

CHAPTER 113

HEALTH AND ENVIRONMENT

HOUSE BILL 01-1217

BY REPRESENTATIVE(S) Larson, Boyd, Cloer, Coleman, Decker, Lawrence, Madden, Romanoff, Scott, and Weddig;
also SENATOR(S) Dyer (Durango).

AN ACT

CONCERNING THE AUTHORITY OF A LOCAL BOARD OF HEALTH TO PROMULGATE REGULATIONS
AUTHORIZING CEASE AND DESIST ORDERS WHEN SEWAGE TREATMENT DOES NOT COMPLY WITH
CERTAIN LAWS.

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

SECTION 1. 25-10-106 (1) (k), Colorado Revised Statutes, is amended to read:

25-10-106. Basic rules for local administration. (1) Rules adopted by local boards of health under section 25-10-104 (2) or (4) or promulgated by the department under section 25-10-104 (3) shall govern all aspects of the application for and issuance of permits, the inspection, testing, and supervision of installed systems, the issuance of cease and desist orders, the maintenance and cleaning of systems, and the disposal of waste material, and shall, as a minimum, include provisions regarding the following matters:

(k) (I) Issuance of an order to cease and desist from the use of any system OR SEWAGE TREATMENT WORKS that is found by the health officer not to be in compliance with this article or the rules adopted under this article or otherwise to constitute a nuisance or a hazard to public health or water quality, ~~or water quality and that has not received timely repairs in accordance with the provisions of paragraph (j) of this subsection (1).~~ Such an order may be issued only after a hearing that shall be conducted by the health officer not less than forty-eight hours after written notice thereof is given to the owner or occupant of the property on which the system is located and at which the owner and occupant may be present, with counsel, and be heard. The order shall require that the owner or occupant bring the system into compliance or eliminate the nuisance or hazard within a reasonable period of time, not to exceed thirty days, or thereafter cease and desist from the use of the system. A cease and desist order issued by the health officer shall be reviewable in

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

the district court for the county wherein the system is located, and upon a petition filed not later than ten days after the order is issued.

(II) FOR THE PURPOSES OF THIS PARAGRAPH (k), ANY SYSTEM OR SEWAGE TREATMENT WORKS THAT DOES NOT COMPLY WITH ANY STATUTE OR RULE OF THIS TITLE SHALL CONSTITUTE A NUISANCE.

(III) FOR THE PURPOSES OF THIS PARAGRAPH (k), SEWAGE TREATMENT WORKS SHALL NOT INCLUDE ANY SEWAGE TREATMENT FACILITY WITH A DISCHARGE PERMIT ISSUED PURSUANT TO SECTION 25-8-501.

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: April 9, 2001