

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO  
UNOFFICIAL PREAMENDED VERSION

LLS NO. 18-0654.01 Jennifer Berman x3286

HOUSE BILL 18-1093

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**HOUSE SPONSORSHIP**

Arndt, Thurlow, Bridges

**SENATE SPONSORSHIP**

Coram, Guzman

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**House Committees**

Agriculture, Livestock, &amp; Natural Resources

**Senate Committees**

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**A BILL FOR AN ACT**

101 CONCERNING THE ALLOWABLE USES OF RECLAIMED DOMESTIC  
102 WASTEWATER, AND, IN CONNECTION THEREWITH, ALLOWING  
103 RECLAIMED DOMESTIC WASTEWATER TO BE USED FOR FOOD  
104 CROPS.

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**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 codifies rules promulgated by the water quality control commission (commission) of the Colorado department of public health and environment concerning allowable uses of reclaimed domestic

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.

wastewater, which is wastewater that has been treated for subsequent reuses other than drinking water.

**Section 3** of the bill defines 3 categories of water quality standards for reclaimed domestic wastewater, sets forth the allowable uses for each water quality standard category, and adds food crop irrigation as an allowable use for reclaimed domestic wastewater. Section 3 also authorizes the commission to establish new categories of water quality standards and to recategorize any use of reclaimed domestic wastewater to a less stringent category of water quality standard. Section 3 also authorizes the division of administration in the department of public health and environment to grant variances for uses of reclaimed domestic wastewater.

**Sections 1, 2, and 4** make conforming amendments.

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

**SECTION 1.** In Colorado Revised Statutes, 25-8-103, **amend** (17.5) as follows:

**25-8-103. Definitions.** As used in this article 8, unless the context otherwise requires:

(17.5) "Reclaimed domestic wastewater" means wastewater that has received treatment IN ACCORDANCE WITH SECTION 25-8-205.7 AND that enables the wastewater to meet the requirements, prohibitions, standards, and concentration limitations adopted by the commission for subsequent reuses other than drinking.

**SECTION 2.** In Colorado Revised Statutes, 25-8-205, **amend** (1)(f) as follows:

**25-8-205. Control regulations.** (1) The commission may promulgate control regulations for the following purposes:

(f) IN ACCORDANCE WITH SECTION 25-8-205.7, to describe requirements, prohibitions, standards, and concentration limitations on the reuse of reclaimed domestic wastewater for purposes other than drinking that will protect public health and encourage the reuse of reclaimed

1 domestic wastewater;

2           **SECTION 3.** In Colorado Revised Statutes, add 25-8-205.7 as  
3 follows:

4           **25-8-205.7. Control regulations for reuse of reclaimed**  
5 **domestic wastewater - definitions - rules.** (1) AS USED IN THIS SECTION,  
6 UNLESS THE CONTEXT OTHERWISE REQUIRES:

7           (a) "CATEGORY 1 STANDARD" MEANS A WATER QUALITY  
8 STANDARD FOR RECLAIMED DOMESTIC WASTEWATER:

9           (I) REQUIRING, AT A MINIMUM, THAT THE WATER HAS RECEIVED  
10 SECONDARY TREATMENT WITH DISINFECTION; AND

11           (II) FOR WHICH, AT THE POINT OF COMPLIANCE, THE WATER MEETS  
12 THE E. COLI AND TOTAL SUSPENDED SOLIDS STANDARDS PROMULGATED BY  
13 THE COMMISSION FOR CATEGORY 1 WATER.

14           (b) "CATEGORY 2 STANDARD" MEANS A WATER QUALITY  
15 STANDARD FOR RECLAIMED DOMESTIC WASTEWATER:

16           (I) REQUIRING, AT A MINIMUM, THAT THE WATER HAS RECEIVED  
17 SECONDARY TREATMENT WITH FILTRATION AND DISINFECTION; AND

18           (II) FOR WHICH, AT THE POINT OF COMPLIANCE, THE WATER MEETS  
19 THE E. COLI AND TURBIDITY STANDARDS PROMULGATED BY THE  
20 COMMISSION FOR CATEGORY 2 WATER.

21           (c) "CATEGORY 3 STANDARD" MEANS A WATER QUALITY  
22 STANDARD FOR RECLAIMED DOMESTIC WASTEWATER:

23           (I) REQUIRING, AT A MINIMUM, THAT THE WATER HAS RECEIVED  
24 SECONDARY TREATMENT WITH FILTRATION AND DISINFECTION; AND

25           (II) FOR WHICH, AT THE POINT OF COMPLIANCE, THE WATER MEETS  
26 THE E. COLI AND TURBIDITY STANDARDS PROMULGATED BY THE  
27 COMMISSION FOR CATEGORY 3 WATER.

1 (d) "E. COLI" MEANS THE ESCHERICHIA COLI BACTERIA THAT ARE  
2 FOUND IN THE ENVIRONMENT, FOODS, AND THE INTESTINES OF PEOPLE AND  
3 ANIMALS.

4 (e) (I) "FOOD CROP" MEANS A CROP PRODUCED FOR DIRECT HUMAN  
5 CONSUMPTION OR A TREE THAT PRODUCES NUTS OR FRUIT INTENDED FOR  
6 DIRECT HUMAN CONSUMPTION.

7 (II) "FOOD CROP" DOES NOT INCLUDE A CROP PRODUCED FOR  
8 ANIMAL CONSUMPTION ONLY; EXCEPT THAT A CROP PRODUCED WHERE  
9 LACTATING DAIRY ANIMALS FORAGE IS A FOOD CROP.

10 (f) (I) "POINT OF COMPLIANCE" MEANS, ~~EXCEPT AS PROVIDED IN~~  
11 ~~SUBSECTION (1)(f)(II) OF THIS SECTION,~~ A POINT, AS IDENTIFIED BY THE  
12 PERSON THAT TREATS THE WATER, IN THE RECLAIMED DOMESTIC  
13 WASTEWATER TREATMENT PROCESS OR THE RECLAIMED DOMESTIC  
14 WASTEWATER TRANSPORTATION PROCESS, THAT OCCURS AFTER ALL  
15 TREATMENT HAS BEEN COMPLETED BUT BEFORE DILUTION AND BLENDING  
16 OF THE WATER HAS OCCURRED.

17 ~~(II) IF RECLAIMED DOMESTIC WASTEWATER IS USED FOR INDOOR~~  
18 ~~NONPOTABLE USES WITHIN A BUILDING WHERE PLUMBING FIXTURES ARE~~  
19 ~~ACCESSIBLE BY THE GENERAL PUBLIC, POINT OF COMPLIANCE IS AT THE~~  
20 ~~LOCATION WHERE WATER IS DELIVERED TO THE OCCUPIED PREMISES.~~

21 (2) RECLAIMED DOMESTIC WASTEWATER MAY BE USED AS  
22 FOLLOWS:

- 23 (a) IN COMPLIANCE WITH THE CATEGORY 1 STANDARD, FOR:  
24 (I) EVAPORATIVE INDUSTRIAL PROCESSES;  
25 (II) NONEVAPORATIVE INDUSTRIAL PROCESSES;  
26 (III) NONDISCHARGING CONSTRUCTION AND ROAD MAINTENANCE;  
27 (IV) LANDSCAPE IRRIGATION AT SITES WITH RESTRICTED ACCESS;

- 1 (V) ZOO OPERATIONS;
- 2 (VI) NONFOOD CROPS; AND
- 3 (VII) SILVICULTURE;
- 4 (b) IN COMPLIANCE WITH THE CATEGORY 2 STANDARD, FOR:
- 5 (I) ALL OF THE USES FOR WHICH RECLAIMED DOMESTIC
- 6 WASTEWATER MAY BE USED IN COMPLIANCE WITH THE CATEGORY 1
- 7 STANDARD;
- 8 (II) WASHWATER APPLICATIONS;
- 9 (III) LANDSCAPE IRRIGATION AT SITES WITHOUT RESTRICTED
- 10 ACCESS;
- 11 (IV) COMMERCIAL LAUNDRIES;
- 12 (V) AUTOMATED VEHICLE WASHING;
- 13 (VI) MANUAL, NONPUBLIC VEHICLE WASHING;
- 14 (VII) NONRESIDENTIAL FIRE PROTECTION; AND
- 15 (VIII) IF USED IN ACCORDANCE WITH SUBSECTION (4) OF THIS
- 16 SECTION, IRRIGATION OF FOOD CROPS ~~FOR COMMERCIAL USE~~;
- 17 (c) IN COMPLIANCE WITH THE CATEGORY 3 STANDARD, FOR:
- 18 (I) ALL OF THE USES FOR WHICH RECLAIMED DOMESTIC
- 19 WASTEWATER MAY BE USED IN COMPLIANCE WITH THE CATEGORY 1
- 20 STANDARD AND THE CATEGORY 2 STANDARD;
- 21 (II) LANDSCAPE IRRIGATION AT SITES THAT ARE CONTROLLED BY
- 22 RESIDENTS; ~~AND~~
- 23 (III) RESIDENTIAL FIRE PROTECTION; ~~AND~~
- 24 ~~(IV) IF USED IN ACCORDANCE WITH SUBSECTION (4) OF THIS~~
- 25 ~~SECTION, IRRIGATION OF FOOD CROPS FOR NONCOMMERCIAL USE~~
- 26 ~~(3) ALL RECLAIMED DOMESTIC WASTEWATER SYSTEMS MUST BE~~
- 27 ~~COMPLIANT WITH AND INSTALLED IN ACCORDANCE WITH ARTICLE 58 OF~~

~~TITLE 12 AND ANY RULES PROMULGATED PURSUANT TO THAT ARTICLE~~

(4) IN ADDITION TO COMPLYING WITH THE CATEGORY 2 STANDARD PURSUANT TO SUBSECTION (2)(b)(VIII) OF THIS SECTION ~~OR THE CATEGORY 3 STANDARD PURSUANT TO SUBSECTION (2)(c)(IV) OF THIS SECTION~~ AND REGARDLESS OF WHETHER THE USE IS FOR FOOD CROPS PRODUCED FOR COMMERCIAL USE OR NONCOMMERCIAL USE, RECLAIMED DOMESTIC WASTEWATER MAY BE USED FOR IRRIGATION OF FOOD CROPS ONLY IF THE USE MEETS THE WATER QUALITY STANDARDS FOR COMMERCIAL CROPS SET FORTH IN THE FEDERAL "FDA FOOD SAFETY MODERNIZATION ACT", PUB.L. 111-353, AS AMENDED. IN PROMULGATING RULES FOR THE CATEGORY 2 ~~AND CATEGORY 3 STANDARDS~~ AT THE POINT OF COMPLIANCE FOR USE OF RECLAIMED DOMESTIC WASTEWATER FOR IRRIGATION OF FOOD CROPS, THE COMMISSION SHALL NOT PROMULGATE ANY RULE THAT IS MORE STRINGENT THAN THE RELEVANT STANDARDS SET FORTH IN THE FEDERAL "FDA FOOD SAFETY MODERNIZATION ACT", PUB.L. 111-353, AS AMENDED.

(5) (a) ON OR BEFORE DECEMBER 31, 2019, THE COMMISSION ~~MAY~~ PROMULGATE RULES IN ACCORDANCE WITH THIS SECTION.

(b) IN PROMULGATING RULES IN ACCORDANCE WITH THIS SECTION, THE COMMISSION:

(I) MAY CREATE NEW CATEGORIES OF WATER QUALITY STANDARDS BEYOND THE THREE CATEGORIES SET FORTH IN THIS SECTION; AND

(II) MAY RECATEGORIZE ANY OF THE USES SET FORTH IN SUBSECTION (2) OF THIS SECTION TO A LESS STRINGENT CATEGORY OF WATER QUALITY STANDARD.

(c) THE COMMISSION, BY RULE, MAY AUTHORIZE ADDITIONAL USES

1 OF RECLAIMED DOMESTIC WASTEWATER FOR ANY OF THE CATEGORIES OF  
2 WATER QUALITY STANDARDS SET FORTH IN SUBSECTION (2) OF THIS  
3 SECTION OR MAY CREATE A NEW CATEGORY OF WATER QUALITY  
4 STANDARD FOR ONE OR MORE ADDITIONAL USES OF RECLAIMED DOMESTIC  
5 WASTEWATER.

6 ~~(d) THE COMMISSION MAY PROMULGATE RULES MORE STRINGENT~~  
7 ~~THAN THE STANDARDS AND CATEGORIES SET FORTH IN SUBSECTION (2) OF~~  
8 ~~THIS SECTION ONLY IF THE COMMISSION:~~

9 ~~(1) DETERMINES THAT THE STANDARDS AND CATEGORIES SET~~  
10 ~~FORTH IN SUBSECTION (2) OF THIS SECTION ARE NOT PROTECTIVE OF~~  
11 ~~PUBLIC HEALTH; AND~~

12 ~~(II) IDENTIFIES:~~

13 ~~(A) A DOCUMENTED INCIDENT OF MICROBIAL DISEASE THAT THE~~  
14 ~~COMMISSION DETERMINES HAS A REASONABLE POTENTIAL TO AFFECT~~  
15 ~~PUBLIC HEALTH AND FOR WHICH THE COMMISSION HAS IDENTIFIED AS~~  
16 ~~LIKELY ORIGINATING FROM RECLAIMED DOMESTIC WASTEWATER; OR~~

17 ~~(B) A PEER-REVIEWED PUBLISHED ARTICLE THAT IDENTIFIES A~~  
18 ~~POTENTIAL PUBLIC HEALTH RISK POSED BY THE USE OF RECLAIMED~~  
19 ~~DOMESTIC WASTEWATER UNDER THE STANDARDS ESTABLISHED IN~~  
20 ~~SUBSECTION (2) OF THIS SECTION.~~

21 ~~(6) FOLLOWING A PUBLIC STAKEHOLDERS PROCESS, THE WATER~~  
22 ~~QUALITY CONTROL DIVISION MAY DEVELOP POLICY, GUIDANCE, OR BEST~~  
23 ~~MANAGEMENT PRACTICES THAT ARE CONSISTENT WITH THIS SECTION, AS~~  
24 ~~THE DIVISION DEEMS NECESSARY TO IMPLEMENT THIS SECTION.~~

25 ~~(7) IN ADDITION TO THE RELIEF AVAILABLE UNDER SECTION~~  
26 ~~25-8-205 (6), THE DIVISION MAY GRANT A USER OF RECLAIMED DOMESTIC~~  
27 ~~WASTEWATER A VARIANCE FROM THE WATER QUALITY STANDARDS SET~~

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1 FORTH IN SUBSECTION (2) OF THIS SECTION OR ESTABLISHED BY RULE BY  
2 THE COMMISSION PURSUANT TO SUBSECTION (5) OF THIS SECTION IF THE  
3 USER DEMONSTRATES TO THE DIVISION'S SATISFACTION THAT THE  
4 PROPOSED USAGE OF RECLAIMED DOMESTIC WASTEWATER WILL  
5 SUFFICIENTLY PROTECT PUBLIC HEALTH AND THE ENVIRONMENT.

6 ~~(8) USE OF RECLAIMED DOMESTIC WASTEWATER IS ALLOWED ONLY~~  
7 ~~IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE DECREES,~~  
8 ~~CONTRACTS, AND WELL PERMITS APPLICABLE TO THE USE OF THE SOURCE~~  
9 ~~WATER RIGHTS OR SOURCE WATER AND ANY RETURN FLOWS THEREFROM.~~

10 SECTION 4. In Colorado Revised Statutes, 25-8-308, amend (1)  
11 introductory portion and (1)(h) as follows:

12 **25-8-308. Additional authority and duties of division -**  
13 **penalties.** (1) In addition to the authority specified elsewhere in this  
14 ~~article~~ ARTICLE 8, the division has the power to:

15 (h) Implement a program, in accordance with SECTION 25-8-205.7  
16 AND rules and orders of the commission, for the reuse of reclaimed  
17 domestic wastewater for purposes other than drinking.

18 SECTION 5. **Act subject to petition - effective date.** This act  
19 takes effect at 12:01 a.m. on the day following the expiration of the  
20 ninety-day period after final adjournment of the general assembly (August  
21 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
22 referendum petition is filed pursuant to section 1 (3) of article V of the  
23 state constitution against this act or an item, section, or part of this act  
24 within such period, then the act, item, section, or part will not take effect  
25 unless approved by the people at the general election to be held in  
26 November 2018 and, in such case, will take effect on the date of the  
27 official declaration of the vote thereon by the governor.