

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 22-0552.01 Sarah Lozano x3858

HOUSE BILL 22-1244

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A BILL FOR AN ACT

101 **CONCERNING MEASURES TO INCREASE PUBLIC PROTECTION FROM**
102 **TOXIC AIR CONTAMINANTS, AND, IN CONNECTION THEREWITH,**
103 **MAKING AN APPROPRIATION.**

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>.)

The bill creates a new program to regulate a subset of air pollutants, referred to as "toxic air contaminants", which are defined as hazardous air pollutants, covered air toxics, and all other air pollutants that the air quality control commission (commission) designates by rule as a toxic air contaminant based on its adverse health effects. In

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

HOUSE
3rd Reading Unamended
May 6, 2022

HOUSE
Amended 2nd Reading
May 5, 2022

implementing the program, the commission has the authority to adopt rules that are more stringent than the corresponding requirements of the federal "Clean Air Act".

Beginning no later than January 1, 2024, and every 5 years thereafter, the commission will review the list of existing toxic air contaminants and determine whether to add any additional toxic air contaminants to the list.

On or before April 1 of each year, beginning on April 1, 2024, owners and operators of major and synthetic minor sources of pollution will submit to the division of administration (division) in the department of public health and environment (department) an annual emissions inventory report that reports the levels of criteria air pollutants and toxic air contaminants that were emitted by the source in the preceding calendar year, beginning with January 1, 2023, to December 31, 2023.

Beginning no later than January 1, 2024, the division will develop a monitoring program to determine the concentration of toxic air contaminants in the ambient air of the state. The monitoring program will establish at least 6 long-term monitoring sites throughout urban and rural areas of the state. The division must provide public notice of and an opportunity to comment on the locations of the monitoring sites.

On or before November 1, 2025, and at least every 5 years thereafter, the division will prepare a report summarizing the findings of the monitoring program, provide public notice of and an opportunity to comment on the report, and submit the report to the general assembly.

Beginning no later than July 1, 2027, the commission will identify by rule toxic air contaminants that may pose a risk of harm to public health in the state (high-risk toxic air contaminants) and adopt health-based standards and emissions limitations (airborne toxic control measures) for high-risk toxic air contaminants.

On or before July 1, 2032, and at least every 5 years thereafter, the commission will review the health-based standards and airborne toxic control measures to determine if the commission should:

- Identify any additional high-risk toxic air contaminants; and
- Adjust the existing health-based standards and airborne toxic control measures.

Beginning on July 1, 2027, when applying for a new or modified air pollution permit that is subject to the new source review requirements of the federal "Clean Air Act", the owner or operator of a stationary source of pollution must submit an analysis of the impacts of the stationary source's emissions of toxic air contaminants on concentrations of toxic air contaminants in the ambient air. The division may only approve the application if the division determines, based on the analysis, that the source's emissions will not contribute to an increase in concentrations in the ambient air at or in excess of a health-based

standard.

Beginning on July 1, 2027, to protect public health and the environment, the division may reopen any existing air pollution permits and require the owner or operator of a stationary source of pollution to submit to the division an analysis of the impacts of the stationary source's emissions of toxic air contaminants on concentrations of toxic air contaminants in the ambient air. If the division determines, based on the analysis, that the source's emissions contribute to concentrations in the ambient air at or in excess of a health-based standard, the division may require a decrease or cessation in the applicable emissions over the shortest practicable time until the emissions no longer contribute to concentrations in the ambient air at or in excess of a health-based standard.

The bill also creates the toxic air contaminant scientific advisory board (advisory board) in the department. The advisory board consists of 3 voting members appointed by the executive director of the department and a nonvoting member representing the department. Each member of the advisory board shall:

- Be professionally active or engaged in scientific research;
- Be highly qualified to evaluate health effects from exposure to toxic substances; and
- Have expertise in pathology, oncology, epidemiology, or toxicology.

The advisory board will advise the commission on identifying toxic air contaminants and high-risk toxic air contaminants, establishing and revising health-based standards for high-risk toxic air contaminants, and reviewing and revising the list of covered air toxics.

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

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

4 (a) Public health, safety, and welfare are endangered by the
5 emission of toxic air contaminants into the ambient air;

6 (b) Coloradans are exposed to a multitude of toxic air
7 contaminants from numerous sources and background levels in the
8 ambient air that may act cumulatively to produce adverse impacts to
9 public health, and these impacts must be taken into account when
10 regulating toxic air contaminants;

1 (c) The identification and regulation of toxic air contaminants
2 should utilize the best-available scientific evidence gathered from the
3 public, private industry, the scientific community, and global, federal,
4 state, and local agencies;

5 (d) Emissions of toxic air contaminants should be monitored and
6 controlled to levels that avoid, minimize, or mitigate harm to public
7 health and the environment; and

8 (e) While there are federal and state programs in Colorado to
9 control air pollutants subject to the national ambient air quality standards,
10 there are no federal or state programs in Colorado to establish
11 health-based ambient air quality standards for toxic air contaminants.

12 (2) The general assembly further finds and declares that it is the
13 policy of the state to:

14 (a) Prioritize and protect the health and well-being of all
15 Coloradans, with a particular focus on sensitive and vulnerable groups,
16 such as children, infants, fetuses, the elderly, people with disabilities, and
17 people in disproportionately impacted communities;

18 (b) Analyze public health risks from toxic air contaminant
19 emissions from sources based on verified science and reporting of
20 emissions data, including consideration of background levels in the
21 ambient air;

22 (c) Consider regulations of toxic air contaminants in other states
23 and jurisdictions in developing state regulations;

24 (d) Use a science-based, consistent, and transparent process for
25 communicating and addressing risks from emissions of toxic air
26 contaminants; and

27 (e) Meaningfully reduce exposure to toxic air contaminant

1 emissions through state regulation.

2 (3) The general assembly therefore declares that the state should
3 control and reduce the emissions of toxic air contaminants through the
4 identification of toxic air contaminants, the reporting of emissions data,
5 and the setting of protective health-based standards and effective
6 emission control regulations.

7 **SECTION 2.** In Colorado Revised Statutes, 25-7-103, **amend**
8 (11) introductory portion and (11)(a) as follows:

9 **25-7-103. Definitions.** As used in this article 7, unless the context
10 otherwise requires:

11 (11) "Emission control regulation" means and includes any
12 standard promulgated by regulation ~~which~~ THAT is applicable to all air
13 pollution sources within a specified area and ~~which~~ THAT prohibits or
14 establishes permissible limits for specific types of emissions in such area;
15 ~~and also~~ any regulation ~~which~~ THAT by its terms is applicable to a
16 specified type of facility, process, or activity for the purpose of
17 controlling the extent, degree, or nature of pollution emitted from such
18 type of facility, process, or activity; any regulation adopted for the
19 purpose of preventing or minimizing emission of any air pollutant in
20 potentially dangerous quantities; and ~~also~~ any regulation that adopts any
21 design, equipment, work practice, or operational standard. Emission
22 control regulations shall not include standards ~~which~~ THAT describe
23 maximum ambient air concentrations of specifically identified pollutants
24 or ~~which~~ THAT describe varying degrees of pollution of ambient air.
25 Emission control regulations pertaining to hazardous air pollutants, as
26 defined in subsection (13) of this section, AND TOXIC AIR CONTAMINANTS
27 DESIGNATED PURSUANT TO SECTION 25-7-109.5, shall be consistent with

1 the emission standards promulgated under section 112 of the federal act
2 or ~~section~~ SECTIONS 25-7-109.3 OR 25-7-109.5 in reducing or preventing
3 emissions of ~~hazardous air pollutants~~ and may include application of
4 measures, processes, methods, systems, or techniques, including, but not
5 limited to, measures ~~which~~ THAT:

6 (a) Reduce the volume of, or eliminate emissions of, such
7 pollutants through process changes, EMISSIONS LIMITATIONS, CONTROL
8 TECHNOLOGIES, substitution of materials, or other modifications;

9 **SECTION 3.** In Colorado Revised Statutes, 25-7-109, **amend**
10 (2)(c) and (2)(h) as follows:

11 **25-7-109. Commission to promulgate emission control**
12 **regulations.** (2) Such emission control regulations may include, but shall
13 not be limited to, regulations pertaining to:

14 (c) Sulfur oxides, sulfuric acids, ORGANIC SULFIDES, hydrogen
15 sulfide, nitrogen oxides, carbon oxides, hydrocarbons, fluorides, and any
16 other chemical substance;

17 (h) Hazardous air pollutants AND TOXIC AIR CONTAMINANTS, AS
18 DEFINED IN SECTION 25-7-109.5 (1)(i).

19 **SECTION 4.** In Colorado Revised Statutes, **add** 25-7-109.5 as
20 follows:

21 **25-7-109.5. Toxic air contaminants - annual toxic emissions**
22 **reporting program - monitoring program - health-based standards**
23 **- emission control regulations - air toxics permitting program**
24 **assessment - rules - definitions.** (1) **Definitions.** AS USED IN THIS
25 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

26 **(a)** "ADVERSE HEALTH EFFECTS" MEANS THE DETRIMENTAL
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1 HEALTH EFFECTS FROM EXPOSURE TO EMISSIONS OF A TOXIC AIR
2 CONTAMINANT, INCLUDING THE CUMULATIVE EFFECTS TO HEALTH
3 FROM EXPOSURE TO THE COMBINED AIR EMISSIONS OF THE TOXIC AIR
4 CONTAMINANT FROM MULTIPLE SOURCES, WHETHER THE EMISSIONS ARE
5 EMITTED ROUTINELY, INTERMITTENTLY, OR ACCIDENTALLY.

6 [REDACTED] [REDACTED]
7 (b) "COMMUNITY-LED MONITORING PROGRAMS" MEANS AIR
8 MONITORING AND DATA COLLECTION, CONCERNING CONCENTRATIONS OF
9 TOXIC AIR CONTAMINANTS IN THE AMBIENT AIR, CONDUCTED BY LOCAL
10 GOVERNMENTS, NONGOVERNMENTAL ORGANIZATIONS, OR COMMUNITY
11 GROUPS THAT IS AT LEAST AS STRINGENT AS THE SECOND EDITION OF THE
12 FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S "COMPENDIUM OF
13 METHODS FROM THE DETERMINATION OF TOXIC ORGANIC COMPOUNDS
14 IN AMBIENT AIR".

15 [REDACTED]
16 (c) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
17 AND ENVIRONMENT.

18 (d) "DISPROPORTIONATELY IMPACTED COMMUNITY" HAS THE
19 MEANING SET FORTH IN SECTION 24-4-109 (2)(b)(II).

20 [REDACTED] [REDACTED]
21 (e) "HEALTH-BASED STANDARDS" MEANS, AS DETERMINED BY THE
22 COMMISSION BY RULE UNDER SUBSECTION (6)(a)(II) OF THIS SECTION, THE
23 CHRONIC EXPOSURE LIMITS FOR EACH PRIORITY TOXIC AIR CONTAMINANT
24 REQUIRED TO PROTECT THE PUBLIC FROM ADVERSE HEALTH EFFECTS OF
25 THAT PRIORITY TOXIC AIR CONTAMINANT, ALLOWING FOR AN AMPLE
26 MARGIN OF SAFETY, REPRESENTED AS BENCHMARK NUMERICAL
27 CONCENTRATIONS IN THE AMBIENT AIR.

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(f) "PRIORITY TOXIC AIR CONTAMINANT" MEANS, AS DETERMINED BY THE COMMISSION BY RULE UNDER SUBSECTION (6)(a)(I) OF THIS SECTION, A TOXIC AIR CONTAMINANT THAT MAY POSE A RISK OF HARM TO PUBLIC HEALTH.

(g) (I) "SCIENTIFIC COMMUNITY" MEANS INDIVIDUALS WHO ARE PROFESSIONALLY OR ACADEMICALLY ENGAGED IN SCIENTIFIC RESEARCH ABOUT ADVERSE HEALTH EFFECTS FROM EXPOSURE TO TOXIC SUBSTANCES AND HAVE EXPERTISE IN FIELDS THAT INCLUDE PATHOLOGY, ONCOLOGY, EPIDEMIOLOGY, OR TOXICOLOGY.

(II) "SCIENTIFIC COMMUNITY" INCLUDES INDIVIDUALS WITH EXPERIENCE IN THE FIELDS OF ATMOSPHERIC PHYSICS, METEOROLOGY, OR AMBIENT MONITORING OR EXPERIENCE ASSESSING THE IMPACTS OF EMISSIONS OF TOXIC AIR CONTAMINANTS ON CONCENTRATIONS IN THE AMBIENT AIR.

(h) "SYNTHETIC MINOR SOURCE " HAS THE MEANING SET FORTH IN SECTION 25-7-114 (6).

- (i) "TOXIC AIR CONTAMINANT" MEANS:
 - (I) A HAZARDOUS AIR POLLUTANT;
 - (II) A COVERED AIR TOXIC, AS DEFINED IN SECTION 25-7-141 (2)(b); OR
 - (III) ANY OTHER AIR POLLUTANT THAT THE COMMISSION DESIGNATES AS A TOXIC AIR CONTAMINANT PURSUANT TO SUBSECTION (3) OF THIS SECTION.

(2) **Rules.** (a) THE COMMISSION SHALL PROMULGATE RULES THAT ARE NECESSARY FOR THE PROPER IMPLEMENTATION AND ADMINISTRATION OF THIS SECTION.

1 (b) NOTWITHSTANDING ANY LIMITATION IN THIS ARTICLE 7 TO THE
2 CONTRARY, THE COMMISSION MAY ADOPT RULES UNDER THIS SECTION
3 THAT ARE MORE STRINGENT THAN THE CORRESPONDING REQUIREMENTS
4 OF THE FEDERAL ACT AND THE REGULATIONS ADOPTED PURSUANT TO THE
5 FEDERAL ACT.

6 [REDACTED]
7 [REDACTED]

8 (3) **Review of the list of toxic air contaminants - rules.** (a) THE
9 DIVISION SHALL PUBLISH AN INITIAL LIST OF THE TOXIC AIR
10 CONTAMINANTS DESIGNATED PURSUANT TO SUBSECTIONS (1)(i)(I) AND
11 (1)(i)(II) OF THIS SECTION BY OCTOBER 1, 2022.

12 (b) BEGINNING NO LATER THAN SEPTEMBER 30, 2030, AND EVERY
13 FIVE YEARS THEREAFTER, OR MORE FREQUENTLY IF THE COMMISSION
14 DEEMS IT APPROPRIATE TO DO SO, THE COMMISSION SHALL, PURSUANT TO
15 SUBSECTION (1)(i)(III) OF THIS SECTION, REVIEW THE LIST OF TOXIC AIR
16 CONTAMINANTS AND DETERMINE _____ WHETHER TO DESIGNATE ANY
17 ADDITIONAL AIR POLLUTANTS AS TOXIC AIR CONTAMINANTS.

18 (c) THE COMMISSION MAY DETERMINE THAT AN EXPEDITED
19 REVIEW IS APPROPRIATE BASED ON A REQUEST OF ANY PERSON IF, AS PART
20 OF THE REQUEST, THE PERSON DEMONSTRATES TO THE COMMISSION'S
21 SATISFACTION THAT NEW OR UPDATED SCIENTIFIC DATA RELATED TO THE
22 ADVERSE EFFECTS OF AN AIR POLLUTANT WARRANTS EXPEDITED
23 CONSIDERATION FOR DESIGNATION AS A TOXIC AIR CONTAMINANT. IF THE
24 COMMISSION UNDERTAKES AN EXPEDITED CONSIDERATION OF AN AIR
25 POLLUTANT FOR DESIGNATION AS A TOXIC AIR CONTAMINANT, THE
26 COMMISSION'S NEXT REVIEW OF ADDITIONAL AIR POLLUTANTS MUST TAKE
27 PLACE NO LATER THAN FIVE YEARS AFTER THE EXPEDITED

1 CONSIDERATION.

2 (d) IN DETERMINING WHETHER ANY AIR POLLUTANT SHOULD BE
3 DESIGNATED BY THE COMMISSION AS A TOXIC AIR CONTAMINANT, THE
4 COMMISSION SHALL CONSIDER:

5 (I) INPUT FROM THE PUBLIC AND THE SCIENTIFIC COMMUNITY;

6 (II) EXISTING DATA CONCERNING EMISSIONS OF AIR POLLUTANTS,
7 INCLUDING DATA REPORTED TO:

8 (A) THE DIVISION CONCERNING THE EMISSIONS OF TOXIC AIR
9 POLLUTANTS; AND

10 (B) THE FEDERAL TOXIC RELEASE INVENTORY PURSUANT TO 42
11 U.S.C. SEC. 11023 OR PREPARED BY THE FEDERAL ENVIRONMENTAL
12 PROTECTION AGENCY'S AIR TOXICS SCREENING ASSESSMENT
13 (AIRTOXSCREEN) PROGRAM;

14 (III) INFORMATION SUBMITTED TO THE COMMISSION ABOUT THE
15 TOXICITY OF AIR POLLUTANTS THAT IS PUBLICLY AVAILABLE AND
16 PEER-REVIEWED RELATED TO:

17 (A) POTENCY;

18 (B) MODE OF ACTION;

19 (C) EXPOSURE PATTERNS;

20 (D) ADVERSE HEALTH EFFECTS; AND

21 (E) LEVELS OF EXPOSURE THAT MAY CAUSE OR CONTRIBUTE TO
22 ADVERSE HEALTH EFFECTS, INCLUDING ADVERSE HEALTH EFFECTS ARISING
23 FROM DISPROPORTIONATELY HIGH EXPOSURE OF PARTICULARLY
24 VULNERABLE GROUPS, INCLUDING DISPROPORTIONATELY IMPACTED
25 COMMUNITIES, INFANTS, CHILDREN, FETUSES, THE ELDERLY, AND PEOPLE
26 WITH DISABILITIES; AND

27 (IV) IDENTIFICATIONS OF AIR POLLUTANTS AS TOXIC AIR

1 CONTAMINANTS IN OTHER STATES.

2 (4) **Annual toxic emissions reporting program - study - rules.**

3 (a) ON OR BEFORE JUNE 30 OF EACH YEAR, BEGINNING ON JUNE 30, 2024,
4 ALL OWNERS AND OPERATORS OF SOURCES REQUIRED TO HAVE AN
5 OPERATING PERMIT PURSUANT TO SECTION 25-7-114.3 AND SYNTHETIC
6 MINOR SOURCES MUST SUBMIT AN ANNUAL TOXIC EMISSIONS REPORT TO
7 THE DIVISION THAT REPORTS THE AMOUNT OF EACH TOXIC AIR
8 CONTAMINANT EMITTED BY EACH SOURCE IN THE PRECEDING CALENDAR
9 YEAR, BEGINNING WITH JANUARY 1, 2023, TO DECEMBER 31, 2023. THE
10 DIVISION SHALL MAKE ANNUAL TOXIC EMISSIONS REPORTS SUBMITTED
11 TO THE DIVISION PURSUANT TO THIS SUBSECTION (4)(a) AVAILABLE TO THE
12 PUBLIC.

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14 (b) IF THERE IS A CHANGE OF OWNERSHIP OR CONTROL OF THE
15 STATIONARY SOURCE PRIOR TO JUNE 30 OF THE YEAR THAT AN ANNUAL
16 TOXIC EMISSIONS REPORT MUST BE SUBMITTED, THE OWNER OR OPERATOR
17 AS OF JUNE 30 OF THAT YEAR IS RESPONSIBLE FOR SUBMITTING THE
18 ANNUAL TOXIC EMISSIONS REPORT REQUIRED UNDER SUBSECTION (4)(a)
19 OF THIS SECTION.

20 (c) (I) THE DIVISION SHALL CONDUCT A STUDY AND PREPARE A
21 REPORT THAT INCLUDES:

22 (A) AN ANALYSIS OF THE EXISTING REQUIREMENTS FOR REPORTING
23 TOXIC AIR CONTAMINANTS TO THE DIVISION AND THE FEDERAL
24 ENVIRONMENTAL PROTECTION AGENCY;

25 (B) AN ASSESSMENT OF THE AVAILABILITY AND QUALITY OF TOXIC
26 AIR CONTAMINANT DATA REPORTED TO THE DIVISION AND THE FEDERAL
27 ENVIRONMENTAL PROTECTION AGENCY, WITH THE REPORTING DATA

1 BROKEN DOWN BY INDIVIDUAL TOXIC AIR CONTAMINANT, GEOGRAPHIC
2 AREA, INDUSTRY SECTOR, AND WHETHER CATEGORIES OF STATIONARY
3 SOURCES REPORTING THE DATA ARE SOURCES REQUIRED TO HAVE AN
4 OPERATING PERMIT PURSUANT TO SECTION 25-7-114.3, SYNTHETIC MINOR
5 SOURCES, OR MINOR SOURCES; AND

6 (C) AN IDENTIFICATION OF THE INFORMATIONAL GAPS IN THE
7 REPORTING OF TOXIC AIR CONTAMINANTS TO THE DIVISION AND THE
8 FEDERAL ENVIRONMENTAL PROTECTION AGENCY.

9 (II) THE DIVISION SHALL PROVIDE PUBLIC NOTICE AND HOLD AT
10 LEAST TWO PUBLIC MEETINGS AT WHICH MEMBERS OF THE PUBLIC HAVE AN
11 OPPORTUNITY TO COMMENT ON THE REPORT. THE DIVISION SHALL ALSO
12 CONDUCT OUTREACH TO AND SOLICIT FEEDBACK FROM
13 DISPROPORTIONATELY IMPACTED COMMUNITIES AND WORKERS AT
14 STATIONARY SOURCES. IN FINALIZING THE REPORT, THE DIVISION SHALL
15 INCLUDE IN THE REPORT A SUMMARY OF ANY COMMENTS RECEIVED FROM
16 THE PUBLIC, DISPROPORTIONATELY IMPACTED COMMUNITIES, WORKERS AT
17 STATIONARY SOURCES, AND THE SCIENTIFIC COMMUNITY AND IDENTIFY
18 ANY SIGNIFICANT CHANGES MADE TO THE REPORT BASED ON THOSE
19 COMMENTS. NO LATER THAN OCTOBER 1, 2024, THE DIVISION SHALL
20 SUBMIT THE FINALIZED REPORT TO THE COMMISSION.

21 (III) NO LATER THAN APRIL 30, 2025, THE COMMISSION SHALL,
22 BASED ON THE INFORMATIONAL GAPS IDENTIFIED IN THE REPORT,
23 CONSIDER THE ADOPTION OF RULES THAT ENSURE ANNUAL REPORTS ON
24 TOXIC AIR CONTAMINANTS ARE SUBMITTED TO THE DIVISION AND MAY
25 REQUIRE ADDITIONAL TYPES OF INFORMATION TO BE INCLUDED IN ANNUAL
26 TOXIC EMISSIONS REPORTS SUBMITTED TO THE DIVISION FOR OPERATIONS
27 AND EMISSIONS OCCURRING IN CALENDAR YEAR 2025 AND EACH

1 CALENDAR YEAR THEREAFTER.

2 (d) THE COMMISSION MAY ESTABLISH BY RULE A DE MINIMIS LEVEL
3 OF [REDACTED] EMISSIONS OF A TOXIC AIR CONTAMINANT [REDACTED] BENEATH WHICH AN
4 OWNER OR OPERATOR IS NOT REQUIRED TO REPORT ON THE EMISSIONS OF
5 THE TOXIC AIR CONTAMINANT [REDACTED] THROUGH AN ANNUAL TOXIC EMISSIONS
6 REPORT SUBMITTED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION.

7 (5) **Toxic air contaminant monitoring program - reporting -**
8 **rules.** (a) BEGINNING NO LATER THAN JANUARY 1, 2024, IN ADDITION TO
9 THE FENCELINE MONITORING PROGRAM ESTABLISHED UNDER SECTION
10 25-7-141 (5) AND THE COMMUNITY-BASED MONITORING PROGRAM
11 ESTABLISHED UNDER SECTION 25-7-141 (6), THE DIVISION SHALL DEVELOP
12 AND BEGIN TO CONDUCT A MONITORING PROGRAM TO DETERMINE THE
13 CONCENTRATIONS OF TOXIC AIR CONTAMINANTS IN THE AMBIENT AIR OF
14 THE STATE.

15 (b) THE PROGRAM SHALL INCLUDE THE INSTALLATION AND
16 OPERATION OF AT LEAST SIX [REDACTED] MONITORING SITES COVERING BOTH URBAN
17 AND RURAL AREAS OF THE STATE. THE DIVISION SHALL ENSURE THAT AT
18 LEAST THREE [REDACTED] MONITORING SITES ARE INSTALLED AND OPERATING BY
19 JANUARY 1, 2024, AND THAT AT LEAST THREE ADDITIONAL [REDACTED]
20 MONITORING SITES ARE INSTALLED AND OPERATING BY JULY 1, 2025.
21 EACH MONITORING SITE MUST HAVE THE ABILITY TO DETECT TRENDS IN
22 CONCENTRATIONS OF VARIOUS TOXIC AIR CONTAMINANTS IN THE AMBIENT
23 AIR OVER TIME AT THE SITE.

24 (c) AT A MINIMUM, A MONITORING SITE MUST MEASURE THE
25 CONCENTRATIONS OF:

26 (I) THE TOXIC AIR CONTAMINANTS IDENTIFIED IN SECTION 2.3 OF
27 THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S "NATIONAL AIR

1 TOXICS TRENDS STATION WORK PLAN TEMPLATE (REVISED APRIL 2019)".
2 FOR THE MEASUREMENT OF A TOXIC AIR CONTAMINANT SPECIFIED IN THIS
3 SUBSECTION (5)(c)(I), THE MEASUREMENT MUST MEET THE REQUIRED
4 MINIMUM DETECTION LIMIT SPECIFIED FOR THE MEASURED AIR POLLUTANT
5 IN SECTION 3.1 OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S
6 "NATIONAL AIR TOXICS TRENDS STATION WORK PLAN TEMPLATE
7 (REVISED APRIL 2019)" OR THE MOST RECENT VERSION.

8 (II) THE TOXIC AIR CONTAMINANTS IDENTIFIED IN TABLE 1.2-1 OF
9 THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S "TECHNICAL
10 ASSISTANCE DOCUMENT FOR THE NATIONAL AIR TOXICS TRENDS
11 STATIONS PROGRAM (REVISION 3)" FROM OCTOBER 2016 OR THE MOST
12 RECENT VERSION. FOR THE MEASUREMENT OF A TOXIC AIR CONTAMINANT
13 SPECIFIED IN THIS SUBSECTION (5)(c)(II) AND ALL OTHER TOXIC AIR
14 CONTAMINANTS MEASURED UNDER THE MONITORING PROGRAM, THE
15 DIVISION MUST SPECIFY A METHOD DETECTION LIMIT FOR EACH TOXIC AIR
16 CONTAMINANT PURSUANT TO APPENDIX B OF 40 CFR 136.

17 (d) IN DETERMINING THE LOCATION OF ANY NEW MONITORING SITE,
18 THE DIVISION SHALL:

19 (I) PROVIDE PUBLIC NOTICE AND HOLD AT LEAST TWO PUBLIC
20 MEETINGS WHERE MEMBERS OF THE PUBLIC HAVE AN OPPORTUNITY TO
21 COMMENT ON THE DIVISION'S PROPOSED LOCATIONS FOR THE MONITORING
22 SITES; AND

23 (II) GIVE PRIORITY TO LOCATIONS THAT ARE WITHIN A
24 DISPROPORTIONATELY IMPACTED COMMUNITY.

25 (e) THE DIVISION MAY CHANGE THE LOCATION OF ANY
26 MONITORING SITE AFTER FOLLOWING THE PROCEDURE AND REQUIREMENTS
27 SPECIFIED IN SUBSECTION (5)(d) OF THIS SECTION.

1 (f) NO LATER THAN JULY 1, 2025, AND BY JULY 1 EACH YEAR
2 THEREAFTER, THE DIVISION SHALL PROVIDE PUBLIC NOTICE AND HOLD AT
3 LEAST TWO PUBLIC MEETINGS AT WHICH MEMBERS OF THE PUBLIC HAVE AN
4 OPPORTUNITY TO COMMENT ON THE MONITORING PROGRAM. THE DIVISION
5 SHALL ALSO CONDUCT OUTREACH TO AND SOLICIT FEEDBACK FROM
6 DISPROPORTIONATELY IMPACTED COMMUNITIES ON THE MONITORING
7 PROGRAM.

8 (g) (I) NO LATER THAN OCTOBER 1, 2025, AND BY OCTOBER 1
9 EACH YEAR THEREAFTER, THE DIVISION SHALL PREPARE AN ANNUAL
10 REPORT THAT SUMMARIZES THE TOXIC AIR CONTAMINANT DATA
11 COLLECTED BY THE MONITORING SITES IN THE PREVIOUS CALENDAR YEAR.
12 THE DIVISION SHALL INCLUDE IN THE REPORT A SUMMARY OF ANY
13 COMMENTS RECEIVED FROM THE PUBLIC, DISPROPORTIONATELY IMPACTED
14 COMMUNITIES, AND THE SCIENTIFIC COMMUNITY DURING THE TWO PUBLIC
15 MEETINGS HELD PURSUANT TO SUBSECTION (5)(f) OF THIS SECTION.

16 (II) ONCE THE REPORT IS FINALIZED, THE DIVISION SHALL:

17 (A) POST THE REPORT ON THE DIVISION'S WEBSITE IN BOTH
18 ENGLISH AND SPANISH; AND

19 (B) SUBMIT THE FINALIZED REPORT TO THE HEALTH AND HUMAN
20 SERVICES COMMITTEE OF THE SENATE AND THE ENERGY AND
21 ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR THEIR
22 SUCCESSOR COMMITTEES. NOTWITHSTANDING SECTION 24-1-136
23 (11)(a)(I), THE REQUIREMENT TO REPORT TO THE LEGISLATIVE
24 COMMITTEES CONTINUES INDEFINITELY.

25 (h) THE DIVISION SHALL REPORT ON THE NEED FOR ANY
26 ADDITIONAL MONITORING SITES FOR THE MONITORING PROGRAM, AND THE
27 COSTS ASSOCIATED WITH ADDITIONAL MONITORING SITES, TO THE HEALTH

1 AND HUMAN SERVICES COMMITTEE OF THE SENATE AND THE ENERGY AND
2 ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR THEIR
3 SUCCESSOR COMMITTEES, DURING THE COMMITTEES' HEARINGS HELD
4 PRIOR TO THE 2027 REGULAR SESSION OF THE GENERAL ASSEMBLY UNDER
5 THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND
6 TRANSPARENT (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF
7 TITLE 2.

8 (6) **Health-based standards - rules.** (a) THE COMMISSION SHALL
9 ADOPT RULES THAT:

10 (I) NO LATER THAN APRIL 30, 2025, IDENTIFY UP TO FIVE PRIORITY
11 TOXIC AIR CONTAMINANTS CONSIDERING:

12

13 (A) EXISTING DATA CONCERNING TOXIC AIR CONTAMINANTS
14 GATHERED THROUGH DIVISION MONITORING PROGRAMS;

15 (B) DATA REPORTED TO THE DIVISION CONCERNING EMISSIONS OF
16 TOXIC AIR POLLUTANTS;

17 (C) DATA REPORTED TO THE FEDERAL TOXICS RELEASE INVENTORY
18 PURSUANT TO 42 U.S.C. SEC. 11023 AND DATA PREPARED BY THE FEDERAL
19 ENVIRONMENTAL PROTECTION AGENCY'S AIR TOXICS SCREENING
20 ASSESSMENT (AIRTOXSCREEN) PROGRAM;

21 (D) ANY OTHER RELEVANT DATA SUBMITTED TO THE COMMISSION
22 DURING THE RULE-MAKING PROCESS CONCERNING THE AMOUNT OF
23 EMISSIONS AND CONCENTRATIONS OF TOXIC AIR CONTAMINANTS IN THE
24 AMBIENT AIR OF THE STATE, INCLUDING DATA COLLECTED THROUGH
25 COMMUNITY-LED MONITORING PROGRAMS; AND

26 (E) INPUT FROM THE SCIENTIFIC COMMUNITY; AND

27 (II) NO LATER THAN APRIL 30, 2026, ESTABLISH HEALTH-BASED

1 STANDARDS FOR PRIORITY TOXIC AIR CONTAMINANTS THAT ARE
2 PROTECTIVE OF PUBLIC HEALTH AND IDENTIFY THE EXCESS CANCER AND
3 NON-CANCER RISK LEVELS FOR USE IN SETTING THE HEALTH-BASED
4 STANDARDS.

5 (b) IN DETERMINING THE HEALTH-BASED STANDARDS, THE
6 COMMISSION SHALL:

7 (I) CONSIDER THE BEST AVAILABLE PEER-REVIEWED TOXICITY
8 VALUES REGARDING THE LEVELS OF EXPOSURE TO PRIORITY TOXIC AIR
9 CONTAMINANTS THAT MAY CAUSE OR CONTRIBUTE TO ADVERSE HEALTH
10 EFFECTS;

11 (II) CONSIDER STANDARDS ADOPTED IN OTHER STATES TO REDUCE
12 OR LIMIT CONCENTRATIONS OF TOXIC AIR CONTAMINANTS IN THE AMBIENT
13 AIR;

14 (III) CONSIDER THE EFFECTS OF EXPOSURE TO PRIORITY TOXIC AIR
15 CONTAMINANTS ON VULNERABLE GROUPS OF THE STATE, INCLUDING
16 DISPROPORTIONATELY IMPACTED COMMUNITIES, INFANTS, CHILDREN,
17 FETUSES, THE ELDERLY, AND PEOPLE WITH DISABILITIES;

18 (IV) CONSIDER BOTH CANCER-RELATED HEALTH RISKS AND
19 NON-CANCER-RELATED HEALTH RISKS. ■ ■

20 (V) PROVIDE FOR A SUFFICIENT MARGIN OF SAFETY THAT
21 ACCOUNTS FOR THE VARIOUS EFFECTS THAT DIFFERENT POPULATIONS MAY
22 EXPERIENCE FROM EXPOSURE TO PRIORITY TOXIC AIR CONTAMINANTS;
23 AND

24 (VI) CONSULT WITH THE SCIENTIFIC COMMUNITY THROUGH
25 HOLDING AT LEAST ONE PUBLIC HEARING SPECIFICALLY FOR THIS
26 CONSULTATION.

27 (c) BEGINNING NO LATER THAN SEPTEMBER 30, 2029, AND AT

1 LEAST ONCE EVERY FIVE YEARS THEREAFTER, THE COMMISSION SHALL:

2 (I) DETERMINE WHETHER TO IDENTIFY ANY ADDITIONAL PRIORITY
3 TOXIC AIR CONTAMINANTS CONSIDERING THE DATA DESCRIBED IN
4 SUBSECTION (6)(a)(I) OF THIS SECTION;

5
6 (II) DETERMINE WHETHER TO INCLUDE ACUTE EXPOSURE LIMITS
7 FOR PRIORITY TOXIC AIR CONTAMINANTS IN THE DEFINITION OF
8 HEALTH-BASED STANDARDS;

9 (III) DETERMINE WHETHER TO REVISE THE EXCESS CANCER AND
10 NON-CANCER RISK LEVELS FOR USE IN SETTING THE HEALTH-BASED
11 STANDARDS;

12 (IV) REVIEW EXISTING HEALTH-BASED STANDARDS TO ENSURE
13 THAT THE STANDARDS SUFFICIENTLY PROTECT PUBLIC HEALTH; AND

14 (V) DETERMINE WHETHER TO REVISE THE EXISTING HEALTH-BASED
15 STANDARDS IN ACCORDANCE WITH THE CONSIDERATIONS SET FORTH IN
16 SUBSECTION (6)(b) OF THIS SECTION AND, IF A DETERMINATION IS MADE TO
17 REVISE ANY EXISTING HEALTH-BASED STANDARD, THE COMMISSION MUST,
18 WITHIN TWELVE MONTHS AFTER THE DETERMINATION, ADOPT RULES TO
19 THAT EFFECT.

20 (d) NO MORE THAN TWELVE MONTHS AFTER THE COMMISSION
21 MAKES THE DETERMINATION PURSUANT TO SECTION (6)(c)(I) OF THIS
22 SECTION, THE COMMISSION SHALL ADOPT HEALTH-BASED STANDARDS FOR
23 ANY ADDITIONAL PRIORITY TOXIC AIR CONTAMINANTS IN ACCORDANCE
24 WITH SUBSECTION (6)(b) OF THIS SECTION.

25 (7) **Emission control regulations - rules.** (a) NO LATER THAN
26 APRIL 30, 2026, THE COMMISSION SHALL ADOPT EMISSION CONTROL
27 REGULATIONS TO REDUCE EMISSIONS OF EACH PRIORITY TOXIC AIR

1 CONTAMINANT AND PRIORITIZE REDUCTIONS IN DISPROPORTIONATELY
2 IMPACTED COMMUNITIES WITH MULTIPLE SOURCES OF EMISSIONS OF
3 PRIORITY TOXIC AIR CONTAMINANTS.

4 (b) IN DETERMINING THE EMISSION CONTROL REGULATIONS, THE
5 COMMISSION SHALL CONSIDER:

6 (I) ANY EMISSION CONTROL REGULATIONS ADOPTED FOR PRIORITY
7 TOXIC AIR CONTAMINANTS IN OTHER STATES OR BY THE FEDERAL
8 GOVERNMENT;

9 (II) THE EMISSION LEVELS OF A PRIORITY TOXIC AIR CONTAMINANT
10 FROM DIFFERENT INDUSTRIES AND CATEGORIES OF SOURCES, INCLUDING
11 SOURCES REQUIRED TO HAVE AN OPERATING PERMIT PURSUANT TO
12 SECTION 25-7-114.3, SYNTHETIC MINOR SOURCES, AND MINOR SOURCES;

13 (III) THE DEGREE OF REDUCTION OF EACH PRIORITY TOXIC AIR
14 CONTAMINANT THAT IS ACHIEVABLE AND TECHNICALLY AND
15 ECONOMICALLY FEASIBLE, TAKING INTO ACCOUNT ENERGY,
16 ENVIRONMENTAL, AND ECONOMIC IMPACTS AND OTHER COSTS PURSUANT
17 TO THE REQUIREMENTS DESCRIBED IN SECTION 25-7-110.8;

18 ==
19 (IV) THE ABILITY OF EMISSION CONTROL REGULATIONS TO REDUCE
20 OR ELIMINATE THE EMISSIONS OF A PRIORITY TOXIC AIR CONTAMINANT,
21 INCLUDING NON-EMITTING ALTERNATIVE PROCESSES AND CONTROL
22 TECHNOLOGIES; AND

23
24 (V) THE AVAILABILITY, SUITABILITY, AND RELATIVE EFFICACY OF
25 A LESS HAZARDOUS SUBSTITUTE FOR A PRIORITY TOXIC AIR CONTAMINANT.

26 (c) FOR NEW EMISSION SOURCES OF PRIORITY TOXIC AIR
27 CONTAMINANTS, THE COMMISSION SHALL ADOPT EMISSION CONTROL

1 REGULATIONS THAT ARE MORE STRINGENT THAN THOSE ADOPTED FOR
2 EXISTING EMISSION SOURCES OF PRIORITY TOXIC AIR CONTAMINANTS. THE
3 COMMISSION MAY ALSO ADOPT AN EMISSIONS THRESHOLD BELOW WHICH
4 NEW EMISSION SOURCES SHALL NOT BE REQUIRED TO COMPLY WITH THE
5 MORE STRINGENT EMISSION CONTROL REGULATIONS.

6 (d) BEGINNING NO LATER THAN SEPTEMBER 30, 2030, AND AT
7 LEAST ONCE EVERY FIVE YEARS THEREAFTER, THE COMMISSION SHALL:

8 (I) ADOPT EMISSION CONTROL REGULATIONS FOR ANY ADDITIONAL
9 PRIORITY TOXIC AIR CONTAMINANTS IDENTIFIED BY THE COMMISSION IN
10 ACCORDANCE WITH SUBSECTION (6)(c)(I) OF THIS SECTION; AND

11 (II) DETERMINE WHETHER TO REVISE THE EXISTING EMISSION
12 CONTROL REGULATIONS IN ACCORDANCE WITH THE CONSIDERATIONS SET
13 FORTH IN SUBSECTION (7)(b) OF THIS SECTION. ■

14 (e) IN REVIEWING AND APPROVING AIR POLLUTION PERMITS UNDER
15 SECTION 25-7-114.3, THE DIVISION SHALL INCLUDE ANY APPLICABLE
16 EMISSION CONTROL REGULATIONS IN THE PERMIT.

17 (f) THE EMISSION CONTROL REGULATIONS ESTABLISHED UNDER
18 THIS SUBSECTION (7) SHALL NOT APPLY TO ANY ELECTRIC GENERATING
19 RESOURCE LOCATED WITHIN THE STATE WITH A CLOSURE DATE NO LATER
20 THAN JANUARY 1, 2031, THAT HAS BEEN APPROVED BY EITHER THE PUBLIC
21 UTILITIES COMMISSION CREATED IN SECTION 40-2-101 (1) AS PART OF AN
22 ELECTRIC RESOURCE PLAN OR THE AIR POLLUTION CONTROL DIVISION AS
23 PART OF A CLEAN ENERGY PLAN.

24 ■ ■

25 (8) **Air pollution regulation for sources of toxic air**
26 **contaminants - assessment.** (a) NO LATER THAN DECEMBER 31, 2025,
27 THE DIVISION SHALL CONDUCT AN ASSESSMENT TO DETERMINE THE NEEDS

1 OF THE DIVISION TO ADMINISTER AN AIR PERMITTING PROGRAM TO
2 REGULATE NEW, MODIFIED, AND EXISTING STATIONARY SOURCES THAT
3 EMIT LEVELS OF PRIORITY TOXIC AIR CONTAMINANTS, REFERRED TO IN THIS
4 SUBSECTION (8) AS THE "AIR TOXICS PERMITTING PROGRAM".

5 (b) THE ASSESSMENT MUST:

6 (I) EVALUATE AIR TOXICS PERMITTING PROGRAMS FOR NEW,
7 MODIFIED, AND EXISTING STATIONARY SOURCES OF PRIORITY TOXIC AIR
8 CONTAMINANTS IN OTHER STATES AND ON TRIBAL LANDS;

9 (II) EVALUATE AND MAKE RECOMMENDATIONS REGARDING THE
10 SCOPE OF THE AIR TOXICS PERMITTING PROGRAM, INCLUDING THE TYPES
11 OF PERMITS, STATIONARY SOURCES, INDUSTRIES, AND GEOGRAPHIC AREAS
12 OF THE STATE THAT WOULD BE IMPACTED BY THE PROGRAM;

13 (III) IDENTIFY PROCESSES AND REASONABLE TIMELINES FOR:

14 (A) THE NOTIFICATION TO ANY STATIONARY SOURCES THAT COULD
15 BE SUBJECT TO THE AIR TOXICS PERMITTING PROGRAM;

16 (B) THE ASSESSMENT OF PUBLIC HEALTH RISKS ASSOCIATED WITH
17 A STATIONARY SOURCE'S EMISSIONS OF PRIORITY TOXIC AIR
18 CONTAMINANTS; AND

19 (C) THE ASSESSMENT AND IMPLEMENTATION OF STRATEGIES
20 DESIGNED TO REDUCE EMISSIONS OF PRIORITY TOXIC AIR CONTAMINANTS
21 FROM A STATIONARY SOURCE THROUGH PERMITTING; AND

22 (IV) IDENTIFY THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH
23 THE IMPLEMENTATION OF AN AIR TOXICS PERMITTING PROGRAM FOR
24 EXISTING STATIONARY SOURCES AND POSSIBLE FUNDING MECHANISMS.

25 (c) THE DIVISION SHALL PROVIDE PUBLIC NOTICE AND HOLD AT
26 LEAST TWO PUBLIC MEETINGS AT WHICH MEMBERS OF THE PUBLIC HAVE AN
27 OPPORTUNITY TO COMMENT ON THE ASSESSMENT. THE DIVISION SHALL

1 ALSO CONDUCT OUTREACH TO AND SOLICIT FEEDBACK FROM
2 DISPROPORTIONATELY IMPACTED COMMUNITIES AND WORKERS AT
3 STATIONARY SOURCES ON THE ASSESSMENT.

4 (d) IN FINALIZING THE ASSESSMENT, THE DIVISION SHALL INCLUDE
5 IN THE ASSESSMENT A SUMMARY OF ANY COMMENTS RECEIVED FROM THE
6 PUBLIC, WORKERS AT STATIONARY SOURCES, AND DISPROPORTIONATELY
7 IMPACTED COMMUNITIES AND IDENTIFY ANY SIGNIFICANT CHANGES MADE
8 TO THE ASSESSMENT BASED ON SUCH COMMENTS.

9 (e) THE DIVISION SHALL REPORT ON THE ASSESSMENT AND
10 PROVIDE RECOMMENDATIONS TO THE HEALTH AND HUMAN SERVICES
11 COMMITTEE OF THE SENATE AND THE ENERGY AND ENVIRONMENT
12 COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR
13 COMMITTEES, DURING THE COMMITTEES' HEARINGS HELD PRIOR TO THE
14 2026 REGULAR SESSION OF THE GENERAL ASSEMBLY UNDER THE "STATE
15 MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT
16 (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

17

18 **SECTION 5.** In Colorado Revised Statutes, 25-7-109.3, **amend**
19 (1), (2), (3)(a)(I), (4)(a)(I), and (4)(h)(III); and **repeal** (3)(b), (3)(b.1),
20 (3)(f), and (3)(g) as follows:

21 **25-7-109.3. Colorado hazardous air pollutant control and**
22 **reduction program - rules - repeal.** (1) The commission shall
23 promulgate appropriate ~~regulations~~ RULES pertaining to hazardous air
24 pollutants ~~as defined in section 25-7-103 (13) which~~ THAT are consistent
25 with this section, SECTION 25-7-109.5, and the requirements of and
26 emission standards promulgated pursuant to section 112 of the federal act,
27 including any standard required to be imposed under section 112(r) of the

1 federal act. The commission shall monitor the progress and results of the
2 risk studies performed under section 112 of the federal act to show that
3 Colorado's hazardous air pollutant control and reduction program is
4 ~~consistent with~~ AT LEAST AS PROTECTIVE AS the national strategy.

5 (2) ~~Except as provided in section 25-7-114.4 (5),~~ The commission
6 may ~~only~~ promulgate rules pertaining to hazardous air pollutants ~~as~~
7 ~~defined in section 25-7-103 (13)~~ in accordance with this section, SECTION
8 25-7-109.5, AND SECTION 25-7-114.4. In order to minimize additional
9 regulatory and compliance costs to the state's economy, any program
10 created by the commission pursuant to this section ~~must~~ MAY contain a
11 provision that exempts FROM THE REQUIREMENTS OF THE PROGRAM those
12 sources or categories of sources that it determines to be of minor
13 significance. ~~from the requirements of the program.~~ Consistent with the
14 provisions of section 25-7-105.1, the commission shall authorize
15 synthetic minor sources of hazardous air pollutants by the issuance of
16 construction permits or prohibitory or other rules. ~~Such permits or rules~~
17 ~~must only be as stringent as necessary to establish synthetic minor status.~~
18 The commission shall expeditiously implement this subsection (2) to
19 ~~assure~~ ENSURE that all sources may be able to timely qualify as a synthetic
20 minor source, thereby avoiding the costs of the operating permit program.

21 (3) (a) (I) As soon as adequate scientific, technological, and
22 hazardous air pollutant emissions information is available, the
23 commission may promulgate regulations for the control of hazardous air
24 pollutants, INCLUDING utilizing Colorado GACT or Colorado MACT
25 technology-based emission reduction requirements, as defined in section
26 25-7-103 (6.7) and (6.8).

27 (b) ~~This section shall only apply to sources emitting a hazardous~~

1 air pollutant identified in the list established or amended pursuant to
2 subsection (5) of this section which:

3 (I) ~~Are not included in categories or subcategories of sources~~
4 ~~listed or proposed to be listed by the environmental protection agency~~
5 ~~under section 112 of the federal act and thus will not be required to~~
6 ~~comply with GACT or MACT under the federal act, as defined in section~~
7 ~~25-7-103 (12.1) and (16.5); or~~

8 (II) ~~Are included in categories or subcategories of sources listed~~
9 ~~or proposed to be listed under section 112 of the federal act and which~~
10 ~~have:~~

11 (A) ~~Levels of emissions of hazardous air pollutants listed under~~
12 ~~section 112 (b) of the federal act which are below thresholds established~~
13 ~~under the federal act and thus will not be required to comply with GACT~~
14 ~~and MACT under the federal act and as defined in section 25-7-103~~
15 ~~(12.1) and (16.5); except that this section shall not apply to a source~~
16 ~~included in a category or subcategory for which a lesser quantity emission~~
17 ~~rate has been proposed or adopted under section 112 of the federal act; or~~

18 (B) ~~Hazardous air pollutant emissions above a threshold level of~~
19 ~~the substance listed under subparagraph (II) of paragraph (a) and~~
20 ~~paragraph (b) of subsection (5) of this section.~~

21 (b.1) ~~The commission may recognize similarities among regulated~~
22 ~~sources or apply, when appropriate, previous control requirements~~
23 ~~established by the commission in making a determination about the need~~
24 ~~for such regulation under this subsection (3). The commission shall also~~
25 ~~consider fundamentally different factors between sources in making these~~
26 ~~determinations.~~

27 (f) ~~This section shall not apply to sources subject to national~~

1 emission standards for hazardous air pollutants (NESHAP) established by
2 the administrator pursuant to the federal act, but only for those emissions
3 for which a NESHAP is established.

4 (g) ~~This section shall not impose requirements on sources~~
5 ~~included in categories or subcategories of sources which are listed in~~
6 ~~section 112(n) of the federal act which are inconsistent with the timing of~~
7 ~~studies or assessments conducted under or definitions set forth in section~~
8 ~~112(n) of the federal act.~~

9 (4) (a) (I) ~~On or after the risk-based studies required under~~
10 ~~sections 112(k)(3), 112(o), and 112(f) of the federal act are completed~~
11 ~~and received by the commission,~~ The commission may adopt regulations
12 RULES pertaining to those sources identified as emitting hazardous air
13 pollutants regulated under this section, which may include additional
14 emission reduction requirements to address any residual risk of health
15 effects with respect to actual persons living in the vicinity of sources after
16 installation of technology-based controls. Imposition of such
17 requirements may be made PURSUANT TO SECTION 25-7-109.5 OR upon a
18 determination by the commission that operation of sources without
19 health-based controls does not or will not represent an inconsequential
20 threat to public health. ~~Regulations~~ RULES as finally adopted pursuant to
21 this subsection (4) may apply on a source-specific basis.

22 (h) **Temporary exceptional authority.** (III) ~~This paragraph (h)~~
23 ~~shall remain effective only until such time as the commission acts~~
24 ~~pursuant to its authority under paragraph (a) of this subsection (4)~~
25 SUBSECTION (4)(h) IS REPEALED, EFFECTIVE JULY 1, 2026.

26



27 **SECTION 6. Appropriation.** (1) For the 2022-23 state fiscal

1 year, \$3,135,853 is appropriated to the department of public health and
2 environment. This appropriation is from the general fund. To implement
3 this act, the department may use this appropriation as follows:

4 (a) \$2,192,791 for use by the air pollution control division for
5 program costs, which amount is based on an assumption that the division
6 will require an additional 10.1 FTE;

7 (b) \$271,906 for use by the division of environmental health and
8 sustainability for the toxicology and environmental epidemiology unit,
9 which amount is based on an assumption that the division will require an
10 additional 7.0 FTE;

11 (c) \$73,928 for the purchase of legal services; and

12 (d) \$597,228 for the purchase of information technology services.

13 (2) For the 2022-23 state fiscal year, \$73,928 is appropriated to
14 the department of law. This appropriation is from reappropriated funds
15 received from the department of public health and environment under
16 subsection (1)(c) of this section and is based on an assumption that the
17 department of law will require an additional 0.4 FTE. To implement this
18 act, the department of law may use this appropriation to provide legal
19 services for the department of public health and environment.

20 (3) For the 2022-23 state fiscal year, \$597,228 is appropriated to
21 the office of the governor for use by the office of information technology.
22 This appropriation is from reappropriated funds received from the
23 department of public health and environment under subsection (1)(d) of
24 this section. To implement this act, the office may use this appropriation
25 to provide information technology services for the department of public
26 health and environment.

27 **SECTION 7. Applicability.** This act applies to conduct occurring

1 on or after the effective date of this act.

2 **SECTION 8. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, or safety.