

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 23-0131.02 Sarah Lozano x3858

HOUSE BILL 23-1294

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A BILL FOR AN ACT

101 **CONCERNING MEASURES TO PROTECT COMMUNITIES FROM**
102 **POLLUTION.**

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://leg.colorado.gov>.)

Section 2 of the bill removes the requirement that the air quality control commission (AQCC) promulgate rules setting the conditions and limitations for periods of start-up, shutdown, or malfunction of a source of air pollution (source) that justify temporary relief from an emission control regulation.

Current law provides that a person shall not permit the emission

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

of air pollutants at a nonresidential structure unless an air pollution emission notice has been filed with the division of administration in the department of public health and environment (division). **Section 5** adds the requirements that any:

- Relevant permits have been approved by the division; and
- Applicable period of review by the federal environmental protection agency has been completed.

Section 6 removes the prohibition against the AQCC adopting rules covering indirect sources that are more stringent than applicable federal law.

Section 6 also requires the division, in evaluating a construction permit application for a source that includes new oil and gas operations, to:

- Aggregate emissions from a proposed or modified oil and gas system; and
- Consider emissions from exploration and preproduction activities if a proposed or modified oil and gas system is in an ozone nonattainment area and if the activities will be conducted beginning May 1 and ending August 31 of any year (ozone season).

Section 8 clarifies that only the filing of a renewable operating permit application can operate as a defense to an enforcement action for operating without a permit during the time period that the division or the AQCC is reviewing the permit application.

Current law requires the division or the AQCC to give public notice of certain construction permit applications or renewable operating permit applications and of certain public hearings through a newspaper publication or another method that ensures effective public notice. Current law also requires the division to maintain a copy of a construction permit application and applicable preliminary analysis or a notice of public hearing with the county clerk and recorder of the county where the applicable project is located. **Section 8** also removes the newspaper publication option and the county clerk and recorder filing requirements and provides for alternative methods of giving public notice, including posting information about the application or any public hearings on the division's or the AQCC's website.

Current law requires the division or AQCC to make a finding that a source or activity will meet all applicable emission control regulations, including ambient air quality standards (AAQS), before granting a permit for the source or activity. **Section 8** also requires that, beginning January 1, 2024, for at least any source or activity that has the potential to emit levels of air contaminants above certain modeling thresholds, the division or AQCC must base any finding that the source or activity will not cause or contribute to an exceedance of applicable AAQS on air quality modeling.

Section 8 also allows the division, after an investigation into whether an activity meets the requirements of a construction permit, to propose additional terms and conditions of the construction permit.

With respect to a complaint alleging or the division's own belief regarding a violation or noncompliance (violation), **section 9** requires the division to:

- Cause a diligent investigation into the violation to be made unless the complaint clearly appears to be frivolous or trivial or the complainant withdraws the complaint;
- Notify the owner or operator of the applicable air pollution source of the complaint or the division's belief of an alleged violation within 30 days after the complaint was filed or the division discovered the alleged violation;
- Consider all relevant evidence that it acquires when investigating the alleged violation; and
- Determine whether a violation occurred within 90 days after the division gives notice that it has commenced an investigation on the matter.

If the division determines that a violation has occurred, current law requires the division to issue a compliance order unless the responsible party gives timely notice that the violation occurred during a period of start-up, shutdown, or malfunction. **Section 9** removes the exception for periods of start-up, shutdown, or malfunction.

Section 9 also requires, if a hearing is requested after the receipt of a compliance order, the commission to provide at least 45 days' notice to any complainant that submitted a complaint alleging the applicable violation.

Section 9 also allows a complainant to submit a request for a hearing within 20 calendar days after receipt of a determination by the division that no violation occurred.

Current law provides that any noncompliance that occurs during a period of start-up, shutdown, or malfunction exempts the owner or operator of a source from the duty to pay penalties related to that noncompliance. **Section 9** removes this provision.

Section 9 also allows a person, with respect to certain clean air regulations, to commence a civil action (action) against an alleged violator for a current or past violation of the regulation. A person shall not commence an action until at least 60 days after a notice has been provided to the executive director of the department, the director of the division, and the alleged violator. Except for violations of an ongoing or recurring nature, any action that is not commenced within 5 years after the discovery of the alleged violation is time barred.

Current law requires the division to consider certain factors in determining the amount of a civil penalty to assess for a violation. **Section 10** requires the division to also consider the impact of the

violation on safety and wildlife and biological resources and the severity of the violation.

Current law provides that any action related to an alleged violation of air quality laws that is not commenced within 5 years after the occurrence of the alleged violation is time barred. **Section 11** excludes actions commenced to address a failure to obtain a permit from this statute of limitation.

Section 12 creates new electrification requirements and emissions standards for stationary engines used in oil and gas operations.

Section 13 creates new control measures that must be included in any state implementation plan for ozone adopted by the AQCC until a serious, severe, or extreme ozone nonattainment area in the state is redesignated as a maintenance area by the federal environmental protection agency.

Section 15 requires the district court, in a suit against a person that has violated a state law, rule, or order related to oil and gas, to award the initial complaining party any costs of litigation incurred by the initial complaining party if the court determines that the award is appropriate.

Section 16 allows any person to submit a complaint to the oil and gas conservation commission (COGCC) alleging a violation of a state law, rule, or order related to oil and gas. Upon receipt of the complaint, the COGCC or the director of the COGCC is required to promptly commence and complete an investigation into the violation alleged by the complaint, unless the complaint clearly appears on its face to be trivial or the complainant withdraws the complaint.

Section 17 requires the COGCC to evaluate and address adverse cumulative impacts on the environment and disproportionately impacted communities for each permit application for a new or substantially modified oil and gas location through a cumulative impact analysis.

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

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

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

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

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

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

21 (e) The federal "Clean Air Act" requires that Colorado have
22 enforceable procedures in place to assess the air quality impacts of new
23 sources and modifications and to prevent the construction of new sources
24 and modifications that would cause or contribute to a violation of federal
25 standards;

26 (f) "Minor" sources of pollution, including many oil and gas
27 sources that are among the largest contributors to ozone, can cause

1 exceedances of federal standards and have a devastating cumulative
2 impact on already overburdened, disproportionately impacted
3 communities, yet they often escape air quality impact analyses in
4 Colorado's permitting processes;

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

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

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

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

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

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

27 (b) Colorado has an obligation to increase air quality analyses in

1 its permitting processes and to assess the impacts of potential new sources
2 before permits are approved in order to avoid emissions increases that
3 would cause or contribute to violations of federal air quality standards;

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

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

11 (e) This act is necessary to ensure that Colorado addresses the
12 disproportionate cumulative impacts of pollution, including
13 environmental and health impacts, that communities across the state
14 experience.

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

17 **25-7-145. Legislative interim committee on ozone air quality**
18 **- created - members - repeal.** (1) NOTWITHSTANDING SECTION
19 2-3-303.3, THE LEGISLATIVE INTERIM COMMITTEE ON OZONE AIR QUALITY,
20 REFERRED TO IN THIS SECTION AS THE "COMMITTEE", IS CREATED.

21 (2) THE PURPOSE OF THE COMMITTEE IS TO STUDY OZONE AIR
22 QUALITY IN THE STATE WITH A FOCUS ON:

23 (a) INVESTIGATING THE FACTORS THAT CONTRIBUTE TO OZONE
24 POLLUTION IN THE STATE, INCLUDING ANY SCIENTIFIC CONSENSUS AROUND
25 THE ISSUE OF OZONE POLLUTION;

26 (b) ANALYZING STRATEGIES TO ADDRESS AND IMPROVE
27 GROUND-LEVEL OZONE ISSUES; AND

1 (c) DEVELOPING POLICY, TECHNICAL, AND FINANCIAL SOLUTIONS
2 TO IMPROVE OZONE AIR QUALITY IN THE STATE.

3 (3) THE COMMITTEE CONSISTS OF:

4 (a) SIX MEMBERS OF THE SENATE, WITH FOUR MEMBERS APPOINTED
5 BY THE PRESIDENT OF THE SENATE AND TWO MEMBERS APPOINTED BY THE
6 MINORITY LEADER OF THE SENATE; AND

7 (b) SIX MEMBERS OF THE HOUSE OF REPRESENTATIVES, WITH FOUR
8 MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF
9 REPRESENTATIVES AND TWO MEMBERS APPOINTED BY THE MINORITY
10 LEADER OF THE HOUSE OF REPRESENTATIVES.

11 (4) THE APPOINTING AUTHORITIES SHALL APPOINT THE MEMBERS
12 OF THE COMMITTEE NO LATER THAN JUNE 30, 2023. IF A VACANCY ARISES
13 ON THE COMMITTEE, THE APPOINTING AUTHORITY SHALL APPOINT A
14 MEMBER TO FILL THE VACANCY AS SOON AS POSSIBLE.

15 (5) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL
16 DESIGNATE THE CHAIR OF THE COMMITTEE. IN THE CASE OF A TIE VOTE,
17 THE CHAIR OF THE COMMITTEE SHALL CAST AN ADDITIONAL DECIDING
18 VOTE.

19 (6) THE CHAIR OF THE COMMITTEE SHALL SCHEDULE THE FIRST
20 MEETING OF THE COMMITTEE NO LATER THAN SIXTY DAYS AFTER JUNE 30,
21 2023. THE COMMITTEE MAY MEET UP TO SIX TIMES DURING THE 2023
22 INTERIM, WHICH MAY INCLUDE FIELD TRIPS.

23 (7) THE COMMITTEE MAY INTRODUCE UP TO A TOTAL OF FIVE
24 BILLS, JOINT RESOLUTIONS, AND CONCURRENT RESOLUTIONS IN THE 2024
25 LEGISLATIVE SESSION. BILLS RECOMMENDED BY THE COMMITTEE ARE
26 EXEMPT FROM THE FIVE-BILL LIMITATION SPECIFIED IN JOINT RULE 24

27 (b)(1)(A). THE COMMITTEE SHALL REPORT TO THE LEGISLATIVE COUNCIL

1 BY THE DATE SPECIFIED IN JOINT RULES 24 (b)(1)(D) AND 24 (A)(d)(8).
2 ANY BILLS RECOMMENDED BY THE COMMITTEE ARE SUBJECT TO THE
3 APPLICABLE DEADLINES, BILL INTRODUCTION LIMITS, AND ANY OTHER
4 REQUIREMENTS IMPOSED BY THE JOINT RULES OF THE GENERAL ASSEMBLY
5 AND MUST BE APPROVED BY A MAJORITY VOTE OF THE COMMITTEE.

6 (8) THE LEGISLATIVE COUNCIL AND THE OFFICE OF LEGISLATIVE
7 LEGAL SERVICES SHALL PROVIDE STAFF ASSISTANCE TO THE COMMITTEE.

8 (9) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2024.

9 **SECTION 3.** In Colorado Revised Statutes, 25-7-109.3, **amend**
10 (3)(c) as follows:

11 **25-7-109.3. Colorado hazardous air pollutant control and**
12 **reduction program - rules - repeal.** (3) (c) The commission shall
13 designate by ~~regulation~~ RULE those classes of ~~minor or insignificant~~
14 sources of emissions of hazardous air pollutants ~~which~~ THAT are exempt
15 from the requirements of this section because their emissions of
16 hazardous air pollutants will result in an inconsequential risk to public
17 health.

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

20 **25-7-114. Permit program - definitions.** As used in sections
21 ~~25-7-114~~ THIS SECTION AND SECTIONS 25-7-114.1 to 25-7-114.7, unless
22 the context otherwise requires:

23 (3.3) "MODIFICATION" OR "MODIFY" MEANS ANY PHYSICAL
24 CHANGE IN, OR CHANGE IN THE METHOD OF OPERATION OF, A STATIONARY
25 SOURCE THAT:

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

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

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

5 25-7-114.4. Permit applications - contents - rules - definitions.

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

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

19 (k) Procedures to:

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

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

23 (A) Applicable standards and regulations adopted after the
24 issuance of ~~such~~ THE permit as expeditiously as practicable, but not later
25 than eighteen months after promulgation of the applicable requirement;
26 or to incorporate

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

1 except that: ~~no such~~ A revision shall NOT be required PRIOR TO RENEWAL
2 OR TERMINATION OF THE PERMIT if the effective date of the standards or
3 regulation occurs after the permit term expires; ~~such~~ ANY revision shall
4 INCORPORATING A STANDARD OR REGULATION WITH AN EFFECTIVE DATE
5 AFTER THE PERMIT TERM EXPIRES MUST be treated as a permit renewal;
6 and the defense established under subsection (3) of this section shall
7 ~~apply~~ APPLIES until the permit amendment is complete;

8 (n) (I) Procedures for ~~modifying~~ ALTERING or amending permits,
9 and procedures for authorizing any change within a permitted facility
10 without requiring a permit revision, so long as:

11 (A) ~~Any such~~ THE change is not a modification under any
12 provision of subchapter I of the federal act ~~and any such~~ OR A
13 MODIFICATION AS DEFINED IN SECTION 25-7-114 (3.3);

14 (B) THE change does not ~~exceed~~ INCREASE the emissions
15 allowable under the permit; and

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

17 (II) ~~Such~~ THE advance notice shall DESCRIBED IN SUBSECTION
18 (1)(n)(I)(C) OF THIS SECTION MUST be GIVEN no earlier than ~~that~~ THE
19 NOTICE PERIOD required under regulations promulgated pursuant to the
20 federal act. Failure of the division to respond by the day following the last
21 day of ~~such~~ THE advance notice period allows the source to proceed with
22 any ~~such~~ change DESCRIBED UNDER SUBSECTION (1)(n)(I) OF THIS
23 SECTION.

24 (2) The division shall examine applications for and may issue,
25 suspend, revoke, ~~modify~~ ALTER, deny, and otherwise administer all
26 permits required under this ~~article~~. ~~Such~~ ARTICLE 7. THE DIVISION'S
27 administration OF ALL PERMITS REQUIRED UNDER THIS ARTICLE 7 shall be

1 CONDUCTED in accordance with the provisions of this article and
2 regulations THIS ARTICLE 7 AND RULES promulgated by the commission.

3 SECTION 6. In Colorado Revised Statutes, 25-7-114.5, amend
4 (4), (5), (6)(a) introductory portion, (6)(a)(II), and (6)(b) as follows:

5 25-7-114.5. Application review - public participation -
6 definitions - rules. (4) (a) The division shall prepare its preliminary
7 analysis regarding compliance, as set forth in subsection (2) of this
8 section, and regarding the impact on attainment or nonattainment areas,
9 as set forth in subsection (3) of this section, as expeditiously as possible.

10 (b) (I) For construction permits not subject to part 2 of this article,
11 such ARTICLE 7, THE preliminary analysis shall MUST be completed no
12 later than sixty calendar days after receipt of a completed permit
13 application. Applicants must be advised within sixty calendar days after
14 receipt of any application, or supplement thereto TO ANY APPLICATION, if
15 and in what respects the subject application is incomplete. Upon failure
16 of the division to so notify the applicant within sixty calendar days of
17 AFTER its filing, the application shall be IS deemed complete.

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

21 (c) Applications for renewable operating permits shall MUST be
22 approved or disapproved within eighteen months after the receipt of the
23 completed permit application. except that those applications submitted
24 within the first year after the effective date of the operating permit
25 program shall be subject to a phased schedule for acting on such permit
26 applications established by the division. The phased schedule shall assure
27 that at least one-third of such permits will be acted on by the division

1 ~~annually over a three-year period.~~ The commission may establish a
2 phased schedule for acting on applications for which a deferral has been
3 granted pursuant to the federal act.

4 (d) A timely and complete RENEWABLE OPERATING permit
5 application operates as a defense to AN 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 (5) (a) For those types of projects or activities for which a
12 construction permit application has been filed AND THAT HAVE BEEN
13 defined or designated by the commission as warranting public comment
14 with respect ~~thereto~~ TO THE CONSTRUCTION PERMIT APPLICATION, the
15 division shall, within fifteen calendar days after it has prepared its
16 preliminary analysis PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION:

17 (I) Give public notice of the proposed project or activity by at
18 least one ~~publication in a newspaper of general distribution in the area in~~
19 ~~which the proposed project or activity, or a part thereof, is to be located~~
20 ~~or by such other method that is reasonably designed to ensure effective~~
21 ~~general public notice; The division shall also during such period of time~~
22 ~~maintain in the office of the county clerk and recorder of the county in~~
23 ~~which the proposed project or activity, or a part thereof, is located~~ AND

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

27 (b) The division shall receive and consider public comment

1 ~~thereon~~ ON THE CONSTRUCTION PERMIT APPLICATION for a period of AT
2 LEAST thirty calendar days ~~thereafter~~ AFTER THE PUBLIC NOTICE AND
3 POSTING OF A COPY OF THE PRELIMINARY ANALYSIS AND PERMIT
4 APPLICATION ON ITS WEBSITE PURSUANT TO SUBSECTION (5)(a) OF THIS
5 SECTION. IF THE LAST DAY OF THE PUBLIC COMMENT PERIOD FALLS ON A
6 WEEKEND OR STATE HOLIDAY, THE PUBLIC COMMENT PERIOD ENDS ON THE
7 FOLLOWING BUSINESS DAY.

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

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

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

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

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

22 (B) POST THE NOTICE OF THE PUBLIC HEARING ON THE
23 COMMISSION'S WEBSITE.

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

26 **25-7-115. Enforcement - civil actions - definitions.** (2) (a) If a
27 written ~~and verified~~ complaint is filed with the division alleging that, or

1 if the division itself has cause to believe that, any person is violating or
2 failing to comply with any ~~regulation~~ RULE of the commission issued
3 pursuant to parts 1 to 4 of this ~~article~~ ARTICLE 7, order issued pursuant to
4 section 25-7-118, requirement of the state implementation plan, OR
5 provision of parts 1 to 4 of this ~~article~~ ARTICLE 7, including any term or
6 condition of a permit required pursuant to this ~~article~~ ARTICLE 7, the
7 division shall cause a prompt AND DILIGENT investigation to be made and,
8 if the division investigation determines that any such violation or failure
9 to comply exists, UNLESS:

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

12 (II) THE COMPLAINANT WITHDRAWS THE COMPLAINT WITHIN THE
13 TIME ALLOTTED FOR THE COMPLAINT TO BE INVESTIGATED.

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

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

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

5 (3) (a) (I) Within thirty calendar days after notice has been given
6 PURSUANT TO SUBSECTION (2)(b)(I) OF THIS SECTION, the division shall
7 confer with the owner or operator of the source to determine whether a
8 violation or noncompliance ~~did or did not occur~~ OCCURRED and, if such
9 violation or noncompliance occurred, whether a noncompliance penalty
10 must be assessed under subsection (5) of this section. The division shall
11 provide THE OWNER OR OPERATOR an opportunity ~~to the owner or operator~~
12 ~~at such~~ AT THE conference, and may provide further opportunity,
13 ~~thereafter~~ NOT TO EXCEED THIRTY ADDITIONAL CALENDAR DAYS AFTER
14 THE CONFERENCE, to submit data, views, and arguments concerning the
15 alleged violation or noncompliance or the assessment of any
16 noncompliance penalty.

17 (II) NO LATER THAN NINETY DAYS AFTER NOTICE HAS BEEN GIVEN
18 PURSUANT TO SUBSECTION (2)(b)(I) OF THIS SECTION, THE DIVISION SHALL
19 DETERMINE WHETHER A VIOLATION OR NONCOMPLIANCE OCCURRED. IF A
20 COMPLAINT WAS FILED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION
21 ALLEGING THE VIOLATION OR NONCOMPLIANCE, THE DIVISION SHALL
22 PROMPTLY NOTIFY THE COMPLAINANT OF THE DIVISION'S DETERMINATION.

23 (b) (I) If, after ~~any such~~ THE conference PURSUANT TO
24 SUBSECTION (3)(a)(I) OF THIS SECTION, THE DIVISION DETERMINES THAT
25 a violation or noncompliance ~~is determined to have~~ HAS occurred, the
26 division shall issue an order requiring the owner or operator or any other
27 responsible person to comply. ~~unless the owner or operator demonstrates~~

1 ~~that the violation occurred during a period of start-up, shutdown, or~~
2 ~~malfunction and timely notice was given to the division of the condition.~~

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

6 (III) The order may:

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

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

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

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

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

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

20 (B) NOT ASSESS A PENALTY FOR A VIOLATION OR NONCOMPLIANCE
21 THAT IS LESS THAN THE ECONOMIC BENEFIT THAT THE OWNER OR
22 OPERATOR DERIVED FROM THE VIOLATION OR NONCOMPLIANCE.

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

27 (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

1 OR REVISION OF A REGULATION OR STANDARD THAT IS NOT PART OF THE
2 STATE IMPLEMENTATION PLAN SHOULD BE IMPLEMENTED WITH RESPECT
3 TO THE ALLEGED VIOLATION OR NONCOMPLIANCE; OR

4 (C) WHETHER THE OWNER OR OPERATOR IS SUBJECT TO CIVIL
5 PENALTIES PURSUANT TO SECTION 25-7-122 OR NONCOMPLIANCE
6 PENALTIES UNDER SUBSECTION (5) OF THIS SECTION, OR WHETHER THE
7 CIVIL OR NONCOMPLIANCE PENALTIES WERE ASSESSED INCORRECTLY.

8 (II) THE HEARING DESCRIBED IN SUBSECTION (4)(c)(I) OF THIS
9 SECTION MUST:

10 (A) ALLOW THE PARTIES TO PRESENT EVIDENCE AND ARGUMENT
11 ON ALL ISSUES AND TO CONDUCT CROSS-EXAMINATION AS REQUIRED FOR
12 FULL DISCLOSURE OF THE FACTS; AND

13 (B) BE CONDUCTED IN ACCORDANCE WITH SECTION 25-7-119.

14 (III) THE COMPLAINANT SHALL SEND A COPY OF THE PETITION
15 DESCRIBED IN SUBSECTION (4)(c)(I) OF THIS SECTION TO THE ALLEGED
16 VIOLATOR AT THE TIME OF FILING THE PETITION WITH THE COMMISSION.

17 (7) (b) The division may, after notice and opportunity for a public
18 hearing, exempt THE OWNER OR OPERATOR OF any stationary source from
19 the duty to pay a noncompliance penalty pursuant to this section with
20 respect to a particular instance of noncompliance if it finds that ~~such~~ THE
21 instance of noncompliance is inconsequential in nature and duration. ~~Any~~
22 ~~instance of noncompliance occurring during a period of start-up,~~
23 ~~shutdown, or malfunction shall be deemed to be inconsequential.~~ If a
24 public hearing is requested by an interested person, the request ~~shall~~ MUST
25 be transmitted to the commission within twenty calendar days ~~of~~ AFTER
26 its receipt by the division. The commission shall, within sixty calendar
27 days ~~of~~ AFTER its receipt of the request, hold a public hearing, with

1 ~~respect thereto~~ and within thirty calendar days ~~of such~~ AFTER THE hearing,
2 issue its decision.

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

6 **25-7-122. Civil penalties - rules - definitions.** (2) (a) In
7 determining the amount of any civil penalty, the ~~following factors~~
8 DIVISION shall ~~be considered~~ CONSIDER THE FOLLOWING FACTORS:

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

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

12 (B) SAFETY;

13 (C) Welfare; ~~or~~

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

15 (E) WILDLIFE AND BIOLOGICAL RESOURCES;

16 (VII) Malfeasance; ~~and~~

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

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

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

22 **25-7-123.1. Statute of limitations - penalty assessment -**
23 **criteria.** (1) (a) EXCEPT WITH RESPECT TO AN ACTION COMMENCED TO
24 ADDRESS A FAILURE TO OBTAIN A PERMIT REQUIRED BY THIS ARTICLE 7,
25 any action COMMENCED, INCLUDING FOR THE ASSESSMENT OF CIVIL
26 PENALTIES, pursuant to this ~~section~~ ARTICLE 7 THAT IS not commenced
27 within five years ~~of~~ AFTER THE occurrence of the alleged violation is time

1 barred.

2 (b) Without expanding the statute of limitations contained in
3 ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION,
4 any action COMMENCED, INCLUDING THE ASSESSMENT OF CIVIL PENALTIES,
5 pursuant to this ~~article~~ ARTICLE 7, except those commenced pursuant to
6 section 25-7-122 (1)(d) or 25-7-122.1 (1)(c), ~~which~~ THAT is not
7 commenced within eighteen months ~~of~~ AFTER the date upon which the
8 division discovers the alleged violation is time barred. For purposes of
9 this section, the division discovers the alleged violation when it learns of
10 the alleged violation or should have learned of the alleged violation by the
11 exercise of reasonable diligence, including by receipt of actual or
12 constructive notice.

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

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

20 **25-7-146. Emissions standards for stationary engines -**
21 **definitions - rules.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
22 OTHERWISE REQUIRES:

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

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

1 (c) "OPERATOR" HAS THE MEANING SET FORTH IN SECTION
2 34-60-103 (6.8).

3 (d) "STATIONARY ENGINE" MEANS ANY RICH AND LEAN BURN
4 RECIPROCATING INTERNAL COMBUSTION ENGINE USED IN OIL AND GAS
5 OPERATIONS.

6 (2) NO LATER THAN JANUARY 1, 2025, THE COMMISSION SHALL
7 ADOPT RULES THAT REQUIRE THE ELECTRIFICATION OF ALL STATIONARY
8 ENGINES UNLESS THE OPERATOR OF THE OIL AND GAS OPERATIONS CAN
9 DEMONSTRATE TO THE DIVISION'S SATISFACTION THAT ELECTRIFICATION
10 OF THE STATIONARY ENGINES IS INFEASIBLE.

11 (3) IF AN OPERATOR MAKES THE DEMONSTRATION PURSUANT TO
12 SUBSECTION (2) OF THIS SECTION, THE DIVISION SHALL REQUIRE THAT ANY
13 EXISTING, NEW, MODIFIED, OR RELOCATED STATIONARY ENGINES MEET
14 THE FOLLOWING NITROGEN OXIDE EMISSIONS LIMITS OR CONTROL
15 REQUIREMENTS:

16 (a) FOR ENGINES OF ONE HUNDRED TO FIVE HUNDRED
17 HORSEPOWER:

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

20 (II) INSTALLATION OF NONSELECTIVE CATALYTIC REDUCTION AND
21 AIR FUEL RATIO CONTROLLERS; AND

22 (b) FOR ENGINES LARGER THAN FIVE HUNDRED HORSEPOWER,
23 COMPLIANCE WITH A TWO-TENTHS GRAM PER HORSEPOWER-HOUR
24 NITROGEN OXIDE EMISSIONS LIMIT.

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

27 **25-7-302.5. State implementation plan requirements for**

1 **serious, severe, and extreme nonattainment areas - definitions - rules.**

2 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
3 REQUIRES:

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

6 (b) "NONATTAINMENT AREA" MEANS, FOR ANY AIR POLLUTANT, AN
7 AREA THAT THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY
8 DESIGNATES AS "NONATTAINMENT" WITH RESPECT TO THAT AIR
9 POLLUTANT PURSUANT TO THE FEDERAL ACT.

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

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

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

21 (a) THE MOST STRINGENT, NEW HEAVY-DUTY, OFF-ROAD
22 COMPRESSION-IGNITION ENGINE STANDARDS AND LARGE, OFF-ROAD
23 SPARK-IGNITION ENGINE STANDARDS AVAILABLE FOR THE STATE TO ADOPT
24 UNDER THE FEDERAL ACT;

25 (b) A REQUIREMENT TO USE GRID-POWERED ELECTRIC DRILL RIGS
26 AND GRID-POWERED HYDRAULIC ELECTRIC FRACTURING ENGINES AT OIL
27 AND GAS LOCATIONS IN THE OZONE NONATTAINMENT AREA; EXCEPT THAT,

1 IF ELECTRIFICATION IS NOT POSSIBLE, AS DETERMINED BY THE
2 DEPARTMENT, THE STATE IMPLEMENTATION PLAN MUST REQUIRE OFFSETS
3 OF ONE AND ONE-THIRD TONS FOR EVERY ONE TON OF NITROGEN OXIDES
4 OR VOLATILE ORGANIC COMPOUNDS EMITTED FROM THOSE ENGINES; AND

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

7 **SECTION 12.** In Colorado Revised Statutes, 34-60-103, **add**
8 (4.1) as follows:

9 **34-60-103. Definitions.** As used in this article 60, unless the
10 context otherwise requires:

11 (4.1) "CUMULATIVE IMPACTS" MEANS THE EFFECTS OF OIL AND
12 GAS OPERATIONS ON THE ENVIRONMENT, INCLUDING EFFECTS ON AIR
13 QUALITY, WATER QUALITY, CLIMATE, NOISE, ODOR, WILDLIFE, BIOLOGICAL
14 RESOURCES, OR PUBLIC HEALTH THAT ARE CAUSED BY THE INCREMENTAL
15 IMPACT THAT A NEW OR EXPANDED OIL AND GAS FACILITY HAS WHEN
16 ADDED TO THE IMPACTS FROM OTHER PAST, PRESENT, AND REASONABLY
17 FORESEEABLE FUTURE DEVELOPMENT OF ANY TYPE ON THE RELEVANT
18 AREA, INCLUDING AN AIRSHED OR WATERSHED AREA OR A
19 DISPROPORTIONATELY IMPACTED COMMUNITY, AS DEFINED IN SECTION
20 24-4-109 (2)(b)(II).

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

23 **34-60-114. Action for damages.** (1) (a) ~~Nothing in this article,~~
24 ~~and no suit by or against the commission, and no violation charged or~~
25 ~~asserted against any person under any provisions of this article, or any~~
26 ~~rule, regulation, or order issued under this article,~~ THE FOLLOWING shall
27 NOT impair, abridge, or delay any cause of action for damages which

1 THAT any person may have or assert against ~~any~~ ANOTHER person
2 violating any provision of this ~~article~~ ARTICLE 60, or any rule ~~regulation,~~
3 or order issued under this ~~article~~ ARTICLE 60:

4 (I) ANY PROVISION IN THIS ARTICLE 60;

5 (II) A SUIT BY OR AGAINST THE COMMISSION;

6 (III) A VIOLATION CHARGED OR ASSERTED AGAINST ANY PERSON
7 UNDER THIS ARTICLE 60; AND

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

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

12 (2) (a) ~~In the event~~ IF the commission fails to bring suit to enjoin
13 any actual or threatened violation of this ~~article~~ ARTICLE 60, or of any rule
14 ~~regulation,~~ or order made under this ~~article,~~ ~~then~~ ARTICLE 60, any person
15 or party in interest adversely affected ~~and~~ BY THE ACTUAL VIOLATION OR
16 THREATENED VIOLATION who has notified the commission in writing of
17 ~~such violation or threat thereof~~ THE ACTUAL VIOLATION OR THREATENED
18 VIOLATION and has requested the commission to sue may, to prevent any
19 ~~or~~ further violation, bring suit for that purpose in the district court of any
20 county in which the commission could have brought suit.

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

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

26 (II) IF REQUESTED BY THE COMPLAINING PARTY, SUBSTITUTE THE
27 COMMISSION for the ~~person who brought the suit,~~ COMPLAINING PARTY;

1 and the injunction shall be issued

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

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

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

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

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

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

20 **34-60-121. Violations - investigations - penalties - rules -**
21 **definition - legislative declaration.** (4) (a) ANY PERSON MAY SUBMIT A
22 COMPLAINT TO THE COMMISSION ALLEGING THAT A VIOLATION OF THIS
23 ARTICLE 60, ANY RULE OR ORDER OF THE COMMISSION, OR ANY PERMIT
24 HAS OCCURRED. IF A COMPLAINT IS RECEIVED BY THE COMMISSION, THE
25 COMMISSION OR THE DIRECTOR SHALL PROMPTLY COMMENCE AND
26 COMPLETE AN INVESTIGATION INTO THE VIOLATION ALLEGED BY THE
27 COMPLAINT UNLESS:

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

3 (II) THE COMPLAINANT WITHDRAWS THE COMPLAINT.

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

9 (c) Whenever the commission or the director has reasonable cause
10 to believe a violation of any provision of this ~~article~~ ARTICLE 60, any rule
11 ~~regulation~~, or order of the commission, or any permit has occurred,
12 ~~written notice shall be given~~ INCLUDING BASED ON A WRITTEN COMPLAINT
13 FROM ANY PERSON, THE COMMISSION OR THE DIRECTOR SHALL PROVIDE
14 WRITTEN NOTICE to the operator whose act or omission allegedly resulted
15 in ~~such~~ THE violation AND REQUIRE THAT THE OPERATOR REMEDY THE
16 VIOLATION. The notice ~~shall~~ MUST be served personally or by certified
17 mail, return receipt requested, to the operator or the operator's agent for
18 service of process and ~~shall~~ MUST state the provision alleged to have been
19 violated, the facts alleged to constitute the violation, and any corrective
20 action and abatement deadlines the commission or director elects to
21 require of the operator.

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

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

27 **SECTION 16. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, or safety.