

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0205.01 Jennifer Berman x3286

HOUSE BILL 23-1242

HOUSE SPONSORSHIP

Boesenecker and Joseph,

SENATE SPONSORSHIP

Cutter,

House Committees
Energy & Environment

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING WATER USED IN OIL AND GAS OPERATIONS.**

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 requires an oil and gas operator in the state (operator), on or before January 31, 2024, and at least annually thereafter, to report information to the Colorado oil and gas conservation commission (commission) regarding the operator's use of water entering, utilized at, or exiting each of the operator's oil and gas locations.

The bill also requires the commission to adopt rules requiring that:

- When issuing an operator a new or renewed oil and gas permit on or after June 1, 2024, the commission include as

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

a condition of the permit a requirement that the operator use a decreasing percentage of fresh water and a corresponding increasing percentage of recycled or reused water in the operator's oil and gas operations; and

- Each oil and gas operator, on and after January 1, 2024, report on a monthly basis to the commission about the daily vehicle miles traveled for any trucks hauling water to, within, or from the operator's oil and gas operations in the state.

From the information reported to the commission under the bill, the commission is required to:

- Include the information as part of the commission's annual reporting on cumulative impacts of oil and gas operations;
- Report to the division of administration (division) in the department of public health and environment, on a per-incident basis, any indication of technologically enhanced naturally occurring radioactive material or PFAS chemicals present in produced water; and
- On a quarterly basis, submit a cumulative report to the division and the department of transportation on reported vehicle miles traveled and public roads traveled.

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

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

4 (a) Colorado has experienced a drought since 2000 that, according
5 to the Colorado state university's Colorado water institute, is the most
6 severe drought in the southwestern United States since the year 800;

7 (b) The drought has affected every part of Colorado, and
8 agricultural operations throughout the state have been negatively
9 impacted due to reduced water supply for irrigation;

10 (c) In the years 2020 and 2021, the historically dry conditions led
11 to the four most destructive wildfires in state history; and

12 (d) Compared to twentieth century levels, the flow of the
13 Colorado river has declined 20% since 2000, and the river's reduced flow

1 could result in a drastic curtailment of water available for junior and
2 senior water rights alike.

3 (2) The general assembly further finds and determines that:

4 (a) Increases in oil and gas production, along with increases in the
5 drilling depth and horizontal distances required for oil and gas
6 production, require significantly more water to be utilized in oil and gas
7 operations in the state than previously required. In 2022, the average
8 water usage in the Denver-Julesburg oil and gas production basin was
9 17.9 million gallons per oil and gas well, and for some wells, more than
10 24 million gallons of water were required.

11 (b) For most of the hydraulically fractured wells in the
12 Denver-Julesburg oil and gas production basin in Colorado, the produced
13 water is not recycled or reused;

14 (c) In areas of the United States, such as the Piceance basin,
15 produced water from oil and gas operations is increasingly being recycled
16 and reused; and

17 (d) Recycling and reusing produced water reduces the need for:

18 (I) Obtaining fresh water for use in downhole operations; and

19 (II) Disposing of produced water.

20 (3) Therefore, the general assembly declares that:

21 (a) Water demands of the oil and gas industry are so substantial
22 that they equal or exceed the projected yield of several proposed water
23 projects in the state that are designed to meet municipal and industrial
24 water demands;

25 (b) Reporting on the existing use of fresh water and on the use of
26 recycled or reused water in downhole operations in the state would
27 provide helpful information for determining how best to increase the use

1 of recycled or reused water in downhole operations in the state; and

2 (c) Prohibiting the use of fresh water in the drilling and
3 completion stages of oil and gas operations would help address
4 Colorado's water shortages resulting from prolonged drought, climate
5 change, and population growth.

6 **SECTION 2.** In Colorado Revised Statutes, **add** 34-60-134 and
7 34-60-135 as follows:

8 **34-60-134. Reporting of water used in oil and gas operations**
9 **- cumulative reporting - definitions - rules.** (1) AS USED IN THIS
10 SECTION AND IN SECTION 34-60-135, UNLESS THE CONTEXT OTHERWISE
11 REQUIRES:

12 (a) "DIVISION" MEANS THE DIVISION OF ADMINISTRATION IN THE
13 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AS DESCRIBED IN
14 SECTION 25-1-102 (2)(a).

15 (b) "FLOWBACK" MEANS THE PROCESS OF ALLOWING FLUIDS AND
16 ENTRAINED SOLIDS TO FLOW FROM A WELL AFTER PERFORMING A
17 TREATMENT ON THE WELL TO RESTORE OR ENHANCE THE PRODUCTIVITY
18 OF THE FORMATION.

19 (c) "PFAS CHEMICALS" HAS THE MEANING SET FORTH IN SECTION
20 34-60-132 (1)(r).

21 (d) (I) "PRODUCED WATER" MEANS FORMATION OR INTRODUCED
22 WATER THAT IS COPRODUCED WITH OIL AND GAS EXPLORATION AND
23 PRODUCTION.

24 (II) "PRODUCED WATER" INCLUDES FLOWBACK.

25 (e) (I) "RECYCLED OR REUSED WATER" MEANS WATER THAT IS
26 RECONDITIONED INTO A REUSABLE FORM OR THAT IS REUSED WITHOUT
27 RECONDITIONING.

1 (II) "RECYCLED OR REUSED WATER" INCLUDES NONPOTABLE
2 WATER, SUCH AS WATER SUPPLIED BY A WASTEWATER TREATMENT
3 FACILITY.

4 (f) "TENORM" MEANS TECHNOLOGICALLY ENHANCED
5 NATURALLY OCCURRING RADIOACTIVE MATERIAL, AS DEFINED IN SECTION
6 25-11-201 (1)(f).

7 (2) ON OR BEFORE JANUARY 31, 2024, AND NO LESS FREQUENTLY
8 THAN ANNUALLY THEREAFTER AND THROUGHOUT THE LIFETIME OF THE
9 WELL, FOR EACH WELL NUMBER OR COMMERCIAL OIL AND GAS DISPOSAL
10 FACILITY LOCATION IDENTIFICATION NUMBER IN RELATION TO WHICH AN
11 OPERATOR IN THE STATE HAS CONDUCTED OR WILL CONDUCT OPERATIONS,
12 THE OPERATOR SHALL REPORT TO THE COMMISSION:

13 (a) THE VOLUME OF, SOURCE OF, AND PRICE PAID FOR ALL WATER
14 PURCHASED OR OTHERWISE ACQUIRED FOR USE IN OIL AND GAS
15 OPERATIONS, WITH THE VOLUME OF WATER EXPRESSED IN BARRELS;

16 (b) THE VOLUME AND SOURCE OF RECYCLED OR REUSED WATER
17 USED IN OIL AND GAS OPERATIONS, WITH THE VOLUME OF WATER
18 EXPRESSED IN BARRELS; AND

19 (c) THE MANNER IN WHICH THE OPERATOR DISPOSED OF PRODUCED
20 WATER THAT WAS NOT RECYCLED OR REUSED, INCLUDING THE VOLUME OF
21 PRODUCED WATER DISPOSED OF, EXPRESSED IN BARRELS, AND
22 INFORMATION REGARDING:

23 (I) THE GEOGRAPHIC LOCATION AT WHICH THE PRODUCED WATER
24 WAS DISPOSED, INCLUDING THE WELL NUMBER OR COMMERCIAL OIL AND
25 GAS DISPOSAL FACILITY IDENTIFICATION NUMBER FOR ANY RELEVANT
26 DEEP INJECTION WELL INTO WHICH THE PRODUCED WATER WAS DISPOSED;

27 (II) HOW THE PRODUCED WATER WAS DISPOSED OF AND WHETHER

1 THE PRODUCED WATER WAS:

2 (A) DISPOSED OF USING A DISPOSAL METHOD THAT THE
3 COMMISSION DETERMINES BY RULE, WHICH DISPOSAL METHOD MUST BE IN
4 COMPLIANCE WITH THE COMMISSION'S RULES ADOPTED PURSUANT TO
5 SECTION 34-60-135 (2)(c)(V);

6 (B) REUSED IN OIL AND GAS OPERATIONS, EITHER LOCATED ON SITE
7 OR AT A DIFFERENT OIL AND GAS LOCATION; OR

8 (C) DISPOSED OF OTHERWISE, INCLUDING INFORMATION
9 REGARDING THE METHOD OF DISPOSAL;

10 (III) THE ANNUAL AND CUMULATIVE DISCHARGE OVER TIME OF
11 PRODUCED WATER FROM THE OIL AND GAS OPERATIONS CONDUCTED AT
12 THE OIL AND GAS LOCATION;

13 (IV) THE AMOUNT OF TENORM THAT IS PRESENT IN THE
14 PRODUCED WATER, AS MEASURED BOTH PER DISCHARGE AND
15 CUMULATIVELY; AND

16 (V) ANY CHEMICALS PRESENT IN THE PRODUCED WATER,
17 INCLUDING ANY PFAS CHEMICALS, THAT OPERATORS ARE REQUIRED TO
18 REPORT PURSUANT TO SECTION 34-60-132 OR OTHERWISE.

19 (3) WITH RESPECT TO THE TENORM INFORMATION THAT AN
20 OPERATOR PROVIDES PURSUANT TO SUBSECTION (2)(c)(IV) OF THIS
21 SECTION, FOR ANY RADIOACTIVE CONSTITUENTS FOUND IN PRODUCED
22 WATER, THE COMMISSION SHALL ENSURE THAT THE OPERATOR FOLLOWS
23 THE STATE BOARD OF HEALTH'S RULES ADOPTED PURSUANT TO SECTION
24 25-11-104 (1)(a) REGARDING RADIOACTIVE MATERIALS.

25 (4) THE COMMISSION SHALL ADOPT RULES AUTHORIZING
26 OPERATORS TO INCLUDE THE INFORMATION REQUIRED TO BE REPORTED
27 PURSUANT TO SUBSECTION (2) OF THIS SECTION IN A NEW FORM OR OTHER

1 REPORTING MECHANISM THAT THE COMMISSION DEVELOPS IF THE
2 INFORMATION HAS NOT OTHERWISE BEEN REPORTED UNDER EXISTING
3 COMMISSION RULES.

4 (5) THE COMMISSION SHALL NOT ADOPT A RULE DESIGNATING THE
5 INFORMATION REQUIRED PURSUANT TO SUBSECTION (2) OF THIS SECTION
6 AS CONFIDENTIAL INFORMATION THAT AN OPERATOR MAY REDACT WHEN
7 REPORTING THE INFORMATION TO THE COMMISSION.

8 (6) THE COMMISSION SHALL INCLUDE, AS PART OF ITS ANNUAL
9 REPORTING ON CUMULATIVE IMPACTS OF OIL AND GAS OPERATIONS, ALL
10 INFORMATION REPORTED PURSUANT TO THIS SECTION. THE COMMISSION'S
11 ANNUAL REPORTING ON CUMULATIVE IMPACTS OF OIL AND GAS
12 OPERATIONS MUST INCLUDE THE FOLLOWING:

13 (a) MEASUREMENTS OF WATER VOLUME REPORTED, EXPRESSED IN
14 BOTH BARRELS AND GALLONS; AND

15 (b) THE ACTUAL AMOUNTS OF WATER USED BY ALL OIL AND GAS
16 OPERATORS IN THE REPORTING YEAR, AS REFLECTED IN THE INFORMATION
17 THAT THE OPERATORS REPORT PURSUANT TO SUBSECTION (2) OF THIS
18 SECTION AND AS SUPPLEMENTED BY INFORMATION THAT THE COMMISSION
19 COMPILES FROM NOTICES THAT OPERATORS FILE WITH THE COMMISSION
20 UPON COMPLETION OF HYDRAULIC FRACTURING ACTIVITY AT AN OIL AND
21 GAS LOCATION.

22 (7) THE COMMISSION SHALL REPORT TO THE DIVISION, ON A
23 PER-INCIDENT BASIS, ANY TENORM OR PFAS CHEMICALS PRESENT IN
24 PRODUCED WATER, AS REPORTED TO THE COMMISSION PURSUANT TO
25 SUBSECTION (2)(c)(IV) OR (2)(c)(V) OF THIS SECTION.

26 **34-60-135. Use of recycled or reused water for oil and gas**
27 **operations - requirements - vehicle miles traveled for water hauling**

1 **- cumulative reporting - rules.** (1) ON OR BEFORE JUNE 1, 2024, THE
2 COMMISSION SHALL ADOPT RULES TO REQUIRE, AS A CONDITION FOR A NEW
3 OR RENEWED OIL AND GAS PERMIT, A REDUCTION IN FRESH WATER USAGE
4 AND AN INCREASE IN PRODUCED WATER RECYCLING OR REUSE. IN
5 CONDUCTING THE RULE-MAKING, THE COMMISSION SHALL COMPLY WITH
6 THE ENGAGEMENT OF DISPROPORTIONATELY IMPACTED COMMUNITIES
7 PROCESS SET FORTH IN SECTION 24-4-109.

8 (2) THE RULES ADOPTED PURSUANT TO SUBSECTION (1) OF THIS
9 SECTION:

10 (a) MUST REQUIRE, FOR EACH OIL AND GAS PRODUCTION BASIN, AN
11 ITERATIVE AND CONSISTENT INCREASE IN THE USE OF RECYCLED OR
12 REUSED WATER, WITHOUT INCREASING EMISSIONS ASSOCIATED WITH OIL
13 AND GAS OPERATIONS AND BY USING RENEWABLE ENERGY IN
14 ACCORDANCE WITH RULES THAT THE COMMISSION ADOPTS PURSUANT TO
15 SUBSECTION (2)(c)(V) OF THIS SECTION, SO THAT:

16 (I) BY DECEMBER 31, 2026, AT LEAST SEVENTY-FIVE PERCENT OF
17 WATER USED IN OIL AND GAS OPERATIONS IS RECYCLED OR REUSED
18 WATER; AND

19 (II) BY DECEMBER 31, 2029, AT LEAST NINETY PERCENT OF WATER
20 USED IN OIL AND GAS OPERATIONS IS RECYCLED OR REUSED WATER;

21 (b) MAY INCLUDE BASIN-SPECIFIC BENCHMARKS TO COMPLY WITH
22 THE REQUIREMENTS SET FORTH IN SUBSECTION (2)(a) OF THIS SECTION;
23 AND

24 (c) MUST INCLUDE AT LEAST THE FOLLOWING REQUIREMENTS AND
25 PROHIBITIONS FOR OIL AND GAS OPERATIONS:

26 (I) THAT ANY DESIGNS FOR NEW OIL AND GAS OPERATIONS
27 INCORPORATE ON-SITE WATER RECYCLING OR TREATMENT SYSTEMS;

1 EXCEPT THAT, A CENTRALIZED TREATMENT PLAN MAY BE AUTHORIZED FOR
2 ALL OIL AND GAS OPERATIONS LOCATIONS WITHIN A COMPREHENSIVE
3 AREA PLAN;

4 (II) THAT ANY TREATMENT SYSTEM UTILIZE CLOSED-LOOP
5 FLOWBACK, STORAGE, AND TREATMENT;

6 (III) THAT EACH OPERATOR REPORT THE VOLUME OF TREATED
7 PRODUCED WATER AND THE VOLUME OF PRODUCED WATER THAT IS SENT
8 FOR OFF-SITE DISPOSAL UPON EXTINCTION OF THE WATER'S USEFUL LIFE AS
9 RECYCLED OR REUSED WATER;

10 (IV) THAT A NEW CENTRALIZED TREATMENT PLANT NOT BE
11 CONSTRUCTED IN ANY DISPROPORTIONATELY IMPACTED COMMUNITY, AS
12 DEFINED IN SECTION 24-4-109 (2)(b)(II), OR WITHIN TWO THOUSAND FEET
13 OF THE BOUNDARY OF A DISPROPORTIONATELY IMPACTED COMMUNITY;

14 (V) THAT RENEWABLE ENERGY, AS DEFINED IN SECTION 40-1-102
15 (11), BE USED FOR ALL ENERGY REQUIRED TO OPERATE ANY NEW, ON-PAD
16 OR CENTRALIZED PRODUCED WATER TREATMENT FACILITIES;

17 (VI) THAT OPEN PITS, UNLINED PITS, AND STORAGE PITS FOR
18 PRODUCED WATER BE PROHIBITED;

19 (VII) THAT AN OPERATOR COMPLY WITH ANY PREVAILING WAGE,
20 WORKER PROTECTION, AND APPRENTICESHIP REQUIREMENTS THAT THE
21 COMMISSION ESTABLISHES BY RULE;

22 (VIII) THAT AN OPERATOR TEST FLOWBACK FOR PFAS CHEMICALS
23 AND, IF ANY PFAS CHEMICALS ARE FOUND, THE OPERATOR ISOLATE AND
24 DISPOSE OF THE WATER CONTAINING PFAS CHEMICALS IN A CLASS II
25 INJECTION WELL;

26 (IX) THAT PRODUCED WATER NOT BE TRANSPORTED INTO OR OUT
27 OF THE STATE; AND

1 (X) THAT A LOCAL GOVERNMENT NOT BE REQUIRED TO SUPPLY
2 WATER TO OPERATORS FOR USE IN OIL AND GAS OPERATIONS.

3 (3) THE COMMISSION SHALL REQUIRE BY RULE THAT, ON AND
4 AFTER JANUARY 1, 2024, EACH OPERATOR REPORT ON A MONTHLY BASIS
5 THE DAILY VEHICLE MILES TRAVELED FOR ANY TRUCKS HAULING ANY TYPE
6 OF WATER TO OR FROM OIL AND GAS OPERATIONS IN THE STATE, FROM
7 CONSTRUCTION THROUGH THE END OF LIFE FOR EACH OIL AND GAS
8 OPERATION IN THE STATE. THE RULES MUST REQUIRE THAT VEHICLE MILES
9 TRAVELED BE REPORTED:

10 (a) FROM TRUCK ORIGIN TO WELL PAD, INCLUDING:

11 (I) ANY PUBLIC ROADS TRAVELED;

12 (II) ANY MILEAGE BETWEEN WELL PADS IF CARRYING ANY TYPE OF
13 WATER BETWEEN WELL PADS;

14 (III) FRESH WATER TRANSPORT FROM THE WATER'S POINT OF
15 ORIGIN; AND

16 (IV) FRESH WATER TRANSPORT BETWEEN WELL PADS;

17 (b) FOR PRODUCED WATER FROM:

18 (I) THE POINT OF ORIGIN, IF ANY, TO THE WELL PAD; AND

19 (II) THE WELL PAD TO A DISPOSAL FACILITY OR TO THE NEXT POINT
20 EN ROUTE TO THE DISPOSAL FACILITY; AND

21 (c) FROM THE FINAL PICKUP POINT TO A DISPOSAL FACILITY.

22 (4) DEFINITIONS FROM SECTION 34-60-134 APPLY TO TERMS AS
23 THEY ARE USED IN THIS SECTION.

24 (5) (a) THE COMMISSION SHALL INCLUDE, AS PART OF ITS ANNUAL
25 REPORTING ON CUMULATIVE IMPACTS OF OIL AND GAS OPERATIONS, ALL
26 INFORMATION REPORTED PURSUANT TO THIS SECTION, WITH ANY
27 REPORTING ON VOLUMES OF WATER REPORTED AS THE ACTUAL VOLUME OF

1 WATER USED FOR ALL OIL AND GAS OPERATIONS CONDUCTED IN THE
2 REPORTING YEAR.

3 (b) ON A QUARTERLY BASIS, THE COMMISSION SHALL COMPILE A
4 CUMULATIVE REPORT ON VEHICLE MILES TRAVELED AND PUBLIC ROADS
5 TRAVELED, AS REPORTED TO THE COMMISSION PURSUANT TO SUBSECTION
6 (3) OF THIS SECTION, AND SUBMIT COPIES OF THE CUMULATIVE REPORT TO
7 THE DIVISION AND THE DEPARTMENT OF TRANSPORTATION CREATED IN
8 SECTION 24-1-128.7 (1).

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