

## CHAPTER 307

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**HEALTH AND ENVIRONMENT**

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## SENATE BILL 11-235

BY SENATOR(S) Giron, Boyd, Foster, Grantham, Guzman, Hodge, Jahn, Williams S.;  
also REPRESENTATIVE(S) Pace and Swerdfeger, Brown, Liston, Looper, Massey, Murray, Priola, Swalm, Todd, Vigil, Wilson,  
McNulty.

**AN ACT**

**CONCERNING METHODS TO REDUCE THE AIR QUALITY PERMIT APPLICATION BACKLOG, AND, IN CONNECTION THEREWITH, AUTHORIZING THE USE OF NONGOVERNMENTAL AIR QUALITY MODELING ENGINEERS FOR PURPOSES OF PERMIT APPLICATION APPROVALS AND MAKING AN APPROPRIATION.**

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

**SECTION 1.** 25-7-114.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**25-7-114.5. Application review - public participation.** (16) (a) IF THE DIVISION EXPERIENCES A BACKLOG IN PROCESSING AIR QUALITY PERMIT APPLICATIONS CAUSED BY AN OCCASIONAL NEED THAT IS SEASONAL, IRREGULAR, OR FLUCTUATING IN NATURE, AND THE DEPARTMENT DETERMINES OR REASONABLY EXPECTS THAT, AS A RESULT, PERMITS WOULD NOT BE ISSUED WITHIN STATUTORY TIME FRAMES, THE DIVISION SHALL MAKE AVAILABLE TO SOURCES THAT ARE NOT SUBJECT TO PERMITTING UNDER PART C OF THE FEDERAL ACT THE OPTION TO HAVE THE AIR QUALITY MODELING THAT IS SUBMITTED WITH THE APPLICANT'S AIR PERMIT APPLICATION REVIEWED FOR ACCEPTANCE AS DEMONSTRATING COMPLIANCE BY A CONTRACT CONSULTANT SELECTED BY THE DIVISION IN LIEU OF THE REVIEW BEING CONDUCTED BY DIVISION STAFF.

(b) THE DIVISION SHALL SELECT AND CONTRACT WITH NONGOVERNMENTAL AIR QUALITY MODELING ENGINEERS TO PERFORM AIR QUALITY MODELING REVIEWS OF APPLICANTS WHO CHOOSE CONTRACT CONSULTANT REVIEW OF THEIR AIR QUALITY PERMIT MODELING. THE DIVISION IS NOT SUBJECT TO THE REQUIREMENTS OF THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, C.R.S., IN SELECTING AND CONTRACTING WITH THE CONSULTANTS. THE DIVISION SHALL REVIEW AND

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

EXCLUDE FROM CONSIDERATION AS A CONTRACT AIR QUALITY MODELING CONSULTANT ANY CONTRACTORS WITH A CONFLICT OF INTEREST REGARDING AIR QUALITY PERMIT APPLICATIONS. APPLICANTS THAT CHOOSE CONSULTANT REVIEW OF THEIR AIR QUALITY MODELING ARE RESPONSIBLE FOR BOTH THE CONSULTANT'S COSTS ASSOCIATED WITH THE AIR MODELING REVIEW AS WELL AS THE DIVISION'S COSTS ASSOCIATED WITH THE REVIEW AND DETERMINATION OF THE AIR PERMIT APPLICATION, TO BE PAID TO THE DIVISION. THE DIVISION SHALL TRANSFER THE MONEY TO THE STATE TREASURER, WHO SHALL CREDIT IT TO THE STATIONARY SOURCES CONTROL FUND CREATED IN SECTION 25-7-114.7 (2) (b) (I).

(c) THE DIVISION SHALL USE THE RESULTS OF THE MODELING CONDUCTED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (16) FOR PURPOSES OF THE DIVISION'S PERMIT APPLICATION ANALYSIS.

**SECTION 2. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the stationary sources control fund created in section 25-7-114.7 (2) (b) (I), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for allocation to the air pollution control division, for the fiscal year beginning July 1, 2011, the sum of one hundred ninety-four thousand three hundred seventy-seven dollars (\$194,377) cash funds and 0.2 FTE, or so much thereof as may be necessary, for the implementation of this act.

**SECTION 3. 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 9, 2011