

HOUSE BILL No. 5565

April 24, 2012, Introduced by Reps. Brown, Bledsoe, Lipton, Bauer, Tlaib and Byrum 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 61506d, 61531, 61532,
61533, 61534, 61535, 61536, and 61537.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 61506D. IN ADDITION TO OTHER REQUIREMENTS OF THIS PART,
2 SECTIONS 61531 TO 61537 APPLY TO WELLS THAT ARE USED OR ARE
3 INTENDED FOR USE FOR HYDRAULIC FRACTURING TREATMENTS.

4 SEC. 61531. AS USED IN THIS SECTION AND IN SECTIONS 61532 TO
5 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" OR "CAS" MEANS THE CHEMICAL
11 REGISTRY THAT IS THE AUTHORITATIVE COLLECTION OF DISCLOSED CHEMICAL
12 SUBSTANCE INFORMATION.

13 (E) "CHEMICAL ABSTRACTS SERVICE REGISTRY NUMBER" OR "CAS
14 NUMBER" MEANS THE UNIQUE IDENTIFICATION NUMBER ASSIGNED BY THE
15 CHEMICAL ABSTRACTS SERVICE TO A CHEMICAL 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" MEANS A BRIEF DESCRIPTOR OF THE INTENDED USE OR
21 FUNCTION OF AN ADDITIVE, OR THE INTENDED USES OR FUNCTIONS OF A
22 FRACTURING ADDITIVE SYSTEM, SUCH AS ACID, BIOCIDES, BREAKERS,
23 CORROSION INHIBITORS, CROSSLINKERS, DEMULSIFIERS, FRICTION REDUCERS,
24 GELS, IRON CONTROL AGENTS, OXYGEN SCAVENGERS, PH ADJUSTING AGENTS,
25 PROPPANTS, SCALE INHIBITORS, OR SURFACTANTS.

26 (P) "SERVICE COMPANY" MEANS A PERSON THAT PERFORMS HYDRAULIC
27 FRACTURING TREATMENTS IN THIS STATE FOR A PERMITTEE.

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

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

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

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

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

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

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

25 (D) A LIST OF ALL CHEMICAL INGREDIENTS CONTAINED IN EACH
26 ADDITIVE OR IN THE FRACTURING ADDITIVE SYSTEM, AS APPLICABLE,
27 DESCRIBED UNDER SUBDIVISION (B), AND THEIR ASSOCIATED CAS NUMBERS,

1 EXCLUDING ANY CHEMICAL INGREDIENTS ENTITLED TO TRADE SECRET
2 PROTECTION UNDER SECTION 61534.

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

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

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

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

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

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

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

27 (4) EXCEPT FOR TRADE SECRETS THAT ARE EXEMPT FROM DISCLOSURE

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

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

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

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

25 (6) AN APPLICANT OR PERMITTEE IS NOT RESPONSIBLE FOR UNKNOWN
26 INACCURACIES IN THE INFORMATION THAT IS PROVIDED TO THE DEPARTMENT
27 UNDER SUBSECTION (1) (B) THAT THE APPLICANT OR PERMITTEE RECEIVED

1 FROM A SUPPLIER OR THIRD-PARTY MANUFACTURER OF THE ADDITIVES.

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

7 (A) A MASTER LIST.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 CAS NUMBER.

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

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

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

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

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

25 (B) A STATEMENT THAT THE SPECIFIC IDENTITY OF THE CHEMICAL
26 INGREDIENT AND THE CHEMICAL INGREDIENT'S ASSOCIATED CAS NUMBER ARE
27 ENTITLED TO PROTECTION AS A TRADE SECRET.

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

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

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

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

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

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

27 (B) ANY OTHER INFORMATION, THE DISCLOSURE OF WHICH IS REQUIRED

1 BY A STATE OR FEDERAL LAW.

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

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

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

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

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

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

1 SECTION.