



# Ohio Legislative Service Commission

## Bill Analysis

Amanda George

### H.B. 42

130th General Assembly  
(As Introduced)

**Reps.** R. Hagan, Foley, Patterson, Boyd, Fedor, Antonio, Driehaus, Ramos, Mallory, Rogers, Milkovich

---

## BILL SUMMARY

- Authorizes well owners and certain other persons to request the Chief of the Division of Oil and Gas Resources Management to designate certain chemical information included in well completion records as trade secrets rather than authorizing them to designate trade secrets, and revises the types of information that may be so designated.
- Revises the purposes for which a medical professional may request information designated as a trade secret and the procedures for providing that information, and changes "medical professional" to "health care professional or emergency responder."
- Requires the Chief to maintain a database of specified chemical information that the Chief receives and to disclose information in the database only if requested by a health care professional or emergency responder.
- Requires the Chief to provide to the directors of all county emergency management agencies continuous online access to specified chemical information.
- Expands the types of information that must be included in a well completion record regarding the products, fluids, and substances used to stimulate the well.
- Adds information that must be included with an application for a permit to drill a new horizontal well, including the type, volume, and geochemistry of each fluid that is proposed to be used to stimulate the reservoir of the proposed well and an identification of any fluid that is proposed to be added to each such fluid.

- Requires an applicant for a permit to drill a new horizontal well to submit to the Chief specified information pertaining to each chemical that has been designated as a trade secret by the Chief and that is proposed to be added to each fluid that is proposed to be used to stimulate the reservoir of the proposed well.
- Requires the Chief to maintain a database consisting of the information so submitted and to disclose the information in the database only if requested by a health care professional or emergency responder.
- Requires the owner of a well to immediately submit to the Chief a list that identifies each chemical or each chemical in fluid that is brought to a well site, and requires the Chief to maintain a database consisting of the information that has been submitted.

---

## **CONTENT AND OPERATION**

### **Well completion records**

The bill revises several requirements in current law governing well completion records that must be filed by well owners with the Chief of the Division of Oil and Gas Resources Management in the Department of Natural Resources.

### **Trade secrets**

The bill authorizes the owner of a well who is required to submit a well completion record or a report of materials placed into a formation to refracture, restimulate, or newly complete a well, or a person that provides information to the owner regarding products, fluids, or substances used for drilling or stimulating a well for purposes of the well completion record or the report of materials, to request on a form prescribed by the Chief that the specific chemical identity, including the chemical name and other specific information pertaining to the chemical, be designated as a trade secret and withheld from disclosure. The owner or person must demonstrate on the form that the information sought to be designated as a trade secret is a trade secret as defined in the Uniform Trade Secrets Law. After receipt and review of a form requesting trade secret designation, the Chief may request the owner or person to provide additional information concerning the request. Not later than 60 days after receipt of a form, the Chief must issue an order either approving or denying the request for trade secret designation. The Chief must send a copy of the order to the owner or person. The owner or person may appeal an order denying the request for trade secret designation to the Oil and Gas Commission. The bill authorizes the Chief to adopt rules in accordance with the Administrative Procedure Act that are necessary and

appropriate to administer those provisions or to preserve the confidentiality of trade secrets.<sup>1</sup>

Additionally, if the Chief issues an order denying a request for trade secret designation and if the owner or person requesting the designation does not appeal the order or if a court determines that the chemical identity, the chemical name, or other specific information pertaining to the chemical is not entitled to trade secret protection, the Chief must make the chemical information available through the Division's web site.<sup>2</sup>

Current law instead authorizes such an owner or person to designate without disclosing on a form prescribed by the Chief and withhold from disclosure to the Chief the identity, amount, concentration, or purpose of a product, fluid, or substance or of a chemical component in a product, fluid, or substance as a trade secret.<sup>3</sup>

The bill then revises provisions in the current trade secrets statute regarding enforcement of any rights or remedies for misappropriation under the Uniform Trade Secrets Law, civil actions by adversely affected persons, and recordkeeping by applying those provisions to the chemical identity or chemical name or other specific information pertaining to the chemical designated as a trade secret rather than to the identity, amount, concentration, or purpose of any product, fluid, or substance or of any chemical component in a product, fluid, or substance designated as a trade secret.<sup>4</sup>

### **Information to health care professionals and emergency responders**

Under the bill, if a health care professional or emergency responder, in order to assist in the diagnosis or treatment of an individual who may have been affected by well construction, drilling, stimulation, completion, production, or other production operations at a well or by chemical transportation accidents related to the production operations of a well, requests the exact chemical identity or chemical name or other specific information pertaining to a chemical that is designated as a trade secret as discussed above, the Chief must provide to the health care professional or emergency responder, as expeditiously as possible, the exact chemical identity or chemical name or other specified information pertaining to the chemical that is requested. Under the bill, health care professionals are individuals authorized under the Physicians and Limited Practitioners Law to practice medicine and surgery, osteopathic medicine and surgery,

---

<sup>1</sup> R.C. 1509.10(I)(1).

<sup>2</sup> R.C. 1509.10(G).

<sup>3</sup> R.C. 1509.10(I)(1).

<sup>4</sup> R.C. 1509.10(I)(2) and (3) and (J)(2).

or podiatric medicine and surgery and individuals licensed under the Nurses Law to practice nursing as a registered nurse or licensed practical nurse. Additionally, emergency responders are members of a fire department, members of a police department, emergency medical service personnel, and members of a regional response team.<sup>5</sup>

Current law instead states that if a medical professional, in order to assist in the diagnosis or treatment of an individual who was affected by an incident associated with the production operations of a well, requests the exact chemical composition of each product, fluid, or substance and of each chemical component in a product, fluid, or substance that is designated as a trade secret, the person claiming the trade secret protection must provide to the medical professional the exact chemical composition of the product, fluid, or substance and of the chemical component in a product, fluid, or substance that is requested. Current law does not define "medical professional."<sup>6</sup>

In addition, the bill eliminates a requirement that a medical professional who receives information as described above keep the information confidential and not disclose it for any purpose that is not related to the diagnosis or treatment of an individual who was affected by an incident associated with the production operations of a well. It also eliminates a statement that the requirement does not preclude a medical professional from making any report required by law or professional ethical standards.<sup>7</sup>

Finally, under the bill, at the same time that a well completion record is submitted and at the same time that a report of materials placed into a formation to refracture, restimulate, or newly complete a well is submitted, the owner separately must submit to the Chief information regarding products, fluids, or substances used for drilling a well included in the well completion record, information regarding well stimulation included in the well completion record, or information in the report of materials regarding materials placed into a formation to refracture, restimulate, or newly complete a well, as applicable. The information also must include the specific chemical identity or chemical name or other specific information pertaining to a chemical, as applicable, for which the Chief has issued an order approving a request for trade secret designation as described above. The bill requires the Chief to maintain a database consisting of the information so received and must disclose the information in the database only to a health care professional or emergency responder as described

---

<sup>5</sup> R.C. 1509.10(H).

<sup>6</sup> R.C. 1509.10(H)(1).

<sup>7</sup> R.C. 1509.10(H)(2).

above. The Chief may adopt rules in accordance with the Administrative Procedure Act that are necessary to administer those provisions.<sup>8</sup>

### **Provision of chemical information to county emergency management agencies**

The bill requires the Chief to provide to the directors of all county emergency management agencies continuous online access to specified chemical information as follows:

(1) Information that the bill requires an applicant for a permit to drill a new horizontal well to submit to the Chief regarding each chemical that has been designated as a trade secret by the Chief and that is proposed to be added to each fluid that is proposed to be used to stimulate the well's reservoir (see "**Application for permit to drill new horizontal well**," below);

(2) An identification of each chemical or each chemical in fluid that is brought to a well site that the bill requires the owner of a well to submit to the Chief (see "**Disclosure of chemicals brought to well site**," below); and

(3) Chemical information generally included in a well completion record or report that the bill requires a well owner also to submit separately to the Chief (see above).<sup>9</sup>

### **Other provisions**

Current law requires a well owner to include in a well completion record specified information regarding all products, fluids, and substances used to stimulate the well, if applicable. The information must include a list of all chemicals, other than those designated as trade secrets, intentionally added to all products, fluids, or substances and include each chemical's corresponding Chemical Abstracts Service number and the maximum concentration of each chemical. The bill adds that the information also must include the name of each vendor of each chemical, the chemical family name, the trade name, and a brief description of each chemical's intended use or function. It also requires the maximum concentration of each chemical to be reported as a percentage.<sup>10</sup>

Under current law, an owner must submit required information related to well stimulation on a form prescribed by the Chief, through the chemical disclosure registry

---

<sup>8</sup> R.C. 1509.10(L).

<sup>9</sup> R.C. 1509.10(H)(3).

<sup>10</sup> R.C. 1509.10(A)(10)(b).



that is maintained by the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission, or by any other means approved by the Chief. The bill eliminates the option to submit the information through the chemical disclosure registry.<sup>11</sup>

### **Application for permit to drill new horizontal well**

The bill adds information that must be included with an application for a permit to drill a new horizontal well. The application must include both of the following:

(1) The type, volume, and geochemistry of each fluid that is proposed to be used to stimulate the reservoir of the proposed well, the proposed method that will be used for the containment of fluids recovered from the fracturing of the proposed well, and the proposed methods that will be used for the containment of fluids when pulled from the wellbore from swabbing the proposed well; and

(2) An identification of any chemical that is proposed to be added to each fluid that is proposed to be used to stimulate the reservoir of the proposed well and the chemical's name, the Chemical Abstracts Service number, the chemical family name, the trade name, the vendor, a brief description of the chemical's intended use or function, and the proposed quantity to be used that is reported as a percentage, by weight or volume, of the total fluid.

However, the application must not include information that is designated as a trade secret as discussed above.<sup>12</sup>

Under law retained by the bill, an application for a permit to drill a new well must be submitted to the Chief on a form prescribed by the Chief and must contain specified information.

The bill also requires an applicant for a permit to drill a new horizontal well to submit to the Chief the specific chemical identity or chemical name or other specific information pertaining to each chemical, as applicable, for which the Chief has issued an order approving a request for trade secret designation as discussed above and that is proposed to be added to each fluid that is proposed to be used to stimulate the reservoir of the proposed well. The applicant must include the chemical's name, the Chemical Abstracts Service number, the chemical family name, the trade name, the vendor, a brief description of the chemical's intended use or function, and the proposed quantity to be used that is reported as a percentage, by weight or volume, of the total fluid. The Chief

---

<sup>11</sup> R.C. 1509.10(F).

<sup>12</sup> R.C. 1509.06(A)(12).



must maintain a database consisting of the information submitted by an applicant and must disclose the information in the database only to a health care professional or emergency responder as discussed above. The Chief may adopt rules in accordance with the Administrative Procedure Act that are necessary for the administration of those provisions.<sup>13</sup>

### **Disclosure of chemicals brought to well site**

Under the bill, if a chemical or a fluid containing a chemical is brought to a well site, the owner of the well immediately must submit to the Chief a list that identifies each chemical or each chemical in the fluid, as applicable, including information that is designated as a trade secret as discussed above, and that identifies the well. The Chief must maintain a database consisting of such information received from a well owner and must disclose the information in the database only to a health care professional or emergency responder professional as discussed above. The Chief must adopt rules in accordance with the Administrative Procedure Act that are necessary for the administration of that provision and to preserve the confidentiality of trade secrets.<sup>14</sup>

---

## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	02-12-13

H0042-I-130.docx/emr

---

<sup>13</sup> R.C. 1509.06(K).

<sup>14</sup> R.C. 1509.091.

