

CHAPTER 364

HEALTH AND ENVIRONMENT

SENATE BILL 07-218

BY SENATOR(S) Ward, Boyd, Sandoval, and Shaffer;
also REPRESENTATIVE(S) Primavera, Green, Madden, Pommer, Solano, and Todd.

AN ACT

CONCERNING CONTINUATION OF THE ENVIRONMENTAL MANAGEMENT SYSTEM PERMIT PROGRAM,
AND, IN CONNECTION THEREWITH, ESTABLISHING TIERS FOR PARTICIPATION IN THE PROGRAM.

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

SECTION 1. 25-6.6-106, Colorado Revised Statutes, is amended to read:

25-6.6-106. Repeal of article. This article is repealed, effective July 1, ~~2007~~ 2018. Prior to such repeal, the environmental management system permit program shall be reviewed as provided for in section 24-34-104, C.R.S.

SECTION 2. Repeal. 24-34-104 (38) (h), Colorado Revised Statutes, is repealed as follows:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (38) The following agencies, functions, or both, shall terminate on July 1, 2007:

(h) ~~The environmental management system permit program, created in article 6.6 of title 25, C.R.S.,~~

SECTION 3. 24-34-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (49) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL TERMINATE ON JULY 1, 2018: THE ENVIRONMENTAL MANAGEMENT SYSTEM PERMIT PROGRAM, CREATED IN ARTICLE 6.6 OF TITLE 25, C.R.S.

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

SECTION 4. 25-6.6-104 (4), Colorado Revised Statutes, is amended to read:

25-6.6-104. Powers and duties of the department - rules. (4) (a) ~~The department shall establish the minimum criteria that an entity shall meet in order for the entity to be considered for participation in the program. Such criteria shall include, but not be limited to, an identified number of years with no serious environmental civil noncompliance, an identified number of years without any environmental criminal noncompliance, and a demonstration that the participating entity is an environmental leader in Colorado.~~ AN ENTITY MAY APPLY TO PARTICIPATE IN THE VOLUNTARY ENVIRONMENTAL MANAGEMENT SYSTEM PERMIT PROGRAM IF THE ENTITY MEETS THE REQUIREMENTS FOR ANY OF THE FOLLOWING TIERS:

(I) PLATINUM TIER. THE DEPARTMENT SHALL ESTABLISH THE CRITERIA FOR THE PLATINUM TIER BY RULE, WHICH CRITERIA SHALL BE MORE STRINGENT THAN THE GOLD TIER CRITERIA AND SHALL INCLUDE THAT THE ENTITY HAS ASSISTED THE DEPARTMENT IN DEVELOPING PROPOSALS FOR STREAMLINING ENVIRONMENTAL REQUIREMENTS AND EASING THE REGULATORY BURDEN ON BUSINESSES OF ENVIRONMENTAL COMPLIANCE.

(II) GOLD TIER. THE CRITERIA ARE AS FOLLOWS:

(A) THE ENTITY HAS NO SERIOUS VIOLATIONS OF APPLICABLE LOCAL, STATE, OR FEDERAL ENVIRONMENTAL REQUIREMENTS OR ENVIRONMENTAL PERMITS FOR A PERIOD OF THREE YEARS PRIOR TO THE DATE OF SUBMISSION OF THE APPLICATION FOR PARTICIPATION IN THE PROGRAM;

(B) THE ENTITY HAS NO CONVICTIONS OR OUT-OF-COURT SETTLEMENTS OF FORMAL CHARGES OF A CRIMINAL VIOLATION OF AN ENVIRONMENTAL REQUIREMENT OR ENVIRONMENTAL PERMIT WITHIN A FIVE-YEAR PERIOD PRIOR TO THE DATE OF SUBMISSION OF THE APPLICATION FOR PARTICIPATION IN THE PROGRAM; AND

(C) THE ENTITY HAS NOT ENTERED INTO A SETTLEMENT AGREEMENT AND NO COMPLIANCE OR CONSENT ORDER HAS BEEN ISSUED FOR A SERIOUS VIOLATION OF AN ENVIRONMENTAL REQUIREMENT OR ENVIRONMENTAL PERMIT FOR THREE YEARS PRIOR TO THE DATE OF SUBMISSION OF THE APPLICATION FOR PARTICIPATION IN THE PROGRAM;

(III) SILVER TIER. THE CRITERIA ARE AS FOLLOWS:

(A) THE ENTITY HAS NO SERIOUS VIOLATIONS OF APPLICABLE LOCAL, STATE, OR FEDERAL ENVIRONMENTAL REQUIREMENTS OR ENVIRONMENTAL PERMITS FOR A PERIOD OF ONE YEAR PRIOR TO THE DATE OF SUBMISSION OF THE APPLICATION FOR PARTICIPATION IN THE PROGRAM;

(B) THE ENTITY HAS NO CONVICTIONS OR OUT-OF-COURT SETTLEMENTS OF FORMAL CHARGES OF A CRIMINAL VIOLATION OF AN ENVIRONMENTAL REQUIREMENT OR ENVIRONMENTAL PERMIT WITHIN A TWO-YEAR PERIOD PRIOR TO THE DATE OF SUBMISSION OF THE APPLICATION FOR PARTICIPATION IN THE PROGRAM;

(C) THE ENTITY HAS NOT ENTERED INTO A SETTLEMENT AGREEMENT AND NO COMPLIANCE OR CONSENT ORDER HAS BEEN ISSUED FOR SERIOUS VIOLATIONS OF AN ENVIRONMENTAL REQUIREMENT OR ENVIRONMENTAL PERMIT FOR A ONE-YEAR PERIOD PRIOR TO THE DATE OF SUBMISSION OF THE APPLICATION FOR PARTICIPATION IN THE PROGRAM; AND

(D) NO PERMIT SHALL BE ISSUED TO SILVER TIER APPLICANTS PURSUANT TO THIS ARTICLE UNTIL THE APPLICANT ACHIEVES COMPLIANCE WITH GOLD OR PLATINUM TIER REQUIREMENTS.

(b) ANY FACILITY THAT WILL BE SUBJECT TO THE PROGRAM AND THAT IS PART OF A CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP, MUNICIPALITY, COUNTY, CITY AND COUNTY, SPECIAL DISTRICT, OR STATE OR FEDERAL AGENCY OR DEPARTMENT THAT HAS OTHER COLORADO FACILITIES SHALL NOT BE ELIGIBLE FOR THE PROGRAM UNLESS ALL OF SUCH FACILITIES LOCATED IN COLORADO ARE IN COMPLIANCE WITH APPLICABLE LOCAL, STATE, AND FEDERAL ENVIRONMENTAL REQUIREMENTS AND ENVIRONMENTAL PERMITS. THE DEPARTMENT SHALL DETERMINE THE APPLICABILITY OF THIS PARAGRAPH (b) ON A CASE-BY-CASE BASIS.

SECTION 5. 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 31, 2007