRAULIC FRACTURING FLUIDS

Sec. 91.851. DISCLOSURE OF COMPOSITION OF HYDRAULIC FRACTURING FLUIDS. Requires the Railroad Commission of Texas (railroad commission) by rule to:

(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).

(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 completed form on another publicly accessible Internet website specified by the railroad commission;

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

(E) in addition to the completed form specified in Paragraph (D), provide to the railroad commission a list of all other chemical ingredients not listed on the completed form that were intentionally included and used for the purpose of creating a hydraulic fracturing treatment unless disclosed by the operator under Section (B). Requires that the railroad commission rule ensure that an operator, service company or supplier is not responsible for disclosing ingredients that:

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

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

(iii) in the case of the operator, are not disclosed to the operator by a service company or supplier. Prohibits the railroad commission rule from requiring that the ingredients be identified based on the additive in which they are found or that the concentration of such ingredients be provided.

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

(3) prescribe a process by which an entity required to comply with Subdivision (1) or (2) may withhold and declare certain information as a trade secret for purposes of Section 552.110 (Exception: Trade Secrets; Certain Commercial or Financial Information), Government Code, including the identity and amount of the chemical ingredient used in a hydraulic fracturing treatment;

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

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

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

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

(C) a department or agency of this state; and

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

SECTION 2. Provides that Subchapter S, Chapter 91, Natural Resources Code, as added by 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 by the railroad commission

under that subchapter take effect. Provides that 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.

SECTION 3. Requires the railroad commission to adopt rules under Subchapter S, Chapter 91, Natural Resources Code, as added by this Act, not later than January 1, 2012.

SECTION 4. Effective date: September 1, 2011.