

CHAPTER 179

HEALTH AND ENVIRONMENT

HOUSE BILL 96-1307

BY REPRESENTATIVES Swenson and Paschall;
also SENATOR Ament.

AN ACT

CONCERNING THE STATIONARY SOURCE PROGRAM OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 25-7-109.2 (5), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

25-7-109.2. Small business stationary source technical and environmental compliance assistance program. (5) In furtherance of the small business stationary source technical and environmental compliance assistance program established as provided in subsection (1) of this section, the ~~office of regulatory reform, created pursuant to section 24-34-903, C.R.S.,~~ DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT shall serve as ombudsman for small business stationary sources. THE DEPARTMENT SHALL CARRY OUT THE OMBUDSMAN DUTIES USING PERSONNEL OUTSIDE OF THE AIR POLLUTION CONTROL DIVISION.

SECTION 2. The introductory portion to 25-7-114.5 (12) (a), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

25-7-114.5. Application review and public participation. (12) (a) No person shall commence the operation of any project or the conduct of any activity for which a construction permit has been issued without giving at least thirty calendar days' prior notice to the division of the date on which such commencement is to take place. Within one hundred eighty days after commencement of operation, the source shall demonstrate to the division compliance with the terms and conditions of the construction permit ~~and~~ OR the division ~~shall~~ MAY, PURSUANT TO RULES THAT ARE ADOPTED BY THE COMMISSION BASED UPON THE RESULTS OF THE STUDY CONDUCTED

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

UNDER SECTION 25-7-114.7 (2) (a) (V), inspect the project or activity to determine whether or not the terms and conditions of the construction permit have been properly satisfied. At the end of one hundred eighty days AFTER THE COMMENCEMENT OF OPERATION, the division must:

SECTION 3. 25-7-114.7 (2) (a) (I) (A) and (2) (a) (IV), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended, and the said 25-7-114.7 (2) (a) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

25-7-114.7. Emission fees - fund - repeal. (2) (a) (I) The commission shall designate by rule and regulation those classes of sources of air pollution which are exempt from the requirement to pay an annual emission fee. Every owner or operator of an air pollution source not otherwise exempt in accordance with such commission rules and regulations shall pay an annual fee as follows:

(A) For fiscal years ~~1994-95~~ 1996-97 and thereafter, fourteen dollars and ninety-eight cents per ton of regulated pollutant reported in the most recent air pollution emission notice on file with the division. Such fee may be increased by the executive director for fiscal year ~~1996-97~~ 1997-98 by an amount equal to the annual authorized increase in the division's direct personnel salary costs for the regulation of stationary sources for such fiscal year as incorporated and enacted in the annual general appropriation act for such fiscal year.

(IV) (A) After consultation with the program managers of the stationary source program of the division charged with the administration and enforcement of the program which includes the operating permit program, and after reviewing the requirements of Title V of the federal act, the general assembly hereby finds, determines, and declares that the fees authorized to be collected for fiscal years 1994-95, ~~and~~ 1995-96, ~~AND~~ 1996-97 set forth in subparagraph (I) of this paragraph (a) are sufficient to cover all reasonable direct and indirect costs required to develop and administer the operating permit program requirements of the federal act. The general assembly further finds, determines, and declares that sufficient funds will be generated by the fees authorized to be collected for fiscal years 1994-95, ~~and~~ 1995-96, ~~AND~~ 1996-97 set forth in subparagraph (I) of this paragraph (a) for administering the rest of the stationary source program as required under the federal act.

(B) In order to increase communication between the division and the private sector on options available to increase operating efficiency and minimize the need for future fee increases to fund the stationary source program, the general assembly hereby directs the division to convene a coordinated efficiency task force made up of representatives from the regulated and environmental communities. The task force shall pursue ways to increase efficiencies, economies, and the use of automation and to identify alternatives to adding to staffing levels within the division in order to reduce the costs and improve the efficiency of the stationary source program. The task force may also address alternative funding mechanisms which equitably distribute the costs of the program. The task force shall consist of nine members appointed by the executive director from a list of persons who volunteer to serve without compensation. Its membership shall reasonably represent the varied interests of large and small businesses, the environmental community, and the department. The task force shall report to the governor and the general assembly on its

recommendations no later than July 31, 1995, AND SHALL PROVIDE A FINAL REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY ON OR BEFORE JULY 1, 1997. The task force may provide interim reports. The task force shall begin its work no later than June 24, 1994, and the task force shall expire on ~~July 1, 1996~~ JULY 1, 1997.

(C) This subparagraph (IV) is repealed, effective ~~July 1, 1996~~ JULY 1, 1997.

(V) (A) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, WITH THE ADVICE AND ASSISTANCE OF THE EFFICIENCY TASK FORCE CREATED PURSUANT TO SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (IV) OF THIS PARAGRAPH (a), SHALL PREPARE A REQUEST FOR PROPOSALS FOR AND SHALL OVERSEE THE CONDUCT OF A STUDY REGARDING METHODS FOR CREATING EFFICIENCIES IN THE AIR POLLUTION CONTROL DIVISION'S INSPECTION AND PERMITTING PROGRAMS. SUCH STUDY SHALL ADDRESS THE CONCEPTS AND OPTIONS RECOMMENDED BY THE EFFICIENCY TASK FORCE IN ITS REPORT DATED JANUARY 12, 1996. THE CONTRACTOR SHALL COMPLETE THE STUDY AND SUBMIT THE RESULTS OF THE STUDY TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AND THE EFFICIENCY TASK FORCE FOR REVIEW. THE EXECUTIVE DIRECTOR SHALL PRESENT A REPORT ON THE RESULTS OF SUCH STUDY TO THE GOVERNOR AND THE GENERAL ASSEMBLY ON OR BEFORE JULY 1, 1997.

(B) THIS SUBPARAGRAPH (V) IS REPEALED, EFFECTIVE JULY 1, 1997.

SECTION 4. Appropriations in long bill to be adjusted. (1) For the implementation of this act, appropriations made in the annual general appropriation act to the department of public health and environment for the fiscal year beginning July 1, 1996, shall be adjusted as follows:

(a) The appropriation for the administration and support division, operating expenses is increased by two hundred seventy-five thousand dollars (\$275,000), which shall be from the stationary sources control fund created in section 25-7-114.7 (2) (b), Colorado Revised Statutes.

(b) The appropriation for the air quality control division, stationary source control, for federal clean air act implementation is decreased by thirty-five thousand dollars (\$35,000).

(c) The number of FTE for the air quality control division, stationary source control, for federal clean air act implementation is decreased by 0.4 FTE.

(2) For the implementation of this act, it appears appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 1997, will need to be adjusted as follows:

(a) The appropriation from the stationary sources control fund created in section 25-7-114.7 (2) (b), Colorado Revised Statutes, to the department of public health and environment, administration and support division, for small business stationary source technical and environmental compliance assistance will be increased by an amount estimated to be eighty-four thousand six hundred seventy-five dollars (\$84,675) and 1.3 FTE.

(b) The appropriation from the stationary sources control fund created in section 25-7-114.7 (2) (b), Colorado Revised Statutes, to the department of public health and environment, administration and support division, operating expenses will be increased by an amount estimated to be fifty thousand dollars (\$50,000).

(c) The appropriation from the stationary sources control fund created in section 25-7-114.7 (2) (b), Colorado Revised Statutes, to the department of regulatory agencies, executive director's office, office of regulatory reform will be decreased by an amount estimated to be ninety-seven thousand seven hundred two dollars (\$97,702) and 1.5 FTE.

SECTION 5. Effective date. Section 1 of this act shall take effect July 1, 1997, and the remainder of this act shall take effect July 1, 1996.

SECTION 6. 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 23, 1996