

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Energy & Environment.

HB23-1294 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1. Legislative declaration.** (1) The general
4 assembly finds that:

5 (a) All people have the right to breathe clean air, yet poor air
6 quality frequently puts public health at risk in communities across
7 Colorado, particularly in disproportionately impacted communities that
8 are subjected to adverse cumulative impacts from multiple pollution
9 sources;

10 (b) In particular, Coloradans have long suffered from high levels
11 of ground-level ozone pollution, which is connected to severe health
12 impacts including respiratory problems, cardiovascular disease, adverse
13 birth outcomes, and premature death and poses a significant threat to
14 vulnerable populations including children, the elderly, people with
15 respiratory ailments, the outdoor workforce, and otherwise healthy
16 individuals who recreate outdoors;

17 (c) The threats posed by ozone pollution are even more
18 devastating for communities of color and low-income communities that
19 bear outsized environmental burdens due to past and present
20 discriminatory environmental policies, endure higher health risks from
21 exposure, experience systemic injustice, and have faced exclusion from
22 government decision-making and enforcement efforts;

23 (d) Although Colorado has an ongoing ozone crisis that will
24 worsen with climate change, the state has repeatedly failed to meet
25 federal ozone standards established to protect public health and welfare,
26 particularly in the Denver metro/North Front Range nonattainment area
27 where a majority of Coloradans live, which was downgraded to a severe
28 nonattainment area in 2022 and has been consistently ranked among the
29 worst areas in the nation for ozone pollution;

30 (e) The federal "Clean Air Act" requires that Colorado have
31 enforceable procedures in place to assess the air quality impacts of new
32 sources and modifications and to prevent the construction of new sources
33 and modifications that would cause or contribute to a violation of federal
34 standards;

35 (f) "Minor" sources of pollution, including many oil and gas
36 sources that are among the largest contributors to ozone, can cause
37 exceedances of federal standards and have a devastating cumulative
38 impact on already overburdened, disproportionately impacted
39 communities, yet they often escape air quality impact analyses in
40 Colorado's permitting processes;

1 (g) An independent investigation by the Colorado attorney general
2 found the state's permitting processes "inadequate" to ensure that minor
3 sources would not exceed federal air quality standards, and the federal
4 environmental protection agency has verified that Colorado has issued air
5 emission permits that violate the federal "Clean Air Act";

6 (h) Impacted Coloradans across the state face significant barriers
7 and a lack of transparency when filing complaints and submitting
8 evidence of permit violations and action is necessary to ensure that
9 agencies are empowered to respond to complaints appropriately; and

10 (i) Because industrial operations also support many jobs in
11 Colorado, impacts on workers associated with air quality control
12 measures should be considered.

13 (2) The general assembly determines that state action to reduce
14 pollution is necessary to achieve environmental justice, and the state can
15 and should act to lower ozone and precursor levels to address the serious
16 health impacts experienced by communities across Colorado, especially
17 as the impacts of the climate crisis intensify.

18 (3) Therefore the general assembly determines and declares that:

19 (a) State agencies have a duty and a responsibility to collaborate
20 to protect Coloradans from harmful pollution and to comply with federal
21 health-based standards, which are essential steps in achieving
22 environmental justice and health equity for all communities;

23 (b) Colorado has an obligation to increase air quality analyses in
24 its permitting processes and to assess the impacts of potential new sources
25 before permits are approved in order to avoid emissions increases that
26 would cause or contribute to violations of federal air quality standards;

27 (c) Extraordinary air quality measures should be included in the
28 state implementation plan for ozone when the federal environmental
29 protection agency classifies a nonattainment area in the state as a serious,
30 severe, or extreme nonattainment area;

31 (d) It is imperative for members of the public to be meaningfully
32 engaged as partners and stakeholders in Colorado's permitting processes
33 and enforcement of permit violations once permits are issued; and

34 (e) This act is necessary to ensure that Colorado addresses the
35 disproportionate cumulative impacts of pollution, including
36 environmental and health impacts, that communities across the state
37 experience.

38 **SECTION 2.** In Colorado Revised Statutes, **add** 25-7-145 as
39 follows:

40 **25-7-145. Legislative interim committee on ozone air quality**
41 **- created - members - repeal.** (1) NOTWITHSTANDING SECTION
42 2-3-303.3, THE LEGISLATIVE INTERIM COMMITTEE ON OZONE AIR QUALITY,
43 REFERRED TO IN THIS SECTION AS THE "COMMITTEE", IS CREATED.

1 (2) THE PURPOSE OF THE COMMITTEE IS TO STUDY OZONE AIR
2 QUALITY IN THE STATE WITH A FOCUS ON:
3 (a) INVESTIGATING THE FACTORS THAT CONTRIBUTE TO OZONE
4 POLLUTION IN THE STATE, INCLUDING ANY SCIENTIFIC CONSENSUS AROUND
5 THE ISSUE OF OZONE POLLUTION;
6 (b) ANALYZING STRATEGIES TO ADDRESS AND IMPROVE
7 GROUND-LEVEL OZONE ISSUES; AND
8 (c) DEVELOPING POLICY, TECHNICAL, AND FINANCIAL SOLUTIONS
9 TO IMPROVE OZONE AIR QUALITY IN THE STATE.
10 (3) THE COMMITTEE CONSISTS OF:
11 (a) SIX MEMBERS OF THE SENATE, WITH FOUR MEMBERS APPOINTED
12 BY THE PRESIDENT OF THE SENATE AND TWO MEMBERS APPOINTED BY THE
13 MINORITY LEADER OF THE SENATE; AND
14 (b) SIX MEMBERS OF THE HOUSE OF REPRESENTATIVES, WITH FOUR
15 MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF
16 REPRESENTATIVES AND TWO MEMBERS APPOINTED BY THE MINORITY
17 LEADER OF THE HOUSE OF REPRESENTATIVES.
18 (4) THE APPOINTING AUTHORITIES SHALL APPOINT THE MEMBERS
19 OF THE COMMITTEE NO LATER THAN JUNE 30, 2023. IF A VACANCY ARISES
20 ON THE COMMITTEE, THE APPOINTING AUTHORITY SHALL APPOINT A
21 MEMBER TO FILL THE VACANCY AS SOON AS POSSIBLE.
22 (5) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL
23 DESIGNATE THE CHAIR OF THE COMMITTEE. IN THE CASE OF A TIE VOTE,
24 THE CHAIR OF THE COMMITTEE SHALL CAST AN ADDITIONAL DECIDING
25 VOTE.
26 (6) THE CHAIR OF THE COMMITTEE SHALL SCHEDULE THE FIRST
27 MEETING OF THE COMMITTEE NO LATER THAN SIXTY DAYS AFTER JUNE 30,
28 2023. THE COMMITTEE MAY MEET UP TO SIX TIMES DURING THE 2023
29 INTERIM, WHICH MAY INCLUDE FIELD TRIPS.
30 (7) THE COMMITTEE MAY INTRODUCE UP TO A TOTAL OF FIVE
31 BILLS, JOINT RESOLUTIONS, AND CONCURRENT RESOLUTIONS IN THE 2024
32 LEGISLATIVE SESSION. BILLS RECOMMENDED BY THE COMMITTEE ARE
33 EXEMPT FROM THE FIVE-BILL LIMITATION SPECIFIED IN JOINT RULE 24
34 (b)(1)(A). THE COMMITTEE SHALL REPORT TO THE LEGISLATIVE COUNCIL
35 BY THE DATE SPECIFIED IN JOINT RULES 24 (b)(1)(D) AND 24 (A)(d)(8).
36 ANY BILLS RECOMMENDED BY THE COMMITTEE ARE SUBJECT TO THE
37 APPLICABLE DEADLINES, BILL INTRODUCTION LIMITS, AND ANY OTHER
38 REQUIREMENTS IMPOSED BY THE JOINT RULES OF THE GENERAL ASSEMBLY
39 AND MUST BE APPROVED BY A MAJORITY VOTE OF THE COMMITTEE.
40 (8) THE LEGISLATIVE COUNCIL AND THE OFFICE OF LEGISLATIVE
41 LEGAL SERVICES SHALL PROVIDE STAFF ASSISTANCE TO THE COMMITTEE.
42 (9) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2024.
43 **SECTION 3.** In Colorado Revised Statutes, 25-7-109.3, **amend**

1 (3)(c) as follows:

2 **25-7-109.3. Colorado hazardous air pollutant control and**
3 **reduction program - rules - repeal.** (3) (c) The commission shall
4 designate by ~~regulation~~ RULE those classes of ~~minor or~~ insignificant
5 sources of emissions of hazardous air pollutants ~~which~~ THAT are exempt
6 from the requirements of this section because their emissions of
7 hazardous air pollutants will result in an inconsequential risk to public
8 health.

9 **SECTION 4.** In Colorado Revised Statutes, 25-7-114, **amend** the
10 introductory portion; and **add** (3.3) as follows:

11 **25-7-114. Permit program - definitions.** As used in ~~sections~~
12 ~~25-7-114~~ THIS SECTION AND SECTIONS 25-7-114.1 to 25-7-114.7, unless
13 the context otherwise requires:

14 (3.3) "MODIFICATION" OR "MODIFY" MEANS ANY PHYSICAL
15 CHANGE IN, OR CHANGE IN THE METHOD OF OPERATION OF, A STATIONARY
16 SOURCE THAT:

17 (a) INCREASES THE AMOUNT OF ANY AIR POLLUTANT EMITTED BY
18 THE SOURCE BY ANY AMOUNT ON AN ANNUAL OR HOURLY BASIS; OR

19 (b) RESULTS IN THE EMISSION OF ANY AIR POLLUTANT NOT
20 PREVIOUSLY EMITTED BY THE SOURCE.

21 **SECTION 5.** In Colorado Revised Statutes, 25-7-114.4, **amend**
22 (1) introductory portion, (1)(j), (1)(k), (1)(n), and (2) as follows:

23 **25-7-114.4. Permit applications - contents - rules - definitions.**

24 (1) The commission shall promulgate ~~such regulations~~ RULES as may be
25 necessary and proper for the orderly and effective administration of
26 construction permits and renewable operating permits. ~~Such regulations~~
27 ~~shall~~ THE RULES MUST be in conformity with ~~the provisions of this article~~
28 THIS ARTICLE 7 and with federal requirements, ~~shall~~ MUST be in
29 furtherance of the policy contained in section 25-7-102, and ~~shall~~ MUST
30 implement, where applicable, permit and permit application contents,
31 procedures, requirements, and restrictions with respect to the following:

32 (j) Duration of the permit and renewal procedures. ~~The duration~~
33 ~~of Construction permits shall be~~ REMAIN IN EFFECT until the renewable
34 operating permit is issued, IF A RENEWABLE OPERATING PERMIT IS
35 REQUIRED UNDER SECTION 25-7-114.3. The duration of renewable
36 operating permits is five years.

37 (k) Procedures to:

38 (I) Terminate, ~~modify~~ ALTER, or revoke and reissue permits for
39 cause; ~~procedures to~~ AND

40 (II) Revise permits prior to renewal or termination to incorporate:

41 (A) Applicable standards and regulations adopted after the
42 issuance of ~~such~~ THE permit as expeditiously as practicable, but not later
43 than eighteen months after promulgation of the applicable requirement;

1 or to incorporate

2 (B) Otherwise applicable standards and regulations in the permit;

3 except that: ~~no such~~ A revision shall NOT be required PRIOR TO RENEWAL

4 OR TERMINATION OF THE PERMIT if the effective date of the standards or

5 regulation occurs after the permit term expires; ~~such~~ ANY revision ~~shall~~

6 INCORPORATING A STANDARD OR REGULATION WITH AN EFFECTIVE DATE

7 AFTER THE PERMIT TERM EXPIRES MUST be treated as a permit renewal;

8 and the defense established under subsection (3) of this section ~~shall~~

9 ~~apply~~ APPLIES until the permit amendment is complete;

10 (n) (I) Procedures for ~~modifying~~ ALTERING or amending permits,

11 and procedures for authorizing any change within a permitted facility

12 without requiring a permit revision, so long as:

13 (A) ~~Any such~~ THE change is not a modification under any

14 provision of subchapter I of the federal act ~~and any such~~ OR A

15 MODIFICATION AS DEFINED IN SECTION 25-7-114 (3.3);

16 (B) THE change does not ~~exceed~~ INCREASE the emissions

17 allowable under the permit; and

18 (C) Advance notice is given to the division and the administrator.

19 (II) ~~Such~~ THE advance notice ~~shall~~ DESCRIBED IN SUBSECTION

20 (1)(n)(I)(C) OF THIS SECTION MUST be GIVEN no earlier than ~~that~~ THE

21 NOTICE PERIOD required under regulations promulgated pursuant to the

22 federal act. Failure of the division to respond by the day following the last

23 day of ~~such~~ THE advance notice period allows the source to proceed with

24 any ~~such~~ change DESCRIBED UNDER SUBSECTION (1)(n)(I) OF THIS

25 SECTION.

26 (2) The division shall examine applications for and may issue,

27 suspend, revoke, ~~modify~~ ALTER, deny, and otherwise administer all

28 permits required under this ~~article~~. ~~Such~~ ARTICLE 7. THE DIVISION'S

29 administration OF ALL PERMITS REQUIRED UNDER THIS ARTICLE 7 shall be

30 CONDUCTED in accordance with ~~the provisions of this article and~~

31 ~~regulations~~ THIS ARTICLE 7 AND RULES promulgated by the commission.

32 **SECTION 6.** In Colorado Revised Statutes, 25-7-114.5, **amend**

33 (4), (5), (6)(a) introductory portion, (6)(a)(II), and (6)(b) as follows:

34 **25-7-114.5. Application review - public participation -**

35 **definitions - rules.** (4) (a) The division shall prepare its preliminary

36 analysis regarding compliance, as set forth in subsection (2) of this

37 section, and regarding the impact on attainment or nonattainment areas,

38 as set forth in subsection (3) of this section, as expeditiously as possible.

39 (b) (I) For construction permits not subject to part 2 of this ~~article~~,

40 ~~such~~ ARTICLE 7, THE preliminary analysis ~~shall~~ MUST be completed no

41 later than sixty calendar days after receipt of a completed permit

42 application. Applicants must be advised within sixty calendar days after

43 receipt of any application, or supplement ~~thereto~~ TO ANY APPLICATION, if

1 and in what respects the subject application is incomplete. Upon failure
2 of the division to ~~so~~ notify the applicant within sixty calendar days ~~of~~
3 AFTER its filing, the application ~~shall be~~ IS deemed complete.

4 (II) Applications for construction permits subject to part 2 of this
5 ~~article shall~~ ARTICLE 7 MUST be approved or disapproved within twelve
6 months ~~of~~ AFTER receipt of a complete application.

7 (c) Applications for renewable operating permits ~~shall~~ MUST be
8 approved or disapproved within eighteen months after the receipt of the
9 completed permit application. ~~except that those applications submitted~~
10 ~~within the first year after the effective date of the operating permit~~
11 ~~program shall be subject to a phased schedule for acting on such permit~~
12 ~~applications established by the division. The phased schedule shall assure~~
13 ~~that at least one-third of such permits will be acted on by the division~~
14 ~~annually over a three-year period.~~ The commission may establish a
15 phased schedule for acting on applications for which a deferral has been
16 granted pursuant to the federal act.

17 (d) A timely and complete RENEWABLE OPERATING permit
18 application operates as a defense to AN enforcement action for operating
19 without a permit for the period of time during which the division or the
20 commission is reviewing the application and until such time as the
21 division or the commission makes a final determination on the permit
22 application; except that this defense to an enforcement action ~~shall~~ IS not
23 ~~be~~ available to an applicant ~~which~~ THAT files a fraudulent application.

24 (5) (a) For those types of projects or activities for which a
25 construction permit application has been filed AND THAT HAVE BEEN
26 defined or designated by the commission as warranting public comment
27 with respect ~~thereto~~ TO THE CONSTRUCTION PERMIT APPLICATION, the
28 division shall, within fifteen calendar days after it has prepared its
29 preliminary analysis PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION:

30 (I) Give public notice of the proposed project or activity by at
31 least one ~~publication in a newspaper of general distribution in the area in~~
32 ~~which the proposed project or activity, or a part thereof, is to be located~~
33 ~~or by such other method that is reasonably designed to ensure effective~~
34 ~~general public notice; The division shall also during such period of time~~
35 ~~maintain in the office of the county clerk and recorder of the county in~~
36 ~~which the proposed project or activity, or a part thereof, is located~~ AND

37 (II) POST ON THE DIVISION'S WEBSITE a copy of its preliminary
38 analysis and a copy of the application with all accompanying data for
39 public inspection.

40 (b) The division shall receive and consider public comment
41 ~~thereon~~ ON THE CONSTRUCTION PERMIT APPLICATION for a period of AT
42 LEAST thirty calendar days ~~thereafter~~ AFTER THE PUBLIC NOTICE AND
43 POSTING OF A COPY OF THE PRELIMINARY ANALYSIS AND PERMIT
44 APPLICATION ON ITS WEBSITE PURSUANT TO SUBSECTION (5)(a) OF THIS

1 SECTION. IF THE LAST DAY OF THE PUBLIC COMMENT PERIOD FALLS ON A
2 WEEKEND OR STATE HOLIDAY, THE PUBLIC COMMENT PERIOD ENDS ON THE
3 FOLLOWING BUSINESS DAY.

4 (6) (a) For any construction permit application subject to the
5 requirements of a new or modified major source in a nonattainment area,
6 ~~or for prevention of significant deterioration as provided in part 2 of this~~
7 ~~article~~ ARTICLE 7, or for any application for a renewable operating permit,
8 within fifteen calendar days after the issuance of its preliminary analysis
9 PREPARED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION, the division
10 shall:

11 (II) Give public notice of the proposed source or modification and
12 the division's preliminary analysis ~~thereof~~ APPLICABLE TO THE PROPOSED
13 SOURCE OR MODIFICATION by at least one ~~publication in a newspaper of~~
14 ~~general distribution in the area of the proposed source or modification, or~~
15 ~~by such other~~ method that is reasonably designed to ensure effective
16 general public notice. ~~Such~~ THE PUBLIC notice ~~shall~~ MUST advise of the
17 opportunity for a public hearing for interested persons to appear and
18 submit written or oral comments to the commission on the air quality
19 impacts of the source or modification, the alternatives to the source or
20 modification, the control technology required, if applicable, and other
21 appropriate considerations. ~~Any such notice shall be printed prominently~~
22 ~~in at least ten-point bold-faced type.~~ The division shall receive and
23 consider any comments submitted.

24 (b) (I) If within thirty calendar days ~~of~~ AFTER publication of ~~such~~
25 THE public notice PURSUANT TO SUBSECTION (6)(a)(II) OF THIS SECTION
26 the applicant or an interested person submits a written request for a public
27 hearing to the division, the division shall transmit ~~such~~ THE request to the
28 commission, along with the application, the division's preliminary
29 analysis PREPARED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION, and
30 any written comments received by the division, within five calendar days
31 ~~of~~ AFTER the end of ~~such thirty-day~~ THE PUBLIC COMMENT period.

32 (II) The commission shall, within sixty calendar days after receipt
33 of the application, comments, and analysis, unless ~~such~~ A greater time is
34 agreed to by the applicant and the division, hold a public hearing to elicit
35 and record the comment of any interested person regarding the
36 sufficiency of the DIVISION'S preliminary analysis and whether the permit
37 application should be approved or denied. At least thirty calendar days
38 prior to ~~such~~ THE public hearing, ~~notice thereof shall be mailed by the~~
39 commission SHALL:

40 (A) MAIL THE NOTICE OF THE PUBLIC HEARING to the applicant;
41 ~~printed in a newspaper of general distribution in the area of the proposed~~
42 ~~source or modification, and submitted for public review with the county~~
43 ~~clerk and recorder of the county wherein the project or activity is~~
44 ~~proposed.~~ AND

1 (B) POST THE NOTICE OF THE PUBLIC HEARING ON THE
2 COMMISSION'S WEBSITE.

3 **SECTION 7.** In Colorado Revised Statutes, 25-7-115, **amend** (2),
4 (3)(a), (3)(b), and (7)(b); and **add** (4)(a)(III) and (4)(c) as follows:

5 **25-7-115. Enforcement - civil actions - definitions.** (2) (a) If a
6 written ~~and-verified~~ complaint is filed with the division alleging that, or
7 if the division itself has cause to believe that, any person is violating or
8 failing to comply with any ~~regulation~~ RULE of the commission issued
9 pursuant to parts 1 to 4 of this ~~article~~ ARTICLE 7, order issued pursuant to
10 section 25-7-118, requirement of the state implementation plan, OR
11 provision of parts 1 to 4 of this ~~article~~ ARTICLE 7, including any term or
12 condition of a permit required pursuant to this ~~article~~ ARTICLE 7, the
13 division shall cause a prompt AND DILIGENT investigation to be made ~~and,~~
14 ~~if the division investigation determines that any such violation or failure~~
15 ~~to comply exists,~~ UNLESS:

16 (I) THE COMPLAINT CLEARLY APPEARS ON ITS FACE TO BE
17 FRIVOLOUS OR TRIVIAL; OR

18 (II) THE COMPLAINANT WITHDRAWS THE COMPLAINT WITHIN THE
19 TIME ALLOTTED FOR THE COMPLAINT TO BE INVESTIGATED.

20 (b) (I) The division shall act expeditiously ~~and within the period~~
21 ~~prescribed by law in~~ WITHIN THIRTY DAYS AFTER RECEIPT OF A COMPLAINT
22 FILED, OR AFTER THE DISCOVERY OF THE ALLEGED VIOLATION OR
23 NONCOMPLIANCE, PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION, TO
24 formally ~~notifying~~ NOTIFY the owner or operator of ~~such~~ THE air pollution
25 source after the discovery of the alleged violation or noncompliance.
26 ~~Such~~ THE notice ~~shall~~ MUST specify the provision alleged to have been
27 violated or not complied with and the facts alleged to constitute the
28 violation or noncompliance.

29 (II) IF THE DIVISION IS ACTING IN RESPONSE TO A COMPLAINT, THE
30 DIVISION SHALL NOTIFY THE COMPLAINANT THAT AN INVESTIGATION HAS
31 COMMENCED AT THE TIME THAT THE DIVISION PROVIDES NOTICE TO THE
32 OWNER OR OPERATOR OF THE AIR POLLUTION SOURCE PURSUANT TO
33 SUBSECTION (2)(b)(I) OF THIS SECTION.

34 (c) IN INVESTIGATING A COMPLAINT PURSUANT TO SUBSECTION
35 (2)(a) OF THIS SECTION, THE DIVISION SHALL ACCEPT AND CONSIDER ALL
36 RELEVANT EVIDENCE IT RECEIVES OR ACQUIRES, INCLUDING AUDIO, VIDEO,
37 AND TESTIMONIAL EVIDENCE.

38 (3) (a) (I) Within thirty calendar days after notice has been given
39 PURSUANT TO SUBSECTION (2)(b)(I) OF THIS SECTION, the division shall
40 confer with the owner or operator of the source to determine whether a
41 violation or noncompliance ~~did or did not occur~~ OCCURRED and, if such
42 violation or noncompliance occurred, whether a noncompliance penalty
43 must be assessed under subsection (5) of this section. The division shall

1 provide THE OWNER OR OPERATOR an opportunity ~~to the owner or operator~~
2 ~~at such~~ AT THE conference, and may provide further opportunity,
3 ~~thereafter~~ NOT TO EXCEED THIRTY ADDITIONAL CALENDAR DAYS AFTER
4 THE CONFERENCE, to submit data, views, and arguments concerning the
5 alleged violation or noncompliance or the assessment of any
6 noncompliance penalty.

7 (II) NO LATER THAN NINETY DAYS AFTER NOTICE HAS BEEN GIVEN
8 PURSUANT TO SUBSECTION (2)(b)(I) OF THIS SECTION, THE DIVISION SHALL
9 DETERMINE WHETHER A VIOLATION OR NONCOMPLIANCE OCCURRED. IF A
10 COMPLAINT WAS FILED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION
11 ALLEGING THE VIOLATION OR NONCOMPLIANCE, THE DIVISION SHALL
12 PROMPTLY NOTIFY THE COMPLAINANT OF THE DIVISION'S DETERMINATION.

13 (b) (I) If, after ~~any such~~ THE conference PURSUANT TO
14 SUBSECTION (3)(a)(I) OF THIS SECTION, THE DIVISION DETERMINES THAT
15 a violation or noncompliance ~~is determined to have~~ HAS occurred, the
16 division shall issue an order requiring the owner or operator or any other
17 responsible person to comply. ~~unless the owner or operator demonstrates~~
18 ~~that the violation occurred during a period of start-up, shutdown, or~~
19 ~~malfunction and timely notice was given to the division of the condition.~~

20 (II) IF A COMPLAINT IS FILED PURSUANT TO SUBSECTION (2)(a) OF
21 THIS SECTION ALLEGING THE VIOLATION OR NONCOMPLIANCE, THE
22 DIVISION SHALL SEND THE ORDER TO THE COMPLAINANT.

23 (III) The order may:

24 (A) Include THE termination, ~~modification~~ ALTERATION, or
25 revocation and reissuance of the subject permit;

26 (B) INCLUDE the assessment of civil penalties in accordance with
27 section 25-7-122 and SUBSECTION (3)(b)(IV) OF THIS SECTION;

28 (C) In addition to civil penalties, INCLUDE a requirement to
29 perform one or more projects to mitigate violations related to excess
30 emissions; ~~The order may also~~ AND

31 (D) Require the calculation of a noncompliance penalty under
32 subsection (5) of this section.

33 (IV) IN DETERMINING THE AMOUNT TO ASSESS FOR A CIVIL
34 PENALTY FOR A VIOLATION OR NONCOMPLIANCE, THE DIVISION SHALL:

35 (A) CONSIDER THE FACTORS DESCRIBED IN SECTION 25-7-122
36 (2)(a); AND

37 (B) NOT ASSESS A PENALTY FOR A VIOLATION OR NONCOMPLIANCE
38 THAT IS LESS THAN THE ECONOMIC BENEFIT THAT THE OWNER OR
39 OPERATOR DERIVED FROM THE VIOLATION OR NONCOMPLIANCE.

40 (V) Unless enforcement of its order has been stayed as provided
41 in subsection (4)(b) of this section, the division may seek enforcement, IN
42 THE DISTRICT COURT FOR THE DISTRICT WHERE THE AFFECTED AIR
43 POLLUTION SOURCE IS LOCATED, OF:

44 (A) Pursuant to section 25-7-121 or 25-7-122, ~~of the~~ AN

1 applicable rule of the commission;
2 (B) AN order issued pursuant to section 25-7-121 or 25-7-122 or
3 the applicable rule of the commission;
4 (C) AN order issued pursuant to section 25-7-118;
5 (D) A requirement of the state implementation plan;
6 (E) A provision of this article 7; or
7 (F) THE terms or conditions of a permit required pursuant to this
8 article 7. ~~in the district court for the district where the affected air~~
9 ~~pollution source is located.~~
10 (VI) The court shall issue an appropriate order, which may include
11 a schedule for compliance by the owner or operator of the source.
12 (4) (a) (III) IF A HEARING IS REQUESTED PURSUANT TO SUBSECTION
13 (4)(a)(I) OF THIS SECTION, THE COMMISSION SHALL PROVIDE AT LEAST
14 FORTY-FIVE DAYS' NOTICE TO ANY COMPLAINANT THAT FILED A
15 COMPLAINT PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION ALLEGING
16 A VIOLATION OR NONCOMPLIANCE AT ISSUE IN THE HEARING. THE
17 COMPLAINANT MAY PARTICIPATE AS A PARTY TO THE HEARING.
18 (c) (I) WITHIN TWENTY CALENDAR DAYS AFTER RECEIPT OF A
19 DETERMINATION BY THE DIVISION THAT NO VIOLATION OR
20 NONCOMPLIANCE OCCURRED PURSUANT TO SUBSECTION (3)(a)(II) OF THIS
21 SECTION OR AN ORDER PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION,
22 ANY COMPLAINANT THAT FILED A COMPLAINT ALLEGING THE VIOLATION
23 OR NONCOMPLIANCE MAY FILE WITH THE COMMISSION A WRITTEN
24 PETITION REQUESTING A HEARING TO DETERMINE ANY OF THE FOLLOWING:
25 (A) WHETHER THE ALLEGED VIOLATION OR NONCOMPLIANCE
26 EXISTS OR DID EXIST;
27 (B) WHETHER A REVISION TO THE STATE IMPLEMENTATION PLAN
28 OR REVISION OF A REGULATION OR STANDARD THAT IS NOT PART OF THE
29 STATE IMPLEMENTATION PLAN SHOULD BE IMPLEMENTED WITH RESPECT
30 TO THE ALLEGED VIOLATION OR NONCOMPLIANCE; OR
31 (C) WHETHER THE OWNER OR OPERATOR IS SUBJECT TO CIVIL
32 PENALTIES PURSUANT TO SECTION 25-7-122 OR NONCOMPLIANCE
33 PENALTIES UNDER SUBSECTION (5) OF THIS SECTION, OR WHETHER THE
34 CIVIL OR NONCOMPLIANCE PENALTIES WERE ASSESSED INCORRECTLY.
35 (II) THE HEARING DESCRIBED IN SUBSECTION (4)(c)(I) OF THIS
36 SECTION MUST:
37 (A) ALLOW THE PARTIES TO PRESENT EVIDENCE AND ARGUMENT
38 ON ALL ISSUES AND TO CONDUCT CROSS-EXAMINATION AS REQUIRED FOR
39 FULL DISCLOSURE OF THE FACTS; AND
40 (B) BE CONDUCTED IN ACCORDANCE WITH SECTION 25-7-119.
41 (III) THE COMPLAINANT SHALL SEND A COPY OF THE PETITION
42 DESCRIBED IN SUBSECTION (4)(c)(I) OF THIS SECTION TO THE ALLEGED
43 VIOLATOR AT THE TIME OF FILING THE PETITION WITH THE COMMISSION.
44 (7) (b) The division may, after notice and opportunity for a public

1 hearing, exempt THE OWNER OR OPERATOR OF any stationary source from
2 the duty to pay a noncompliance penalty pursuant to this section with
3 respect to a particular instance of noncompliance if it finds that ~~such~~ THE
4 instance of noncompliance is inconsequential in nature and duration. ~~Any~~
5 ~~instance of noncompliance occurring during a period of start-up,~~
6 ~~shutdown, or malfunction shall be deemed to be inconsequential.~~ If a
7 public hearing is requested by an interested person, the request ~~shall~~ MUST
8 be transmitted to the commission within twenty calendar days ~~of~~ AFTER
9 its receipt by the division. The commission shall, within sixty calendar
10 days ~~of~~ AFTER its receipt of the request, hold a public hearing, ~~with~~
11 ~~respect thereto~~ and within thirty calendar days ~~of such~~ AFTER THE hearing,
12 issue its decision.

13 **SECTION 8.** In Colorado Revised Statutes, 25-7-122, **amend**
14 (2)(a) introductory portion, (2)(a)(VI), (2)(a)(VII), and (2)(a)(VIII); and
15 **add** (2)(a)(IX) as follows:

16 **25-7-122. Civil penalties - rules - definitions.** (2) (a) In
17 determining the amount of any civil penalty, the ~~following factors~~
18 DIVISION shall ~~be considered~~ CONSIDER THE FOLLOWING FACTORS:

19 (VI) AS A RESULT OF THE VIOLATION OR NONCOMPLIANCE, THE
20 impact on or threat to: ~~the~~

21 (A) Public health; ~~or~~

22 (B) SAFETY;

23 (C) Welfare; ~~or~~

24 (D) The environment; ~~as a result of the violation~~ AND

25 (E) WILDLIFE AND BIOLOGICAL RESOURCES;

26 (VII) Malfeasance; ~~and~~

27 (VIII) Whether legal and factual theories were advanced for
28 purposes of delay; AND

29 (IX) THE SEVERITY OF THE VIOLATION OR NONCOMPLIANCE.

30 **SECTION 9.** In Colorado Revised Statutes, 25-7-123.1, **amend**
31 (1) as follows:

32 **25-7-123.1. Statute of limitations - penalty assessment -**
33 **criteria.** (1) (a) EXCEPT WITH RESPECT TO AN ACTION COMMENCED TO
34 ADDRESS A FAILURE TO OBTAIN A PERMIT REQUIRED BY THIS ARTICLE 7,
35 any action COMMENCED, INCLUDING FOR THE ASSESSMENT OF CIVIL
36 PENALTIES, pursuant to this ~~section~~ ARTICLE 7 THAT IS not commenced
37 within five years ~~of~~ AFTER THE occurrence of the alleged violation is time
38 barred.

39 (b) Without expanding the statute of limitations contained in
40 ~~paragraph (a) of this subsection~~ (1) SUBSECTION (1)(a) OF THIS SECTION,
41 any action COMMENCED, INCLUDING THE ASSESSMENT OF CIVIL PENALTIES,
42 pursuant to this ~~article~~ ARTICLE 7, except those commenced pursuant to
43 section 25-7-122 (1)(d) or 25-7-122.1 (1)(c), ~~which~~ THAT is not

1 commenced within eighteen months ~~of~~ AFTER the date upon which the
2 division discovers the alleged violation is time barred. For purposes of
3 this section, the division discovers the alleged violation when it learns of
4 the alleged violation or should have learned of the alleged violation by the
5 exercise of reasonable diligence, including by receipt of actual or
6 constructive notice.

7 (c) ~~The five-year period of limitation contained~~ PERIODS OF
8 LIMITATION DESCRIBED in this section ~~does~~ DO not apply where THE
9 ALLEGED VIOLATOR KNOWINGLY OR WILLFULLY CONCEALS information
10 regarding the alleged violation. ~~is knowingly or willfully concealed by the~~
11 ~~alleged violator.~~

12 **SECTION 10.** In Colorado Revised Statutes, **add** 25-7-146 as
13 follows:

14 **25-7-146. Emissions standards for stationary engines -**
15 **definitions - rules.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
16 OTHERWISE REQUIRES:

17 (a) "INFEASIBLE" MEANS ELECTRIFICATION OF OIL AND GAS
18 OPERATIONS IS INFEASIBLE BECAUSE THERE IS NO REASONABLE ACCESS, OR
19 OPPORTUNITY TO CREATE ACCESS, TO THE ELECTRICAL POWER GRID.

20 (b) "OIL AND GAS OPERATIONS" HAS THE MEANING SET FORTH IN
21 SECTION 34-60-103 (6.5).

22 (c) "OPERATOR" HAS THE MEANING SET FORTH IN SECTION
23 34-60-103 (6.8).

24 (d) "STATIONARY ENGINE" MEANS ANY RICH AND LEAN BURN
25 RECIPROCATING INTERNAL COMBUSTION ENGINE USED IN OIL AND GAS
26 OPERATIONS.

27 (2) NO LATER THAN JANUARY 1, 2025, THE COMMISSION SHALL
28 ADOPT RULES THAT REQUIRE THE ELECTRIFICATION OF ALL STATIONARY
29 ENGINES UNLESS THE OPERATOR OF THE OIL AND GAS OPERATIONS CAN
30 DEMONSTRATE TO THE DIVISION'S SATISFACTION THAT ELECTRIFICATION
31 OF THE STATIONARY ENGINES IS INFEASIBLE.

32 (3) IF AN OPERATOR MAKES THE DEMONSTRATION PURSUANT TO
33 SUBSECTION (2) OF THIS SECTION, THE DIVISION SHALL REQUIRE THAT ANY
34 EXISTING, NEW, MODIFIED, OR RELOCATED STATIONARY ENGINES MEET
35 THE FOLLOWING NITROGEN OXIDE EMISSIONS LIMITS OR CONTROL
36 REQUIREMENTS:

37 (a) FOR ENGINES OF ONE HUNDRED TO FIVE HUNDRED
38 HORSEPOWER:

39 (I) COMPLIANCE WITH A ONE-QUARTER GRAM PER
40 HORSEPOWER-HOUR NITROGEN OXIDE EMISSIONS LIMIT; OR

41 (II) INSTALLATION OF NONSELECTIVE CATALYTIC REDUCTION AND
42 AIR FUEL RATIO CONTROLLERS; AND

43 (b) FOR ENGINES LARGER THAN FIVE HUNDRED HORSEPOWER,

1 COMPLIANCE WITH A TWO-TENTHS GRAM PER HORSEPOWER-HOUR
2 NITROGEN OXIDE EMISSIONS LIMIT.

3 **SECTION 11.** In Colorado Revised Statutes, **add** 25-7-302.5 as
4 follows:

5 **25-7-302.5. State implementation plan requirements for**
6 **serious, severe, and extreme nonattainment areas - definitions - rules.**

7 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
8 REQUIRES:

9 (a) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
10 AND ENVIRONMENT CREATED IN SECTION 24-1-119 (1).

11 (b) "NONATTAINMENT AREA" MEANS, FOR ANY AIR POLLUTANT, AN
12 AREA THAT THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY
13 DESIGNATES AS "NONATTAINMENT" WITH RESPECT TO THAT AIR
14 POLLUTANT PURSUANT TO THE FEDERAL ACT.

15 (c) "OIL AND GAS LOCATION" HAS THE MEANING SET FORTH IN
16 SECTION 34-60-103 (6.4).

17 (d) "OIL AND GAS OPERATIONS" HAS THE MEANING SET FORTH IN
18 SECTION 34-60-103 (6.5).

19 (2) UNTIL A SERIOUS, SEVERE, OR EXTREME OZONE
20 NONATTAINMENT AREA IN THE STATE IS REDESIGNATED AS A
21 MAINTENANCE AREA PURSUANT TO THE NATIONAL AMBIENT AIR QUALITY
22 STANDARDS FOR OZONE UNDER THE FEDERAL ACT, ANY STATE
23 IMPLEMENTATION PLAN THAT THE COMMISSION ADOPTS MUST INCLUDE
24 THE FOLLOWING CONTROL MEASURES, EFFECTIVE ON OR BEFORE JUNE 1,
25 2024, FOR THE SEVERE OZONE PLAN:

26 (a) THE MOST STRINGENT, NEW HEAVY-DUTY, OFF-ROAD
27 COMPRESSION-IGNITION ENGINE STANDARDS AND LARGE, OFF-ROAD
28 SPARK-IGNITION ENGINE STANDARDS AVAILABLE FOR THE STATE TO ADOPT
29 UNDER THE FEDERAL ACT;

30 (b) A REQUIREMENT TO USE GRID-POWERED ELECTRIC DRILL RIGS
31 AND GRID-POWERED HYDRAULIC ELECTRIC FRACTURING ENGINES AT OIL
32 AND GAS LOCATIONS IN THE OZONE NONATTAINMENT AREA; EXCEPT THAT,
33 IF ELECTRIFICATION IS NOT POSSIBLE, AS DETERMINED BY THE
34 DEPARTMENT, THE STATE IMPLEMENTATION PLAN MUST REQUIRE OFFSETS
35 OF ONE AND ONE-THIRD TONS FOR EVERY ONE TON OF NITROGEN OXIDES
36 OR VOLATILE ORGANIC COMPOUNDS EMITTED FROM THOSE ENGINES; AND

37 (c) ZERO-EMITTING RETROFITS FOR ALL EXISTING PNEUMATIC
38 DEVICES USED IN OIL AND GAS OPERATIONS.

39 **SECTION 12.** In Colorado Revised Statutes, 34-60-103, **add**
40 (4.1) as follows:

41 **34-60-103. Definitions.** As used in this article 60, unless the
42 context otherwise requires:

43 (4.1) "CUMULATIVE IMPACTS" MEANS THE EFFECTS OF OIL AND

1 GAS OPERATIONS ON THE ENVIRONMENT, INCLUDING EFFECTS ON AIR
2 QUALITY, WATER QUALITY, CLIMATE, NOISE, ODOR, WILDLIFE, BIOLOGICAL
3 RESOURCES, OR PUBLIC HEALTH THAT ARE CAUSED BY THE INCREMENTAL
4 IMPACT THAT A NEW OR EXPANDED OIL AND GAS FACILITY HAS WHEN
5 ADDED TO THE IMPACTS FROM OTHER PAST, PRESENT, AND REASONABLY
6 FORESEEABLE FUTURE DEVELOPMENT OF ANY TYPE ON THE RELEVANT
7 AREA, INCLUDING AN AIRSHED OR WATERSHED AREA OR A
8 DISPROPORTIONATELY IMPACTED COMMUNITY, AS DEFINED IN SECTION
9 24-4-109 (2)(b)(II). <*It doesn't appear like the cumulative impacts*
10 *definition is used anymore.*>

11 **SECTION 13.** In Colorado Revised Statutes, **amend** 34-60-114
12 as follows:

13 **34-60-114. Action for damages.** (1) (a) ~~Nothing in this article,~~
14 ~~and no suit by or against the commission, and no violation charged or~~
15 ~~asserted against any person under any provisions of this article, or any~~
16 ~~rule, regulation, or order issued under this article,~~ THE FOLLOWING shall
17 NOT impair, abridge, or delay any cause of action for damages ~~which~~
18 THAT any person may have or assert against ~~any~~ ANOTHER person
19 violating any provision of this ~~article~~ ARTICLE 60, or any rule ~~regulation,~~
20 or order issued under this ~~article~~ ARTICLE 60:

21 (I) ANY PROVISION IN THIS ARTICLE 60;
22 (II) A SUIT BY OR AGAINST THE COMMISSION;
23 (III) A VIOLATION CHARGED OR ASSERTED AGAINST ANY PERSON
24 UNDER THIS ARTICLE 60; AND

25 (IV) ANY RULE OR ORDER ISSUED UNDER THIS ARTICLE 60.

26 (b) Any person ~~so~~ damaged by ~~the~~ A violation DESCRIBED IN
27 SUBSECTION (1)(a) OF THIS SECTION may sue for and recover ~~such~~
28 damages as ~~he~~ THE PERSON otherwise may be entitled to receive.

29 (2) (a) ~~In the event~~ If the commission fails to bring suit to enjoin
30 any actual or threatened violation of this ~~article~~ ARTICLE 60, or of any rule
31 ~~regulation,~~ or order made under this ~~article,~~ ~~then~~ ARTICLE 60, any person
32 or party in interest adversely affected ~~and~~ BY THE ACTUAL VIOLATION OR
33 THREATENED VIOLATION who has notified the commission in writing of
34 ~~such violation or threat thereof~~ THE ACTUAL VIOLATION OR THREATENED
35 VIOLATION and has requested the commission to sue may, to prevent any
36 ~~or~~ further violation, bring suit for that purpose in the district court of any
37 county in which the commission could have brought suit.

38 (b) If, in ~~such suit~~ A LAWSUIT DESCRIBED IN SUBSECTION (2)(a) OF
39 THIS SECTION, the court holds that injunctive relief should be granted,
40 ~~then the commission shall be made~~ THE COURT SHALL:

41 (I) MAKE THE COMMISSION a party ~~and shall be substituted~~ TO THE
42 SUIT;

43 (II) IF REQUESTED BY THE COMPLAINING PARTY, SUBSTITUTE THE

1 COMMISSION for the ~~person who brought the suit~~, COMPLAINING PARTY;
2 and ~~the injunction shall be issued~~

3 (III) ISSUE THE INJUNCTION as if the commission had at all times
4 been the complaining party.

5 (3) IN ISSUING ANY FINAL JUDGMENT, RULING, OR ORDER IN A
6 LAWSUIT DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION, THE DISTRICT
7 COURT SHALL AWARD THE COMPLAINING PARTY ANY COSTS OF LITIGATION
8 INCURRED BY THE COMPLAINING PARTY IN LITIGATING THE LAWSUIT,
9 INCLUDING REASONABLE ATTORNEY FEES, EXPERT WITNESS FEES, AND
10 OTHER RELATED COSTS IF THE COURT DETERMINES THAT THE AWARD IS
11 APPROPRIATE. AN AWARD IS APPROPRIATE IF:

12 (a) THE COMPLAINING PARTY OR THE COMMISSION, IF THE
13 COMMISSION HAS BEEN SUBSTITUTED FOR THE COMPLAINING PARTY
14 PURSUANT TO SUBSECTION (2)(b)(II) OF THIS SECTION, PREVAILS ON ONE
15 OR MORE OF ITS CLAIMS;

16 (b) THE LAWSUIT IS SUBSTANTIALLY RESPONSIBLE FOR STOPPING
17 A VIOLATION OR BRINGING AN ALLEGED VIOLATOR INTO COMPLIANCE; OR

18 (c) THE LAWSUIT HAS SERVED THE PUBLIC INTEREST.

19 **SECTION 14.** In Colorado Revised Statutes, 34-60-121, **amend**
20 (4) as follows:

21 **34-60-121. Violations - investigations - penalties - rules -**
22 **definition - legislative declaration.** (4) (a) ANY PERSON MAY SUBMIT A
23 COMPLAINT TO THE COMMISSION ALLEGING THAT A VIOLATION OF THIS
24 ARTICLE 60, ANY RULE OR ORDER OF THE COMMISSION, OR ANY PERMIT
25 HAS OCCURRED. IF A COMPLAINT IS RECEIVED BY THE COMMISSION, THE
26 COMMISSION OR THE DIRECTOR SHALL PROMPTLY COMMENCE AND
27 COMPLETE AN INVESTIGATION INTO THE VIOLATION ALLEGED BY THE
28 COMPLAINT UNLESS:

29 (I) THE COMPLAINT CLEARLY APPEARS ON ITS FACE TO BE
30 FRIVOLOUS OR TRIVIAL; OR

31 (II) THE COMPLAINANT WITHDRAWS THE COMPLAINT.

32 (b) IN INVESTIGATING A VIOLATION ALLEGED BY A COMPLAINT
33 RECEIVED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION, THE
34 COMMISSION OR THE DIRECTOR SHALL ACCEPT AND CONSIDER ALL
35 RELEVANT EVIDENCE IT RECEIVES OR ACQUIRES, INCLUDING AUDIO, VIDEO,
36 OR TESTIMONIAL EVIDENCE.

37 (c) Whenever the commission or the director has reasonable cause
38 to believe a violation of any provision of this ~~article~~ ARTICLE 60, any rule
39 ~~regulation~~, or order of the commission, or any permit has occurred,
40 ~~written notice shall be given~~ INCLUDING BASED ON A WRITTEN COMPLAINT
41 FROM ANY PERSON, THE COMMISSION OR THE DIRECTOR SHALL PROVIDE
42 WRITTEN NOTICE to the operator whose act or omission allegedly resulted
43 in ~~such~~ THE violation AND REQUIRE THAT THE OPERATOR REMEDY THE

1 VIOLATION. The notice ~~shall~~ MUST be served personally or by certified
2 mail, return receipt requested, to the operator or the operator's agent for
3 service of process and ~~shall~~ MUST state the provision alleged to have been
4 violated, the facts alleged to constitute the violation, and any corrective
5 action and abatement deadlines the commission or director elects to
6 require of the operator.

7 (d) AS USED IN THIS SUBSECTION (4), "DIRECTOR" MEANS THE
8 DIRECTOR OF THE COMMISSION.

9 **SECTION 15. Applicability.** This act applies to conduct
10 occurring on or after the effective date of this act, including
11 determinations of applications pending on the effective date.

12 **SECTION 16. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, or safety."

** *** ** *** **