

65-3012. Action to protect health or environment; judicial review procedures. (a) Upon receipt of evidence that emissions from an air pollution source or combination of air pollution sources presents: (1) An imminent and substantial endangerment to public health or welfare or to the environment; or (2) for an imminent or actual violation of this act, any rules and regulations adopted under this act, any orders issued under this act or any permit conditions required by this act, the secretary may issue a temporary order not to exceed seven days in duration, directing the owner or operator, or both, to take such steps as necessary to prevent the act or eliminate the practice.

(b) Upon issuance of the temporary order, the secretary may commence an action in the district court to enjoin acts or practices specified in subsection (a) or request the attorney general or appropriate county or district attorney to commence an action to enjoin those acts or practices.

(c) The secretary may bring suit in any court of competent jurisdiction to immediately restrain the acts or practices specified in subsection (a). An action for injunction under this subsection shall have precedence over other cases in respect to order of trial.

(d) The owner or operator, or both, aggrieved by an order of the secretary issued pursuant to this section shall be immediately entitled to judicial review of such agency action by filing a petition for judicial review in district court. The aggrieved party shall not be required to exhaust administrative remedies. A petition for review under this subsection shall have precedence over other cases in respect to order of trial.

History: L. 1967, ch. 347, § 12; L. 1970, ch. 261, § 12; L. 1974, ch. 352, § 144; L. 1993, ch. 13, § 12; L. 2009, ch. 141, § 25; May 28.