

**Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO**

**PREAMENDED**

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

LLS NO. 10-0602.01 Debbie Haskins

**HOUSE BILL 10-1042**

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**HOUSE SPONSORSHIP**

**Peniston,**

**SENATE SPONSORSHIP**

**Hodge,**

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**House Committees**

Health and Human Services  
Finance

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING ADMINISTRATION OF THE STATIONARY SOURCES AIR**  
102 **QUALITY PERMITTING PROGRAM.**

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**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://www.leg.state.co.us/billsummaries>.)*

**Section 1** of the bill adds a requirement that the air quality control commission (commission) make an annual public report about stationary industrial sources permits.

Consistent with the federal "Clean Air Act", **section 2** of the bill exempts small non-Title V sources of air pollution from needing

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

operating permits under the large Title V source permitting category.

Current law requires a person granted a construction permit to provide 30 days' advance notice to the division of administration (division) prior to starting the operations for which the permit was granted. **Section 3** revises this notice requirement, allowing a newly permitted entity to notify the division within 15 days after the start-up of its permitted operations.

Section 3 also deletes a requirement that the commission annually review all permits that required 5 or more hours of professional staff time to process.

The open burning law limits the type of materials that can be burned outside and requires a permit to burn approved materials. **Section 4** increases the civil penalty from \$100 to \$1,500 for a violation of the open burning law by a person who conducts a burn for noncommercial purposes without a permit.

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

2 **SECTION 1.** 25-7-105 (5), Colorado Revised Statutes, is  
3 amended to read:

4 **25-7-105. Duties of commission - rules.** (5) Prior to the hearing  
5 required under subsection (4) of this section, the commission shall  
6 prepare and make available to the public a report, which shall contain the  
7 following specific information:

8 (a) A description of the pollution problem in each of the polluted  
9 areas of the state, described separately for each such area;

10 (b) To the extent possible, the identification of the sources of air  
11 pollution in each separate area of the state, such as motor vehicles,  
12 industrial sources, and power-generating facilities;

13 (c) A list of all alleged violations of emission control regulations  
14 ~~which shows~~ SHOWING the status of control procedures in effect with  
15 respect to each such alleged violation; AND

16 (d) STATIONARY INDUSTRIAL SOURCES PERMITTING INFORMATION  
17 AS FOLLOWS:

- 1 (I) THE TOTAL NUMBER OF PERMITS ISSUED;
- 2 (II) THE TOTAL NUMBER OF HOURS BILLED FOR PERMITTING;
- 3 (III) THE AVERAGE NUMBER OF HOURS BILLED PER PERMIT; AND
- 4 (IV) THE NUMBER OF GENERAL PERMITS ISSUED.

5 **SECTION 2.** 25-7-114.3 (1) (c) and (1) (d), Colorado Revised  
6 Statutes, are amended to read:

7 **25-7-114.3. Operating permits required for emission of**  
8 **pollutants.** (1) No person shall operate any of the following sources  
9 without first obtaining a renewable operating permit from the division for  
10 such source in a manner consistent with the requirements of this article  
11 and the federal act:

12 (c) Any source required to comply with standards of performance  
13 for new stationary sources under section 111 of the federal act, UNLESS  
14 OTHERWISE EXEMPTED FROM PERMITTING REQUIREMENTS PURSUANT TO  
15 FEDERAL RULES ADOPTED IN ACCORDANCE WITH SECTION 502 OF THE  
16 FEDERAL ACT;

17 (d) Any source subject to emission standards or regulations for  
18 hazardous air pollutants under section 112 of the federal act, UNLESS  
19 OTHERWISE EXEMPTED FROM FEDERAL PERMITTING REQUIREMENTS  
20 PURSUANT TO FEDERAL RULES ADOPTED IN ACCORDANCE WITH SECTION  
21 502 OF THE FEDERAL ACT;

22 **SECTION 3.** 25-7-114.5 (12) (a) and (14), Colorado Revised  
23 Statutes, are amended to read:

24 **25-7-114.5. Application review - public participation.**  
25 (12) (a) ~~No person shall commence the operation of any project or the~~  
26 ~~conduct of any activity for which a construction permit has been issued~~  
27 ~~without giving at least thirty calendar days' prior notice to the division of~~

1 ~~the date on which such commencement is to take place~~ A PERMITTED  
2 ENTITY SHALL NOTIFY THE DIVISION WITHIN FIFTEEN DAYS AFTER THE  
3 COMMENCEMENT OF ANY ACTIVITY FOR WHICH A CONSTRUCTION PERMIT  
4 HAS BEEN ISSUED. Within one hundred eighty days after commencement  
5 of operation FOR WHICH A CONSTRUCTION PERMIT HAS BEEN ISSUED, the  
6 source shall demonstrate to the division compliance with the terms and  
7 conditions of the construction permit or the division may, pursuant to  
8 rules that are adopted by the commission based upon the results of the  
9 study conducted under section 25-7-114.7 (2) (a) (V), inspect the project  
10 or activity to determine whether or not the terms and conditions of the  
11 construction permit have been properly satisfied. At the end of one  
12 hundred eighty days after the commencement of operation, the division  
13 must:

- 14 (I) Revoke the construction permit; or
- 15 (II) Continue the construction permit, if applicable; or
- 16 (III) Notify the owner or operator that the source has demonstrated  
17 compliance with the construction permit.

18 ~~(14) The commission shall designate a member of the air pollution~~  
19 ~~control division who shall review and approve all invoices for any permit~~  
20 ~~which required five or more hours professional staff time to process. The~~  
21 ~~commission shall review, on an annual basis, a list of sources and~~  
22 ~~invoices which required five or more hours of professional staff time to~~  
23 ~~process.~~

24 **SECTION 4.** 25-7-123 (3) (a), Colorado Revised Statutes, is  
25 amended to read:

26 **25-7-123. Open burning - penalties.** (3) (a) Any person who  
27 violates paragraph (a) of subsection (2) of this section by burning or

1 permitting any burning for noncommercial purposes without first having  
2 obtained a permit as required shall be subject to a civil penalty of ~~not~~  
3 ~~more than one~~ UP TO FIVE hundred dollars per day for each day during  
4 which such a violation occurs. FOR A SECOND VIOLATION, THE CIVIL  
5 PENALTY SHALL BE UP TO ONE THOUSAND DOLLARS PER DAY FOR EACH  
6 DAY DURING WHICH SUCH A VIOLATION OCCURS. FOR A THIRD OR  
7 SUBSEQUENT VIOLATION, THE CIVIL PENALTY SHALL BE UP TO ONE  
8 THOUSAND FIVE HUNDRED DOLLARS PER DAY FOR EACH DAY DURING  
9 WHICH SUCH A VIOLATION OCCURS.

10 **SECTION 5. Act subject to petition - specified effective date**  
11 **- applicability.** (1) This act shall take effect September 1, 2010; except  
12 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
13 of the state constitution against this act or an item, section, or part of this  
14 act within the ninety-day period after final adjournment of the general  
15 assembly, then the act, item, section, or part shall not take effect unless  
16 approved by the people at the general election to be held in November  
17 2010 and shall take effect on the date of the official declaration of the  
18 vote thereon by the governor.

19 (2) The provisions of this act shall apply to acts occurring on or  
20 after the applicable effective date of this act.