

CHAPTER 235

HEALTH AND ENVIRONMENT

HOUSE BILL 98-1058

BY REPRESENTATIVES Adkins, Epps, Gotlieb, Keller, Nichol, Paschall, Schauer, Swenson, and Tucker;
also SENATORS Norton, Chlouber, and Linkhart.

AN ACT

CONCERNING THE CREATION OF A VOLUNTARY ENVIRONMENTAL LEADERSHIP PROGRAM, AND, IN CONNECTION THEREWITH, CREATING AN ENVIRONMENTAL LEADERSHIP POLLUTION PREVENTION REVOLVING FUND AND ENACTING FINANCIAL INCENTIVES FOR POLLUTION PREVENTION, TOXIC USE REDUCTION, SOURCE REDUCTION, RESOURCE RECOVERY, ENERGY EFFICIENCY, AND INNOVATIVE ENVIRONMENTAL TECHNOLOGY ACTIVITIES FOR SUCH ENVIRONMENTAL LEADERS, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. Title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 6.7
Environmental Leadership Act

25-6.7-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "ENVIRONMENTAL LEADERSHIP ACT".

25-6.7-102. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT ENVIRONMENTAL LEADERS WHO DEMONSTRATE THEIR COMMITMENT TO THE ENVIRONMENT BY GOING BEYOND COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS POSITIVELY IMPACT THE QUALITY OF LIFE FOR ALL OF THE CITIZENS OF THE STATE OF COLORADO. BY MOVING BEYOND COMPLIANCE, ENVIRONMENTAL LEADERS IMPROVE THE ECONOMY AND THE ENVIRONMENT BY INCREASING CONSUMER AND SHAREHOLDER CONFIDENCE, BOOSTING MANAGEMENT AND EMPLOYEE MORALE, AND OPERATING IN A SAFE AND SENSIBLE MANNER THAT LESSENS THEIR IMPACTS ON THE ENVIRONMENT. THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT INCREASED

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

USE OF POLLUTION PREVENTION STRATEGIES, MORE COST-EFFECTIVE OPTIONS FOR COMPLIANCE WITH ENVIRONMENTAL LAWS, AND REDUCTION IN OCCURRENCES OF NONCOMPLIANCE WITH ENVIRONMENTAL LAWS CAN BE ACHIEVED THROUGH THE ESTABLISHMENT AND IMPLEMENTATION OF A VOLUNTARY ENVIRONMENTAL LEADERSHIP PROGRAM PURSUANT TO THIS ARTICLE.

(2) THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT SUCH VOLUNTARY PROGRAM SHOULD PROVIDE ENTITIES WITH THE OPPORTUNITY TO ENTER INTO AN AGREEMENT WITH THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT THROUGH WHICH THE DEPARTMENT SHALL ADMINISTER FINANCIAL AND OTHER BENEFITS TO THE PARTICIPATING ENTITIES THAT COMPLY WITH A PRESCRIBED NUMBER OF PROGRAM ELEMENTS ESTABLISHED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT DESIGNED TO REDUCE THE ADVERSE ENVIRONMENTAL IMPACTS OF THE ENTITY BEYOND THAT WHICH WOULD BE ACHIEVED BY COMPLIANCE WITH ENVIRONMENTAL LAWS AND PERMITS ALONE.

(3) THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT ENVIRONMENTAL LEADERS SHOULD BE GRANTED FINANCIAL INCENTIVES FOR POLLUTION PREVENTION, TOXIC USE REDUCTION, SOURCE REDUCTION, RESOURCE RECOVERY, ENERGY EFFICIENCY, AND INNOVATIVE ENVIRONMENTAL TECHNOLOGY INVESTMENTS THAT TAKE THE ENTITY BEYOND COMPLIANCE WITH STATE AND FEDERAL ENVIRONMENTAL LAWS AND PERMITS.

(4) THE GENERAL ASSEMBLY FURTHER FINDS, DETERMINES, AND DECLARES THAT NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS REQUIRING ANY ENTITY IN COLORADO TO PARTICIPATE IN ANY ENVIRONMENTAL LEADERSHIP PROGRAM ESTABLISHED UNDER THIS ARTICLE.

25-6.7-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ADVISORY BOARD" MEANS THE POLLUTION PREVENTION ADVISORY BOARD CREATED IN SECTION 25-16.5-104.

(2) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT CREATED IN SECTION 25-1-102.

(3) "ENTITY" MEANS ANY FACILITY OF A CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP, MUNICIPALITY, COUNTY, CITY AND COUNTY, OR SPECIAL DISTRICT LOCATED AND DOING BUSINESS IN COLORADO; EXCEPT THAT NO FACILITY THAT APPLIES FOR THE PROGRAM AND IS PART OF A CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP, MUNICIPALITY, COUNTY, CITY AND COUNTY, OR SPECIAL DISTRICT THAT HAS OTHER COLORADO FACILITIES SHALL BE ELIGIBLE FOR THE PROGRAM UNLESS ALL OF THE SAID COLORADO FACILITIES ARE IN COMPLIANCE WITH APPLICABLE COLORADO AND FEDERAL ENVIRONMENTAL LAWS AND REGULATIONS.

(4) "ENVIRONMENTAL LEADER" MEANS ANY ENTITY THAT HAS COMPLIED WITH THE MANDATORY ELEMENTS AND HAS ESTABLISHED IMPLEMENTATION PLANS FOR THE ELECTIVE ELEMENTS OF THE VOLUNTARY ENVIRONMENTAL LEADERSHIP PROGRAM. SUCH IMPLEMENTATION PLANS SHALL BE THE BASIS OF A WRITTEN AGREEMENT WITH THE DEPARTMENT.

(5) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT.

(6) "HAZARDOUS SUBSTANCE" OR "TOXIC SUBSTANCE" MEANS THOSE CHEMICALS DEFINED AS HAZARDOUS SUBSTANCES UNDER SECTION 313 OF THE FEDERAL "SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT OF 1986" ("SARA TITLE III"), INCLUDING ANY SUBSEQUENT AMENDMENTS, AND SECTIONS 101 (14) AND 102 OF THE FEDERAL "COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT" ("CERCLA"), AS AMENDED.

(7) "POLLUTION PREVENTION" HAS THE SAME MEANING AS SET FORTH IN SECTION 25-16.5-103 (6).

(8) "PROGRAM" MEANS THE VOLUNTARY ENVIRONMENTAL LEADERSHIP PROGRAM CREATED PURSUANT TO THIS ARTICLE.

(9) "SERIOUS VIOLATION" MEANS:

(a) VIOLATIONS THAT ARE PRONE TO CAUSE SIGNIFICANT IMPACT TO HUMAN HEALTH OR TO THE ENVIRONMENT;

(b) A PATTERN OF VIOLATIONS THAT DEMONSTRATE MANAGEMENT SYSTEMS ARE NOT ADEQUATE TO ADDRESS ENVIRONMENTAL ISSUES; OR

(c) CONVICTIONS FOR VIOLATIONS OF ENVIRONMENTAL LAWS OR OUT-OF-COURT SETTLEMENTS OF FORMAL CHARGES OF SUCH CRIMINAL VIOLATIONS.

(10) "SOURCE REDUCTION" MEANS ANY PRACTICE AS DESCRIBED IN SECTION 25-16.5-103 (11).

(11) "TOXIC USE REDUCTION" HAS THE SAME MEANING AS SET FORTH IN SECTION 25-16.5-103 (9).

25-6.7-104. Powers and duties of the department. (1) THE EXECUTIVE DIRECTOR, AFTER CONSULTATION WITH REPRESENTATIVES FROM THE REGULATED COMMUNITY, LOCAL GOVERNMENTS, ENVIRONMENTAL ADVOCACY GROUPS, AND OTHER INTERESTED CITIZENS, SHALL DEVELOP AND IMPLEMENT A VOLUNTARY ENVIRONMENTAL LEADERSHIP PROGRAM IN ACCORDANCE WITH THIS ARTICLE.

(2) THE DEPARTMENT SHALL ADMINISTER THE PROGRAM.

(3) PARTICIPATION IN THE PROGRAM BY ANY ENTITY IS VOLUNTARY AND IS SUBJECT TO REVIEW EVERY THREE YEARS.

(4) THE EXECUTIVE DIRECTOR MAY SEEK THE ADVICE OF AND CONSULT WITH THE ADVISORY BOARD ON MATTERS RELATED TO THE IMPLEMENTATION AND ADMINISTRATION OF THE PROGRAM.

25-6.7-105. Eligibility and application requirements. (1) THE EXECUTIVE DIRECTOR SHALL DETERMINE MANDATORY PROGRAM ELEMENTS FOR PARTICIPANTS IN THE PROGRAM. MANDATORY ELEMENTS SHALL INCLUDE:

(a) EVIDENCE OF NO SERIOUS VIOLATIONS OF ALL APPLICABLE STATE AND FEDERAL ENVIRONMENTAL LAWS AND PERMITS FOR A MINIMUM OF THREE YEARS IMMEDIATELY PRIOR TO THE DATE OF SUBMISSION OF THE APPLICATION FOR PARTICIPATION IN THE PROGRAM;

(b) EVIDENCE THAT NO SETTLEMENT AGREEMENT HAS BEEN ENTERED INTO AND THAT NO COMPLIANCE OR CONSENT ORDER HAS BEEN ISSUED FOR SERIOUS VIOLATIONS OF ENVIRONMENTAL LAWS AND PERMITS FOR THE THREE YEARS IMMEDIATELY PRIOR TO THE DATE OF SUBMISSION OF THE APPLICATION FOR PARTICIPATION IN THE PROGRAM;

(c) THE EXISTENCE AND MAINTENANCE OF AN ENVIRONMENTAL MANAGEMENT SYSTEM TO INCLUDE, AS APPROPRIATE, MANAGEMENT-APPROVED ENVIRONMENTAL POLICIES, RELEVANT PROCEDURES TO ACHIEVE ENVIRONMENTAL COMPLIANCE AND EMPLOYEE TRAINING PROGRAMS, COMPLIANCE AUDIT PROGRAMS, AND COMMUNICATION PROGRAMS RELATED TO ENVIRONMENTAL COMPLIANCE;

(d) THE EXISTENCE AND MAINTENANCE OF AN ENVIRONMENTAL COMPLIANCE AUDIT PROGRAM TO ASSESS COMPLIANCE WITH ENVIRONMENTAL LAWS, CORRECT NONCOMPLIANCE WITHIN A REASONABLE PERIOD OF TIME, AND REPORT AUDIT FINDINGS AS REQUIRED BY LAW;

(e) THE EXISTENCE AND MAINTENANCE OF A POLLUTION PREVENTION PROGRAM OR PLAN WITH SPECIFIC GOALS AND COMMITTED ACTIONS TO SIGNIFICANTLY REDUCE RELEASES OF POLLUTANTS OR THE USE OF RESOURCES BEYOND THE REDUCTIONS REQUIRED BY LAW OR PERMIT. THE AMOUNT OF THE REDUCTION WILL AID THE EXECUTIVE DIRECTOR IN PRIORITIZING THE ENVIRONMENTAL LEADERS FOR THE PURPOSE OF RECEIPT OF ANY AVAILABLE FINANCIAL INCENTIVES.

(f) THE EXISTENCE AND MAINTENANCE OF VERIFIABLE, QUANTITATIVE AND QUALITATIVE MEASURES OR METHODS THAT DOCUMENT COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS, RESOURCE CONSERVATION GOALS, AND POLLUTION PREVENTION PERFORMANCE GOALS.

(2) (a) THE EXECUTIVE DIRECTOR SHALL ESTABLISH ALTERNATIVE ELECTIVE PROGRAM ELEMENTS IN ADDITION TO THE MANDATORY PROGRAM ELEMENTS AND APPLICATION REQUIREMENTS. ENTITIES APPLYING TO PARTICIPATE IN THE PROGRAM SHALL SELECT FROM AMONG SUCH ALTERNATIVE ELECTIVE PROGRAM ELEMENTS AND COMPLETE THOSE SELECTED WITHIN A SPECIFIED TIME PERIOD. THE NUMBER OF ELECTIVE PROGRAM ELEMENTS SHALL BE BASED ON THE SIZE OF THE ENTITY AS DETERMINED BY THE EXECUTIVE DIRECTOR. ALL ELECTIVE PROGRAM ELEMENTS SHALL BE DESIGNED TO RESULT IN MEASURABLE IMPROVEMENT AND ENHANCEMENT OF THE ENVIRONMENTAL QUALITY OF THE STATE OF COLORADO OR SHALL BE ACTIVITIES THAT ARE BENEFICIAL TO THE ENVIRONMENT. ELECTIVE PROGRAM ELEMENTS MAY INCLUDE, BUT NEED NOT BE LIMITED TO:

(I) DEVELOPMENT AND MAINTENANCE OF PROGRAMS THAT PROVIDE TECHNICAL ASSISTANCE OR MENTORING TO ONE OR MORE SPECIFIED ORGANIZATIONS TO ENCOURAGE TECHNOLOGY TRANSFERS;

(II) ACTIVE PARTICIPATION IN INDUSTRY OR BUSINESS ENVIRONMENTAL

IMPROVEMENT PROGRAMS;

(III) ACTIVE PARTICIPATION OR IMPLEMENTATION OF ONE OR MORE RECOGNIZED VOLUNTARY ENVIRONMENTAL PROGRAMS, SUCH AS TRIP REDUCTION;

(IV) PUBLICATION AND PUBLIC DISTRIBUTION OF ANNUAL ENVIRONMENTAL PERFORMANCE SUMMARY REPORTS;

(V) PROMOTION, SPONSORSHIP, AND PARTICIPATION IN COMMUNITY ENVIRONMENTAL AND ADVISORY PROGRAMS;

(VI) DEVELOPMENT AND MAINTENANCE OF MANAGEMENT PROGRAMS THAT ENCOURAGE AND REWARD EMPLOYEES FOR MEETING OR EXCEEDING REQUIREMENTS OF ENVIRONMENTAL LAWS OR PERMITS, AND FOR PARTICIPATION IN VOLUNTARY ENVIRONMENTAL ACTIVITIES;

(VII) DEVELOPMENT OR IMPLEMENTATION OF PROGRAMS THAT REDUCE ADVERSE ENVIRONMENTAL IMPACT OF DEVELOPMENT, MANUFACTURE, DISTRIBUTION, AND MARKETING OF THE ENTITY'S PRODUCTS OR SERVICES;

(VIII) EVALUATION AND REVISION OF ENVIRONMENTAL MANAGEMENT SYSTEMS TO UPDATE AND STRENGTHEN ENVIRONMENTAL POLICIES, PROCEDURES, GOALS, AND EMPLOYEE TRAINING PROGRAMS;

(IX) ACQUISITION AND MAINTENANCE OF NATIONAL OR INTERNATIONAL ENVIRONMENTAL CERTIFICATION OR SELF-REGISTRATION IN THE SAME.

(b) THE EXECUTIVE DIRECTOR MAY ESTABLISH ADDITIONAL ALTERNATIVE ELECTIVE PROGRAM ELEMENTS SO LONG AS SUCH ELEMENTS ARE DESIGNED TO RESULT IN THE MEASURABLE IMPROVEMENT AND ENHANCEMENT OF THE ENVIRONMENTAL QUALITY OF THE STATE OF COLORADO. ANY ADDITIONAL ALTERNATIVE ELECTIVE PROGRAM ELEMENTS ESTABLISHED BY THE EXECUTIVE DIRECTOR SHALL HAVE A REASONABLE NEXUS TO THE INDUSTRY OR BUSINESS OF THE ENTITY TO WHICH IT APPLIES.

(3) THE EXECUTIVE DIRECTOR SHALL DETERMINE APPLICATION REQUIREMENTS AND ESTABLISH APPLICATION FORMS FOR ENTITIES TO SUBMIT PROPOSALS TO PARTICIPATE IN THE PROGRAM. THE DEPARTMENT SHALL REVIEW ALL APPLICATIONS SUBMITTED FOR THE PROGRAM AND SHALL NOTIFY THE ENTITY THAT THE APPLICATION IS COMPLETE OR THAT THE APPLICATION IS INCOMPLETE. IF THE APPLICATION IS INCOMPLETE, THE DEPARTMENT SHALL DESCRIBE WHAT ADDITIONAL INFORMATION IS REQUIRED TO COMPLETE THE APPLICATION. THE ENTITY MAY CORRECT THE APPLICATION AND RESUBMIT IT AT ANY TIME.

25-6.7-106. Application review and authority to enter into agreement.

(1) THE EXECUTIVE DIRECTOR SHALL REVIEW ALL COMPLETED APPLICATIONS WITHIN A REASONABLE PERIOD OF TIME. IF THE EXECUTIVE DIRECTOR DETERMINES THAT THE APPLICATION MEETS THE REQUIREMENTS FOR THE PROGRAM, THE EXECUTIVE DIRECTOR SHALL NOTIFY THE ENTITY IN WRITING, AND THE APPLICATION SHALL BE INCORPORATED INTO A WRITTEN AGREEMENT. IF THE EXECUTIVE DIRECTOR DETERMINES THAT THE APPLICATION DOES NOT MEET THE REQUIREMENTS OF THE

PROGRAM, THE EXECUTIVE DIRECTOR SHALL NOTIFY THE ENTITY IN WRITING AND SHALL PROVIDE AN ADEQUATE OPPORTUNITY FOR THE ENTITY TO ADDRESS THE OUTSTANDING ITEMS.

(2) THE EXECUTIVE DIRECTOR MAY ENTER INTO ONE OR MORE AGREEMENTS WITH AN ENTITY AS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE. SUCH AGREEMENT SHALL DESCRIBE THE INCENTIVES TO BE PROVIDED TO THE ENTITY.

(3) THE FOLLOWING DOCUMENTS SHALL BE MADE AVAILABLE FOR PUBLIC REVIEW:

(a) THE APPLICATION, INCLUDING DOCUMENTATION OF COMPLIANCE WITH ENVIRONMENTAL LAWS AND PERMITS APPLICABLE TO THE FACILITY OVER THE LAST THREE YEARS, INFORMATION REGARDING AN APPROPRIATE ENVIRONMENTAL MANAGEMENT SYSTEM, A DESCRIPTION OF THE CURRENT STATUS OF PROPOSED PERFORMANCE INDICATORS, AND AN OUTLINE OF THE MEASURES BY WHICH THE PROGRAM WILL BE EVALUATED;

(b) THE EXECUTIVE DIRECTOR'S DETERMINATION REGARDING THE APPLICATION; AND

(c) THE AGREEMENT DESCRIBED IN SUBSECTIONS (1) AND (2) OF THIS SECTION.

25-6.7-107. Withdrawal and termination from the program. (1) ANY ENTITY MAY ELECT TO WITHDRAW FROM PARTICIPATION IN THE PROGRAM AT ANY TIME UPON WRITTEN NOTICE TO THE EXECUTIVE DIRECTOR.

(2) THE EXECUTIVE DIRECTOR SHALL TERMINATE THE PARTICIPATION OF ANY ENTITY IN THE PROGRAM IF A SERIOUS VIOLATION IS DISCOVERED OR OCCURS AND SUCH VIOLATION IS NOT PROPERLY DISCLOSED IN ACCORDANCE WITH THE LAW OR IS NOT CORRECTED OR REMEDIATED IN A TIMELY MANNER TO THE SATISFACTION OF THE EXECUTIVE DIRECTOR.

(3) THE EXECUTIVE DIRECTOR MAY CONTINUE THE PARTICIPATION OF AN ENTITY IN THE PROGRAM IF A SERIOUS VIOLATION IS DISCOVERED OR OCCURS AND SUCH VIOLATION IS PROPERLY DISCLOSED IN ACCORDANCE WITH LAW AND IS CORRECTED OR REMEDIATED IN A TIMELY MANNER TO THE SATISFACTION OF THE EXECUTIVE DIRECTOR.

(4) (a) AN ENTITY'S PARTICIPATION IN THE PROGRAM SHALL BE SUSPENDED FROM THE TIME THE SERIOUS VIOLATION IS DISCOVERED OR OCCURS UNTIL THE TIME THAT IT IS CORRECTED OR REMEDIATED TO THE SATISFACTION OF THE EXECUTIVE DIRECTOR.

(b) THE EXECUTIVE DIRECTOR SHALL ESTABLISH WRITTEN POLICY AND CRITERIA THAT SET FORTH CIRCUMSTANCES UNDER WHICH AN ENTITY'S PARTICIPATION SHALL BE TERMINATED.

(5) IF THE EXECUTIVE DIRECTOR DETERMINES AT ANY TIME THAT AN ENTITY IS FAILING TO PERFORM OR ACCOMPLISH ANY OF THE AGREED UPON REQUIREMENTS OF THE PROGRAM, AND IF, AFTER WRITTEN NOTICE TO THE ENTITY, THE ENTITY DOES NOT COME INTO CONFORMANCE WITHIN A REASONABLE PERIOD OF TIME, THE EXECUTIVE DIRECTOR MAY TERMINATE THE ENTITY'S PARTICIPATION IN THE PROGRAM.

(6) ALL INCENTIVES PROVIDED BY THE STATE PURSUANT TO SECTION 25-6.7-108 SHALL BE WITHDRAWN, EFFECTIVE UPON TERMINATION OR WITHDRAWAL OF THE ENTITY'S PARTICIPATION IN THE PROGRAM. IF AN ENTITY WITHDRAWS OR IS TERMINATED FROM THE PROGRAM, ANY UNUSED INCENTIVES WILL BE FORFEITED.

25-6.7-108. Incentives provided by the state of Colorado. (1) THE EXECUTIVE DIRECTOR SHALL ESTABLISH AND PROVIDE INCENTIVES TO BE GRANTED TO ANY ENTITY THAT COMPLIES WITH ALL OF THE MANDATORY PROGRAM ELEMENTS AND THE PRESCRIBED NUMBER OF ELECTIVE PROGRAM ELEMENTS, AS DETERMINED BY THE EXECUTIVE DIRECTOR. ANY SUCH ENTITY MAY SELECT SOME OR ALL OF THE INCENTIVES ESTABLISHED PURSUANT TO THIS SUBSECTION (1). SUCH INCENTIVES MAY INCLUDE, BUT NEED NOT BE LIMITED TO:

(a) FORMAL PUBLIC RECOGNITION BY THE GOVERNOR AND THE DEPARTMENT AT LEAST ANNUALLY TO INCLUDE, BUT NOT BE LIMITED TO:

(I) STATE OF COLORADO PREFERRED VENDOR STATUS;

(II) AWARDS;

(III) PUBLIC ANNOUNCEMENTS; AND

(IV) NEWS RELEASES.

(b) GREATER RELIANCE BY THE DEPARTMENT ON THE ENTITY'S SELF-MONITORING, SELF-REPORTING, SELF-CERTIFICATION, OR THIRD-PARTY CERTIFICATION TO DEMONSTRATE COMPLIANCE WITH ENVIRONMENTAL LAWS AND PERMITS, WHICH MAY RESULT IN FEWER INSPECTIONS;

(c) ACCELERATION OF REVIEW AND PROCESSING OF PERMIT APPLICATIONS;

(d) ABILITY TO CONSOLIDATE PERMIT APPLICATIONS FOR EACH FACILITY OF THE ENTITY WITH ONE REPRESENTATIVE FROM THE DEPARTMENT RESPONSIBLE FOR ALL PERMITTING COMMUNICATIONS WITH THE ENTITY;

(e) CONSOLIDATION AND SIMPLIFICATION OF REPORTING AND MONITORING REQUIREMENTS;

(f) EXTENSION OF TERMS OF ENVIRONMENTAL PERMITS UP TO THE MAXIMUM AUTHORIZED UNDER THE RELEVANT ENVIRONMENTAL LAWS;

(g) ABILITY TO OBTAIN ADDITIONAL CREDITS FOR REDUCTIONS IN EMISSIONS OR DISCHARGES THAT EXCEED MINIMUM LEGAL REQUIREMENTS UNDER ANY OPERATING EMISSIONS OR DISCHARGE TRADING OR CREDIT PROGRAM THAT HAS BEEN OR MAY BE ESTABLISHED.

(2) (a) THE EXECUTIVE DIRECTOR SHALL ALSO ESTABLISH AND PROVIDE FINANCIAL INCENTIVES AVAILABLE THROUGH THE PROGRAM. FINANCIAL INCENTIVES SHALL BE GRADUATED IN AMOUNT IN ORDER TO PROVIDE GREATER PROPORTIONAL MONETARY GRANTS OR REBATES TO SMALLER ENTITIES AS DETERMINED BY THE EXECUTIVE DIRECTOR BY THE SIZE OF THE ENVIRONMENTAL BENEFIT PROVIDED BY THE ENTITY'S

ACTIONS.

(b) NO FINANCIAL INCENTIVES SHALL BE AWARDED UNLESS THE EXECUTIVE DIRECTOR HAS FIRST DETERMINED THAT THE ENTITY APPLYING FOR THE FINANCIAL INCENTIVE HAS PERFORMED ALL OF THE MANDATORY PROGRAM ELEMENTS AND THE PRESCRIBED NUMBER OF ELECTIVE PROGRAM ELEMENTS. ENTITIES MAY ONLY SELECT ONE OF THE FINANCIAL INCENTIVES ESTABLISHED UNDER THIS SUBSECTION (2).

(c) THE EXECUTIVE DIRECTOR MAY ESTABLISH THE FOLLOWING FINANCIAL INCENTIVES:

(I) DOLLAR CREDITS TO BE APPLIED AGAINST FUTURE OBLIGATIONS OF THE ENTITY UNDER STATE ENVIRONMENTAL LAWS, EXCLUDING FINES OR PENALTIES ASSESSED FOR VIOLATIONS OF ENVIRONMENTAL LAWS. THE AMOUNT OF SUCH CREDITS SHALL BE BASED ON THE SIZE OF THE ENTITY AND THE AMOUNT OF THE TOTAL VERIFIABLE COSTS INVESTED BY THE ENVIRONMENTAL LEADER TO IMPLEMENT THE ELECTIVE ELEMENTS OF THE PROGRAM AND SHALL NOT EXCEED A TOTAL AMOUNT OF TEN THOUSAND DOLLARS IN ANY THREE-YEAR PERIOD.

(II) DOLLAR REBATES OR CREDITS BASED ON A PERCENTAGE OF PERMIT AND EMISSION FEES ASSESSED UNDER STATE ENVIRONMENTAL LAWS. PERCENTAGE AMOUNTS ARE TO BE DETERMINED BASED ON THE SIZE OF THE ENTITY.

(d) THE DEPARTMENT SHALL REQUEST APPROPRIATIONS ANNUALLY FOR ENVIRONMENTAL PROGRAMS THAT REQUIRE ADDITIONAL FUNDING DUE TO THE AWARD OF DOLLAR CREDITS OR REBATES. IF ANNUAL APPROPRIATIONS ARE NOT SUFFICIENT TO PROVIDE FUNDING FOR THESE PROGRAMS, THE EXECUTIVE DIRECTOR MAY LIMIT THE AVAILABILITY OF FINANCIAL INCENTIVES.

25-6.7-109. Environmental leadership pollution prevention revolving fund - program - creation. (1) THE EXECUTIVE DIRECTOR SHALL ESTABLISH AND ADMINISTER AN ENVIRONMENTAL LEADERSHIP POLLUTION PREVENTION REVOLVING FUND PROGRAM TO PROVIDE LOW COST LOANS FOR POLLUTION PREVENTION, TOXIC USE REDUCTION, SOURCE REDUCTION, RESOURCE RECOVERY, ENERGY EFFICIENCY, AND INNOVATIVE ENVIRONMENTAL TECHNOLOGY ACTIVITIES. SUCH LOANS SHALL BE FUNDED FROM MONEYS CONTRIBUTED TO THE ENVIRONMENTAL LEADERSHIP POLLUTION PREVENTION REVOLVING FUND CREATED IN SUBSECTION (2) OF THIS SECTION. THE DEPARTMENT SHALL HAVE THE AUTHORITY TO ENTER INTO ONE OR MORE AGREEMENTS WITH STATE OR LOCAL AGENCIES, OTHER PUBLIC ENTITIES, POLITICAL SUBDIVISIONS, OR AUTHORITIES OF THE STATE, AS NECESSARY, TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

(2) THERE IS HEREBY ESTABLISHED IN THE STATE TREASURY A FUND TO BE KNOWN AS THE ENVIRONMENTAL LEADERSHIP POLLUTION PREVENTION REVOLVING FUND THAT CONSISTS OF MONEYS MADE AVAILABLE PURSUANT TO LAW AND GIFTS, DONATIONS, AND GRANTS ACCEPTED PURSUANT TO SUBSECTION (3) OF THIS SECTION. SUCH MONEYS SHALL BE DEDICATED AND CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT FOR THE EXCLUSIVE PURPOSE OF FUNDING THE ENVIRONMENTAL LEADERSHIP POLLUTION PREVENTION REVOLVING FUND PROGRAM CREATED PURSUANT TO THIS SECTION; EXCEPT THAT FUNDS SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DEPARTMENT FOR THE PURPOSE

OF COVERING THE REASONABLE COSTS OF ADMINISTERING THE ENVIRONMENTAL LEADERSHIP POLLUTION PREVENTION REVOLVING FUND PROGRAM. ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. AT THE END OF ANY FISCAL YEAR, ALL UNEXPENDED OR UNENCUMBERED MONEYS IN THE FUND SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

(3) THE EXECUTIVE DIRECTOR MAY ACCEPT GIFTS, DONATIONS, AND GRANTS FOR ANY PURPOSE CONNECTED WITH THE ENVIRONMENTAL LEADERSHIP POLLUTION PREVENTION REVOLVING FUND PROGRAM, BUT SHALL NOT SOLICIT SUCH GIFTS, DONATIONS, OR GRANTS. THE EXECUTIVE DIRECTOR SHALL DIRECT THE DISPOSITION OF ALL GIFTS, DONATIONS, AND GRANTS FOR ANY PURPOSE CONSISTENT WITH THE TERMS AND CONDITIONS UNDER WHICH ANY SUCH GIFT, DONATION, OR GRANT WAS MADE.

25-6.7-110. Review - repeal. (1) THIS ARTICLE SHALL BE REVIEWED BY THE DEPARTMENT AND THE ADVISORY BOARD TO ASSESS ITS EFFECTIVENESS IN IMPROVING THE ENVIRONMENT OF THE STATE AND REPORT THE RESULTS OF SUCH REVIEW TO THE GENERAL ASSEMBLY AND THE GOVERNOR ON OR BEFORE JANUARY 3, 2003.

(2) THIS ARTICLE IS REPEALED, EFFECTIVE DECEMBER 31, 2003.

SECTION 2. 24-21-104 (3) (d), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

24-21-104. Fees of secretary of state. (3) (d) (IV) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (b) OF THIS SUBSECTION (3) TO THE CONTRARY, ON JULY 1, 1998, THE STATE TREASURER SHALL DEDUCT FIVE HUNDRED THOUSAND DOLLARS FROM THE DEPARTMENT OF STATE CASH FUND AND TRANSFER SUCH SUM TO THE ENVIRONMENTAL LEADERSHIP POLLUTION PREVENTION REVOLVING FUND, CREATED IN SECTION 25-6.7-109 (2), C.R.S.

SECTION 3. Appropriation - adjustments in 1998 long bill. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the environmental leadership pollution prevention revolving fund, created in section 25-6.7-109 (2), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, administration and support, for implementation of the environmental leadership pollution prevention revolving fund program, for the fiscal year beginning July 1, 1998, the sum of four hundred ninety-three thousand nine hundred eighty dollars (\$493,980), or so much thereof as may be necessary, for the implementation of this act.

(2) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 1998, shall be adjusted as follows:

(a) The appropriation to the department of public health and environment, administration and support, legal services, is increased by one thousand nine hundred twenty dollars (\$1,920). Such sum shall be from cash funds exempt from the environmental leadership pollution prevention revolving fund.

(b) The appropriation to the department of public health and environment, information technology services, automated data processing ("ADP") capital outlay, is increased by four thousand one hundred dollars (\$4,100). Such sum shall be from cash funds exempt from the environmental leadership pollution prevention revolving fund.

(c) The appropriation to the department of law is increased by one thousand nine hundred twenty dollars (\$1,920) for the provision of legal services to the department of public health and environment related to the implementation of this act. Such sum shall be from cash funds exempt received from the department of public health and environment out of the appropriation made in paragraph (a) of this subsection (2).

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 26, 1998