

Energy Alert

Ohio Passes Shale Gas Drilling Law

June 13, 2012

On June 11, 2012, Ohio Gov. John Kasich signed into law Senate Bill 315 (“SB 315”), which requires owners and operators of oil and gas wells to provide detailed disclosures regarding their horizontal drilling operations in the Utica shale formation. As discussed in our prior alert, which can be found [here](#), the new law requires: (i) owners of oil and gas wells to identify the proposed source of the water used in the hydraulic fracturing (“fracking”) of wells, (ii) applicants for permits to drill new horizontal wells to include the results of sampling of water wells within 1,500 feet of a proposed well prior to the commencement of drilling, and (iii) detailed disclosure to the Division of Oil and Gas Resources Management (the “Division”) of the chemicals used in the fracking process.

The legislation signed into law by Gov. Kasich includes certain material changes, as a result of action by the Ohio House of Representatives, from the original bill passed by the Ohio Senate. Notably, well owners must still provide to the Division a well completion record, including, if applicable, the trade name and total volume of all products, fluids, and substances used either to facilitate the drilling of any portion of a well or to stimulate a well. However, instead of both designating a substance as a trade secret and disclosing to the Division the identity, amount, concentration or purpose of such substance used in the fracking process (as provided in the original bill passed by the Ohio Senate), well owners may designate that a substance used in the fracking process is entitled to trade secret protection **without disclosing** the identity, amount, concentration or purpose of such substance. The legislation does authorize a property owner, an adjacent property owner, or any person or state agency that has an interest that is or may be adversely affected by a substance used in the fracking process to pursue a civil action challenging the validity of such trade secret protection.

With the passage of SB 315, Ohio joins other states, including Pennsylvania, Colorado, Wyoming and Texas, that have passed new regulations concerning fracking activities. Notably, Texas recently adopted comprehensive chemical disclosure rules for hydraulic fracturing fluids. The Texas rules require operators to disclose the chemical breakdown of fracking fluids used for all wells permitted after February 1, 2012, but, similar to the Ohio rules, the Texas rules protect disclosure of trade secret information. Under the Texas rules, where a fluid supplier, a service company, or an operator claims trade secret protection, it is not required to disclose the trade secret information unless the Office of the Attorney General or a court with proper jurisdiction determines that such information is not subject to protection after challenge by (1) a landowner on whose property the relevant wellhead is located; (2) an adjacent landowner; or (3) a state department or agency with jurisdiction over the matter.



The full text of SB 315 is available [here](#).

CONTACT INFORMATION

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