

# HOUSE BILL No. 4070

January 22, 2013, Introduced by Rep. Foster 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 section 61525c.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           SEC. 61525C. (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS  
2 PART, BEFORE CONDUCTING HYDRAULIC FRACTURING AS PART OF AN  
3 OPERATION PERMITTED UNDER THIS PART, A PERMITTEE SHALL COMPLY WITH  
4 ALL OF THE FOLLOWING:

5           (A) THE PERMITTEE SHALL CONDUCT A WATER WITHDRAWAL EVALUATION  
6 UTILIZING THE WATER WITHDRAWAL ASSESSMENT TOOL PURSUANT TO PART 327  
7 UNLESS THE PERMITTEE HAS PREVIOUSLY CONDUCTED A WATER WITHDRAWAL  
8 ASSESSMENT FOR THE SAME LOCATION WITH THE SAME ASSUMPTIONS. IF THE  
9 WATER WITHDRAWAL ASSESSMENT TOOL DETERMINES THAT THE PROPOSED  
10 WITHDRAWAL IS A ZONE B WITHDRAWAL IN A COLD-TRANSITIONAL RIVER

1 SYSTEM, OR A ZONE C OR ZONE D WITHDRAWAL, THE PERMITTEE MAY SUBMIT  
2 TO THE DEPARTMENT A REQUEST FOR A SITE-SPECIFIC REVIEW. IF THE  
3 SITE-SPECIFIC REVIEW, OR THE WATER WITHDRAWAL ASSESSMENT TOOL IF A  
4 SITE-SPECIFIC REVIEW IS NOT CONDUCTED, INDICATES THAT THE PROPOSED  
5 WITHDRAWAL IS LIKELY TO CAUSE AN ADVERSE RESOURCE IMPACT, OR  
6 DESIGNATES THE PROPOSED WITHDRAWAL AS A ZONE B WITHDRAWAL IN A  
7 COLD-TRANSITIONAL RIVER SYSTEM OR A ZONE C OR A ZONE D WITHDRAWAL,  
8 THE DEPARTMENT SHALL NOT PERMIT THE WITHDRAWAL AS PROPOSED.

9 (B) THE PERMITTEE SHALL CONDUCT WATER SAMPLING AND TESTING OF  
10 GROUNDWATER SUPPLIES IN THE VICINITY OF THE HYDRAULIC FRACTURING  
11 OPERATIONS AS REQUIRED BY THE DEPARTMENT TO ESTABLISH A BASELINE OF  
12 THE WATER QUALITY OF THOSE GROUNDWATER SUPPLIES.

13 (C) IF 1 OR MORE FRESHWATER WELLS ARE PRESENT WITHIN 1,320  
14 FEET OF A PROPOSED LARGE-VOLUME WATER WITHDRAWAL TO BE USED FOR  
15 HYDRAULIC FRACTURING OPERATIONS, THE PERMITTEE SHALL INSTALL A  
16 MONITOR WELL BETWEEN THE WATER WITHDRAWAL WELL OR WELLS AND THE  
17 NEAREST FRESHWATER WELL. THE PERMITTEE SHALL MEASURE AND RECORD THE  
18 WATER LEVEL IN THE MONITOR WELL DAILY DURING WATER WITHDRAWAL AND  
19 WEEKLY THEREAFTER UNTIL THE WATER LEVEL STABILIZES. THE PERMITTEE  
20 SHALL REPORT THE WATER LEVEL DATA WEEKLY TO THE DEPARTMENT IN THE  
21 MANNER REQUIRED BY THE DEPARTMENT.

22 (D) THE PERMITTEE SHALL NOT ALLOW FRESHWATER PITS TO CAUSE  
23 WASTE AND SHALL REMOVE THE FRESHWATER PITS WITHIN 60 DAYS AFTER THE  
24 CONCLUSION OF WELL COMPLETION OPERATIONS. FRESHWATER PITS ARE  
25 SUBJECT TO SOIL EROSION AND SEDIMENTATION CONTROL MEASURES UNDER  
26 PART 91 AND THE DEPARTMENT MAY REQUIRE FENCING AROUND THE  
27 FRESHWATER PITS.

1 (E) DURING HYDRAULIC FRACTURING OPERATIONS, THE PERMITTEE  
2 SHALL MONITOR AND RECORD THE INJECTION PRESSURE AT THE SURFACE AND  
3 THE ANNULUS PRESSURE BETWEEN THE INJECTION STRING AND THE NEXT  
4 STRING OF CASING UNLESS THE ANNULUS IS CEMENTED TO SURFACE.

5 (F) AT LEAST 24 HOURS PRIOR TO BEGINNING HYDRAULIC FRACTURING  
6 OPERATIONS, PROVIDE TO THE DEPARTMENT MATERIAL SAFETY DATA SHEETS  
7 CONTAINING ALL CHEMICAL ADDITIVES TO BE USED IN THE HYDRAULIC  
8 FRACTURING OPERATIONS. IF MATERIAL SAFETY DATA SHEETS ARE UPDATED,  
9 THE UPDATED MATERIAL SAFETY DATA SHEETS SHALL BE PROVIDED TO THE  
10 DEPARTMENT PRIOR TO BEGINNING HYDRAULIC FRACTURING OPERATIONS. THE  
11 DEPARTMENT SHALL POST INFORMATION IN THE MATERIAL SAFETY DATA  
12 SHEETS ON THE DEPARTMENT'S WEBSITE. HOWEVER, THE DEPARTMENT SHALL  
13 NOT DISCLOSE PROPRIETARY FORMULAS OR TRADE SECRET CHEMICALS THAT  
14 ARE EXEMPT FROM DISCLOSURE UNDER 42 USC 11042. THE INFORMATION THAT  
15 THE DEPARTMENT SHALL NOT DISCLOSE UNDER THIS SUBDIVISION IS EXEMPT  
16 FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442,  
17 MCL 15.231 TO 15.246. NOTWITHSTANDING THE EXEMPTION FROM DISCLOSURE  
18 UNDER THIS SUBDIVISION, THE DEPARTMENT OR THE PERMITTEE SHALL  
19 DISCLOSE ALL INFORMATION RELATED TO CHEMICAL CONSTITUENTS IF A  
20 MEDICAL EMERGENCY EXISTS AS PROVIDED FOR UNDER 42 USC 11043 OR IF  
21 AN ENVIRONMENTAL EMERGENCY EXISTS, INCLUDING, BUT LIMITED TO, THE  
22 PRESENCE OF CONTAMINANTS IN A GROUNDWATER SUPPLY ABOVE THE BASELINE  
23 ESTABLISHED IN SUBDIVISION (B).

24 (G) WITHIN 60 DAYS AFTER THE CONCLUSION OF WELL COMPLETION  
25 OPERATIONS FOR A HIGH-VOLUME HYDRAULIC FRACTURING WELL, THE  
26 PERMITTEE SHALL PROVIDE ALL OF THE FOLLOWING TO THE DEPARTMENT,  
27 WHICH THE DEPARTMENT SHALL POST ON THE DEPARTMENT'S WEBSITE, EXCEPT

1 FOR INFORMATION EXEMPT FROM DISCLOSURE UNDER SUBDIVISION (F) :

2 (i) MATERIAL SAFETY DATA SHEETS FOR THE CHEMICAL ADDITIVES USED  
3 AND THE VOLUME OF EACH CHEMICAL ADDITIVE USED.

4 (ii) HYDRAULIC FRACTURING RECORDS AND ASSOCIATED CHARTS SHOWING  
5 HYDRAULIC FRACTURING VOLUMES, RATES, AND PRESSURES.

6 (iii) ANNULUS PRESSURES RECORDED DURING HYDRAULIC FRACTURING  
7 OPERATIONS.

8 (iv) THE TOTAL VOLUME OF FLOWBACK FORMATION OR TREATMENT WATER,  
9 OR BOTH, TO DATE AT THE TIME OF RECORD SUBMITTAL.

10 (v) OTHER INFORMATION OTHERWISE REQUIRED UNDER THIS PART,  
11 RULES, OR ORDERS ISSUED UNDER THIS PART.

12 (2) THE DEPARTMENT SHALL WORK WITH THE DEPARTMENT OF STATE  
13 POLICE EMERGENCY MANAGEMENT AND HOMELAND SECURITY DIVISION TO  
14 ENSURE THAT THE MICHIGAN EMERGENCY MANAGEMENT PLAN ADEQUATELY  
15 ADDRESSES HYDRAULIC FRACTURING OPERATIONS.

16 (3) AS USED IN THIS SECTION:

17 (A) "ADVERSE RESOURCE IMPACT", "COLD-TRANSITIONAL RIVER  
18 SYSTEM", "SITE-SPECIFIC REVIEW", "WATER WITHDRAWAL ASSESSMENT  
19 TOOL", "ZONE B WITHDRAWAL", "ZONE C WITHDRAWAL", AND "ZONE D  
20 WITHDRAWAL" HAVE THE SAME MEANING AS IN PART 327.

21 (B) "HIGH-VOLUME HYDRAULIC FRACTURING WELL" MEANS A WELL THAT  
22 IS INTENDED TO USE A TOTAL OF MORE THAN 100,000 GALLONS OF  
23 HYDRAULIC FRACTURING FLUID.

24 (C) "HYDRAULIC FRACTURING" MEANS STIMULATING A WELL BY PUMPING  
25 FLUID, WHICH MAY CONTAIN PROPPANTS, INTO A TARGET FORMATION TO  
26 CREATE OR PROPAGATE ARTIFICIAL FRACTURES, OR ENHANCE NATURAL  
27 FRACTURES, FOR THE PURPOSE OF IMPROVING THE DELIVERABILITY AND

1 PRODUCTION OF HYDROCARBONS.

2 (D) "LARGE-VOLUME WATER WITHDRAWAL" MEANS A WATER WITHDRAWAL  
3 INTENDED TO PRODUCE A CUMULATIVE TOTAL OF OVER 100,000 GALLONS OF  
4 WATER PER DAY WHEN AVERAGED OVER A CONSECUTIVE 30-DAY PERIOD.

5 (E) "MATERIAL SAFETY DATA SHEETS" MEANS MATERIAL SAFETY DATA  
6 SHEETS AS DESCRIBED IN 42 USC 11021.

7 (F) "WELL COMPLETION OPERATIONS" MEANS WORK PERFORMED IN AN  
8 OIL OR GAS WELL, OR BOTH, AFTER THE WELL HAS BEEN DRILLED TO ITS  
9 PERMITTED DEPTH AND THE PRODUCTION STRING OF CASING HAS BEEN SET,  
10 INCLUDING PERFORATING, ARTIFICIAL STIMULATION, AND PRODUCTION  
11 TESTING.