

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

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"; and

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.

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

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

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

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

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

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

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

12 **SECTION 2.** In Colorado Revised Statutes, 25-7-109, **repeal** (5)
13 as follows:

14 **25-7-109. Commission to promulgate emission control**
15 **regulations.** (5) ~~The commission shall promulgate appropriate~~
16 ~~regulations setting conditions and time limitations for periods of start-up,~~
17 ~~shutdown, or malfunction or other conditions which justify temporary~~
18 ~~relief from controls. Operations of any air pollution source during periods~~
19 ~~of start-up, shutdown, and malfunction shall not constitute representative~~
20 ~~conditions for the purpose of a performance or compliance test.~~

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

23 **25-7-109.3. Colorado hazardous air pollutant control and**
24 **reduction program - rules - repeal.** (3) (c) The commission shall
25 designate by ~~regulation~~ **RULE** those classes of ~~minor or insignificant~~
26 sources of emissions of hazardous air pollutants ~~which~~ **THAT** are exempt
27 from the requirements of this section because their emissions of

1 hazardous air pollutants will result in an inconsequential risk to public
2 health.

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

5 **25-7-114. Permit program - definitions.** As used in sections
6 ~~25-7-114~~ THIS SECTION AND SECTIONS 25-7-114.1 to 25-7-114.7, unless
7 the context otherwise requires:

8 (3.3) "MODIFICATION" OR "MODIFY" MEANS ANY PHYSICAL
9 CHANGE IN, OR CHANGE IN THE METHOD OF OPERATION OF, A STATIONARY
10 SOURCE THAT:

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

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

15 **SECTION 5.** In Colorado Revised Statutes, 25-7-114.1, **amend**
16 (1)(a) and (2) as follows:

17 **25-7-114.1. Air pollutant emission notices - rules - fees.**

18 (1) (a) ~~No~~ A person shall NOT permit emission of air pollutants from, or
19 ~~construction or alteration of~~ CONSTRUCT OR MODIFY, any facility, process,
20 or activity except residential structures from which air pollutants are, or
21 are to be, emitted unless and until an air pollutant emission notice has
22 been filed with the division with respect to such emission, ANY RELEVANT
23 PERMITS HAVE BEEN APPROVED BY THE DIVISION, AND ANY APPLICABLE
24 PERIOD OF REVIEW BY THE FEDERAL ENVIRONMENTAL PROTECTION
25 AGENCY HAS BEEN COMPLETED. The commission may require that air
26 pollutant emission notices for greenhouse gas, as defined in section
27 25-7-140 (6), report the previous calendar year's emissions of greenhouse

1 gas in the form of carbon dioxide equivalent. An air pollutant emission
2 notice is valid for a ~~period of no more than~~ UP TO five years.

3 (2) (a) A revised emission notice ~~shall~~ MUST be filed whenever a
4 significant change in emissions, in processes, or in the facility is
5 anticipated or has occurred or as the commission otherwise determines to
6 be necessary. The revised air pollutant emission notice is valid for ~~no~~
7 ~~more than~~ UP TO five years or until the underlying permit expires.

8 (b) The commission shall exempt ~~those sources or categories of~~
9 ~~sources that it determines to be of minor significance~~ BY RULE CLASSES
10 OF INSIGNIFICANT SOURCES OF AIR POLLUTION from the requirement that
11 an air pollutant emission notice be filed.

12 **SECTION 6.** In Colorado Revised Statutes, **amend** 25-7-114.2
13 as follows:

14 **25-7-114.2. Construction permits - oil and gas operations -**
15 **definitions - rules.** (1) (a) ~~No~~ IF ANY OF THE FOLLOWING ACTIVITIES
16 CONSTITUTE OR WILL CONSTITUTE A NEW STATIONARY SOURCE OR A NEW
17 INDIRECT AIR POLLUTION SOURCE, UNLESS THE PERSON HAS FIRST
18 OBTAINED A VALID CONSTRUCTION PERMIT FROM THE DIVISION OR
19 COMMISSION FOR THE ACTIVITIES, A person shall NOT:

20 (I) Construct or ~~substantially alter~~ MODIFY any building, facility,
21 OIL AND GAS FACILITY, structure, or installation, except single-family
22 residential structures; ~~or~~

23 (II) Install any machine, equipment, or other device; ~~or~~

24 (III) Commence the conduct of any ~~such~~ activity ~~or~~ DESCRIBED IN
25 SUBSECTION (1)(a)(I) OR (1)(a)(II) OF THIS SECTION;

26 (IV) Commence performance of any combinations ~~thereof~~, OF THE
27 ACTIVITIES DESCRIBED IN SUBSECTION (1)(a)(I) OR (1)(a)(II) OF THIS

1 SECTION; or

2 (V) Commence operations of any of the ~~same which will or do~~
3 ~~constitute a new stationary source or a new indirect air pollution source~~
4 ~~without first obtaining or having a valid construction permit therefor from~~
5 ~~the division or commission, as the case may be; except that no~~ ACTIVITIES
6 OR COMBINATION OF THE ACTIVITIES DESCRIBED IN SUBSECTION (1)(a)(I)
7 OR (1)(a)(II) OF THIS SECTION.

8 (b) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION, A
9 construction permit ~~shall be~~ IS NOT required for new indirect air pollution
10 sources until ~~regulations~~ THE COMMISSION HAS PROMULGATED RULES
11 regarding construction permits for such sources. ~~have been promulgated~~
12 ~~by the commission, but in no event shall regulations governing indirect~~
13 ~~air pollution sources be more stringent than those required for compliance~~
14 ~~with the federal act and final rules and regulations adopted pursuant~~
15 ~~thereto.~~

16 (2) Any emission permit validly issued prior to July 1, 1992,
17 pursuant to section 25-7-114, as ~~said~~ THAT section existed prior to July 1,
18 1992, and in effect on or after July 1, 1992, ~~shall be~~ IS deemed to be a
19 valid construction permit issued pursuant to this section.

20 (3) The commission shall designate by ~~regulation~~ RULE those
21 classes of ~~minor or~~ insignificant sources of air pollution ~~which~~ THAT are
22 exempt from the requirement for a permit because of their negligible
23 impact on air quality.

24 (4) A REQUEST FOR GENERAL PERMIT REGISTRATION DOES NOT
25 CONSTITUTE OBTAINING OR HAVING A VALID CONSTRUCTION PERMIT.

26 (5) IN EVALUATING A CONSTRUCTION PERMIT APPLICATION FOR A
27 SOURCE THAT INCLUDES A PROPOSED NEW OR MODIFIED OIL AND GAS

1 SYSTEM, INCLUDING IN ANY AIR QUALITY MODELING REQUIRED BY
2 SECTION 25-7-114.5 (7.5), THE DIVISION SHALL:

3 (a) AGGREGATE EMISSIONS FROM THE PROPOSED NEW OR MODIFIED
4 OIL AND GAS SYSTEM; AND

5 (b) CONSIDER EMISSIONS FROM EXPLORATION AND
6 PREPRODUCTION ACTIVITIES THAT WILL BE ONGOING BEGINNING MAY 1
7 AND ENDING AUGUST 31 OF ANY YEAR IF THE PROPOSED NEW OR MODIFIED
8 OIL AND GAS SYSTEM IS IN AN OZONE NONATTAINMENT AREA.

9 (6) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
10 REQUIRES:

11 (a) "OIL AND GAS FACILITY" HAS THE MEANING SET FORTH IN
12 SECTION 34-60-103 (6.2).

13 (b) "OIL AND GAS LOCATION" HAS THE MEANING SET FORTH IN
14 SECTION 34-60-103 (6.4).

15 (c) "OIL AND GAS SYSTEM" INCLUDES ALL OF THE OIL AND GAS
16 FACILITIES THAT ARE UNDER COMMON CONTROL OF AN OPERATOR AND
17 THAT ARE EITHER:

18 (I) LOCATED AT THE SAME OIL AND GAS LOCATION; OR

19 (II) LOCATED AT DIFFERENT OIL AND GAS LOCATIONS THAT ARE
20 WITHIN TWO MILES OF EACH OTHER, MEASURED FROM THE EDGE OF EACH
21 OIL AND GAS LOCATION, AND THAT USE SHARED EQUIPMENT.

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

24 (e) "SHARED EQUIPMENT" INCLUDES PRODUCED FLUIDS STORAGE
25 TANKS, PHASE SEPARATORS, NATURAL GAS DEHYDRATORS, EMISSIONS
26 CONTROL DEVICES, PIPELINE COMPRESSORS, UNDERGROUND INJECTION
27 WELLS, AND PUMP STATIONS.

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

3 **25-7-114.4. Permit applications - contents - rules - definitions.**

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

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

17 (k) Procedures to:

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

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

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

25 (B) Otherwise applicable standards and regulations in the permit;
26 except that: ~~no such~~ A revision shall NOT be required PRIOR TO RENEWAL
27 OR TERMINATION OF THE PERMIT if the effective date of the standards or

1 regulation occurs after the permit term expires; ~~such~~ ANY revision ~~shall~~
2 INCORPORATING A STANDARD OR REGULATION WITH AN EFFECTIVE DATE
3 AFTER THE PERMIT TERM EXPIRES MUST be treated as a permit renewal;
4 and the defense established under subsection (3) of this section ~~shall~~
5 ~~apply~~ APPLIES until the permit amendment is complete;

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

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

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

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

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

22 (2) The division shall examine applications for and may issue,
23 suspend, revoke, ~~modify~~ ALTER, deny, and otherwise administer all
24 permits required under this ~~article~~. ~~Such~~ ARTICLE 7. THE DIVISION'S
25 administration OF ALL PERMITS REQUIRED UNDER THIS ARTICLE 7 shall be
26 CONDUCTED in accordance with ~~the provisions of this article and~~
27 ~~regulations~~ THIS ARTICLE 7 AND RULES promulgated by the commission.

1 **SECTION 8.** In Colorado Revised Statutes, 25-7-114.5, **amend**
2 (4), (5), (6)(a) introductory portion, (6)(a)(II), (6)(b), (7)(a) introductory
3 portion, (7)(a)(III), (8), (10), and (12)(a); and **add** (7.5) as follows:

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

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

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

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

1 phased schedule for acting on applications for which a deferral has been
2 granted pursuant to the federal act.

3 (d) A timely and complete RENEWABLE OPERATING permit
4 application operates as a defense to AN enforcement action for operating
5 without a permit for the period of time during which the division or the
6 commission is reviewing the application and until such time as the
7 division or the commission makes a final determination on the permit
8 application; except that this defense to an enforcement action ~~shall~~ IS not
9 be available to an applicant ~~which~~ THAT files a fraudulent application.

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

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

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

26 (b) The division shall receive and consider public comment
27 ~~thereon~~ ON THE CONSTRUCTION PERMIT APPLICATION for a period of AT

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

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

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

27 (b) (I) If within thirty calendar days ~~of~~ AFTER publication of ~~such~~

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

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

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

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

23 (7) (a) Within thirty calendar days following the completion of the
24 division's preliminary analysis for applications for construction permits
25 not subject to part 2 of this ~~article~~ ARTICLE 7, or within thirty calendar
26 days following the period for public comment provided for in subsection
27 (5) of this section, or for applications for construction permits subject to

1 part 2 of this ~~article~~ ARTICLE 7 and for renewable operating permits, if a
2 hearing is held, within the appropriate time period established pursuant
3 to this ~~article~~ ARTICLE 7, the division or the commission, as the case may
4 be, shall grant or deny the permit application. ~~Any permit required~~
5 ~~pursuant to this article shall be granted by the division or the commission,~~
6 ~~as the case may be~~ THE DIVISION OR THE COMMISSION, AS THE CASE MAY
7 BE, MAY GRANT ANY PERMIT REQUIRED PURSUANT TO THIS ARTICLE 7
8 ONLY if it finds that:

9 (III) For construction permits, the source or activity will ~~meet~~ NOT
10 CAUSE OR CONTRIBUTE TO AN EXCEEDANCE OF any applicable ambient air
11 quality standards ~~and all~~ OR ANY applicable regulations;

12 (7.5) (a) (I) BEGINNING JANUARY 1, 2024, FOR AT LEAST ANY
13 SOURCE OR ACTIVITY THAT HAS THE POTENTIAL TO EMIT MORE THAN ANY
14 MODELING THRESHOLD, THE DIVISION OR COMMISSION MUST BASE ANY
15 FINDING THAT THE SOURCE OR ACTIVITY WILL NOT CAUSE OR CONTRIBUTE
16 TO AN EXCEEDANCE OF ANY APPLICABLE AMBIENT AIR QUALITY
17 STANDARDS PURSUANT TO SUBSECTION (7)(a)(III) OF THIS SECTION ON AIR
18 QUALITY MODELING.

19 (II) THE DIVISION SHALL NOT BASE ANY FINDING PURSUANT TO
20 SUBSECTION (7.5)(a)(I) OF THIS SECTION ON AIR QUALITY MONITORING IN
21 LIEU OF AIR QUALITY MODELING.

22 (b) IF A PERMIT APPLICATION IS APPROVED BY THE DIVISION OR
23 COMMISSION AFTER AIR QUALITY MODELING IS CONDUCTED:

24 (I) ANY ASSUMPTION USED IN THE AIR QUALITY MODELING TO
25 DEMONSTRATE THAT A SOURCE OR ACTIVITY WILL NOT CAUSE OR
26 CONTRIBUTE TO AN EXCEEDANCE OF ANY APPLICABLE AMBIENT AIR
27 QUALITY STANDARDS PURSUANT TO SUBSECTION (7)(a)(III) OF THIS

1 SECTION MUST BE INCLUDED IN THE PERMIT AS AN ENFORCEABLE PERMIT
2 CONDITION; AND

3 (II) ANY AVERAGING TIME UTILIZED FOR A PERMIT CONDITION
4 DESCRIBED IN SUBSECTION (7.5)(b)(I) OF THIS SECTION MUST BE NO
5 GREATER THAN THE AVERAGING TIME FOR ANY APPLICABLE AMBIENT AIR
6 QUALITY STANDARD.

7 (c) THE COMMISSION MAY, INCLUDING IN RESPONSE TO A REQUEST
8 BY THE DIVISION OR ANY INTERESTED PERSON, LOWER A MODELING
9 THRESHOLD BY RULE.

10 (d) AS USED IN THIS SUBSECTION (7.5):

11 (I) (A) "AIR QUALITY MODELING" MEANS THE MODELING OF THE
12 AIR QUALITY IMPACTS OF EMISSIONS FROM ALL EMISSION UNITS AT A
13 STATIONARY SOURCE, WHICH MODELING IS CONDUCTED PURSUANT TO THE
14 MOST RECENT VERSION OF APPENDIX W OF 40 CFR 51, OR ANY SUCCESSOR
15 FEDERAL REGULATION, AND ANY RELEVANT FEDERAL ENVIRONMENTAL
16 PROTECTION AGENCY GUIDANCE FOR OZONE AND FINE PARTICULATE
17 MATTER PERMIT MODELING.

18 (B) "AIR QUALITY MODELING" MUST INCLUDE MODELING OF THE
19 AIR QUALITY IMPACTS OF THE EMISSIONS FROM ONGOING CONSTRUCTION
20 AND PREPRODUCTION OIL AND GAS OPERATIONS AS NEEDED TO ENSURE
21 THAT APPLICABLE AMBIENT AIR QUALITY STANDARDS ARE BEING MET.

22 (II) "MODELING THRESHOLD" MEANS EMISSIONS OF:

23 (A) PRIMARY AIR POLLUTANTS SUBJECT TO AMBIENT AIR QUALITY
24 STANDARDS FROM A STATIONARY SOURCE AT OR ABOVE TWENTY-THREE
25 POUNDS PER HOUR OF CARBON MONOXIDE; FORTY-SIX ONE-HUNDREDTHS
26 OF ONE POUND PER HOUR OF NITROGEN OXIDES OR SULFUR DIOXIDE;
27 EIGHTY-TWO POUNDS PER DAY OF PARTICULATE MATTER THAT IS LESS

1 THAN TEN MICRONS IN DIAMETER; ELEVEN POUNDS PER DAY OF
2 PARTICULATE MATTER THAT IS LESS THAN TWO AND ONE-HALF MICRONS
3 IN DIAMETER; OR TWENTY-FIVE POUNDS PER THREE MONTHS OF LEAD;

4 (B) FOR OZONE MODELING, PRECURSOR AIR POLLUTANTS FROM A
5 STATIONARY SOURCE AT OR ABOVE FORTY TONS OF NITROGEN OXIDES OR
6 VOLATILE ORGANIC COMPOUNDS PER YEAR; AND

7 (C) FOR FINE PARTICULATE MATTER MODELING, PRECURSOR AIR
8 POLLUTANTS FROM A STATIONARY SOURCE AT OR ABOVE FORTY TONS PER
9 YEAR OF NITROGEN OXIDES, SULFUR OXIDES, OR AMMONIA OR TEN TONS
10 PER YEAR OF PRIMARY PARTICULATE MATTER LESS THAN TWO AND
11 ONE-HALF MICRONS IN DIAMETER.

12 (8) If the division denies a permit or imposes conditions upon the
13 issuance of a permit ~~which~~ THAT are contested by the applicant or if the
14 division revokes a permit pursuant to subsection (12) of this section, the
15 applicant may request a hearing before the commission. The hearing shall
16 be held in accordance with sections 25-7-119 and 24-4-105. ~~C.R.S.~~ The
17 commission may, after review of the evidence presented at the hearing,
18 affirm, reverse, or ~~modify~~ ALTER the decision of the division but shall, in
19 any event, assure that all the requirements of subsections (6), ~~and~~ (7), AND
20 (7.5) of this section are met.

21 (10) ~~A permit~~ AN amendment TO A RENEWABLE OPERATING
22 PERMIT ~~will not be~~ IS NOT required to authorize a change in practice
23 ~~which~~ THAT is otherwise permitted pursuant to this ~~article~~ ARTICLE 7, the
24 state implementation plan, or the federal act merely because an existing
25 permit does not address the practice. Changes in industrial practices and
26 procedures that are not inconsistent with the terms of a renewable
27 operating permit can be made without seeking any change to the terms of

1 ~~said~~ THE permit.

2 (12) (a) A permitted entity shall notify the division within fifteen
3 days after the commencement of any activity for which a construction
4 permit has been issued. Within one hundred eighty days after
5 commencement of operation for which a construction permit has been
6 issued, the OWNER OR OPERATOR OF THE source shall demonstrate to the
7 division compliance with the terms and conditions of the construction
8 permit, or the division may ~~pursuant to rules that are adopted by the~~
9 ~~commission based upon the results of the study conducted under section~~
10 ~~25-7-114.7(2)(a)(V)~~, inspect the project or activity to determine whether
11 ~~or not~~ the terms and conditions of the construction permit have been
12 properly satisfied. At the end of one hundred eighty days after the
13 commencement of operation, the division must:

14 (I) Revoke the construction permit; ~~or~~

15 (II) Continue the construction permit, if applicable; ~~or~~

16 (III) Notify the owner or operator IN WRITING that the source has
17 demonstrated compliance with the construction permit; OR

18 (IV) IF APPLICABLE, PROPOSE, IN ACCORDANCE WITH THE PUBLIC
19 NOTICE REQUIREMENTS DESCRIBED IN SUBSECTIONS (5) AND (6) OF THIS
20 SECTION, ADDITIONAL TERMS AND CONDITIONS TO THE CONSTRUCTION
21 PERMIT THAT ARE NECESSARY TO ENSURE COMPLIANCE WITH THE EXISTING
22 TERMS AND CONDITIONS OF THE CONSTRUCTION PERMIT, AS DETERMINED
23 BY THE RESULTS OF AN INSPECTION CONDUCTED PURSUANT TO THIS
24 SUBSECTION (12)(a).

25 **SECTION 9.** In Colorado Revised Statutes, 25-7-115, **amend** (2),
26 (3)(a), (3)(b), and (7)(b); and **add** (4)(a)(III), (4)(c), and (12) as follows:

27 **25-7-115. Enforcement - civil actions - definitions.** (2) (a) If a

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

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

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

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

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

1 SUBSECTION (2)(b)(I) OF THIS SECTION.

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

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

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

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

1 responsible person to comply. ~~unless the owner or operator demonstrates~~
2 ~~that the violation occurred during a period of start-up, shutdown, or~~
3 ~~malfunction and timely notice was given to the division of the condition.~~

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

7 (III) The order may:

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

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

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

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

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

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

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

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

1 (A) Pursuant to section 25-7-121 or 25-7-122, ~~of the~~ AN
2 applicable rule of the commission;

3 (B) AN order issued pursuant to section 25-7-121 or 25-7-122 or
4 the applicable rule of the commission;

5 (C) AN order issued pursuant to section 25-7-118;

6 (D) A requirement of the state implementation plan;

7 (E) A provision of this article 7; or

8 (F) THE terms or conditions of a permit required pursuant to this
9 article 7. ~~in the district court for the district where the affected air~~
10 ~~pollution source is located.~~

11 (VI) The court shall issue an appropriate order, which may include
12 a schedule for compliance by the owner or operator of the source.

13 (4) (a) (III) IF A HEARING IS REQUESTED PURSUANT TO SUBSECTION
14 (4)(a)(I) OF THIS SECTION, THE COMMISSION SHALL PROVIDE AT LEAST
15 FORTY-FIVE DAYS' NOTICE TO ANY COMPLAINANT THAT FILED A
16 COMPLAINT PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION ALLEGING
17 A VIOLATION OR NONCOMPLIANCE AT ISSUE IN THE HEARING. THE
18 COMPLAINANT MAY PARTICIPATE AS A PARTY TO THE HEARING.

19 (c) (I) WITHIN TWENTY CALENDAR DAYS AFTER RECEIPT OF A
20 DETERMINATION BY THE DIVISION THAT NO VIOLATION OR
21 NONCOMPLIANCE OCCURRED PURSUANT TO SUBSECTION (3)(a)(II) OF THIS
22 SECTION OR AN ORDER PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION,
23 ANY COMPLAINANT THAT FILED A COMPLAINT ALLEGING THE VIOLATION
24 OR NONCOMPLIANCE MAY FILE WITH THE COMMISSION A WRITTEN
25 PETITION REQUESTING A HEARING TO DETERMINE ANY OF THE FOLLOWING:

26 (A) WHETHER THE ALLEGED VIOLATION OR NONCOMPLIANCE
27 EXISTS OR DID EXIST;

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

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

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

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

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

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

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

1 days ~~of~~ AFTER its receipt of the request, hold a public hearing, ~~with~~
2 ~~respect thereto~~ and within thirty calendar days ~~of such~~ AFTER THE hearing
3 issue its decision.

4 (12) (a) NOTWITHSTANDING THE DIVISION'S ENFORCEMENT DUTY
5 PURSUANT TO THIS ARTICLE 7, A PERSON MAY COMMENCE A CIVIL ACTION
6 AGAINST AN ALLEGED VIOLATOR FOR A CURRENT OR PAST ALLEGED
7 VIOLATION OF OR NONCOMPLIANCE WITH:

- 8 (I) AN EMISSION CONTROL REGULATION;
- 9 (II) THE REQUIREMENTS OF THE STATE IMPLEMENTATION PLAN;
- 10 (III) THIS PART 1 OR PART 2, 3, 4, OR 11 OF THIS ARTICLE 7;
- 11 (IV) THE TERMS AND CONDITIONS OF A PERMIT REQUIRED
12 PURSUANT TO THIS ARTICLE 7; OR
- 13 (V) ANY ORDER ISSUED BY THE DIVISION, INCLUDING A
14 COMPLIANCE ORDER ON CONSENT OR A SETTLEMENT AGREEMENT WITH
15 THE ALLEGED VIOLATOR.

16 (b) (I) A PERSON SHALL NOT COMMENCE AN ACTION UNTIL AT
17 LEAST SIXTY DAYS AFTER NOTICE OF THE ALLEGED VIOLATION OR
18 NONCOMPLIANCE HAS BEEN PROVIDED TO:

- 19 (A) THE EXECUTIVE DIRECTOR;
- 20 (B) THE DIRECTOR OF THE DIVISION; AND
- 21 (C) EACH PERSON ALLEGED TO HAVE COMMITTED ONE OR MORE
22 VIOLATIONS.

23 (II) A PERSON MAY COMMENCE AN ACTION IN A DISTRICT COURT
24 WHERE:

- 25 (A) THE ALLEGED VIOLATION OR NONCOMPLIANCE OCCURRED;
- 26 (B) THE ALLEGED VIOLATOR RESIDES OR IS LOCATED;
- 27 (C) THE PERSON RESIDES; OR

- 1 (D) THE DIVISION IS HEADQUARTERED.
- 2 (III) ONCE AN ACTION IS COMMENCED, THE PLAINTIFF SHALL
3 PROMPTLY SERVE A COPY OF THE COMPLAINT TO THE ATTORNEY GENERAL
4 AND THE EXECUTIVE DIRECTOR.
- 5 (IV) A DISTRICT COURT HEARING AN ACTION MAY:
- 6 (A) ENJOIN THE ALLEGED VIOLATION OR NONCOMPLIANCE AND
7 COMPEL COMPLIANCE;
- 8 (B) IMPOSE CIVIL PENALTIES IN ACCORDANCE WITH SECTION
9 25-7-122; AND
- 10 (C) GRANT ANY OTHER MONETARY OR INJUNCTIVE RELIEF THAT IT
11 FINDS JUST, EQUITABLE, AND IN THE PUBLIC INTEREST.
- 12 (V) A PERSON SHALL NOT COMMENCE AN ACTION IF, AT THE TIME
13 OF THE FILING OF THE ACTION:
- 14 (A) THE DIVISION IS ACTIVELY SEEKING ENFORCEMENT OF AN
15 ISSUED COMPLIANCE ORDER RELATED TO THE ALLEGED VIOLATION OR
16 NONCOMPLIANCE THROUGH A HEARING PURSUANT TO SECTION 25-7-119;
17 OR
- 18 (B) THE DIVISION IS DILIGENTLY PROSECUTING A CIVIL ACTION
19 RELATED TO THE ALLEGED VIOLATION OR NONCOMPLIANCE IN DISTRICT
20 COURT.
- 21 (VI) NOTWITHSTANDING SECTION 25-7-123.1 (1), ANY ACTION
22 THAT IS NOT COMMENCED WITHIN FIVE YEARS AFTER THE DISCOVERY OF
23 THE ALLEGED VIOLATION IS TIME BARRED, EXCEPT FOR VIOLATIONS OR
24 NONCOMPLIANCE OF AN ONGOING OR RECURRING NATURE.
- 25 (VII) THE DIVISION MAY INTERVENE AS A MATTER OF RIGHT IN
26 ANY ACTION.
- 27 (VIII) (A) IN AN ACTION THAT THE STATE IS NOT A PARTY TO, A

1 DISTRICT COURT SHALL PROVIDE A COPY OF ANY PROPOSED CONSENT
2 JUDGMENT TO THE ATTORNEY GENERAL AND THE EXECUTIVE DIRECTOR.
3 THE ATTORNEY GENERAL AND THE EXECUTIVE DIRECTOR MAY SUBMIT
4 COMMENTS TO THE PROPOSED CONSENT JUDGMENT TO THE DISTRICT
5 COURT OR INTERVENE IN THE ACTION AS A MATTER OF RIGHT.

6 (B) A DISTRICT COURT SHALL NOT ENTER A CONSENT JUDGMENT
7 UNTIL AT LEAST FORTY-FIVE DAYS AFTER THE ATTORNEY GENERAL AND
8 THE EXECUTIVE DIRECTOR RECEIVE A COPY OF THE PROPOSED CONSENT
9 JUDGMENT PURSUANT TO SUBSECTION (12)(b)(VIII)(A) OF THIS SECTION.

10 (IX) IN ISSUING ANY FINAL JUDGMENT, RULING, OR ORDER IN AN
11 ACTION, THE DISTRICT COURT SHALL AWARD THE PLAINTIFF ANY COSTS OF
12 LITIGATION INCURRED BY THE PLAINTIFF IN LITIGATING THE ACTION,
13 INCLUDING REASONABLE ATTORNEY FEES, EXPERT WITNESS FEES, AND
14 OTHER RELATED COSTS, IF THE DISTRICT COURT DETERMINES THAT THE
15 AWARD IS APPROPRIATE. AN AWARD IS APPROPRIATE IF:

16 (A) THE PLAINTIFF PREVAILS ON ONE OR MORE CLAIMS;

17 (B) THE ACTION IS SUBSTANTIALLY RESPONSIBLE FOR STOPPING A
18 VIOLATION OR BRINGING AN ALLEGED VIOLATOR INTO COMPLIANCE; OR

19 (C) THE ACTION HAS SERVED THE PUBLIC INTEREST.

20 (c) AS USED IN THIS SUBSECTION (12), UNLESS THE CONTEXT
21 OTHERWISE REQUIRES:

22 (I) "ACTION" MEANS A CIVIL ACTION COMMENCED BY A PERSON
23 AGAINST AN ALLEGED VIOLATOR PURSUANT TO SUBSECTION (12)(a) OF
24 THIS SECTION.

25 (II) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
26 THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

27 **SECTION 10.** In Colorado Revised Statutes, 25-7-122, **amend**

1 (2)(a) introductory portion, (2)(a)(VI), (2)(a)(VII), and (2)(a)(VIII); and
2 **add** (2)(a)(IX) as follows:

3 **25-7-122. Civil penalties - rules - definitions.** (2) (a) In
4 determining the amount of any civil penalty, the ~~following factors~~
5 DIVISION shall ~~be considered~~ CONSIDER THE FOLLOWING FACTORS:

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

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

9 (B) SAFETY;

10 (C) Welfare; ~~or~~

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

12 (E) WILDLIFE AND BIOLOGICAL RESOURCES;

13 (VII) Malfeasance; ~~and~~

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

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

17 **SECTION 11.** In Colorado Revised Statutes, 25-7-123.1, **amend**
18 (1) as follows:

19 **25-7-123.1. Statute of limitations - penalty assessment -**
20 **criteria.** (1) (a) EXCEPT WITH RESPECT TO AN ACTION COMMENCED TO
21 ADDRESS A FAILURE TO OBTAIN A PERMIT REQUIRED BY THIS ARTICLE 7,
22 any action COMMENCED, INCLUDING FOR THE ASSESSMENT OF CIVIL
23 PENALTIES, pursuant to this ~~section~~ ARTICLE 7 THAT IS not commenced
24 within five years ~~of~~ AFTER THE occurrence of the alleged violation is time
25 barred.

26 (b) Without expanding the statute of limitations contained in
27 ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION,

1 any action COMMENCED, INCLUDING THE ASSESSMENT OF CIVIL PENALTIES,
2 pursuant to this ~~article~~ ARTICLE 7, except those commenced pursuant to
3 section 25-7-122 (1)(d) or 25-7-122.1 (1)(c), ~~which~~ THAT is not
4 commenced within eighteen months ~~of~~ AFTER the date upon which the
5 division discovers the alleged violation is time barred. For purposes of
6 this section, the division discovers the alleged violation when it learns of
7 the alleged violation or should have learned of the alleged violation by the
8 exercise of reasonable diligence, including by receipt of actual or
9 constructive notice.

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

15 **SECTION 12.** In Colorado Revised Statutes, **add** 25-7-145 as
16 follows:

17 **25-7-145. Emissions standards for stationary engines -**
18 **definitions - rules.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
19 OTHERWISE REQUIRES:

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

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

25 (c) "OPERATOR" HAS THE MEANING SET FORTH IN SECTION
26 34-60-103 (6.8).

27 (d) "STATIONARY ENGINE" MEANS ANY RICH AND LEAN BURN

1 RECIPROCATING INTERNAL COMBUSTION ENGINE USED IN OIL AND GAS
2 OPERATIONS.

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

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

13 (a) FOR ENGINES OF ONE HUNDRED TO FIVE HUNDRED
14 HORSEPOWER:

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

17 (II) INSTALLATION OF NONSELECTIVE CATALYTIC REDUCTION AND
18 AIR FUEL RATIO CONTROLLERS; AND

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

22 **SECTION 13.** In Colorado Revised Statutes, **add 25-7-302.5** as
23 follows:

24 **25-7-302.5. State implementation plan requirements for**
25 **serious, severe, and extreme nonattainment areas - definitions - rules.**

26 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
27 REQUIRES:

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

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

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

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

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

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

22 (b) A VEHICLE MILES TRAVELED REDUCTION RULE TO BE
23 IMPLEMENTED IN THE OZONE NONATTAINMENT AREA;

24 (c) RULES ADOPTED BY THE COMMISSION FOR ONE OR MORE LARGE
25 INDIRECT AIR POLLUTION SOURCES OF OZONE PRECURSOR POLLUTANTS,
26 INCLUDING WAREHOUSES, DISTRIBUTION CENTERS, RAILYARDS, AND ANY
27 OTHER INDIRECT AIR POLLUTION SOURCES THAT THE DEPARTMENT

1 DETERMINES TO BE LARGE INDIRECT AIR POLLUTION SOURCES OF OZONE
2 PRECURSOR POLLUTANTS;

3 (d) A REQUIREMENT TO USE GRID-POWERED ELECTRIC DRILL RIGS
4 AND GRID-POWERED HYDRAULIC ELECTRIC FRACTURING ENGINES AT OIL
5 AND GAS LOCATIONS IN THE OZONE NONATTAINMENT AREA; EXCEPT THAT,
6 IF ELECTRIFICATION IS NOT POSSIBLE, AS DETERMINED BY THE
7 DEPARTMENT, THE STATE IMPLEMENTATION PLAN MUST REQUIRE OFFSETS
8 OF ONE AND ONE-THIRD TONS FOR EVERY ONE TON OF NITROGEN OXIDES
9 OR VOLATILE ORGANIC COMPOUNDS EMITTED FROM THOSE ENGINES; AND

10 (e) ZERO-EMITTING RETROFITS FOR ALL EXISTING PNEUMATIC
11 DEVICES USED IN OIL AND GAS OPERATIONS.

12 **SECTION 14.** In Colorado Revised Statutes, 34-60-103, **add**
13 (4.1) as follows:

14 **34-60-103. Definitions.** As used in this article 60, unless the
15 context otherwise requires:

16 (4.1) "CUMULATIVE IMPACTS" MEANS THE EFFECTS OF OIL AND
17 GAS OPERATIONS ON THE ENVIRONMENT, INCLUDING EFFECTS ON AIR
18 QUALITY, WATER QUALITY, CLIMATE, NOISE, ODOR, WILDLIFE, BIOLOGICAL
19 RESOURCES, OR PUBLIC HEALTH THAT ARE CAUSED BY THE INCREMENTAL
20 IMPACT THAT A NEW OR EXPANDED OIL AND GAS FACILITY HAS WHEN
21 ADDED TO THE IMPACTS FROM OTHER PAST, PRESENT, AND REASONABLY
22 FORESEEABLE FUTURE DEVELOPMENT OF ANY TYPE ON THE RELEVANT
23 AREA, INCLUDING AN AIRSHED OR WATERSHED AREA OR A
24 DISPROPORTIONATELY IMPACTED COMMUNITY, AS DEFINED IN SECTION
25 24-4-109 (2)(b)(II).

26 **SECTION 15.** In Colorado Revised Statutes, **amend** 34-60-114
27 as follows:

1 **34-60-114. Action for damages.** (1) (a) ~~Nothing in this article,~~
2 ~~and no suit by or against the commission, and no violation charged or~~
3 ~~asserted against any person under any provisions of this article, or any~~
4 ~~rule, regulation, or order issued under this article,~~ THE FOLLOWING shall
5 NOT impair, abridge, or delay any cause of action for damages ~~which~~
6 THAT any person may have or assert against ~~any~~ ANOTHER person
7 violating any provision of this ~~article~~ ARTICLE 60, or any rule ~~regulation,~~
8 or order issued under this ~~article~~ ARTICLE 60:

9 (I) ANY PROVISION IN THIS ARTICLE 60;

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

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

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

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

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

26 (b) If, in ~~such suit~~ A LAWSUIT DESCRIBED IN SUBSECTION (2)(a) OF
27 THIS SECTION, the court holds that injunctive relief should be granted,

1 ~~then the commission shall be made~~ THE COURT SHALL:

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

4 (II) IF REQUESTED BY THE COMPLAINING PARTY, SUBSTITUTE THE
5 COMMISSION for the ~~person who brought the suit,~~ COMPLAINING PARTY;
6 ~~and the injunction shall be issued~~

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

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

16 (a) THE COMPLAINING PARTY OR THE COMMISSION, IF THE
17 COMMISSION HAS BEEN SUBSTITUTED FOR THE COMPLAINING PARTY
18 PURSUANT TO SUBSECTION (2)(b)(II) OF THIS SECTION, PREVAILS ON ONE
19 OR MORE OF ITS CLAIMS;

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

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

23 **SECTION 16.** In Colorado Revised Statutes, 34-60-121, **amend**
24 (4) as follows:

25 **34-60-121. Violations - investigations - penalties - rules -**
26 **legislative declaration.** (4) (a) ANY PERSON MAY SUBMIT A COMPLAINT
27 TO THE COMMISSION ALLEGING THAT A VIOLATION OF THIS ARTICLE 60,

1 ANY RULE OR ORDER OF THE COMMISSION, OR ANY PERMIT HAS OCCURRED.
2 IF A COMPLAINT IS RECEIVED BY THE COMMISSION, THE COMMISSION OR
3 THE DIRECTOR OF THE COMMISSION, REFERRED TO IN THIS SUBSECTION (4)
4 AS THE "DIRECTOR", SHALL PROMPTLY COMMENCE AND COMPLETE AN
5 INVESTIGATION INTO THE VIOLATION ALLEGED BY THE COMPLAINT
6 UNLESS:

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

9 (II) THE COMPLAINANT WITHDRAWS THE COMPLAINT.

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

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

1 **SECTION 17.** In Colorado Revised Statutes, **add** 34-60-134 as
2 follows:

3 **34-60-134. Cumulative impacts of oil and gas locations -**
4 **definition.** (1) (a) THE COMMISSION SHALL EVALUATE AND ADDRESS
5 ADVERSE CUMULATIVE IMPACTS FOR EACH PERMIT APPLICATION FOR A
6 PROPOSED NEW OR SUBSTANTIALLY MODIFIED OIL AND GAS LOCATION
7 THROUGH A CUMULATIVE IMPACT ANALYSIS, WHICH MUST INCLUDE ANY
8 AIR QUALITY MODELING, AS DEFINED IN SECTION 25-7-114.5 (7.5)(d)(I),
9 UTILIZED BY THE DEPARTMENT TO ESTIMATE AIR QUALITY IMPACTS,
10 INCLUDING OZONE IMPACTS, FOR OIL AND GAS FACILITIES WITH EMISSIONS,
11 INCLUDING PREPRODUCTION EMISSIONS, THAT WOULD EXCEED ANY
12 MODELING THRESHOLD, AS DEFINED IN SECTION 25-7-114.5 (7.5)(d)(II).

13 (b) THE COMMISSION SHALL NOT MAKE A FINAL DETERMINATION
14 ON AN APPLICATION FOR A PROPOSED NEW OR SUBSTANTIALLY MODIFIED
15 OIL AND GAS LOCATION UNTIL:

16 (I) THE COMMISSION HAS CONDUCTED AND CONSIDERED A
17 CUMULATIVE IMPACT ANALYSIS PURSUANT TO SUBSECTION (1)(a) OF THIS
18 SECTION FOR THE OIL AND GAS LOCATION;

19 (II) THE COMMISSION HAS DETERMINED THAT THE OIL AND GAS
20 LOCATION WILL BE CONSISTENT WITH THE STATE'S GREENHOUSE GAS
21 EMISSION REDUCTION GOALS SET FORTH IN SECTION 25-7-102 (2)(g);

22 (III) THE COMMISSION HAS DETERMINED THROUGH THE
23 CUMULATIVE IMPACTS ANALYSIS CONDUCTED PURSUANT TO SUBSECTION
24 (1)(a) OF THIS SECTION THAT THE TERMS AND CONDITIONS OF THE PERMIT
25 FOR THE OIL AND GAS LOCATION ARE SUFFICIENT TO ENSURE, TO A
26 REASONABLE CERTAINTY, THAT ANY ADVERSE CUMULATIVE IMPACTS ARE
27 EITHER:

1 (A) AVOIDED; OR
2 (B) MINIMIZED TO THE EXTENT PRACTICABLE; AND
3 (IV) THE DEPARTMENT HAS ISSUED THE RELEVANT CONSTRUCTION
4 PERMITS FOR THE OIL AND GAS LOCATION PURSUANT TO ARTICLE 7 OF
5 TITLE 25.

6 (c) IF THE COMMISSION MAKES THE DETERMINATION PURSUANT TO
7 SUBSECTION (1)(b)(III)(B) OF THIS SECTION, THE COMMISSION SHALL
8 INCLUDE A DESCRIPTION OF:

9 (I) ANY ADVERSE CUMULATIVE IMPACTS;
10 (II) THE METHOD BY WHICH THE ADVERSE CUMULATIVE IMPACTS
11 WILL BE MITIGATED; AND
12 (III) THE EXTENT THAT THE ADVERSE CUMULATIVE IMPACTS WILL
13 BE MITIGATED.

14 (2) A PERSON SHALL NOT COMMENCE ANY ACTIVITIES RELATED TO
15 A PROPOSED NEW OR MODIFIED OIL AND GAS LOCATION UNLESS THE
16 PERSON HAS RECEIVED ANY NECESSARY PERMIT APPROVALS FROM THE
17 COMMISSION AND THE DEPARTMENT.

18 (3) AS USED IN THIS SECTION, "DEPARTMENT" MEANS THE
19 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT CREATED IN SECTION
20 25-1-102 (1).

21 **SECTION 18. Applicability.** This act applies to conduct
22 occurring on or after the effective date of this act, including
23 determinations of applications pending on the effective date.

24 **SECTION 19. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, or safety.