

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0306.01 Sarah Lozano x3858

HOUSE BILL 22-1348

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A BILL FOR AN ACT

101 CONCERNING ENHANCED OVERSIGHT OF THE CHEMICALS USED IN OIL
102 AND GAS PRODUCTION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill establishes a regulatory scheme that requires disclosure of certain chemical information for products used in downhole oil and gas operations (chemical disclosure information). On or before July 31, 2023, the oil and gas conservation commission (commission) is required to utilize or develop a chemical disclosure website to collect and share certain chemical disclosure information to the public (chemical disclosure

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

website).

On and after July 31, 2023, a manufacturer that sells or distributes a chemical product for use in underground oil and gas operations (downhole operations) in the state must disclose to the commission:

- The trade name of the chemical product;
- A list of the names of each chemical used in the chemical product;
- The estimated amount of each chemical used in the chemical product; and
- A description of the intended purpose of the chemical used in the chemical product.

The manufacturer must also provide the commission with a declaration that the chemical product contains no intentionally added perfluoroalkyl or polyfluoroalkyl chemicals.

For manufacturers that were already selling or distributing a chemical product for use in downhole operations in the state before July 31, 2023, the disclosure and declaration must be made at least 30 days before July 31, 2023. For manufacturers that begin to sell or distribute a chemical product for use in downhole operations in the state on or after July 31, 2023, the disclosure and declaration must be made at least 30 days before the manufacturer begins selling or distributing the chemical product.

On and after July 31, 2023, an operator of downhole operations using a chemical product must disclose to the commission:

- The date of commencement of downhole operations;
- The county of the well site where downhole operations are being conducted;
- The numerical identifier assigned by the American Petroleum Institute to the well where downhole operations are being conducted; and
- The trade names and quantities of any chemical products the operator plans to use in downhole operations.

The operator must also provide the commission with a declaration that the chemical product contains no intentionally added perfluoroalkyl or polyfluoroalkyl chemicals.

For downhole operations that commenced before July 31, 2023, and that will be ongoing on July 31, 2023, the disclosure and declaration must be made at least 75 days before July 31, 2023. For downhole operations that commence on or after July 31, 2023, the disclosure and declaration must be made at least 75 days before commencement of downhole operations.

The commission will use the chemical disclosure information to create a chemical disclosure list for each well site, which will include:

- An alphabetical list of names of chemicals that will be used in downhole operations at the well site; and

- The total estimated amount of each chemical that will be used at the well site.

The commission will post each chemical disclosure list on the chemical disclosure website. The commission shall provide the chemical disclosure list to the applicable operator within 7 days after the operator's disclosures.

Prior to the commencement of downhole operations, the operator is required to disclose the chemical disclosure list to communities near where downhole operations will be conducted, local public water administrators, and, if there is a high-priority habitat near where downhole operations are being conducted, the division of parks and wildlife. For downhole operations that commenced before July 31, 2023, and that will be ongoing on July 31, 2023, the disclosure of the chemical disclosure list by the operator to these entities must be made at least 60 days before July 31, 2023. For downhole operations that commence on or after July 31, 2023, the disclosure of the chemical disclosure list by the operator to these entities must be made at least 60 days before commencement of downhole operations.

If a manufacturer believes that any information that will be included on a chemical disclosure list is a trade secret, the manufacturer must file a trade secret claim with the commission. If the commission determines that the information covered by the trade secret claim constitutes a trade secret, the commission shall not include the information in any applicable chemical disclosure list.

On or before July 31, 2023, the commission must promulgate rules that set standards for the disclosure of the chemical disclosure information to:

- An officer or employee of the United States, the state, or a local government in connection with the officer's or employee's official duties;
- Contractors of the United States, the state, or a local government if the commission determines that the disclosure is necessary for performance of a contract or the protection of public health and safety;
- A health-care professional in connection with an emergency or with diagnosing or treating a patient; and
- In order to protect public safety, a person who is employed in public health or a scientist or researcher employed by an institution of higher education.

No later than February 1, 2025, and no later than February 1 each year thereafter, the commission shall submit and present an annual report to the general assembly based on the chemical disclosure information.

1 *Be it enacted by the General Assembly of the State of Colorado:*

1 **SECTION 1. Legislative declaration.** (1) The general assembly
2 hereby finds and declares that:

3 (a) There are tens of thousands of active oil and gas wells in
4 Colorado;

5 (b) Many different types of products that contain chemical
6 additives are used by operators during the drilling and stimulation of these
7 wells to break up the subsurface and extract oil and gas from the ground;

8 (c) While water and sand can make up the vast majority of these
9 products, the amount of chemical additives injected into a well can add
10 up to tens of thousands of gallons because of the amount of these
11 products that are used during the course of an oil and gas operation;

12 (d) When these chemical additives are injected into a well, there
13 is a high risk of contamination to nearby groundwater or surface water;
14 and

15 (e) Some chemicals used in chemical products, such as
16 perfluoroalkyl and polyfluoroalkyl chemicals and biocides, have high
17 aquatic toxicity and can be incredibly harmful to human health and the
18 environment.

19 (2) The general assembly further finds and declares that:

20 (a) Even though exposure to these chemical additives poses a
21 danger to public health and the environment, scientists, state and local
22 regulators, and the public lack full access to information about the
23 chemical additives used in oil and gas production in the state;

24 (b) While Colorado requires the reporting of certain chemical
25 information for products that are used in hydraulic fracturing (fracking)
26 operations for input into a third-party database, there are broad
27 exemptions allowed for chemical information that is deemed proprietary

1 or confidential by the operator or supplier of a product;

2 (c) In recent years, thousands of operators who conduct fracking
3 operations have used trade secrecy claims to avoid disclosing information
4 about the chemicals that they use in their operations;

5 (d) Operators and suppliers of the products often do not have
6 knowledge of the chemical information that they are required to report to
7 the state;

8 (e) As a result of the amount of trade secrecy claims and the
9 operators' and suppliers' lack of knowledge of specific chemical
10 information, information about the chemical additives that are used in
11 fracking operations in the state is vastly underreported;

12 (f) Greater transparency regarding chemical use in oil and gas
13 production is urgently needed and can be achieved by:

14 (I) Requiring manufacturers, rather than operators and suppliers,
15 to disclose information about chemicals that are used in oil and gas
16 production in the state;

17 (II) Requiring the Colorado oil and gas conservation commission
18 to gather the chemical information so that the disclosure of specific
19 chemical information can be separated from the trade name of a product,
20 which will thereby protect any proprietary information; and

21 (III) Ensuring that disclosure of the chemical information to the
22 state, to local governments, and to schools and communities in close
23 proximity to oil and gas operations occurs before the use of the products
24 in oil and gas operations; and

25 (g) A full inventory of the chemicals used in oil and gas
26 production will:

27 (I) Assist state agencies, local governments, health-care

1 professionals, public health officials, and scientists in determining if
2 highly hazardous chemicals are being used in oil and gas production;

3 (II) Alert Coloradans to potential exposures to highly hazardous
4 chemicals prior to their use; and

5 (III) Encourage the manufacturers and users of products that
6 contain highly hazardous chemicals to use less toxic alternatives in future
7 products and oil and gas operations.

8 (3) Therefore the general assembly determines and declares that
9 the state should enact a regulatory scheme that provides full disclosure of
10 the chemicals that are being deposited into the environment through oil
11 and gas production because:

12 (a) Coloradans have the right to know what chemicals are being
13 deposited into the environment where they live, work, and recreate; and

14 (b) State and local governments and regulators need this chemical
15 information to adequately protect the people, water systems, wildlife, and
16 environment of Colorado.

17 **SECTION 2.** In Colorado Revised Statutes, **add** 34-60-132 as
18 follows:

19 **34-60-132. Disclosure of chemicals used in downhole oil and**
20 **gas operations - chemical disclosure lists - community notification -**
21 **trade secret information - disclosure of chemical information to**
22 **governmental agencies, health-care professionals, and scientists -**
23 **reports - definitions - rules - repeal. (1) AS USED IN THIS SECTION,**
24 **UNLESS THE CONTEXT OTHERWISE REQUIRES:**

25 (a) (I) "ADDITIVE" MEANS A CHEMICAL OR COMBINATION OF
26 CHEMICALS ADDED TO A BASE FLUID FOR USE IN A HYDRAULIC
27 FRACTURING TREATMENT.

- 1 (II) "ADDITIVE" INCLUDES PROPPANTS.
- 2 (b) "BASE FLUID" MEANS THE CONTINUOUS PHASE FLUID TYPE,
3 SUCH AS WATER, USED IN A HYDRAULIC FRACTURING TREATMENT.
- 4 (c) "CHEMICAL" MEANS ANY ELEMENT, CHEMICAL COMPOUND, OR
5 MIXTURE OF ELEMENTS OR CHEMICAL COMPOUNDS THAT HAS A SPECIFIC
6 NAME OR IDENTITY, INCLUDING A CHEMICAL ABSTRACTS SERVICE
7 NUMBER.
- 8 (d) "CHEMICAL ABSTRACTS SERVICE NUMBER" MEANS THE UNIQUE
9 NUMERICAL IDENTIFIER ASSIGNED BY THE CHEMICAL ABSTRACTS SERVICE
10 TO A CHEMICAL.
- 11 (e) "CHEMICAL DISCLOSURE INFORMATION" MEANS THE
12 INFORMATION DISCLOSED TO THE COMMISSION UNDER SUBSECTIONS
13 (2)(a)(I) AND (3)(a)(I) OF THIS SECTION.
- 14 (f) "CHEMICAL DISCLOSURE LIST" MEANS A LIST OF CHEMICALS
15 THAT AN OPERATOR INDICATES THAT THE OPERATOR PLANS TO USE IN
16 DOWNHOLE OPERATIONS AT A WELL SITE.
- 17 (g) "CHEMICAL DISCLOSURE WEBSITE" MEANS A WEBSITE THAT IS
18 CAPABLE OF DISPLAYING CHEMICAL DISCLOSURE LISTS AND CAN BE
19 ACCESSED BY THE PUBLIC.
- 20 (h) (I) "CHEMICAL PRODUCT" MEANS ANY PRODUCT THAT
21 CONSISTS OF ONE OR MORE CHEMICALS AND IS SOLD OR DISTRIBUTED FOR
22 USE IN DOWNHOLE OPERATIONS IN THE STATE.
- 23 (II) "CHEMICAL PRODUCT" INCLUDES ADDITIVES, BASE FLUIDS,
24 AND HYDRAULIC FRACTURING FLUIDS.
- 25 (i) "DIVISION" MEANS THE DIVISION OF PARKS AND WILDLIFE IN
26 THE DEPARTMENT OF NATURAL RESOURCES.
- 27 (j) "DOWNHOLE OPERATIONS" MEANS OIL AND GAS OPERATIONS

1 THAT ARE CONDUCTED UNDERGROUND.

2 (k) "HEALTH-CARE PROFESSIONAL" MEANS A PHYSICIAN,
3 PHYSICIAN ASSISTANT, NURSE PRACTITIONER, REGISTERED NURSE, OR
4 EMERGENCY MEDICAL SERVICE PROVIDER LICENSED OR CERTIFIED BY THE
5 STATE.

6 (l) "HIGH-PRIORITY HABITAT" MEANS HABITAT AREAS, AS
7 IDENTIFIED BY THE DIVISION, WHERE MEASURES TO AVOID, MINIMIZE, OR
8 MITIGATE ADVERSE IMPACTS TO WILDLIFE HAVE BEEN IMPLEMENTED OR
9 ARE PLANNED TO BE IMPLEMENTED TO PROTECT BREEDING, NESTING,
10 FORAGING, MIGRATING, OR OTHER WILDLIFE ACTIVITIES.

11 (m) "HYDRAULIC FRACTURING FLUID" MEANS THE FLUID,
12 INCLUDING ANY BASE FLUID AND ADDITIVES, USED TO PERFORM A
13 HYDRAULIC FRACTURING TREATMENT.

14 (n) "HYDRAULIC FRACTURING TREATMENT" MEANS ALL STAGES OF
15 THE TREATMENT OF A WELL BY THE APPLICATION OF HYDRAULIC
16 FRACTURING FLUID UNDER PRESSURE, WHICH TREATMENT IS EXPRESSLY
17 DESIGNED TO INITIATE OR PROPAGATE FRACTURES IN AN UNDERGROUND
18 GEOLOGIC FORMATION TO ENHANCE THE PRODUCTION OF OIL AND GAS.

19 (o) "MANUFACTURER" MEANS THE PERSON OR ENTITY THAT
20 MAKES, ASSEMBLES, OR OTHERWISE GENERATES A CHEMICAL PRODUCT OR
21 WHOSE TRADE NAME IS AFFIXED TO A CHEMICAL PRODUCT.

22 (p) "PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES" OR
23 "PFAS CHEMICALS" HAS THE MEANING SET FORTH IN SECTION 25-5-1302
24 (7).

25 (q) "PROPPANTS" MEANS MATERIALS INSERTED OR INJECTED INTO
26 AN UNDERGROUND GEOLOGIC FORMATION DURING A HYDRAULIC
27 FRACTURING TREATMENT THAT ARE INTENDED TO PREVENT FRACTURES

1 FROM CLOSING.

2 (r) "PUBLIC WATER SYSTEMS" HAS THE MEANING SET FORTH IN
3 SECTION 25-1.5-201 (1).

4 (s) "TRADE SECRET" MEANS THE WHOLE OR ANY PORTION OR
5 PHASE OF ANY SCIENTIFIC OR TECHNICAL INFORMATION; DESIGN; PROCESS;
6 PROCEDURE; FORMULA; IMPROVEMENT; CONFIDENTIAL BUSINESS OR
7 FINANCIAL INFORMATION; LISTING OF NAMES, ADDRESSES, OR TELEPHONE
8 NUMBERS; OR OTHER INFORMATION RELATING TO ANY BUSINESS OR
9 PROFESSION THAT:

10 (I) IS SECRET AND OF VALUE; AND

11 (II) FOR WHICH THE OWNER OF THE SECRET HAS TAKEN MEASURES
12 TO PREVENT THE SECRET FROM BECOMING AVAILABLE TO PERSONS OTHER
13 THAN THOSE SELECTED BY THE OWNER TO HAVE ACCESS FOR LIMITED
14 PURPOSES.

15 (t) "TYPE III AQUIFER" MEANS AN AQUIFER THAT CONSISTS OF
16 UNCONSOLIDATED GEOLOGIC MATERIAL, INCLUDING ALLUVIAL,
17 COLLUVIAL, OR OTHER CONSOLIDATED MATERIALS.

18 (u) "WELL SITE" MEANS THE AREA THAT IS DIRECTLY DISTURBED
19 DURING OIL AND GAS OPERATIONS.

20 (2) **Manufacturer chemical disclosure information and**
21 **declaration.** (a) ON AND AFTER JULY 31, 2023, AND SUBJECT TO
22 SUBSECTION (2)(b) OF THIS SECTION, A MANUFACTURER THAT SELLS OR
23 DISTRIBUTES A CHEMICAL PRODUCT FOR USE IN DOWNHOLE OPERATIONS
24 IN THE STATE MUST:

25 (I) DISCLOSE TO THE COMMISSION:

26 (A) THE TRADE NAME OF THE CHEMICAL PRODUCT;

27 (B) A LIST OF THE NAMES AND CHEMICAL ABSTRACTS SERVICE

1 NUMBERS OF EACH CHEMICAL USED IN THE CHEMICAL PRODUCT;

2 (C) THE ESTIMATED AMOUNT OF EACH CHEMICAL USED IN THE
3 CHEMICAL PRODUCT; AND

4 (D) A DESCRIPTION OF THE INTENDED PURPOSE OF EACH CHEMICAL
5 USED IN THE CHEMICAL PRODUCT; AND

6 (II) PROVIDE A WRITTEN DECLARATION TO THE COMMISSION THAT
7 THE CHEMICAL PRODUCT CONTAINS NO INTENTIONALLY ADDED PFAS
8 CHEMICALS.

9 (b) (I) (A) FOR MANUFACTURERS THAT WERE ALREADY SELLING
10 OR DISTRIBUTING A CHEMICAL PRODUCT FOR USE IN DOWNHOLE
11 OPERATIONS IN THE STATE BEFORE JULY 31, 2023, THE INFORMATION AND
12 DECLARATION REQUIRED TO BE PROVIDED PURSUANT TO SUBSECTION
13 (2)(a) OF THIS SECTION MUST BE PROVIDED TO THE COMMISSION AT LEAST
14 THIRTY DAYS BEFORE JULY 31, 2023.

15 (B) THIS SUBSECTION (2)(b)(I) IS REPEALED, EFFECTIVE JULY 1,
16 2024.

17 (II) FOR MANUFACTURERS THAT BEGIN TO SELL OR DISTRIBUTE A
18 CHEMICAL PRODUCT FOR USE IN DOWNHOLE OPERATIONS IN THE STATE ON
19 OR AFTER JULY 31, 2023, THE INFORMATION AND DECLARATION REQUIRED
20 TO BE PROVIDED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION MUST
21 BE PROVIDED TO THE COMMISSION AT LEAST THIRTY DAYS BEFORE THE
22 MANUFACTURER BEGINS SELLING OR DISTRIBUTING THE CHEMICAL
23 PRODUCT.

24 (c) THE COMMISSION SHALL MAKE REASONABLE EFFORTS TO
25 ENSURE THAT THE INFORMATION AND DECLARATION REQUIRED TO BE
26 PROVIDED UNDER SUBSECTION (2)(a) OF THIS SECTION IS PROVIDED TO THE
27 COMMISSION.

1 **(3) Operator chemical disclosure information - declaration.**

2 (a) ON AND AFTER JULY 31, 2023, AND SUBJECT TO SUBSECTION (3)(b) OF
3 THIS SECTION, AN OPERATOR OF DOWNHOLE OPERATIONS USING A
4 CHEMICAL PRODUCT MUST:

5 (I) DISCLOSE TO THE COMMISSION:

6 (A) THE DATE OF COMMENCEMENT OF DOWNHOLE OPERATIONS;

7 (B) THE COUNTY OF THE WELL SITE WHERE DOWNHOLE
8 OPERATIONS ARE BEING OR WILL BE CONDUCTED;

9 (C) THE UNIQUE NUMERICAL IDENTIFIER ASSIGNED BY THE
10 AMERICAN PETROLEUM INSTITUTE TO THE WELL WHERE DOWNHOLE
11 OPERATIONS ARE BEING OR WILL BE CONDUCTED; AND

12 (D) THE TRADE NAMES AND QUANTITIES OF ANY CHEMICAL
13 PRODUCTS THE OPERATOR PLANS TO USE IN DOWNHOLE OPERATIONS; AND

14 (II) PROVIDE A WRITTEN DECLARATION TO THE COMMISSION THAT
15 THE CHEMICAL PRODUCT CONTAINS NO INTENTIONALLY ADDED PFAS
16 CHEMICALS.

17 (b) (I) (A) FOR A DOWNHOLE OPERATION THAT COMMENCED
18 BEFORE JULY 31, 2023, AND THAT WILL BE ONGOING ON JULY 31, 2023,
19 THE INFORMATION AND DECLARATION REQUIRED TO BE PROVIDED
20 PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION MUST BE PROVIDED TO
21 THE COMMISSION AT LEAST SEVENTY-FIVE DAYS BEFORE JULY 31, 2023.

22 (B) THIS SUBSECTION (3)(b)(I) IS REPEALED, EFFECTIVE JULY 1,
23 2024.

24 (II) FOR A DOWNHOLE OPERATION THAT COMMENCES ON OR AFTER
25 JULY 31, 2023, THE INFORMATION AND DECLARATION REQUIRED TO BE
26 PROVIDED PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION MUST BE
27 PROVIDED TO THE COMMISSION AT LEAST SEVENTY-FIVE DAYS BEFORE

1 COMMENCEMENT OF THE DOWNHOLE OPERATION.

2 (c) THE COMMISSION SHALL MAKE REASONABLE EFFORTS TO
3 ENSURE THAT THE INFORMATION AND DECLARATION REQUIRED TO BE
4 PROVIDED UNDER SUBSECTION (3)(a) OF THIS SECTION IS PROVIDED TO THE
5 COMMISSION.

6 (4) **Change in chemical disclosure information.** IF THERE IS A
7 CHANGE IN THE INFORMATION PROVIDED UNDER SUBSECTION (2)(a)(I) OR
8 (3)(a)(I) OF THIS SECTION, THE MANUFACTURER OR OPERATOR MUST
9 SUBMIT THE CHANGE TO THE COMMISSION WITHIN THIRTY DAYS AFTER THE
10 DATE THE MANUFACTURER OR OPERATOR FIRST KNEW OF THE CHANGE.

11 (5) **Chemical disclosure lists.** (a) THE COMMISSION SHALL USE
12 THE CHEMICAL DISCLOSURE INFORMATION TO CREATE A CHEMICAL
13 DISCLOSURE LIST FOR EACH APPLICABLE WELL SITE.

14 (b) THE COMMISSION SHALL INCLUDE IN THE CHEMICAL
15 DISCLOSURE LIST:

16 (I) AN ALPHABETICAL LIST OF THE NAMES AND CHEMICAL
17 ABSTRACTS SERVICE NUMBERS OF EACH CHEMICAL THAT WILL BE USED IN
18 DOWNHOLE OPERATIONS AT THE WELL SITE; AND

19 (II) THE TOTAL ESTIMATED AMOUNT OF EACH CHEMICAL THAT AN
20 OPERATOR PLANS TO USE IN DOWNHOLE OPERATIONS AT THE WELL SITE.

21 (c) THE COMMISSION SHALL NOT INCLUDE IN THE CHEMICAL
22 DISCLOSURE LIST:

23 (I) THE TRADE NAME OF A CHEMICAL PRODUCT USED IN DOWNHOLE
24 OPERATIONS AT THE WELL SITE; OR

25 (II) THE TOTAL AMOUNT OF A CHEMICAL IN A CHEMICAL PRODUCT.

26 (d) NO LATER THAN SEVEN DAYS AFTER AN OPERATOR MAKES THE
27 DISCLOSURES REQUIRED UNDER SUBSECTION (3) OF THIS SECTION, THE

1 COMMISSION SHALL:

2 (I) POST THE CHEMICAL DISCLOSURE LIST ON THE CHEMICAL
3 DISCLOSURE WEBSITE AND INCLUDE THE DATE OF THE SUBMISSION OF THE
4 CHEMICAL DISCLOSURE LIST TO THE COMMISSION IN THE POST; AND

5 (II) PROVIDE THE CHEMICAL DISCLOSURE LIST TO THE OPERATOR
6 OF THE APPLICABLE WELL.

7 (e) THE COMMISSION SHALL:

8 (I) POST AN UPDATED CHEMICAL DISCLOSURE LIST IF THERE ARE
9 ANY NOTIFICATIONS RECEIVED FROM A MANUFACTURER OR OPERATOR
10 UNDER SUBSECTION (4) OF THIS SECTION AND INCLUDE THE DATE OF THE
11 NOTIFICATION BY THE MANUFACTURER OR OPERATOR IN THE POST; AND

12 (II) ENSURE THAT:

13 (A) ALL CHEMICAL DISCLOSURE LISTS AND UPDATED CHEMICAL
14 DISCLOSURE LISTS REMAIN VIEWABLE BY THE PUBLIC;

15 (B) THE CHEMICAL DISCLOSURE WEBSITE IS SEARCHABLE BY
16 CHEMICAL, DATE OF SUBMISSION OR UPDATE OF A CHEMICAL DISCLOSURE
17 LIST, NAME AND ADDRESS OF THE OPERATOR, AND COUNTY OF THE WELL
18 SITE; AND

19 (C) THE CHEMICAL DISCLOSURE WEBSITE ALLOWS MEMBERS OF
20 THE PUBLIC TO DOWNLOAD CHEMICAL DISCLOSURE LISTS IN AN
21 ELECTRONIC, DELIMITED FORMAT.

22 (6) **Community notification.** (a) ON OR BEFORE JULY 31, 2023,
23 AND SUBJECT TO SUBSECTION (6)(b) OF THIS SECTION, AN OPERATOR
24 SHALL PROVIDE THE CHEMICAL DISCLOSURE LIST TO:

25 (I) ALL PARTIES THAT:

26 (A) ARE LOCATED WITHIN TWO THOUSAND SIX HUNDRED FORTY
27 FEET OF THE WELL SITE; AND

1 (B) THE OPERATOR IS REQUIRED BY RULE TO NOTIFY OF THE
2 DETERMINATION MADE BY THE DIRECTOR OF THE COMMISSION THAT AN
3 OIL AND GAS DEVELOPMENT PLAN IS COMPLETE;

4 (II) THE ADMINISTRATOR OF ANY PUBLIC WATER SYSTEM THAT
5 OPERATES:

6 (A) A SURFACE WATER PUBLIC WATER SYSTEM INTAKE THAT IS
7 LOCATED FIFTEEN STREAM MILES OR LESS DOWNSTREAM FROM THE WELL
8 SITE;

9 (B) A GROUNDWATER UNDER THE DIRECT INFLUENCE OF A
10 SURFACE WATER PUBLIC WATER SYSTEM SUPPLY WELL WITHIN TWO
11 THOUSAND SIX HUNDRED FORTY FEET OF THE WELL SITE; AND

12 (C) A PUBLIC WATER SYSTEM SUPPLY WELL COMPLETED IN A TYPE
13 III AQUIFER WITHIN TWO THOUSAND SIX HUNDRED FORTY FEET OF THE
14 WELL SITE; AND

15 (III) THE DIVISION IF:

16 (A) THERE IS A HIGH-PRIORITY HABITAT AREA WITHIN ONE MILE OF
17 THE WELL SITE; OR

18 (B) THERE IS A STATE WILDLIFE AREA, AS DEFINED IN SECTION
19 33-1-102 (42), OR A STATE PARK OR RECREATION AREA WITHIN TWO
20 THOUSAND SIX HUNDRED FORTY FEET OF THE WELL SITE.

21 (b) (I) (A) FOR A DOWNHOLE OPERATION THAT COMMENCED
22 BEFORE JULY 31, 2023, AND THAT WILL BE ONGOING ON JULY 31, 2023,
23 THE CHEMICAL DISCLOSURE LIST MUST BE DISCLOSED BY THE OPERATOR
24 IN ACCORDANCE WITH SUBSECTION (6)(a) OF THIS SECTION AT LEAST SIXTY
25 DAYS BEFORE JULY 31, 2023.

26 (B) THIS SUBSECTION (6)(b)(I) IS REPEALED, EFFECTIVE JULY 1,
27 2024.

1 (II) FOR A DOWNHOLE OPERATION THAT COMMENCES ON OR AFTER
2 JULY 31, 2023, THE CHEMICAL DISCLOSURE LIST MUST BE DISCLOSED IN
3 ACCORDANCE WITH SUBSECTION (6)(a) OF THIS SECTION AT LEAST SIXTY
4 DAYS BEFORE THE COMMENCEMENT OF THE DOWNHOLE OPERATION.

5 (7) **Trade secret claims.** (a) IF A MANUFACTURER BELIEVES THAT
6 ANY INFORMATION THE MANUFACTURER IS REQUIRED TO DISCLOSE UNDER
7 SUBSECTION (2)(a)(I) OF THIS SECTION IS A TRADE SECRET AND SHOULD
8 NOT BE INCLUDED IN A CHEMICAL DISCLOSURE LIST, THE MANUFACTURER
9 SHALL FILE A TRADE SECRET CLAIM WITH THE COMMISSION AND PROVIDE
10 THE COMMISSION WITH A WRITTEN DESCRIPTION OF:

11 (I) THE EXTENT THAT THE INFORMATION COVERED BY THE TRADE
12 SECRET CLAIM IS KNOWN BY:

13 (A) THE MANUFACTURER'S EMPLOYEES;

14 (B) PERSONS INVOLVED IN THE MANUFACTURER'S BUSINESS; AND

15 (C) PERSONS OUTSIDE OF THE MANUFACTURER'S BUSINESS;

16 (II) MEASURES TAKEN BY THE MANUFACTURER TO PROTECT THE
17 SECRECY OF THE INFORMATION COVERED BY THE TRADE SECRET CLAIM;

18 (III) THE VALUE OF THE INFORMATION COVERED BY THE TRADE
19 SECRET CLAIM TO THE MANUFACTURER AND THE MANUFACTURER'S
20 COMPETITORS; AND

21 (IV) THE AMOUNT OF EFFORT AND MONEY SPENT BY THE
22 MANUFACTURER IN DEVELOPING THE INFORMATION COVERED BY THE
23 TRADE SECRET CLAIM.

24 (b) NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE
25 COMMISSION SHALL NOT PROTECT THE NAMES OR CHEMICAL ABSTRACTS
26 SERVICE NUMBERS OF ANY CHEMICAL AS A TRADE SECRET.

27 (c) IF THE COMMISSION DETERMINES THAT A TRADE SECRET CLAIM

1 FILED UNDER SUBSECTION (7)(a) OF THIS SECTION IS INCOMPLETE, THE
2 COMMISSION SHALL NOTIFY THE MANUFACTURER BY CERTIFIED MAIL. THE
3 MANUFACTURER HAS THIRTY DAYS AFTER RECEIVING THE COMMISSION'S
4 WRITTEN NOTICE TO PROVIDE ANY MISSING INFORMATION TO THE
5 COMMISSION.

6 (d) THE COMMISSION SHALL DETERMINE WITHIN THIRTY DAYS
7 AFTER A MANUFACTURER'S TRADE SECRET CLAIM FILED UNDER
8 SUBSECTION (7)(a) OF THIS SECTION IS COMPLETE WHETHER THE
9 INFORMATION COVERED BY THE TRADE SECRET CLAIM CONSTITUTES A
10 TRADE SECRET.

11 (e) IF THE COMMISSION DETERMINES THAT THE INFORMATION
12 COVERED BY THE TRADE SECRET CLAIM CONSTITUTES A TRADE SECRET:

13 (I) THE COMMISSION SHALL NOT INCLUDE THE INFORMATION IN
14 ANY APPLICABLE CHEMICAL DISCLOSURE LIST; AND

15 (II) THE COMMISSION MAY DISCLOSE THE INFORMATION ONLY IN
16 ACCORDANCE WITH SUBSECTION (8) OF THIS SECTION.

17 (f) IF THE COMMISSION DETERMINES THAT THE INFORMATION
18 COVERED BY THE TRADE SECRET CLAIM DOES NOT CONSTITUTE A TRADE
19 SECRET, THE COMMISSION SHALL:

20 (I) NOTIFY THE MANUFACTURER BY CERTIFIED MAIL OF THE
21 COMMISSION'S DETERMINATION; AND

22 (II) INCLUDE THE INFORMATION IN ANY APPLICABLE CHEMICAL
23 DISCLOSURE LIST UNLESS THE MANUFACTURER OBTAINS FROM A COURT OF
24 COMPETENT JURISDICTION:

25 (A) A DECLARATORY JUDGMENT STATING THAT THE INFORMATION
26 IS SUBJECT TO PROTECTION FROM PUBLIC DISCLOSURE; OR

27 (B) A PRELIMINARY INJUNCTION PROHIBITING DISCLOSURE OF THE

1 INFORMATION TO THE PUBLIC.

2 (g) THE MANUFACTURER SHALL PROVIDE NOTICE TO THE
3 COMMISSION OF ANY COURT ORDER RECEIVED PURSUANT TO SUBSECTION
4 (8)(f)(II) OF THIS SECTION.

5 (h) NOTWITHSTANDING ANY LAW TO THE CONTRARY, NOTHING IN
6 THIS SUBSECTION (7) ALLOWS A MANUFACTURER TO REFUSE TO DISCLOSE
7 TO THE COMMISSION THE INFORMATION REQUIRED TO BE DISCLOSED
8 UNDER SUBSECTION (2)(a)(I) OF THIS SECTION.

9 (8) **Disclosure of chemical disclosure information to state**
10 **agencies, health-care professionals, and scientists.** (a) ON OR BEFORE
11 JULY 31, 2023, THE COMMISSION SHALL PROMULGATE RULES SETTING
12 FORTH STANDARDS FOR THE DISCLOSURE OF CHEMICAL DISCLOSURE
13 INFORMATION TO:

14 (I) AN OFFICER OR EMPLOYEE OF THE UNITED STATES, THE STATE,
15 OR A LOCAL GOVERNMENT IN CONNECTION WITH THE OFFICER'S OR
16 EMPLOYEE'S OFFICIAL DUTIES;

17 (II) CONTRACTORS OF THE UNITED STATES, THE STATE, OR A
18 LOCAL GOVERNMENT IF THE COMMISSION DETERMINES THAT DISCLOSURE
19 OF THE CHEMICAL DISCLOSURE INFORMATION IS NECESSARY FOR:

20 (A) SATISFACTORY PERFORMANCE OF A CONTRACT WITH THE
21 UNITED STATES, THE STATE, OR A LOCAL GOVERNMENT; OR

22 (B) THE PROTECTION OF PUBLIC HEALTH AND SAFETY;

23 (III) A HEALTH-CARE PROFESSIONAL IN THE EVENT OF AN
24 EMERGENCY OR TO DIAGNOSE OR TREAT A PATIENT; AND

25 (IV) IN ORDER TO PROTECT PUBLIC HEALTH AND SAFETY, A PERSON
26 WHO IS:

27 (A) EMPLOYED IN THE FIELD OF PUBLIC HEALTH IN A

1 GOVERNMENTAL OR HEALTH-CARE AGENCY; OR

2 (B) A SCIENTIST OR RESEARCHER EMPLOYED BY AN INSTITUTION
3 OF HIGHER EDUCATION WHO IS STUDYING THE ENVIRONMENTAL OR
4 HEALTH IMPACTS OF CHEMICAL PRODUCTS.

5 (b) A PERSON DESCRIBED IN SUBSECTION (8)(a)(IV) OF THIS
6 SECTION MUST SUBMIT A WRITTEN STATEMENT OF NEED TO THE
7 COMMISSION TO RECEIVE CHEMICAL DISCLOSURE INFORMATION. THE
8 WRITTEN STATEMENT OF NEED, AT A MINIMUM, MUST:

9 (I) IDENTIFY THE SPECIFIC CHEMICAL DISCLOSURE INFORMATION
10 THAT IS SOUGHT BY THE PERSON; AND

11 (II) DESCRIBE THE REASON THAT DISCLOSURE OF THE SPECIFIC
12 CHEMICAL DISCLOSURE INFORMATION IS NECESSARY FOR PUBLIC HEALTH
13 OR RESEARCH PURPOSES.

14 (c) A HEALTH-CARE PROFESSIONAL DESCRIBED IN SUBSECTION
15 (8)(a)(III) OF THIS SECTION MAY SHARE THE CHEMICAL DISCLOSURE
16 INFORMATION WITH OTHER PERSONS, INCLUDING WITH THE PATIENT AND
17 OTHER HEALTH-CARE PROFESSIONALS, AS MAY BE PROFESSIONALLY
18 NECESSARY TO DIAGNOSE OR TREAT A PATIENT, EXCEPT AS PROHIBITED
19 UNDER APPLICABLE FEDERAL OR STATE LAW.

20 (9) **Reporting to the general assembly.** (a) (I) THE COMMISSION
21 SHALL PREPARE AN ANNUAL REPORT THAT INCLUDES:

22 (A) A LIST OF THE CHEMICALS USED IN DOWNHOLE OPERATIONS IN
23 THE STATE IN THE PRIOR CALENDAR YEAR;

24 (B) AN APPROXIMATE AMOUNT OF EACH CHEMICAL USED IN
25 DOWNHOLE OPERATIONS IN THE STATE IN THE PRIOR CALENDAR YEAR;

26 (C) A DESCRIPTION OF THE CONCENTRATION OF THE USE OF EACH
27 CHEMICAL IN AREAS THROUGHOUT THE STATE IN THE PRIOR CALENDAR

1 YEAR; AND

2 (D) THE NUMBER OF TRADE SECRET CLAIMS RECEIVED BY THE
3 COMMISSION UNDER SUBSECTION (7)(a) OF THIS SECTION IN THE PRIOR
4 CALENDAR YEAR.

5 (II) NO LATER THAN FEBRUARY 1, 2025, AND ON OR BEFORE EACH
6 FEBRUARY 1 THEREAFTER, THE COMMISSION SHALL:

7 (A) SUBMIT AND PRESENT THE REPORT PREPARED PURSUANT TO
8 SUBSECTION (9)(a)(I) OF THIS SECTION TO THE ENERGY AND ENVIRONMENT
9 COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE
10 TRANSPORTATION AND ENERGY COMMITTEE OF THE SENATE, OR ANY
11 SUCCESSOR COMMITTEES; AND

12 (B) POST THE REPORT ON THE COMMISSION'S WEBSITE.

13 (b) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE
14 REQUIREMENT TO REPORT TO THE LEGISLATIVE COMMITTEES CONTINUES
15 INDEFINITELY.

16 (10) **Rules.** THE COMMISSION MAY PROMULGATE RULES THAT ARE
17 NECESSARY FOR THE IMPLEMENTATION AND ADMINISTRATION OF THIS
18 SECTION.

19 **SECTION 3. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, or safety.