

CHAPTER 171

HEALTH AND ENVIRONMENT

HOUSE BILL 18-1093

BY REPRESENTATIVE(S) Arndt, Thurlow, Bridges, Buckner, Esgar, Exum, Hamner, Hansen, Herod, Hooton, Lee, Lontine, Melton, Michaelson Jenet, Pettersen, Roberts, Rosenthal, Valdez, Young, Duran;
also SENATOR(S) Coram, Guzman, Court, Donovan, Fields, Garcia, Jones, Kefalas, Kerr, Martinez Humenik, Merrifield, Moreno, Scott, Sonnenberg, Tate, Todd.

AN ACT

CONCERNING THE ALLOWABLE USES OF RECLAIMED DOMESTIC WASTEWATER, AND, IN CONNECTION THEREWITH, ALLOWING RECLAIMED DOMESTIC WASTEWATER TO BE USED FOR FOOD CROPS AND MAKING AN APPROPRIATION.

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 domestic wastewater;

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

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

OF THE WATER HAS OCCURRED.

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

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

(a) IN COMPLIANCE WITH THE CATEGORY 1 STANDARD, FOR:

(I) EVAPORATIVE INDUSTRIAL PROCESSES;

(II) NONEVAPORATIVE INDUSTRIAL PROCESSES;

(III) NONDISCHARGING CONSTRUCTION AND ROAD MAINTENANCE;

(IV) LANDSCAPE IRRIGATION AT SITES WITH RESTRICTED ACCESS;

(V) ZOO OPERATIONS;

(VI) NONFOOD CROPS; AND

(VII) SILVICULTURE;

(b) IN COMPLIANCE WITH THE CATEGORY 2 STANDARD, FOR:

(I) ALL OF THE USES FOR WHICH RECLAIMED DOMESTIC WASTEWATER MAY BE USED IN COMPLIANCE WITH THE CATEGORY 1 STANDARD;

(II) WASHWATER APPLICATIONS;

(III) LANDSCAPE IRRIGATION AT SITES WITHOUT RESTRICTED ACCESS;

(IV) COMMERCIAL LAUNDRIES;

(V) AUTOMATED VEHICLE WASHING;

(VI) MANUAL, NONPUBLIC VEHICLE WASHING;

(VII) NONRESIDENTIAL FIRE PROTECTION; AND

(VIII) IF USED IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION, IRRIGATION OF FOOD CROPS FOR COMMERCIAL USE;

(c) IN COMPLIANCE WITH THE CATEGORY 3 STANDARD, FOR:

(I) ALL OF THE USES FOR WHICH RECLAIMED DOMESTIC WASTEWATER MAY BE USED IN COMPLIANCE WITH THE CATEGORY 1 STANDARD AND THE CATEGORY 2 STANDARD;

(II) LANDSCAPE IRRIGATION AT SITES THAT ARE CONTROLLED BY RESIDENTS;

(III) RESIDENTIAL FIRE PROTECTION; AND

(IV) IF USED IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION, IRRIGATION OF FOOD CROPS FOR NONCOMMERCIAL USE.

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

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

(I) DETERMINES THAT THE STANDARDS AND CATEGORIES SET FORTH IN SUBSECTION (2) OF THIS SECTION ARE NOT PROTECTIVE OF PUBLIC HEALTH; AND

(II) IDENTIFIES:

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

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

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

(7) IN ADDITION TO THE RELIEF AVAILABLE UNDER SECTION 25-8-205 (7), THE DIVISION MAY GRANT A USER OF RECLAIMED DOMESTIC WASTEWATER A VARIANCE FROM THE WATER QUALITY STANDARDS SET FORTH IN SUBSECTION (2) OF THIS SECTION OR ESTABLISHED BY RULE BY THE COMMISSION PURSUANT TO SUBSECTION (5) OF THIS SECTION IF THE USER DEMONSTRATES TO THE DIVISION'S SATISFACTION THAT THE PROPOSED USAGE OF RECLAIMED DOMESTIC WASTEWATER WILL SUFFICIENTLY PROTECT PUBLIC HEALTH AND THE ENVIRONMENT.

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

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

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

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

SECTION 5. Appropriation. For the 2018-19 state fiscal year, \$14,399 is appropriated to the department of public health and environment for use by the water quality control division. This appropriation is from the general fund and is based on an assumption that the division will require an additional 0.1 FTE. To implement this act, the division may use this appropriation for public and private utilities sector related to the clean water sectors.

SECTION 6. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect

unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Became Law: April 28, 2018