

**Second Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0565.01 Thomas Morris x4218

**SENATE BILL 12-132**

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**SENATE SPONSORSHIP**

**Grantham,** Cadman, Scheffel, Brophy, Harvey, King S., Lambert, Lundberg, Neville,  
Renfroe, Roberts, Spence

**HOUSE SPONSORSHIP**

**Becker,**

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**Senate Committees**

Agriculture, Natural Resources, and Energy  
Appropriations

**House Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING TIMELY ISSUANCE OF ENVIRONMENTAL CONTROL**  
102 **PERMITS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

**Section 1** of the bill requires air quality permits to be issued within 12 months after receipt of a complete permit application. **Section 2** requires the same of water quality permits.

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Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-7-114.5, **amend**  
3 (4) as follows:

4 **25-7-114.5. Application review - public participation.**

5 (4) (a) The division shall prepare its preliminary analysis regarding  
6 compliance, as set forth in subsection (2) of this section, and regarding  
7 the impact on attainment or nonattainment areas, as set forth in subsection  
8 (3) of this section, as expeditiously as possible. For construction permits  
9 not subject to part 2 of this article, ~~such~~ THE DIVISION SHALL COMPLETE  
10 THE preliminary analysis ~~shall be completed~~ no later than sixty calendar  
11 days after receipt of a completed permit application. THE DIVISION SHALL  
12 ADVISE applicants ~~must be advised~~ within sixty calendar days after receipt  
13 of any application, or supplement thereto, if and in what respects the  
14 subject application is incomplete. Upon failure of the division to so notify  
15 the applicant within sixty calendar days ~~of~~ AFTER its filing, the application  
16 shall be deemed complete.

17 (b) THE DIVISION SHALL APPROVE OR DISAPPROVE applications for  
18 construction permits subject to part 2 of this article ~~shall be approved or~~  
19 ~~disapproved~~ AND RENEWABLE OPERATING PERMITS within twelve months  
20 ~~of~~ AFTER receipt of a complete application; EXCEPT THAT THE  
21 TWELVE-MONTH DEADLINE DOES NOT APPLY TO AN APPLICATION FOR  
22 RENEWAL OF A PERMIT. ~~Applications for renewable operating permits~~  
23 ~~shall be approved or disapproved within eighteen months after the receipt~~  
24 ~~of the completed permit application; except that those applications~~  
25 ~~submitted within the first year after the effective date of the operating~~  
26 ~~permit program shall be subject to a phased schedule for acting on such~~  
27 ~~permit applications established by the division. The phased schedule shall~~

1 assure that at least one-third of such permits will be acted on by the  
2 division annually over a three-year period. The commission may establish  
3 a phased schedule for acting on applications for which a deferral has been  
4 granted pursuant to the federal act. A timely and complete permit  
5 application operates as a defense to enforcement action for operating  
6 without a permit for the period of time during which the division or the  
7 commission is reviewing the application and until such time as the  
8 division or the commission makes a final determination on the permit  
9 application; except that this defense to an enforcement action shall IS not  
10 be available to an applicant which THAT files a fraudulent application.

11 **SECTION 2.** In Colorado Revised Statutes, 25-8-501, **add** (7)  
12 and (8) as follows:

13 **25-8-501. Permits required for discharge of pollutants -**  
14 **administration.** (7) THE DIVISION \_\_\_ SHALL GRANT OR DENY A PERMIT  
15 APPLICATION WITHIN TWELVE MONTHS AFTER THE APPLICATION IS DEEMED  
16 COMPLETE; EXCEPT THAT NOTHING IN THIS SUBSECTION (7) APPLIES TO AN  
17 APPLICATION FOR RENEWAL OF A PERMIT. FAILURE OF THE DIVISION \_\_\_  
18 TO GRANT OR DENY THE APPLICATION WITHIN THE TWELVE MONTHS IS  
19 FINAL AGENCY ACTION FOR PURPOSES OF JUDICIAL REVIEW.

20 (8) (a) IF THE DIVISION EXPERIENCES A BACKLOG IN PROCESSING  
21 WATER QUALITY PERMIT APPLICATIONS CAUSED BY AN OCCASIONAL NEED  
22 THAT IS SEASONAL, IRREGULAR, OR FLUCTUATING IN NATURE, AND THE  
23 DEPARTMENT DETERMINES OR REASONABLY EXPECTS THAT, AS A RESULT,  
24 PERMITS WOULD NOT BE ISSUED WITHIN STATUTORY TIME FRAMES, THE  
25 DIVISION MAY MAKE AVAILABLE TO AN APPLICANT THE OPTION TO HAVE  
26 THE APPLICANT'S PERMIT APPLICATION REVIEWED FOR ACCEPTANCE AS  
27 DEMONSTRATING COMPLIANCE BY A CONTRACT CONSULTANT SELECTED

1 BY THE DIVISION IN LIEU OF THE REVIEW BEING CONDUCTED BY DIVISION  
2 STAFF.

3 (b) THE DIVISION SHALL SELECT AND CONTRACT WITH  
4 NONGOVERNMENTAL ENGINEERS TO PERFORM PERMIT APPLICATION  
5 REVIEWS FOR APPLICANTS WHO CHOOSE CONTRACT CONSULTANT REVIEW  
6 OF THEIR PERMIT APPLICATION. THE DIVISION IS NOT SUBJECT TO THE  
7 REQUIREMENTS OF THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF  
8 TITLE 24, C.R.S., IN SELECTING AND CONTRACTING WITH THE  
9 CONSULTANTS. THE DIVISION SHALL REVIEW AND EXCLUDE FROM  
10 CONSIDERATION AS A CONTRACT CONSULTANT ANY CONTRACTORS WITH  
11 A CONFLICT OF INTEREST REGARDING SUCH PERMIT APPLICATIONS.  
12 APPLICANTS THAT CHOOSE CONSULTANT REVIEW OF THEIR APPLICATION  
13 ARE RESPONSIBLE FOR BOTH THE CONSULTANT'S COSTS ASSOCIATED WITH  
14 THE REVIEW AS WELL AS THE DIVISION'S COSTS ASSOCIATED WITH THE  
15 REVIEW AND DETERMINATION OF THE PERMIT APPLICATION, TO BE PAID TO  
16 THE DIVISION. THE DIVISION SHALL TRANSFER THE MONEY TO THE STATE  
17 TREASURER, WHO SHALL CREDIT IT TO THE WATER QUALITY CONTROL  
18 FUND CREATED IN SECTION 25-8-502 (1) (c).

19 (c) THE DIVISION SHALL USE THE RESULTS OF THE REVIEW  
20 CONDUCTED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (8) FOR  
21 PURPOSES OF THE DIVISION'S PERMIT APPLICATION ANALYSIS.

22 **SECTION 3. Act subject to petition - effective date -**  
23 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
24 the expiration of the ninety-day period after final adjournment of the  
25 general assembly (August 7, 2012, if adjournment sine die is on May 9,  
26 2012); except that, if a referendum petition is filed pursuant to section 1  
27 (3) of article V of the state constitution against this act or an item, section,

1 or part of this act within such period, then the act, item, section, or part  
2 will not take effect unless approved by the people at the general election  
3 to be held in November 2012 and, in such case, will take effect on the  
4 date of the official declaration of the vote thereon by the governor.

5 (2) The provisions of this act apply to permit applications filed on  
6 or after the applicable effective date of this act.