

CHAPTER 385

HEALTH AND ENVIRONMENT

SENATE BILL 13-073

BY SENATOR(S) Brophy, Baumgardner, Roberts, Cadman, Crowder, Grantham, King, Lambert, Lundberg;
also REPRESENTATIVE(S) Sonnenberg, Gardner, Priola, Rankin, Saine, Scott, Vigil.

AN ACT

CONCERNING A REQUIREMENT THAT THE DIVISION OF ADMINISTRATION OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOLLOW RULE-MAKING PROCEDURES WHEN PROPOSING CHANGES TO GENERAL PERMITS RELATED TO WATER QUALITY CONTROL.

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

SECTION 1. In Colorado Revised Statutes, **add** 25-8-503.5 as follows:

25-8-503.5. General permits - process for changing permit requirements.

(1) WITH RESPECT TO A GENERAL PERMIT LISTED IN SECTION 25-8-502 (1) (b) (I) (G), WHEN PROPOSING NEW OR AMENDED PERMIT REQUIREMENTS FOR DISCHARGERS TO MEET TO OBTAIN OR MAINTAIN AUTHORIZATION FOR DISCHARGES UNDER THE PERMIT, THE DIVISION SHALL:

(a) PREPARE A STATEMENT OF BASIS AND PURPOSE EXPLAINING THE NEED FOR THE PROPOSED REQUIREMENTS;

(b) PRESENT EVIDENCE SUPPORTING THE NEED FOR THE PROPOSED REQUIREMENTS, INCLUDING INFORMATION REGARDING POLLUTANT POTENTIAL AND AVAILABLE CONTROLS, INCIDENTS OF ENVIRONMENTAL DAMAGE, AND PERMIT VIOLATIONS;

(c) BEFORE IMPLEMENTING THE PROPOSED REQUIREMENTS, PROVIDE PUBLIC NOTICE OF, AND CONSIDER COMMENTS RECEIVED FROM AFFECTED PARTIES ABOUT, THE PROPOSED REQUIREMENTS; AND

(d) UPON REQUEST BY AN AFFECTED PARTY, CONSIDER AND GIVE DUE WEIGHT TO A COST-BENEFIT ANALYSIS:

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

(I) RECEIVED BY THE DIVISION DURING THE COMMENT PHASE SET FORTH IN PARAGRAPH (c) OF THIS SUBSECTION (1);

(II) CONCERNING ONE OR MORE PROPOSED REQUIREMENTS THAT ARE NOT ALREADY REQUIRED BY FEDERAL OR STATE STATUTE OR RULE;

(III) PREPARED BY A THIRD PARTY CHOSEN FROM AN APPROVED LIST OF ANALYSTS, AS DEVELOPED BY THE DIVISION IN CONSULTATION WITH REPRESENTATIVES OF THE INDUSTRIES THAT ARE SUBJECT TO GENERAL PERMITTING; AND

(IV) PAID FOR BY THE AFFECTED PARTY.

(2) NOTHING IN SUBSECTION (1) OF THIS SECTION CONFERS RULE-MAKING AUTHORITY ON THE DIVISION.

(3) A PARTY MAY APPEAL A GENERAL PERMIT ISSUED UNDER SECTION 25-8-502 (1)(b)(I)(G) PURSUANT TO THE APPEALS PROCESS SET FORTH IN SECTION 24-4-105, C.R.S.

SECTION 2. 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: June 5, 2013