

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 13-0108.01 Jennifer Berman

SENATE BILL 13-073

SENATE SPONSORSHIP

Brophy, Baumgardner, Roberts

HOUSE SPONSORSHIP

Sonnenberg,

Senate Committees

State, Veterans, & Military Affairs
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING A REQUIREMENT THAT THE DIVISION OF**
102 **ADMINISTRATION OF THE DEPARTMENT OF PUBLIC HEALTH AND**
103 **ENVIRONMENT FOLLOW RULE-MAKING PROCEDURES WHEN**
104 **PROPOSING CHANGES TO GENERAL PERMITS RELATED TO WATER**
105 **QUALITY CONTROL.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Water Resources Review Committee. Currently, the division of administration (division) of the department of public health and environment may adopt new and amended permit requirements for

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.

general permits related to water quality control without providing any of the following information to existing and potential permit holders:

- ! A statement of basis and purpose for the changes;
- ! Evidence and data in support of the changes; and
- ! A cost-benefit analysis of the effect the changes will have on permit holders.

The bill requires the division to comply with the rule-making procedures set forth in the "State Administrative Procedure Act" when the division proposes new or amended permit requirements with respect to general permits related to water quality control.

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

SECTION 1. In Colorado Revised Statutes, **add** 25-8-503.5 as follows:

25-8-503.5. General permits - process for changing permit requirements. (1) WITH RESPECT TO A GENERAL PERMIT LISTED IN SECTION 25-8-502 (1) (b) (I) (G), WHEN PROPOSING NEW OR AMENDED PERMIT REQUIREMENTS FOR DISCHARGERS TO MEET TO OBTAIN OR MAINTAIN AUTHORIZATION FOR DISCHARGES UNDER THE PERMIT, THE DIVISION SHALL:

(a) PREPARE A STATEMENT OF BASIS AND PURPOSE EXPLAINING THE NEED FOR THE PROPOSED REQUIREMENTS;

(b) PRESENT EVIDENCE SUPPORTING THE NEED FOR THE PROPOSED REQUIREMENTS, INCLUDING INFORMATION REGARDING POLLUTANT POTENTIAL AND AVAILABLE CONTROLS, INCIDENTS OF ENVIRONMENTAL DAMAGE, AND PERMIT VIOLATIONS;

(c) BEFORE IMPLEMENTING THE PROPOSED REQUIREMENTS, PROVIDE PUBLIC NOTICE OF, AND CONSIDER COMMENTS RECEIVED FROM AFFECTED PARTIES ABOUT, THE PROPOSED REQUIREMENTS; AND

(d) UPON REQUEST BY AN AFFECTED PARTY, CONSIDER AND GIVE DUE WEIGHT TO A COST-BENEFIT ANALYSIS;

1 (I) RECEIVED BY THE DIVISION DURING THE COMMENT PHASE SET
2 FORTH IN PARAGRAPH (c) OF THIS SUBSECTION (1);

3 (II) CONCERNING ONE OR MORE PROPOSED REQUIREMENTS THAT
4 ARE NOT ALREADY REQUIRED BY FEDERAL OR STATE STATUTE OR RULE;

5 (III) PREPARED BY A THIRD PARTY CHOSEN FROM AN APPROVED
6 LIST OF ANALYSTS, AS DEVELOPED BY THE DIVISION IN CONSULTATION
7 WITH REPRESENTATIVES OF THE INDUSTRIES THAT ARE SUBJECT TO
8 GENERAL PERMITTING; AND

9 (IV) PAID FOR BY THE AFFECTED PARTY.

10 (2) NOTHING IN SUBSECTION (1) OF THIS SECTION CONFERS
11 RULE-MAKING AUTHORITY ON THE DIVISION.

12 (3) A PARTY MAY APPEAL A GENERAL PERMIT ISSUED UNDER
13 SECTION 25-8-502 (1) (b) (I) (G) PURSUANT TO THE APPEALS PROCESS SET
14 FORTH IN SECTION 24-4-105, C.R.S.

15 **SECTION 2. Act subject to petition - effective date.** This act
16 takes effect at 12:01 a.m. on the day following the expiration of the
17 ninety-day period after final adjournment of the general assembly (August
18 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a
19 referendum petition is filed pursuant to section 1 (3) of article V of the
20 state constitution against this act or an item, section, or part of this act
21 within such period, then the act, item, section, or part will not take effect
22 unless approved by the people at the general election to be held in
23 November 2014 and, in such case, will take effect on the date of the
24 official declaration of the vote thereon by the governor.