

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

INTRODUCED

LLS NO. 24-1188.01 Jennifer Berman x3286

SENATE BILL 24-229

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A BILL FOR AN ACT

101 **CONCERNING MEASURES TO MITIGATE OZONE POLLUTION IN THE**
102 **STATE.**

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 requires the division of administration (division) in the department of public health and environment (department) to propose rules to the air quality control commission (commission) to reduce certain emissions of oxides of nitrogen (NOx) generated by upstream oil and gas operations in certain areas of the state by 50% by 2030 relative to 2017 NOx emission levels.

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.

Section 3 requires the division to prepare an annual air quality enforcement benchmark report to summarize the division's statewide enforcement actions, including civil penalties assessed.

Under current law, the division or commission, in an enforcement action, cannot obtain a temporary restraining order or preliminary injunction if there is probable cause that the temporary restraining order or preliminary injunction would cause serious harm to the person affected by the temporary restraining order or preliminary injunction or another person or if the source to which the enforcement action pertains has obtained a renewable operating permit and continues operations in compliance with that permit. **Section 4** repeals those limitations on temporary restraining orders and preliminary injunctions. **Section 4** also authorizes a district attorney or the attorney general to seek injunctive relief to reduce the potential for a recurrence of a violation.

Sections 5 and 6 clarify that the division has authority to impose civil penalties for violations of requirements related to toxic air contaminants, fenceline and community-based monitoring, and, if enacted in House Bill 24-1338, petroleum refinery emissions monitoring.

Section 8 authorizes the director of the energy and carbon management commission (ECMC) to hire at least 2 community liaisons to serve as dedicated resources for disproportionately impacted communities, and **section 12** authorizes funding of the community liaison positions from the energy and carbon management cash fund.

Under current law, an oil and gas operator (operator) is required to obtain a permit from the ECMC to commence oil and gas drilling operations. **Section 9** requires the operator to also obtain from the ECMC a license to conduct oil and gas operations. **Section 9** also requires operators to take actions in accordance with ECMC rules to reduce certain emissions of NO_x generated from oil and gas production and preproduction operations. The ECMC is also required, in consultation with the department, to adopt rules to require enhanced systems and practices to avoid, minimize, and mitigate emissions of ozone precursors from oil and gas operations at newly permitted oil and gas locations in certain parts of the state.

Section 10 limits a court's authority to postpone the effective date of an ECMC order suspending or revoking an operator's license to conduct oil and gas operations or a certificate of clearance, requiring the court to first consider various factors, including whether the moving party would face real, immediate, and irreparable injury if the effective date is not postponed and the effect that such postponement would have on the public interest.

Section 11 expands the ECMC's enforcement authority to include revoking an operator's license to conduct oil and gas operations and expands the types of violations that are subject to suspension of all of the operator's permits and certificates of clearance and the operator's license

to conduct oil and gas operations to include violations resulting in a penalty of \$1,000,000 or more, violations that cause a major adverse impact, as defined by the ECMC by rule, and violations that cause death or serious bodily injury.

Section 13 expands the scope of the orphaned wells mitigation enterprise to help finance the plugging, reclamation, and remediation of marginal wells that are at the highest risk of becoming orphaned.

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

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

4 (a) Emissions of ozone precursors, such as oxides of nitrogen
5 (NOx) and volatile organic compounds, contribute to the formation of
6 ozone and to public health impacts for individuals exposed to higher
7 levels of air pollution;

8 (b) Oil and gas activities are among the largest anthropogenic
9 contributors to ozone precursor emissions in the ozone nonattainment
10 area;

11 (c) Sources of NOx from upstream oil and gas operations present
12 significant opportunities to reduce ozone precursors and improve public
13 health;

14 (d) Residents of disproportionately impacted communities in the
15 ozone nonattainment area may be exposed to higher levels of NOx than
16 other Coloradans;

17 (e) The air quality control commission adopted rules in December
18 2023 designed to achieve a thirty percent reduction in NOx emissions
19 generated by upstream oil and gas operations, including preproduction
20 operations, by 2025;

21 (f) Despite efforts to reduce ozone precursor emissions in the
22 ozone nonattainment area, more work is necessary to protect public

1 health;

2 (g) State agencies cannot improve air quality through regulations
3 alone and need more permitting and enforcement authority to ensure
4 compliance with the state's environmental statutes and rules; and

5 (h) Transparency for the public regarding the state's efforts is
6 critical.

7 (2) Therefore, the general assembly declares that:

8 (a) Both the Colorado department of public health and
9 environment and the energy and carbon management commission need
10 to do more, both together and individually, to address the state's ozone
11 problems;

12 (b) More accountability for sources of pollution and for the state
13 will build public trust and improve air quality;

14 (c) The Colorado department of public health and environment's
15 air pollution control division should consider more stringent approaches
16 in the process of conducting dispersion modeling of proposed sources of
17 increased NOx to better protect residents of disproportionately impacted
18 communities in the ozone nonattainment area;

19 (d) Further action needs to be taken to require steady, measurable
20 emission reductions from upstream oil and gas operations, including
21 preproduction operations, to ensure the oil and gas industry adequately
22 contributes to ozone precursor pollution reductions; and

23 (e) The energy and carbon management commission should
24 encourage and facilitate the plugging, abandonment, and remediation of
25 marginal wells to address emissions of ozone precursors from production
26 activities, especially in disproportionately impacted communities.

27 **SECTION 2.** In Colorado Revised Statutes, 25-7-109, **add**

1 (10)(d) as follows:

2 **25-7-109. Commission to promulgate emission control**
3 **regulations.** (10) (d) ON OR BEFORE AUGUST 31, 2026, THE DIVISION
4 SHALL PROPOSE RULES DESIGNED TO REDUCE EMISSIONS OF OXIDES OF
5 NITROGEN (NOX) GENERATED BY UPSTREAM OIL AND GAS OPERATIONS, AS
6 DEFINED BY THE COMMISSION BY RULE, INCLUDING PREPRODUCTION
7 OPERATIONS, BETWEEN MAY 1 AND SEPTEMBER 30 IN THE EIGHT-HOUR
8 OZONE CONTROL AREA AND NORTHERN WELD COUNTY, AS THOSE TERMS
9 ARE DEFINED BY THE COMMISSION BY RULE, BY FIFTY PERCENT BY 2030
10 RELATIVE TO 2017 NOX EMISSION LEVELS. NOX EMISSION LEVELS ARE
11 CHARACTERIZED BY THE MOST RECENT STATE INVENTORY OF NOX
12 EMISSIONS FOR 2017 THAT THE COMMISSION ADOPTED FOR THE PURPOSE
13 OF INCLUSION IN THE STATE IMPLEMENTATION PLAN FOR THE 2015
14 EIGHT-HOUR OZONE NATIONAL AMBIENT AIR QUALITY STANDARD, OR AS
15 PUBLISHED CONCURRENTLY WITH PROPOSED RULES CONSISTENT WITH THIS
16 SUBSECTION (10)(d) IN A NOTICE OF PROPOSED RULE-MAKING PUBLISHED
17 IN ACCORDANCE WITH SECTION 25-7-110 (1).

18 **SECTION 3.** In Colorado Revised Statutes, 25-7-115, **amend**
19 (3)(b)(III) introductory portion and (3)(b)(III)(C); and **add**
20 (3)(b)(III)(C.5), (12), and (13) as follows:

21 **25-7-115. Enforcement - civil actions - definitions - reporting**
22 **- repeal.** (3) (b) (III) The order ISSUED IN ACCORDANCE WITH
23 SUBSECTION (3)(b)(I) OF THIS SECTION may:

24 (C) In addition to civil penalties, include a requirement to perform
25 one or more projects to mitigate violations related to excess emissions;
26 **and**

27 (C.5) IN ADDITION TO CIVIL PENALTIES, INCLUDE A REQUIREMENT

1 TO PERFORM ONE OR MORE PROJECTS TO REDUCE THE POTENTIAL FOR A
2 RECURRENCE OF A VIOLATION FOR WHICH THE DIVISION COMMENCED
3 ENFORCEMENT PURSUANT TO SUBSECTION (2)(c)(I) OF THIS SECTION; AND

4 (12) (a) (I) ON OR BEFORE DECEMBER 31, 2024, THE DIVISION
5 SHALL PREPARE AN AIR QUALITY ENFORCEMENT BENCHMARK REPORT AND
6 POST THE REPORT ON THE DIVISION'S WEBSITE. THE REPORT MUST COVER
7 THE FEDERAL FISCAL YEARS FROM OCTOBER 1, 2019, THROUGH
8 SEPTEMBER 30, 2023, AND INCLUDE THE FOLLOWING STATEWIDE
9 INFORMATION:

10 (A) THE TOTAL NUMBER OF ENFORCEMENT ACTIONS THAT THE
11 DIVISION COMMENCED PURSUANT TO SUBSECTION (2)(c)(I) OF THIS
12 SECTION;

13 (B) THE TOTAL NUMBER OF DECISIONS NOT TO IMPOSE A PENALTY
14 FOR AN ENFORCEMENT ACTION THAT THE DIVISION COMMENCED
15 PURSUANT TO SUBSECTION (2)(c)(I) OF THIS SECTION;

16 (C) THE TOTAL NUMBER OF ENFORCEMENT ACTIONS THAT THE
17 DIVISION RESOLVED PURSUANT TO SUBSECTION (3)(b) OF THIS SECTION;
18 AND

19 (D) WITH RESPECT TO CIVIL PENALTIES ASSESSED PURSUANT TO
20 SECTION 25-7-122 (1)(b), THE TOTAL AMOUNT OF CIVIL PENALTIES, THE
21 AVERAGE CIVIL PENALTY, THE MEDIAN CIVIL PENALTY, THE HIGHEST CIVIL
22 PENALTY, AND THE LOWEST CIVIL PENALTY.

23 (II) THIS SUBSECTION (12)(a) IS REPEALED, EFFECTIVE JULY 1,
24 2025.

25 (b) ON OR BEFORE APRIL 1, 2025, AND ON OR BEFORE FEBRUARY
26 1 OF EACH YEAR THEREAFTER, THE DIVISION SHALL PREPARE AN AIR
27 QUALITY ENFORCEMENT REPORT AND POST THE REPORT ON THE DIVISION'S

1 WEBSITE. THE FIRST REPORT MUST COVER THE FEDERAL FISCAL YEAR
2 STARTING OCTOBER 1, 2023, THROUGH SEPTEMBER 30, 2024, AND EACH
3 SUBSEQUENT REPORT MUST COVER THE FEDERAL FISCAL YEAR PERIOD OF
4 OCTOBER 1 THROUGH SEPTEMBER 30 PRECEDING THE ISSUANCE OF THE
5 REPORT. THE REPORTS PREPARED PURSUANT TO THIS SUBSECTION (12)(b)
6 MUST INCLUDE THE FOLLOWING STATEWIDE INFORMATION:

7 (I) THE TOTAL NUMBER OF ENFORCEMENT ACTIONS THAT THE
8 DIVISION COMMENCED PURSUANT TO SUBSECTION (2)(c)(I) OF THIS
9 SECTION;

10 (II) THE NUMBER OF COMPLAINTS RECEIVED PURSUANT TO
11 SUBSECTION (2)(a) OF THIS SECTION THAT RESULTED IN AN ENFORCEMENT
12 ACTION THAT THE DIVISION COMMENCED UNDER SUBSECTION (2)(c)(I) OF
13 THIS SECTION AND THE IDENTIFYING CASE NUMBER;

14 (III) THE TOTAL NUMBER OF DECISIONS NOT TO IMPOSE A PENALTY
15 FOR AN ENFORCEMENT ACTION THAT THE DIVISION COMMENCED
16 PURSUANT TO SUBSECTION (2)(c)(I) OF THIS SECTION;

17 (IV) THE TOTAL NUMBER OF FORMAL ENFORCEMENT ACTIONS
18 THAT THE DIVISION RESOLVED PURSUANT TO SUBSECTION (3)(b) OF THIS
19 SECTION AND THE TOTAL NUMBER OF ACTIONS THAT INCLUDED
20 VIOLATIONS WITHIN AREAS OF CONCERN, SUCH AS:

21 (A) THE AREA THAT THE UNITED STATES ENVIRONMENTAL
22 PROTECTION AGENCY HAS DESIGNATED AN OZONE NONATTAINMENT AREA;
23 AND

24 (B) AN AREA THAT IS IN A DISPROPORTIONATELY IMPACTED
25 COMMUNITY; AND

26 (V) WITH RESPECT TO CIVIL PENALTIES ASSESSED PURSUANT TO
27 SECTION 25-7-122 (1)(b), THE TOTAL AMOUNT OF CIVIL PENALTIES, THE

1 AVERAGE CIVIL PENALTY, THE MEDIAN CIVIL PENALTY, THE HIGHEST CIVIL
2 PENALTY, THE LOWEST CIVIL PENALTY, AND THE TOTAL AMOUNT OF CIVIL
3 PENALTIES ASSESSED FOR EACH ACTION THAT INCLUDES VIOLATIONS IN
4 AREAS OF CONCERN, SUCH AS:

5 (A) THE AREA THAT THE UNITED STATES ENVIRONMENTAL
6 PROTECTION AGENCY HAS DESIGNATED AN OZONE NONATTAINMENT AREA;
7 AND

8 (B) AN AREA THAT IS IN A DISPROPORTIONATELY IMPACTED
9 COMMUNITY.

10 (13) THE DIVISION SHALL IMPLEMENT AN AIR QUALITY
11 ENFORCEMENT E-MAIL MAILING GROUP OR A SIMILAR COMMUNICATION
12 FUNCTION TO SHARE ENFORCEMENT-RELATED UPDATES WITH INTERESTED
13 PARTIES THAT OPT IN TO THE E-MAIL MAILING GROUP OR SIMILAR
14 COMMUNICATION FUNCTION. THE DIVISION MAY SHARE INFORMATION
15 THROUGH THE E-MAIL MAILING GROUP OR SIMILAR COMMUNICATION
16 FUNCTION THAT INCLUDES:

17 (a) A NOTICE OF VIOLATION OR NONCOMPLIANCE SENT PURSUANT
18 TO SUBSECTION (2)(c)(I) OF THIS SECTION;

19 (b) A SETTLEMENT OR OTHER ORDER ISSUED PURSUANT TO
20 SUBSECTION (3)(b) OF THIS SECTION TO RESOLVE A CASE; AND

21 (c) A LINK TO THE ANNUAL AIR QUALITY ENFORCEMENT
22 BENCHMARK REPORT THAT THE DIVISION PREPARES PURSUANT TO
23 SUBSECTION (12) OF THIS SECTION.

24 **SECTION 4.** In Colorado Revised Statutes, **amend** 25-7-121 as
25 follows:

26 **25-7-121. Injunctions.** (1) In the event any person fails to
27 comply with a final order of the division or the commission that is not

1 subject to stay pending administrative or judicial review or in the event
2 any person violates any emission control regulation of the commission,
3 the requirements of the state implementation plan, or any provision of OR
4 COMMISSION RULE ADOPTED PURSUANT TO parts 1 to 4 of this ~~article~~
5 ARTICLE 7, including any term or condition contained in any permit
6 required under this ~~article~~ ARTICLE 7, the division or the commission, as
7 the case may be, may request the district attorney for the district in which
8 the alleged violation occurs or the attorney general to bring, and if so
9 requested it is ~~his or her~~ THE DISTRICT ATTORNEY'S OR THE ATTORNEY
10 GENERAL'S duty to bring, a suit for an injunction to:

11 (a) Prevent any further or continued violation;

12 (b) REDUCE THE POTENTIAL FOR A RECURRENCE OF A VIOLATION
13 FOR WHICH THE DIVISION HAS PREVIOUSLY COMMENCED ENFORCEMENT
14 PURSUANT TO SECTION 25-7-115 (2)(c)(I); OR

15 (c) OBTAIN ANY PERMIT REQUIRED TO CONSTRUCT OR OPERATE.

16 ~~(2) In any proceedings brought pursuant to this section to enforce~~
17 ~~an order of the division or the commission, a temporary restraining order~~
18 ~~or preliminary injunction, if sought, shall not issue if there is probable~~
19 ~~cause to believe that granting such temporary restraining order or~~
20 ~~preliminary injunction will cause serious harm to the affected person or~~
21 ~~any other person and:~~

22 ~~(a) That the alleged violation or activity to which the order~~
23 ~~pertains will not continue or be repeated; or~~

24 ~~(b) That granting such temporary restraining order or preliminary~~
25 ~~injunction would be without sufficient corresponding public benefit.~~

26 ~~(3) Notwithstanding any other provision in this section, no action~~
27 ~~for injunction may be taken where the source has obtained a renewable~~

1 ~~operating permit and conducts its operations in compliance with the~~
2 ~~permit terms, as provided in section 25-7-114.4 (3).~~

3 **SECTION 5.** In Colorado Revised Statutes, 25-7-122, **amend**
4 (1)(b) introductory portion, (1)(c), (2)(a)(I), (2)(a)(II), (2)(a)(III),
5 (2)(a)(VIII), (2)(a)(IX), (2)(b) introductory portion, and (2)(b)(IV);
6 **repeal** (2)(b)(V) and (3); and **add** (2)(a)(X) as follows:

7 **25-7-122. Civil penalties - rules - definitions.** (1) Upon
8 application of the division, the division may collect penalties as
9 determined under this article 7 by instituting an action in the district court
10 for the district in which the air pollution source affected is located, in
11 accordance with the following provisions:

12 (b) Any person who violates any requirement or prohibition of A
13 FINAL ORDER OF THE DIVISION OR COMMISSION, an applicable emission
14 control regulation of the commission, the state implementation plan, a
15 construction permit, any provision for the prevention of significant
16 deterioration under part 2 of this article 7, any provision related to
17 attainment under part 3 of this article 7, or ANY PROVISION OF OR
18 COMMISSION RULE ADOPTED PURSUANT TO section 25-7-105, 25-7-106,
19 25-7-106.3, 25-7-108, 25-7-109, **25-7-109.5**, 25-7-111, 25-7-112,
20 25-7-113, 25-7-114.2, 25-7-114.5, 25-7-118, **25-7-141**, 25-7-206,
21 25-7-403, 25-7-404, 25-7-405, 25-7-407, 42-4-403, 42-4-404, 42-4-405,
22 42-4-406, 42-4-407, 42-4-409, 42-4-410, or 42-4-414 is subject to a civil
23 penalty of not more than forty-seven thousand three hundred fifty-seven
24 dollars per day for each day of the violation; except that:

25 (c) Any person failing to comply with the provisions of section
26 25-7-114.1 shall be subject to a civil penalty of not more than ~~five~~
27 ~~hundred~~ ONE THOUSAND dollars PER DAY PER VIOLATION.

1 (2) (a) In determining the amount of any civil penalty, the division
2 shall consider the following factors:

3 (I) The violator's compliance history, INCLUDING THE COMPLIANCE
4 HISTORY OF THE VIOLATOR'S CORPORATE AFFILIATES, SUBSIDIARIES, AND
5 PARENT ORGANIZATIONS;

6 (II) LACK OF good faith efforts on behalf of the violator to
7 comply;

8 (III) ~~Payment by the violator of penalties previously assessed for~~
9 ~~the same violation~~ WHETHER THE VIOLATOR PREVIOUSLY COMMITTED THE
10 SAME OR A SIMILAR VIOLATION, REGARDLESS OF WHETHER THE DIVISION
11 OR COMMISSION COMMENCED AN ENFORCEMENT ACTION PURSUANT TO
12 SECTION 25-7-115 FOR ANY SUCH VIOLATION;

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

15 (IX) The severity of the violation or noncompliance; AND

16 (X) WHETHER THE VIOLATION OCCURRED WITHIN OR IMPACTED A
17 DISPROPORTIONATELY IMPACTED COMMUNITY.

18 (b) In addition to the factors set forth in ~~paragraph (a) of this~~
19 ~~subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION, THE DIVISION SHALL
20 CONSIDER the following circumstances ~~shall be considered~~ as grounds for
21 reducing or eliminating civil penalties:

22 (IV) Substantial economic impact of a penalty on the violator;
23 AND

24 (V) ~~Nonfeasance; and~~

25 (3) ~~Notwithstanding any other provision in this section, no action~~
26 ~~for civil enforcement of this article may be taken where the source has~~
27 ~~obtained a renewable operating permit and conducts its operations in~~

1 ~~compliance with the permit terms, as provided in section 25-7-114.4 (3).~~

2 **SECTION 6.** In Colorado Revised Statutes, 25-7-122, **amend**
3 (1)(b) introductory portion, (1)(c), (2)(a)(I), (2)(a)(II), (2)(a)(III),
4 (2)(a)(VIII), (2)(a)(IX), (2)(b) introductory portion, and (2)(b)(IV);
5 **repeal** (2)(b)(V) and (3); and **add** (2)(a)(X) as follows:

6 **25-7-122. Civil penalties - rules - definitions.** (1) Upon
7 application of the division, the division may collect penalties as
8 determined under this article 7 by instituting an action in the district court
9 for the district in which the air pollution source affected is located, in
10 accordance with the following provisions:

11 (b) Any person who violates any requirement or prohibition of A
12 FINAL ORDER OF THE DIVISION OR COMMISSION, an applicable emission
13 control regulation of the commission, the state implementation plan, a
14 construction permit, any provision for the prevention of significant
15 deterioration under part 2 of this article 7, any provision related to
16 attainment under part 3 of this article 7, or ANY PROVISION OF OR
17 COMMISSION RULE ADOPTED PURSUANT TO section 25-7-105, 25-7-106,
18 25-7-106.3, 25-7-108, 25-7-109, **25-7-109.5**, 25-7-111, 25-7-112,
19 25-7-113, 25-7-114.2, 25-7-114.5, 25-7-118, **25-7-141**, **25-7-146**,
20 25-7-206, 25-7-403, 25-7-404, 25-7-405, 25-7-407, 42-4-403, 42-4-404,
21 42-4-405, 42-4-406, 42-4-407, 42-4-409, 42-4-410, or 42-4-414 is subject
22 to a civil penalty of not more than forty-seven thousand three hundred
23 fifty-seven dollars per day for each day of the violation; except that:

24 (c) Any person failing to comply with the provisions of section
25 25-7-114.1 shall be subject to a civil penalty of not more than ~~five~~
26 ~~hundred~~ ONE THOUSAND dollars PER DAY PER VIOLATION.

27 (2) (a) In determining the amount of any civil penalty, the division

1 shall consider the following factors:

2 (I) The violator's compliance history, INCLUDING THE COMPLIANCE
3 HISTORY OF THE VIOLATOR'S CORPORATE AFFILIATES, SUBSIDIARIES, AND
4 PARENT ORGANIZATIONS;

5 (II) LACK OF good faith efforts on behalf of the violator to
6 comply;

7 (III) ~~Payment by the violator of penalties previously assessed for~~
8 ~~the same violation~~ WHETHER THE VIOLATOR PREVIOUSLY COMMITTED THE
9 SAME OR A SIMILAR VIOLATION, REGARDLESS OF WHETHER THE DIVISION
10 OR COMMISSION COMMENCED AN ENFORCEMENT ACTION PURSUANT TO
11 SECTION 25-7-115 FOR ANY SUCH VIOLATION;

12 (VIII) Whether legal and factual theories were advanced for
13 purposes of delay; and

14 (IX) The severity of the violation or noncompliance; AND

15 (X) WHETHER THE VIOLATION OCCURRED WITHIN OR IMPACTED A
16 DISPROPORTIONATELY IMPACTED COMMUNITY.

17 (b) In addition to the factors set forth in ~~paragraph (a) of this~~
18 ~~subsection (2)~~ SUBSECTION (2)(a) OF THIS SECTION, THE DIVISION SHALL
19 CONSIDER the following circumstances ~~shall be considered~~ as grounds for
20 reducing or eliminating civil penalties:

21 (IV) Substantial economic impact of a penalty on the violator;
22 AND

23 (V) ~~Nonfeasance~~; and

24 (3) ~~Notwithstanding any other provision in this section, no action~~
25 ~~for civil enforcement of this article may be taken where the source has~~
26 ~~obtained a renewable operating permit and conducts its operations in~~
27 ~~compliance with the permit terms, as provided in section 25-7-114.4 (3).~~

1 **SECTION 7.** In Colorado Revised Statutes, 34-60-103, **add** (4.2)
2 as follows:

3 **34-60-103. Definitions.** As used in this article 60, unless the
4 context otherwise requires:

5 (4.2) "DISPROPORTIONATELY IMPACTED COMMUNITY" HAS THE
6 MEANING SET FORTH IN SECTION 24-4-109 (2)(b)(II).

7 **SECTION 8.** In Colorado Revised Statutes, 34-60-104.5, **amend**
8 (2)(d)(I); and **add** (2)(d)(III) as follows:

9 **34-60-104.5. Director of commission - duties.** (2) The director
10 of the commission shall:

11 (d) (I) Appoint, pursuant to section 13 of article XII of the state
12 constitution, such clerical and professional staff and consultants as may
13 be necessary for the efficient and effective operation of the commission,
14 including ~~at least one and up to~~ OR two deputy directors; ~~and~~

15 (III) APPOINT AT LEAST TWO COMMUNITY LIAISONS TO SERVE AS
16 DEDICATED RESOURCES FOR DISPROPORTIONATELY IMPACTED
17 COMMUNITIES REGARDING COMMISSION REGULATION. THE COMMUNITY
18 LIAISONS SHALL PERFORM DUTIES INCLUDING:

19 (A) SERVING AS AN ADVOCATE FOR DISPROPORTIONATELY
20 IMPACTED COMMUNITIES IN A NONLEGAL CAPACITY AND, WHILE TAKING
21 INTO CONSIDERATION THE ENGAGEMENT PRACTICES DESCRIBED IN
22 SECTION 24-4-109 (3)(b), ACTING AS A LIAISON BETWEEN
23 DISPROPORTIONATELY IMPACTED COMMUNITY MEMBERS AND THE
24 COMMISSION, INCLUDING WITH RESPECT TO COMMUNICATIONS REGARDING
25 THE PERMITTING PROCESS;

26 (B) PROVIDING COMMUNITY MEMBERS WITH RELEVANT
27 INFORMATION REGARDING THIRD-PARTY RESOURCES SUCH AS LEGAL

1 ASSISTANCE TO ASSIST COMMUNITY MEMBERS IN PRESENTING THEIR VIEWS
2 TO THE COMMISSION;

3 (C) WORKING TO IMPROVE THE RELATIONSHIPS AND INTERACTIONS
4 BETWEEN DISPROPORTIONATELY IMPACTED COMMUNITIES AND THE
5 COMMISSION;

6 (D) ACTING AS A RESOURCE FOR SHARING INFORMATION BETWEEN
7 THE COMMISSION AND DISPROPORTIONATELY IMPACTED COMMUNITIES;

8 (E) ENGAGING IN OUTREACH TO DISPROPORTIONATELY IMPACTED
9 COMMUNITIES; AND

10 (F) ORGANIZING AND ATTENDING IN-PERSON MEETINGS WITHIN
11 DISPROPORTIONATELY IMPACTED COMMUNITIES.

12 **SECTION 9.** In Colorado Revised Statutes, 34-60-106, **amend**
13 (1)(f)(I)(B), (3), and (11)(c)(I); and **add** (1)(f)(I.5), (11)(c)(III), and (20.5)
14 as follows:

15 **34-60-106. Additional powers of commission - rules -**
16 **definitions - repeal.** (1) The commission also shall require:

17 (f) (I) That no operations for the drilling of a well for oil and gas
18 shall be commenced without first:

19 (B) Obtaining a permit from the commission, under rules
20 prescribed by the commission; **and**

21 (I.5) THAT OIL AND GAS OPERATIONS SHALL NOT OCCUR WITHOUT
22 THE OPERATOR OBTAINING AND MAINTAINING ANY NECESSARY PERMITS
23 AND A LICENSE TO CONDUCT OIL AND GAS OPERATIONS FROM THE
24 COMMISSION, IN ACCORDANCE WITH RULES PROMULGATED BY THE
25 COMMISSION; AND

26 (3) The commission also has the authority to:

27 (a) Limit the production of oil or gas, or both, from any pool or

1 field for the prevention of waste, and to limit and to allocate the
2 production from such pool or field among or between tracts of land
3 having separate ownerships ~~therein~~ IN THE TRACTS OF LAND, on a fair and
4 equitable basis so that each such tract will be permitted to produce no
5 more than its just and equitable share from the pool and so as to prevent,
6 insofar as is practicable, reasonably avoidable drainage from each such
7 tract ~~which~~ THAT is not equalized by counter-drainage; ~~and~~

8 (b) Classify wells as oil or gas wells for purposes material to the
9 interpretation or enforcement of this ~~article~~ ARTICLE 60;

10 (c) AFTER CONSULTATION WITH THE DIVISION OF ADMINISTRATION
11 IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, REQUIRE
12 OPERATORS TO TAKE SUCH ACTIONS BETWEEN MAY 1 AND SEPTEMBER 30
13 OF EACH YEAR TO REDUCE EMISSIONS OF OXIDES OF NITROGEN (NOX)
14 GENERATED FROM PRODUCTION AND PREPRODUCTION OPERATIONS AS THE
15 COMMISSION DEEMS APPROPRIATE TO ASSURE COMPLIANCE WITH:

- 16 (I) NOX INTENSITY TARGETS; AND
- 17 (II) OTHER NOX RULES THAT THE AIR QUALITY CONTROL
18 COMMISSION ADOPTS BY RULE TO ACHIEVE SECTOR-WIDE COMPLIANCE
19 WITH THE STATE'S 2030 GOALS FOR NOX EMISSION REDUCTIONS; AND

20 (d) WHEN REQUIRING OPERATORS TO TAKE ACTION PURSUANT TO
21 SUBSECTION (3)(c) OF THIS SECTION, PRIORITIZE ACTIONS BY THOSE
22 OPERATORS THAT DO NOT DEMONSTRATE COMPLIANCE WITH ANY
23 APPLICABLE NOX INTENSITY TARGETS OR OTHER NOX RULES THAT THE
24 AIR QUALITY CONTROL COMMISSION ADOPTS TO ACHIEVE SECTOR-WIDE
25 COMPLIANCE WITH THE STATE'S 2030 GOALS FOR NOX EMISSION
26 REDUCTIONS.

27 (11) (c) The commission shall adopt rules that:

1 (I) Adopt an alternative location analysis process and specify
2 criteria used to identify oil and gas locations and facilities proposed to be
3 located near populated areas that will be subject to the alternative location
4 analysis process; ~~and~~

5 (III) IN CONSULTATION WITH THE DEPARTMENT OF PUBLIC HEALTH
6 AND ENVIRONMENT, REQUIRE ENHANCED SYSTEMS AND PRACTICES TO
7 AVOID, MINIMIZE, AND MITIGATE EMISSIONS OF OZONE PRECURSORS FROM
8 OPERATIONS AT NEWLY PERMITTED OIL AND GAS LOCATIONS IN THE
9 EIGHT-HOUR OZONE CONTROL AREA AND NORTHERN WELD COUNTY, AS
10 THOSE TERMS ARE DEFINED BY THE AIR QUALITY CONTROL COMMISSION BY
11 RULE. IN ADOPTING THE RULES PURSUANT TO THIS SUBSECTION
12 (11)(c)(III), THE COMMISSION SHALL:

13 (A) BY SEPTEMBER 30, 2024, ADOPT AN INITIAL LIST OF ENHANCED
14 SYSTEMS AND PRACTICES CONSIDERING THE BEST MANAGEMENT
15 PRACTICES THAT HAVE BEEN RECOMMENDED BY THE DEPARTMENT OF
16 PUBLIC HEALTH AND ENVIRONMENT IN CONSULTATION WITH OPERATORS;

17 (B) CONSIDER A PROPOSED OIL AND GAS LOCATION'S POTENTIAL
18 TO CONTRIBUTE TO ADVERSE IMPACTS THROUGH EMISSIONS OF OZONE
19 PRECURSORS;

20 (C) CONSIDER ANY AVAILABLE PHOTOCHEMICAL SENSITIVITY
21 MODELING ANALYSES CONDUCTED BY THE DEPARTMENT OF PUBLIC
22 HEALTH AND ENVIRONMENT; AND

23 (D) EVALUATE THE POTENTIAL FOR UPDATES TO THE REQUIRED
24 ENHANCED SYSTEMS AND PRACTICES PERIODICALLY TO ACCOUNT FOR
25 EVOLVING DESIGN, OPERATIONAL PROCEDURES, AND TECHNOLOGIES TO
26 REDUCE OZONE PRECURSORS.

27 (20.5) THE COMMISSION SHALL ADMINISTER THIS ARTICLE 60 IN A

1 MANNER TO MINIMIZE ADVERSE IMPACTS TO DISPROPORTIONATELY
2 IMPACTED COMMUNITIES THAT ARE NEGATIVELY AFFECTED BY OIL AND
3 GAS OPERATIONS.

4 **SECTION 10.** In Colorado Revised Statutes, **amend** 34-60-111
5 as follows:

6 **34-60-111. Judicial review.** (1) EXCEPT AS PROVIDED IN
7 SUBSECTION (2) OF THIS SECTION, any rule, regulation, or final order of the
8 commission ~~shall be~~ IS subject to judicial review in accordance with ~~the~~
9 ~~provisions of~~ section 24-4-106. ~~C.R.S.~~ The commission ~~shall~~ IS not ~~be~~
10 required to post bond in any proceeding for judicial review.

11 (2) NOTWITHSTANDING SECTION 24-4-106 (5), A COURT OF
12 COMPETENT JURISDICTION MAY POSTPONE THE EFFECTIVE DATE OF A
13 COMMISSION ORDER SUSPENDING OR REVOKING AN OPERATOR'S LICENSE
14 TO CONDUCT OIL AND GAS OPERATIONS OR A CERTIFICATE OF CLEARANCE
15 AND SUBJECT TO REVIEW AS A FINAL AGENCY ACTION PURSUANT TO
16 SECTION 24-4-106 ONLY UPON A DEMONSTRATION BY THE MOVING PARTY
17 THAT:

18 (a) THE MOVING PARTY HAS A REASONABLE PROBABILITY OF
19 SUCCESS ON THE MERITS IN THE UNDERLYING JUDICIAL PROCEEDING;

20 (b) REAL, IMMEDIATE, AND IRREPARABLE INJURY TO THE MOVING
21 PARTY WOULD OTHERWISE RESULT;

22 (c) POSTPONING THE EFFECTIVE DATE OF THE COMMISSION ORDER
23 WILL NOT DISSERVE THE PUBLIC INTEREST; AND

24 (d) IN CONSIDERATION OF THE BALANCE OF EQUITIES, INCLUDING
25 CONSIDERATION OF POTENTIAL ADVERSE IMPACTS ON PUBLIC HEALTH,
26 SAFETY, AND WELFARE AND THE PROTECTION OF THE ENVIRONMENT AND
27 WILDLIFE RESOURCES, THE BALANCE FAVORS THE POSTPONEMENT.

1 **SECTION 11.** In Colorado Revised Statutes, 34-60-121, **amend**
2 (5)(a), (6), and (7) as follows:

3 **34-60-121. Violations - investigations - penalties - rules -**
4 **definition - legislative declaration.** (5) (a) If an operator fails to take
5 corrective action required pursuant to subsection (4) of this section, or
6 whenever the commission or the director has evidence that a violation of
7 ~~any provision of this article~~ ARTICLE 60, or of any rule, regulation, or
8 order of the commission, or of any permit has occurred, under
9 circumstances deemed to constitute an emergency situation OR UNDER
10 CIRCUMSTANCES THAT CAUSE OR THREATEN TO CAUSE A SIGNIFICANT
11 ADVERSE IMPACT TO PUBLIC HEALTH, SAFETY, WELFARE, THE
12 ENVIRONMENT, OR WILDLIFE RESOURCES THAT REQUIRE IMMEDIATE
13 ACTION, the commission or the director may issue a cease-and-desist
14 order to the operator whose act or omission allegedly resulted in ~~such~~ THE
15 violation. ~~Such~~ THE cease-and-desist order ~~shall~~ MUST require such action
16 by the operator as the commission or director deems appropriate. The
17 order shall be served personally or by certified mail, return receipt
18 requested, to the operator or the operator's agent for service of process
19 and ~~shall~~ MUST state the provision alleged to have been violated, the facts
20 alleged to constitute the violation, the time by which the acts or practices
21 cited are required to cease, and any corrective action the commission or
22 the director elects to require of the operator.

23 (6) If the commission determines, after a hearing conducted in
24 accordance with section 34-60-108, that an operator has failed to perform
25 any corrective action imposed under subsection (4) of this section or
26 failed to comply with a cease-and-desist order issued under subsection (5)
27 of this section, ~~with regard to a violation of a permit provision,~~ the

1 commission may issue an order suspending, modifying, or revoking ~~such~~
2 THE OPERATOR'S permit OR PERMITS OR SUSPENDING OR REVOKING THE
3 OPERATOR'S LICENSE TO CONDUCT OIL AND GAS OPERATIONS or may take
4 other appropriate action. An operator subject to an order that suspends,
5 modifies, or revokes a permit OR THAT SUSPENDS OR REVOKES THE
6 OPERATOR'S LICENSE TO CONDUCT OIL AND GAS OPERATIONS shall
7 continue the affected operations only for the purpose of bringing them
8 into compliance with the permit or modified permit and shall do so under
9 the supervision of the commission. Once the affected operations are in
10 compliance to the satisfaction of the commission and any penalty not
11 subject to judicial review or appeal has been paid, the commission ~~shall~~
12 MAY reinstate the permit OR THE LICENSE TO CONDUCT OIL AND GAS
13 OPERATIONS.

14 (7) (a) The commission or the director shall issue an order to an
15 operator to appear for a hearing before the commission in accordance
16 with section 34-60-108 whenever the commission or the director has
17 evidence that an operator is responsible for:

18 (I) Gross negligence or knowing and willful misconduct that
19 results in an egregious violation; ~~or~~

20 (II) A pattern of violation of this ~~article~~ ARTICLE 60, any rule or
21 order of the commission, or any permit;

22 (III) A VIOLATION OF THIS ARTICLE 60, ANY RULE OR ORDER OF
23 THE COMMISSION, OR ANY PERMIT, IF SUCH VIOLATION RESULTS IN A
24 COMMISSION ORDER IMPOSING A PENALTY OF ONE MILLION DOLLARS OR
25 MORE;

26 (IV) A VIOLATION THAT CAUSED A MAJOR ADVERSE IMPACT, AS
27 DEFINED IN THE COMMISSION'S RULES, TO PUBLIC HEALTH, SAFETY,

1 WELFARE, THE ENVIRONMENT, OR WILDLIFE RESOURCES AND THE
2 VIOLATION IS THE THIRD VIOLATION IN THE STATE IN ONE YEAR THAT
3 CAUSED A MAJOR ADVERSE IMPACT, AS DEFINED IN THE COMMISSION'S
4 RULES, TO PUBLIC HEALTH, SAFETY, WELFARE, THE ENVIRONMENT, OR
5 WILDLIFE RESOURCES; OR

6 (V) A VIOLATION THAT CAUSED DEATH OR SERIOUS BODILY INJURY
7 TO AN INDIVIDUAL.

8 (b) If the commission finds, after ~~such~~ THE hearing CONDUCTED
9 PURSUANT TO SUBSECTION (7)(a) OF THIS SECTION, that the operator is
10 responsible under the legal standards specified in ~~paragraph (a) of this~~
11 ~~subsection (7),~~ it SUBSECTION (7)(a) OF THIS SECTION, THE COMMISSION
12 may issue an order that prohibits the issuance of any new permits to the
13 operator, suspends any or all of the operator's certificates of clearance,
14 SUSPENDS THE OPERATOR'S LICENSE TO CONDUCT OIL AND GAS
15 OPERATIONS, or ~~both.~~ ~~When~~ ANY COMBINATION OF THE THREE. IF the
16 operator demonstrates to the satisfaction of the commission that ~~it~~ THE
17 OPERATOR has brought each of the violations into compliance and that
18 any penalty not subject to judicial review or appeal has been paid, the
19 commission may vacate the order.

20 (c) IN A HEARING CONDUCTED PURSUANT TO THIS SUBSECTION (7),
21 THE COMMISSION MAY CONSIDER AS EVIDENCE VIOLATIONS FOR WHICH
22 ENFORCEMENT WAS COMMENCED PRIOR TO THE EFFECTIVE DATE OF THIS
23 SUBSECTION (7), AS AMENDED, IN DETERMINING WHETHER TO PROHIBIT
24 THE ISSUANCE OF ANY NEW PERMITS TO THE OPERATOR, SUSPEND ANY OR
25 ALL OF THE OPERATOR'S CERTIFICATES OF CLEARANCE, SUSPEND THE
26 OPERATOR'S LICENSE TO CONDUCT OIL AND GAS OPERATIONS, OR ANY
27 COMBINATION OF THE THREE.

1 **SECTION 12.** In Colorado Revised Statutes, 34-60-124, **amend**
2 (4)(e)(II) and (4)(f); and **add** (4)(g) as follows:

3 **34-60-124. Energy and carbon management cash fund -**
4 **definitions - repeal.** (4) The fund may be expended:

5 (e) (II) This subsection (4)(e) is repealed, effective July 1, 2025.
6 **and**

7 (f) To create and maintain the website described in section
8 34-60-106 (22); AND

9 (g) BY THE COMMISSION TO FUND THE COMMUNITY LIAISON
10 POSITIONS APPOINTED PURSUANT TO SECTION 34-60-104.5 (2)(d)(III).

11 **SECTION 13.** In Colorado Revised Statutes, 34-60-133, **amend**
12 (1)(a)(II) and (1)(a)(III); and **add** (1.5), (2)(e.5), (6)(d)(I.5), and (8)(d.5)
13 as follows:

14 **34-60-133. Orphaned wells mitigation enterprise - creation -**
15 **powers and duties - enterprise board created - mitigation fees - cash**
16 **fund created - rules - definitions - legislative declaration.**

17 (1) **Enterprise created.** (a) The orphaned wells mitigation enterprise is
18 created in the department for the purpose of:

19 (II) Funding the plugging, reclaiming, and remediating of
20 orphaned wells AND MARGINAL WELLS in the state;

21 (III) Ensuring that the costs associated with plugging, reclaiming,
22 and remediating orphaned wells AND MARGINAL WELLS are borne by
23 operators in the form of mitigation fees; and

24 (1.5) **Legislative declaration.** THE GENERAL ASSEMBLY FINDS
25 AND DECLARES THAT:

26 (a) ORPHANED WELLS AND MARGINAL WELLS PRESENT RISKS TO
27 PUBLIC HEALTH, SAFETY, AND WELFARE, INCLUDING RISKS TO THE

1 ENVIRONMENT AND WILDLIFE RESOURCES;

2 (b) ENVIRONMENTAL JUSTICE IS A PRIORITY FOR THE STATE, AND
3 THE ENTERPRISE BOARD SHOULD ADMINISTER THIS SECTION IN A MANNER
4 THAT REDUCES BURDENS ON OVERBURDENED COMMUNITIES;

5 (c) THE ENTERPRISE HELPS MITIGATE RISKS BY PLUGGING,
6 RECLAIMING, AND REMEDIATING ORPHANED WELLS AND THOSE MARGINAL
7 WELLS THAT ARE AT THE HIGHEST RISK OF BECOMING ORPHANED;

8 (d) ALL OIL AND GAS WELLS WILL REQUIRE PLUGGING AND
9 RECLAIMING AT THE END OF THEIR USEFUL LIFE;

10 (e) MANY OIL AND GAS WELLS WILL REQUIRE REMEDIATION AT THE
11 END OF THEIR USEFUL LIFE;

12 (f) PURSUANT TO SECTION 34-60-106, ALL OPERATORS ARE
13 REQUIRED TO PROVIDE FINANCIAL ASSURANCE DEMONSTRATING THAT THE
14 OPERATORS ARE FINANCIALLY CAPABLE OF FULFILLING EVERY OBLIGATION
15 IMPOSED ON THE OPERATOR PURSUANT TO THIS ARTICLE 60, INCLUDING AN
16 OPERATOR'S PLUGGING, RECLAMATION, AND REMEDIATION OBLIGATIONS;
17 AND

18 (g) THE SERVICES THAT THE ENTERPRISE PROVIDES BENEFIT ALL
19 OPERATORS IN THE STATE BY:

20 (I) MITIGATING THE RISKS OF AN OPERATOR'S OIL AND GAS WELL
21 BECOMING AN ORPHANED WELL; AND

22 (II) PLUGGING, RECLAIMING, AND REMEDIATING QUALIFYING
23 MARGINAL WELLS AND ELIMINATING THE RISK OF SUCH QUALIFYING
24 MARGINAL WELLS BECOMING ORPHANED WELLS.

25 (2) **Powers and duties.** In addition to any other powers and duties
26 specified in this section, the enterprise board has the following general
27 powers and duties on behalf of the enterprise:

1 (e.5) TO ISSUE GUIDANCE ESTABLISHING STANDARDS FOR
2 MARGINAL WELLS TO QUALIFY FOR FUNDING PURSUANT TO SUBSECTION
3 (1)(a)(II) OF THIS SECTION. IN ESTABLISHING THESE STANDARDS, THE
4 ENTERPRISE BOARD SHALL CONSIDER:

5 (I) AN OIL AND GAS WELL'S LOCATION IN OR NEAR A
6 DISPROPORTIONATELY IMPACTED COMMUNITY OR A HIGHLY POPULATED
7 AREA; AND

8 (II) AN OIL AND GAS WELL'S RISK OF ADVERSE IMPACTS ON PUBLIC
9 HEALTH, SAFETY, WELFARE, THE ENVIRONMENT, AND WILDLIFE
10 RESOURCES; AND

11 (6) **Cash fund.** (d) Money credited to the fund is continuously
12 appropriated to the fund for use by the enterprise and shall be expended
13 to:

14 (I.5) PLUG, RECLAIM, AND REMEDIATE QUALIFYING MARGINAL
15 WELLS, AS DETERMINED BASED ON FACTORS THAT INCLUDE:

16 (A) THE OIL AND GAS WELL'S LOCATION IN OR NEAR A
17 DISPROPORTIONATELY IMPACTED COMMUNITY OR A HIGHLY POPULATED
18 AREA; AND

19 (B) THE OIL AND GAS WELL'S RISK OF ADVERSE IMPACTS ON PUBLIC
20 HEALTH, SAFETY, WELFARE, THE ENVIRONMENT, AND WILDLIFE
21 RESOURCES;

22 (8) **Definitions.** As used in this section, unless the context
23 otherwise requires:

24 (d.5) "MARGINAL WELL" MEANS AN OIL AND GAS WELL THAT
25 PRESENTS A HIGH RISK OF BECOMING ORPHANED.

26 **SECTION 14. Effective date - applicability.** (1) (a) Except as
27 otherwise provided in this subsection (1), this act takes effect upon

1 passage.

2 (b) Section 6 of this act takes effect only if House Bill 24-1338
3 becomes law, in which case section 6 of this act takes effect upon
4 passage.

5 (c) Section 5 of this act takes effect only if House Bill 24-1338
6 does not become law, in which case section 5 of this act takes effect upon
7 passage.

8 (2) This act applies to enforcement actions commenced by the
9 division of administration in the department of public health and
10 environment and the energy and carbon management commission on or
11 after the effective date of this act.

12 **SECTION 15. Safety clause.** The general assembly finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, or safety or for appropriations for
15 the support and maintenance of the departments of the state and state
16 institutions.