

CHAPTER 233

HEALTH AND ENVIRONMENT

HOUSE BILL 04-1435

BY REPRESENTATIVE(S) Mitchell, Carroll, Clapp, Cloer, Coleman, Hall, McFadyen, Miller, Rippey, Rose, Schultheis, Spradley, Borodkin, Cadman, Frangas, Hefley, Larson, Lee, Madden, Marshall, Romanoff, and Williams S.; also SENATOR(S) Johnson S., Evans, Gordon, Groff, Grossman, Hanna, Keller, Kester, Tapia, Veiga, and Windels.

AN ACT

CONCERNING LEGISLATIVE APPROVAL OF AIR QUALITY CONTROL COMMISSION ACTION ON MARCH 12, 2004, REGARDING OZONE.

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

SECTION 1. 25-7-133 (7), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25-7-133. Legislative review and approval of state implementation plans and rules - legislative declaration - repeal. (7) (d) (I) THE COMMISSION SHALL REQUEST THE GOVERNOR TO SUBMIT THE PLAN ADOPTED BY THE COMMISSION ON MARCH 12, 2004, TO REDUCE THE AMOUNT OF POLLUTANTS EMITTED THAT CREATE OZONE POLLUTION TO THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY FOR APPROVAL AND INCORPORATION INTO THE STATE IMPLEMENTATION PLAN. PASSAGE OF THIS PARAGRAPH (d) IS IN LIEU OF, AND SAID PLAN SHALL BE DEEMED TO HAVE SATISFIED, ALL REVIEW REQUIREMENTS UNDER THIS SECTION.

(II) A REGULATED ENTITY THAT IS REQUIRED TO COMPLY WITH THE AMENDMENTS TO REGULATION NUMBER 7 ADOPTED BY THE AIR QUALITY CONTROL COMMISSION ON MARCH 12, 2004, TO REDUCE EMISSIONS OF VOLATILE ORGANIC COMPOUNDS FROM ATMOSPHERIC CONDENSATE STORAGE TANKS SHALL:

(A) PROVIDE ADVANCE NOTICE OF THE LOCATION WHERE IT INTENDS TO INSTALL AN EMISSION CONTROL UNIT; AND

(B) INDICATE WHETHER SUCH UNIT EXCEEDS THE HEIGHT OF THE EXISTING EQUIPMENT AT THE FACILITY.

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

(III) THE REGULATED ENTITY SHALL DELIVER THE NOTICE REQUIRED PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (d) TO THE LOCAL GOVERNMENT DESIGNEE, IF ANY, REGISTERED WITH THE COLORADO OIL AND GAS CONSERVATION COMMISSION FOR RECEIPT OF INFORMATION RELATING TO OIL AND GAS OPERATIONS WITHIN A LOCAL JURISDICTION, AND SHALL INCLUDE A PHONE NUMBER FOR A CONTACT PERSON. IF THE LOCAL JURISDICTION DOES NOT HAVE A LOCAL GOVERNMENT DESIGNEE, THE NOTICE SHALL BE PROVIDED TO THE MUNICIPAL CLERK.

(IV) THE LOCAL GOVERNMENT SHALL, WITHIN TEN BUSINESS DAYS AFTER RECEIPT OF THE NOTICE, NOTIFY THE REGULATED ENTITY WHETHER THE LOCAL GOVERNMENT OBJECTS TO THE INTENDED INSTALLATION OF THE EMISSION CONTROL UNIT. THE OBJECTION SHALL BE BASED ON SITE-SPECIFIC LAND USE ISSUES AND MAY NOT BE MADE ON A BLANKET BASIS TO EVERY PROPOSED EMISSION CONTROL UNIT INSTALLATION WITHIN A LOCAL JURISDICTION. IF THE LOCAL GOVERNMENT FAILS TO OBJECT WITHIN TEN BUSINESS DAYS AFTER SUBMISSION OF THE NOTICE, THE LOCAL JURISDICTION IS PRESUMED TO HAVE APPROVED THE INSTALLATION OF THE SPECIFIED EMISSION CONTROL UNIT, AND THE REGULATED ENTITY MAY COMMENCE SUCH INSTALLATION.

(V) IF A LOCAL GOVERNMENT DESIGNEE NOTIFIES A REGULATED ENTITY OF ITS OBJECTION WITHIN TEN BUSINESS DAYS AFTER RECEIPT OF THE NOTICE OF INSTALLATION OF AN EMISSION CONTROL UNIT, THE REGULATED ENTITY AND THE LOCAL JURISDICTION SHALL ENDEAVOR TO INFORMALLY RESOLVE THE MATTER WITHIN AN ADDITIONAL TEN BUSINESS DAYS. IF SUCH ATTEMPT FAILS, THE LOCAL JURISDICTION SHALL HAVE TEN BUSINESS DAYS TO PETITION THE AIR QUALITY CONTROL COMMISSION FOR AN ADJUDICATORY HEARING PURSUANT TO SECTION 24-4-105, C.R.S., WHICH PETITION SHALL BE GRANTED BY THE COMMISSION. THE HEARING SHALL BE HELD AND THE MATTER DECIDED BY THE COMMISSION OR A HEARING OFFICER DESIGNATED BY THE COMMISSION WITHIN FORTY-FIVE CALENDAR DAYS AFTER RECEIPT OF THE PETITION BY THE COMMISSION. IN RULING ON THE OBJECTION, THE COMMISSION SHALL HAVE THE AUTHORITY ONLY TO UPHOLD OR DENY THE OBJECTION.

(VI) THE COMMISSION SHALL DETERMINE THE PROCEDURES AND CRITERIA THAT GOVERN ITS REVIEW OF LOCAL GOVERNMENT OBJECTIONS TO THE INSTALLATION OF EMISSION CONTROL UNITS AT ATMOSPHERIC CONDENSATE STORAGE TANK FACILITIES, AND THE PROCESS PROVIDED THEREBY SHALL BE THE EXCLUSIVE PROCEDURE FOR SUCH DISPUTES. NO OTHER LOCAL PERMIT OR LAND USE APPROVAL SHALL BE REQUIRED FOR THE INSTALLATION OF SUCH EMISSION CONTROL UNITS.

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: May 20, 2004