



COLORADO

**Energy & Carbon Management
Commission**

Department of Natural Resources

Chemical Disclosure - Chemical Manufacturer and Operator Responsibilities

House Bill 22-1348 Summary

HB 22-1348 enhances oversight of chemicals used in oil and gas production in Colorado. It aims to increase transparency and protect public health and the environment by requiring detailed chemical disclosure by Chemical Manufacturers and chemical use by Oil and Gas Operators. This legislation is intended to significantly increase the transparency of chemical use in oil and gas operations by shifting the burden of detailed chemical disclosure to manufacturers and ensuring that operators provide operational and chemical use information and notify the community.

A complete copy of HB22-1348 can be downloaded from the following link:

https://leg.colorado.gov/sites/default/files/2022a_1348_signed.pdf

Key Provisions and Responsibilities

In order to be in compliance with HB 22-1348, Chemical Manufacturers and Oil and Gas Operators will need complete to the following forms:

- [ECMC Form 1 \(Registration for Oil and Gas Operations\)](#)
 - Must be completed in order to receive an ECMC operator number and access to the ECMC Electronic Form system.
- [ECMC Form 1A \(Designation of Agent\)](#)
 - Designates agents authorized to sign and submit documents to the ECMC.
- [ECMC Form 46 \(Chemical Product Registration\)](#)
 - Chemical Registration for Chemical Manufacturers who supply products used in downhole oil and gas operations in Colorado
- [ECMC Form 46A \(Chemical Product Use\)](#)
 - Oil and Gas Operator reports Chemical Products used in downhole oil and gas operations in Colorado.

Responsibilities of Chemical Manufacturers and other Disclosers (Section 34-60-132 (2))

- **Disclosure of Chemical Information (Section 34-60-132 (2)(a)(I)):** Manufacturers and Distributors of Chemical Products (Disclosers) must disclose to the ECMC the trade name of the Chemical Product and a list of the names and Chemical Abstracts Service (CAS) Numbers of each chemical used in the product. *Even if a chemical constituent is believed to be a trade secret, it must still be disclosed.*
- **PFAS Declaration (Section 34-60-132 (2)(a)(II)):** Disclosers must provide a written declaration to the Commission that the chemical product contains no PFAS/PFOA Chemicals.
- **FOR DISCLOSERS THAT BEGIN TO SELL, DISTRIBUTE, OR USE A CHEMICAL PRODUCT FOR USE IN DOWNHOLE OPERATIONS IN THE STATE ON OR AFTER JULY 31, 2023 (Section 34-60-132 (2)(b)(II)),** the information and declaration required to be provided pursuant to subsection (2)(a) of this section must be provided to the Commission at least thirty days before the Discloser begins selling, distributing, or using the chemical product.

Summary of Form 1 Instructions

NOTE: ECMC is currently developing an electronic version of the Form 1 and 1A. This guidance will be updated when the new forms are launched.

ECMC Form 1 (Registration for Oil and Gas Operations) must be completed in order to receive an ECMC operator number and access to the ECMC Electronic Form system.

The purpose of the ECMC Form 1 is for Oil and Gas Operators, vendors, and Chemical Manufacturers to register with the ECMC. This registration is required for all producers, operators, transporters, refiners, gasoline or other extraction plant operators, and Chemical Manufacturers or other Disclosers who are conducting oil and gas operations in Colorado. The form is also used to report any changes in registration information, such as company/operator name changes, address changes, phone number changes, emergency contacts, and operations conducted.

A blank Form 1 can be downloaded from the the ECMC Forms page or at the following link:

https://ecmc.state.co.us/documents/reg/Forms/PDF_Forms/form01.pdf

Chemical Disclosure - Chemical Manufacturer And Operator Responsibilities

Determine the Purpose: Decide if you are submitting a new registration, changing existing information, or deleting a registration for either a Primary Mailing Address or a Regional/Field Office. Then:

1. **Complete Section 1:** Indicate the type of submission (New Registration, Change an Existing Registration, Delete a Registration), whether it's for a Primary Mailing Address or Regional/Field Office, and provide the ECMC Operator Number (if applicable).

Note: If a Chemical Manufacturer does not have an existing ECMC Operator Number, please select 'New.'

Note: If a Chemical Distributor or Chemical Manufacturer does not have any underground facilities in Colorado, such as wells or pipelines, please check the box indicating that the 'Operator hereby certifies it has no underground facilities and is exempt from CO 811 membership. [Rule 1102.n.(2)].'

2. **Complete Section 2:** Fill in the Primary Mailing Address information, including company name, address, contact details, and emergency contact information.
3. **Complete Section 3:** If applicable, fill in the Regional/Field Office information, including the ECMC Operator Number Suffix (if assigned), address, contact details, and emergency contact information. *Submit a separate Form 1 for each additional Regional/Field Office.*
4. **Complete Section 4:** Indicate which operations the operator will be engaged in by writing "A" to Add or "D" to Delete from the list of fourteen operations.

Note: Chemical Manufacturers should only add an 'A' to 'Vendor.' The rest of the fields in this section may be left blank.

5. **Complete Section 5:** An officer or principal of the company must sign and date the form, including their printed name and title.
6. **Gather Required Documents:** Include a copy of the operator's general liability insurance certificate (with the ECMC as "certificate holder") and a copy of the operator's Certificate of Good Standing from the Colorado Secretary of State.

Note: This is not required for Chemical Manufacturers that will only be submitting information by Form 46.

7. **Submit the Form:** Send the signed original Form 1 (wet signature required), along with all other required documentation, to:

Colorado Energy and Carbon Management Commission
ATTN: FINANCIAL ASSURANCE
1120 Lincoln Street, Suite 801
Denver, CO 80203

Detailed instructions for completing the Form 1 can be found at the following link:

https://ecmc.state.co.us/reg.html#/forms/form1_new

Summary of Form 1A (Designation of Agent) Instructions

The Form 1A designates agents authorized to sign and submit documents to the ECMC. There are two types of agents: Principal Agent (the primary representative) and Designated Agents (authorized employees).

1. **Initial Registration:** An operator must submit an original Form 1A to designate a Principal Agent during initial registration. *Please include the completed Form 1A when submitting the Form 1 (Registration for Oil and Gas Operations).*
2. **Principal Agent:**
 - Only one Principal Agent is allowed.
 - The "Name of Principal Agent" section must be completed.
 - If the Principal Agent is from a third-party Agent Company, the "Agent Company Name and Address" section must also be completed.
 - After initial designation, this section is only completed when making changes.
3. **Designated Agents:**
 - Operator employees and third-party Agent Company employees cannot be listed on the same Form 1A. Separate forms are required.
 - The "Name of Designated Agent" section must be completed for each agent.
 - Multiple Form 1As may be needed if listing more than three agents.
4. **Authorization:**

Chemical Disclosure - Chemical Manufacturer And Operator Responsibilities

- Initial Form 1A must be signed by an officer of the company.
 - i. Subsequent updates can be signed by a manager or supervisor.
- The "Authorization" section must be completed with the company name, OGCC Operator Number (provided by ECMC for initial registration), Approval Date, and authorizing signature.
- Initial submissions must be hard copies with original signatures.
 - i. Subsequent updates can be electronic copies of signed forms.

5. Changes:

- A new Form 1A must be submitted to report any changes, including additions, modifications, or deletions of agents.
- When deleting an agent, their name and email address must be provided.

6. Submittal:

- Submit the completed and signed Form 1A to:

Colorado Energy and Carbon Management Commission
ATTN: FINANCIAL ASSURANCE DEPARTMENT
1120 Lincoln Street, Suite 801
Denver, CO 80203

Detailed instructions for completing the Form 1A at the following link:

https://ecmc.state.co.us/documents/reg/Forms/instructions/Form_Instructions/Form_1A_Instructions_20210416.pdf

Note: Chemical Manufacturers should anticipate that it may take several weeks to process the Form 1 and Form 1A initially. Chemical Manufacturers should allow adequate time to process the forms 1 and 1A before their chemical products are to be distributed or used in Colorado.

Summary of Form 46 (Chemical Registration) Instructions

Accessing the Form: Once the Chemical Manufacturer or other Discloser has both a Form 1 and Form 1A on file with ECMC, the Form 46 is accessed electronically through the ECMC eForms system via the ECMC homepage.

Chemical Disclosure - Chemical Manufacturer And Operator Responsibilities

The Form 46 requires the following information to be supplied by the Discloser:

- **Chemical Discloser and Contact Information:** This may be automatically populated by eForms, but if not, it must be completed.
- **Chemical Product Registration:**
 - Trade name of the chemical product.
 - Declaration if the product is claimed as a trade secret.

Note: All chemical ingredients will be reported on the Form 46; only the exact quantities of individual chemical ingredients may be withheld.

- Declaration if the product was in use prior to 7/31/2023.
 - Manufacturer information for the chemical product.
- **Chemical Constituents:**
 - Names of the chemical constituents in the product.
 - Chemical Abstracts Service Number (CAS number) for each constituent.
- **PFAS/PFOA Attestation:** This attestation must be checked.

Note: PFAS/PFOA are prohibited from use in Hydraulic Fracturing (HB22-1345). The prohibition went into effect on January 1, 2024.

- **Trade Secret Claim of Entitlement (if applicable):** If a trade secret claim is made, a PDF attachment with additional detail is required.

Note: All chemical ingredients will be reported on the Form 46, only the exact quantities of individual chemical ingredients may be withheld.

Confirmation and Uploads: Check the PFAS/PFOA attestation. If a trade secret claim is made, upload a "Trade Secret Claim of Entitlement" as a PDF.

Review and Submission: Sign the form, review the information, and then click "SUBMIT".

Post Submission: An auto-generated email will be sent as notification. Each chemical product must be reported on a separate Form 46.

Detailed instructions for submitting a Form 46 can be found at the following link:

<https://docs.google.com/document/d/1-JM3ti9Vmq5BJUbXXw6tT15mf0u8N9nC/view>

Responsibilities of Oil and Gas Operators (Section 34-60-132 (3))

- **Disclosure of Operational Information (Section 34-60-132 (3)(a)(I)):**
Operators must disclose to the Commission through a Form 46A (Chemical Product Use form):
 - The date of commencement of downhole operations.
 - The county of the well site.
 - The unique numerical identifiers of the well(s) (API Number(s)) and Oil and Gas Location (Location ID Number).
 - The trade names and quantities of any chemical products used in downhole operations.
- **PFAS Declaration (Section 34-60-132 (3)(a)(II)):** Operators must provide a written declaration that the chemical product contains no intentionally added PFAS chemicals.
- **Community Notification (Section 34-60-132 (6)):** Operators are required to provide the chemical disclosure list generated by the ECMC to various parties, including mineral owners, surface owners, residents, schools, emergency services, local governments, and public water system administrators within specified distances of the well site.

Summary of Form 46A (Chemical Product Use) Instructions

Form 46A (Chemical Product Use) is used by Oil and Gas Operators to report chemical products used downhole in Colorado. Operators must provide chemical use information and declarations to the ECMC within 120 days after the start of the downhole operations. Chemical Products must be first registered by the Chemical Manufacturer through a Form 46 as described above. It is the operator's responsibility to know whether or not a particular Chemical Product has been submitted to the ECMC prior to use of the product.

To complete a Form 46A, the operator must provide the following information:

Chemical Disclosure - Chemical Manufacturer And Operator Responsibilities

- **Location ID:** The specific location where the chemical product will be used.
- **Oil and gas Well API Numbers:** All of the API numbers for oil and wells that are being hydraulically fractured will have to be reported.
- **Date Downhole Operations Commenced:** The date when downhole operations using the Chemical Product(s) began.
- **Chemical Product:** Selection of a previously registered chemical product(s) submitted by the Chemical Manufacturer.
- **Quantity:** The amount of the chemical product(s) used downhole.
- **Unit of Measure:** The unit of measure for the quantity, which must be either barrels (bbl), pounds (lb), or gallons (gal).
- **PFAS Attestation:** A check box attesting that the chemical product(s) does not contain PFAS chemicals.

Detailed instruction for the Form 46A can be found at the following link:

<https://docs.google.com/document/d/1b-LGd7nP6nkbvgv3dP4dyjurpO5dEOeyN/view>

ECMC Responsibilities

Chemical Disclosure Lists (Section 34-60-132 (5)): The ECMC will create a chemical disclosure list for each oil and gas location that includes an alphabetical list of chemical names and Chemical Abstracts Service Numbers. Within one business day of receipt of a Form 46A, the ECMC will generate and email the Chemical Disclosure List to the reporting Operator. Submission of new Form 46As will trigger a new list to be generated for the Oil and Gas Location. The Chemical Disclosure lists are publicly available through the ECMC's COGIS Database Chemical Disclosure Tool. Trade names of products and the total amount of a chemical ingredient in a Chemical Product are not included on the publicly accessible lists.

Definitions from HB22-1348

List of all the defined words provided in the bill, along with their definitions:

- **"Additive"**: (I) means a chemical or combination of chemicals added to a base fluid for use in a hydraulic fracturing treatment. (II) "Additive" includes proppants.
- **"Base Fluid"**: means the continuous phase fluid type, such as water, used in a hydraulic fracturing treatment.
- **"Chemical"**: means any element, chemical compound, or mixture of elements or chemical compounds that has a specific name or identity, including a Chemical Abstracts Service Number.
- **"Chemical Abstracts Service Number"**: means the unique numerical identifier assigned by the Chemical Abstracts Service to a chemical.
- **"Chemical Disclosure Information"**: means the information disclosed to the Commission under subsections (2)(a)(I) and (3)(a)(I) of this section.
- **"Chemical Disclosure List"**: means a list of chemicals used in downhole operations at a well site.
- **"Chemical Disclosure Website"**: means a website that is capable of displaying chemical disclosure lists and can be accessed by the public.
- **"Chemical Product"**: (I) means any product that consists of one or more chemicals and is sold or distributed for use in downhole operations in the state. (II) "Chemical Product" includes additives, base fluids, and hydraulic fracturing fluids. (III) "Chemical Product" does not include the structural and mechanical components of a well site where downhole operations are being conducted.
- **"Direct Vendor"**: (I) means any distributor, supplier, or other entity that sells or supplies one or more chemical products directly to an operator or service provider for use at a well site. (II) "Direct Vendor" does not include entities that manufacture, produce, or formulate chemical products for further manufacture, formulation, sale, or distribution by third parties prior to being

supplied directly to operators or service providers.

- **"Discloser"**: means an operator, any service provider using one or more chemical products in the course of downhole operations, and any direct vendor that provides one or more chemical products directly to the operator or service provider for use at a well site.
- **"Division"**: means the Division of Parks and Wildlife in the Department of Natural Resources.
- **"Downhole Operations"**: means oil and gas production operations that are conducted underground.
- **"Health-Care Professional"**: means a physician, physician assistant, nurse practitioner, registered nurse, or emergency medical service provider licensed or certified by the state.
- **"High-Priority Habitat"**: means habitat areas identified by the Division where measures to avoid, minimize, and mitigate adverse impacts to wildlife have been identified to protect breeding, nesting, foraging, migrating, or other uses by wildlife.
- **"Hydraulic Fracturing Fluid"**: means the fluid, including any base fluid and additives, used to perform a hydraulic fracturing treatment.
- **"Hydraulic Fracturing Treatment"**: means all stages of the treatment of a well by the application of hydraulic fracturing fluid under pressure, which treatment is expressly designed to initiate or propagate fractures in an underground geologic formation to enhance the production of oil and gas.
- **"Manufacturer"**: means a person or entity that makes, assembles, or otherwise generates a chemical product or whose trade name is affixed to a chemical product.
- **"Perfluoroalkyl and Polyfluoroalkyl Substances" or "PFAS Chemicals"**: has the meaning set forth in section 25-5-1302 (7).
 - Colo. Rev. stat 25-5-1302(7) "Perfluoroalkyle and polyfluoroalkyl substances or PFAS chemicals means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom."
- **"Proppants"**: means materials inserted or injected into an underground geologic formation during a hydraulic fracturing treatment that are intended to

prevent fractures from closing.

- **"Public Water Systems"**: has the meaning set forth in section 25-1.5-201 (1).
- **"Trade Secret"**: has the meaning set forth in section 7-74-102 (4).
- **"Type III Aquifer"**: means an aquifer that consists of unconsolidated geologic material, including alluvial, colluvial, or other consolidated materials.
- **"Well Site"**: means the area that is directly disturbed during oil and gas operations.

Frequently asked Questions

Question 1: What specific information are oil and gas operators required to disclose regarding the chemicals used in our downhole operations?

Answer: Operators must disclose to the Colorado Energy and Carbon Commission (ECMC) the date of commencement of downhole operations, the county and API number of the well site, and the trade names and quantities of any chemical products used. They must also provide a written declaration that the chemical product contains no intentionally added PFAS chemicals.

Question 2: When do operators need to provide this chemical disclosure information to the ECMC?

Answer: For downhole operations that commence on or after July 31, 2023, the information and declaration must be provided to the ECMC within one hundred twenty days after the commencement of the downhole operation. There were different deadlines for operations that commenced before that date, but those were repealed effective July 1, 2024.

Question 3: Do Chemical Manufacturers have to disclose the exact chemical formula of the products?

Answer: No, you do not need to disclose the exact chemical formula. The operator needs to disclose the trade names and quantities of chemical products used. The manufacturers, however, are required to disclose the names and Chemical Abstracts Service (CAS) numbers of each chemical used in the chemical product. The ECMC will then create a chemical disclosure list with the chemical names and CAS numbers, but not trade names or total amounts of a particular chemical.

Question 4: What is the ECMC going to do with the chemical information provided by

Chemical Manufactures and Operators?

Answer: The ECMC will use the chemical disclosure information to create a chemical disclosure list for each applicable Oil and Gas Location. This list will include an alphabetical list of the names and CAS numbers of each chemical used in downhole operations. The ECMC will post these lists on a chemical disclosure website accessible by the public. The lists will also be provided to the operator who will then provide the list to community stakeholders within a specified distance of the well site.

Question 5: Are there any penalties for failure to disclose the required chemical information?

Answer: The HB-1348 provides requirements and deadlines for disclosure; however, it does not specifically outline penalties for non-compliance. It is important to note that failure to adhere to the requirements laid out in HB22-1348 could have regulatory and/or legal implications. It is recommended that you consult with legal counsel or the ECMC directly for information on penalties.

Question 6: I am an operator and want to report the chemical products I've used in downhole operations, but they are not listed when I try to select them in the Form 46A. What should I do?

Answer: It is the operator's responsibility to comply with reporting rules. Therefore, operators should contact the supplier or manufacturer of the chemical product that they used and ensure that the supplier or manufacturer timely registers the chemical product on a Form 46. To reduce regulatory risk, it is best if the operator confirms that chemical products are registered before using any chemical product in downhole operations.