

## CHAPTER 222

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**HEALTH AND ENVIRONMENT**

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**HOUSE BILL 95-1345**

BY REPRESENTATIVES Tucker, Adkins, Chlouber, Hagedorn, Keller, Paschall, Prinzler, Reeser, Swenson, and Taylor;  
also SENATORS Norton, Hopper, Perlmutter, R. Powers, and Schroeder.

**AN ACT**

**CONCERNING AIR QUALITY, AND, IN CONNECTION THEREWITH, PROVIDING FOR A FURTHER STUDY  
RELATED THERETO FOR THE NORTHERN FRONT RANGE.**

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

**SECTION 1.** Part 1 of article 7 of title 25, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

**25-7-136. Air pollution data collection and technical evaluation - repeal.**

(1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT PROGRESS HAS BEEN MADE TOWARD IMPROVEMENT OF AIR QUALITY THROUGHOUT THE STATE OF COLORADO DUE TO THE ACTIONS OF THE CITIZENS OF THE STATE AND THE IMPLEMENTATION OF CERTAIN PROGRAMS THAT HAVE HELPED TO BRING THE STATE INTO COMPLIANCE WITH FEDERAL AIR QUALITY GOALS. IN ORDER TO FURTHER IMPROVE THE AIR AND ENSURE THAT AIR QUALITY STANDARDS ARE ACHIEVED AND MAINTAINED, ACCURATE INFORMATION ABOUT THE EFFECTIVENESS OF AIR POLLUTION CONTROL STRATEGIES AND THE NATURE OF COLORADO'S UNIQUE POLLUTION PROBLEMS MUST BE ACCUMULATED AND EVALUATED TO IMPLEMENT SOUND ADDITIONAL COST-EFFECTIVE STRATEGIES. IN ADDITION, THE CURRENT STRATEGIES MUST BE TESTED TO SEE IF THEY ARE ACHIEVING THE MOST COST-EFFECTIVE REDUCTIONS IN AIR POLLUTION POSSIBLE. THE STATE WILL NEED TO ENHANCE OR MODIFY ITS AIR POLLUTION CONTROL STRATEGIES IN THE FUTURE AND NEEDS TO MAKE THESE POLICY CHANGES BASED ON REAL WORLD SCIENTIFIC MEASUREMENTS AND STRATEGIES WITH PROVEN EFFECTIVENESS. THE STATE HAS PREVIOUSLY BEEN THE BENEFICIARY OF A PUBLIC/PRIVATE STUDY DEALING WITH DENVER URBAN VISIBILITY POLLUTION THAT ADVANCED THE LEVEL OF KNOWLEDGE CONCERNING THE COMPONENTS OF AIR POLLUTION ALONG THE NORTHERN FRONT RANGE BUT WHICH RAISED MANY NEW QUESTIONS ABOUT THE SOURCES OF DENVER URBAN VISIBILITY POLLUTION. THE GOVERNOR, THE PRIVATE SECTOR, AND MEMBERS OF THE

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

REGULATORY COMMUNITY HAVE ACKNOWLEDGED THAT ADDITIONAL ATTRIBUTION STUDIES MUST BE ACCOMPLISHED IN ORDER TO FULLY DETERMINE THE SOURCES OF THE VISIBILITY POLLUTION ALONG THE NORTHERN FRONT RANGE.

(2) THE GENERAL ASSEMBLY, IN COOPERATION WITH THE GOVERNOR AND WITH THE SUPPORT OF THE APPROPRIATE EXECUTIVE BRANCH AGENCIES, SHALL REQUEST THE PARTICIPATION AND FINANCIAL SUPPORT OF THE PRIVATE SECTOR ORGANIZATIONS THAT ARE MOST CLOSELY IDENTIFIED AS PARTICIPATING IN PAST EFFORTS, INCLUDING THE SCENIC DENVER STUDY, TO CONDUCT AN INDEPENDENT, OBJECTIVE, SCIENTIFICALLY PEER-REVIEWED STUDY PURSUANT TO SUBSECTION (3) OF THIS SECTION, INCLUDING NEW DATA-GATHERING EFFORTS DESIGNED TO IDENTIFY AND APPORTION SOURCES OF POLLUTION FOR THE NORTHERN FRONT RANGE THAT CONTRIBUTE TO DENVER URBAN VISIBILITY REDUCTION AND THAT WOULD NEED TO BE SUBJECTED TO CONTROL STRATEGIES TO ATTAIN AND MAINTAIN FEDERAL AMBIENT AIR QUALITY STANDARDS IN THE DENVER URBAN REGION. THE STUDY SHALL BE JOINTLY FUNDED THROUGH DONATIONS FROM PRIVATE SECTOR ORGANIZATIONS AND FROM GOVERNMENT SECTOR AGENCIES, IF AVAILABLE. THE GOVERNOR, THE PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL CONTRACT WITH THE PRESIDENT OF THE COLORADO STATE UNIVERSITY TO REQUEST PROPOSALS FOR AND OVERSEE A STUDY OF AIR QUALITY IN THE NORTHERN FRONT RANGE AREA OF THE STATE IN CONSULTATION WITH THE TECHNICAL ADVISORY PANEL CREATED IN SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION. PRIVATE AND PUBLIC MONEYS MAY BE RECEIVED FOR PURPOSES OF THE STUDY CONDUCTED PURSUANT TO THIS SECTION; HOWEVER, THE EXPENDITURE OF SUCH MONEYS IS SUBJECT TO THE PROVISIONS OF THE CONTRACT OVERSEEN BY THE GOVERNOR, PRESIDENT OF THE SENATE, AND SPEAKER OF THE HOUSE OF REPRESENTATIVES. THE PRESIDENT OF THE COLORADO STATE UNIVERSITY SHALL REPORT TO THE GOVERNOR, PRESIDENT OF THE SENATE, AND SPEAKER OF THE HOUSE OF REPRESENTATIVES ON ANY MATTERS RELATED TO THE MANAGEMENT OF THE CONTRACT ENTERED INTO PURSUANT TO THIS SUBSECTION (2).

(3) (a) THE STUDY SHALL BE CONCLUDED WITH A REPORT TO THE GENERAL ASSEMBLY AND THE GOVERNOR WITH SPECIFIC FINDINGS OF FACT AS TO SOURCES OF AIR POLLUTION NO LATER THAN OCTOBER 15, 1996. IF IT IS DETERMINED PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION (3) THAT ADEQUATE RESOURCES ARE NOT AVAILABLE TO MEET THE OCTOBER 15, 1996, DEADLINE, THE GOVERNOR, PRESIDENT OF THE SENATE, AND SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL SET AN ALTERNATIVE DATE FOR SUBMITTAL OF SUCH STUDY WITH A PUBLICATION DATE NO LATER THAN JANUARY 1, 1997. THE STUDY SHALL BE CONDUCTED BY A VENDOR SELECTED FROM QUALIFIED BIDDERS TO ENSURE AN INDEPENDENT AND OBJECTIVE STUDY THAT PROVIDES FOR PEER REVIEW BY A PANEL OF SCIENTISTS WITH APPROPRIATE EXPERTISE. THE STUDY SHALL INCLUDE, BUT NOT BE LIMITED TO:

(I) DETERMINING THE SOURCES OF THE AIR POLLUTION IN THE DENVER URBAN REGION AREA, INCLUDING SULFATE, NITRATE, AND OTHER PARTICLES, SULFUR DIOXIDE, CARBON MONOXIDE, NITROGEN OXIDE GASES, AMMONIA, AND VOLATILE ORGANIC COMPOUNDS;

(II) COLLECTING DISCRETE DATA NECESSARY TO SUPPORT DECISION-MAKING CONCERNING THE TECHNICAL FEASIBILITY OF ACHIEVING THE STATE VISIBILITY GOALS

ESTABLISHED PURSUANT TO SECTION 25-7-106.1 AND IN THE DEVELOPMENT OF STATE IMPLEMENTATION PLAN PROVISIONS FOR THE ATTAINMENT AND MAINTENANCE OF FEDERAL AMBIENT AIR QUALITY STANDARDS FOR THE DENVER URBAN REGION;

(III) IDENTIFYING THE FRACTION OF THE PARTICULATE MATTER WITH AN AERODYNAMIC DIAMETER LESS THAN OR EQUAL TO A NOMINAL TEN MICROMETERS ("PM-10") WHICH IS REPRESENTED BY PARTICULATE MATTER WITH AN AERODYNAMIC DIAMETER LESS THAN OR EQUAL TO A NOMINAL TWO-AND-ONE-HALF MICROMETERS ("PM-2.5");

(IV) DETERMINING WHAT PORTION OF THE PM-2.5 FRACTION IS ATTRIBUTABLE TO VARIOUS SOURCES AND SOURCE CATEGORIES;

(V) MEASURING THE STATIONARY AND MOBILE SOURCE CONTRIBUTIONS TO CARBON MONOXIDE POLLUTION TO DETERMINE WHETHER ANY DISTINCTION MAY BE MADE AMONG DIFFERENT SOURCES OF POLLUTION. SUCH MEASUREMENT SHALL INCLUDE THE ANALYSIS OF EXISTING DATA AND INFORMATION.

(VI) IDENTIFYING, TO THE EXTENT POSSIBLE AND FEASIBLE, THE SOURCES OF THE PRECURSORS OF PARTICULATE MATTER POLLUTION, INCLUDING AMMONIA SOURCES; AND

(VII) GATHERING AMBIENT AIR SAMPLES FROM LOCATIONS THROUGHOUT THE SIX-COUNTY DENVER METROPOLITAN PLANNING REGION TO DOCUMENT SUB-REGIONAL AIR POLLUTION EXPOSURE LEVELS.

(b) (I) (A) FOR PURPOSES OF PROVIDING TECHNICAL ADVICE ON THE PARAMETERS OF THE STUDY CONDUCTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3), AND CONTINUING GUIDANCE RELATED THERETO THERE IS HEREBY CREATED THE AIR QUALITY STUDY TECHNICAL ADVISORY PANEL. THE PANEL SHALL CONSIST OF EIGHT MEMBERS. SIX MEMBERS SHALL BE APPOINTED BY AND SHALL SERVE AT THE PLEASURE OF THE GOVERNOR. OF THE MEMBERS APPOINTED BY THE GOVERNOR, THREE MEMBERS SHALL BE FROM INDUSTRY GROUPS SIGNIFICANTLY AFFECTED BY AIR POLLUTION CONTROL STRATEGIES REQUIRED ALONG THE FRONT RANGE AREA, ONE MEMBER SHALL REPRESENT THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, ONE MEMBER SHALL REPRESENT THE REGIONAL AIR QUALITY COUNCIL, AND ONE MEMBER SHALL REPRESENT RECOGNIZED ENVIRONMENTAL GROUPS. OF THE REMAINING TWO MEMBERS, ONE MEMBER OF THE PANEL SHALL BE A MEMBER OF THE SENATE APPOINTED BY AND SERVING AT THE PLEASURE OF THE PRESIDENT OF THE SENATE AND ONE MEMBER OF THE PANEL SHALL BE A MEMBER OF THE HOUSE OF REPRESENTATIVES APPOINTED BY AND SERVING AT THE PLEASURE OF THE SPEAKER OF THE HOUSE OF THE REPRESENTATIVES.

(B) IN ADDITION TO THE AIR QUALITY STUDY TECHNICAL ADVISORY PANEL, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE WIDEST POSSIBLE TECHNICAL SUPPORT BE GIVEN TO THE STUDY. THEREFORE, THERE IS HEREBY CREATED A QUALITY CONTROL COMMITTEE TO BE COMPOSED OF PERSONS REPRESENTING THOSE THAT CONTRIBUTE TIME, EXPERTISE, OR FUNDS TO THE SUPPORT OF THE STUDY. SUCH PERSONS SHALL SERVE IN AN ADVISORY CAPACITY AND GIVE TECHNICAL SUPPORT AND EXPERTISE TO THE TECHNICAL ADVISORY PANEL. THE TECHNICAL ADVISORY PANEL SHALL REGULARLY COMMUNICATE WITH THE QUALITY CONTROL COMMITTEE

CONCERNING THE SCOPE AND STATUS OF WORK AND THE CONDUCT AND RESULTS OF THE STUDY. THE MEMBERSHIP OF THE QUALITY CONTROL COMMITTEE SHALL BE ENCOURAGED TO PARTICIPATE AND PROVIDE THE TECHNICAL EXPERTISE TO MAKE THE STUDY AS SOUND AS POSSIBLE. THE MEMBERSHIP OF THIS QUALITY CONTROL COMMITTEE SHALL NOT BE LIMITED IN NUMBER. THE QUALITY CONTROL COMMITTEE SHALL PROVIDE ITS INPUT WITHOUT INTERFERING WITH THE ACCOMPLISHMENT OF THE GOALS SET FORTH IN THIS SECTION OR WITHOUT DELAYING THE START OR COMPLETION OF THE STUDY SET FORTH IN THIS SECTION.

(C) THE MEMBERS OF THE TECHNICAL ADVISORY PANEL AND THE QUALITY CONTROL COMMITTEE SHALL RECEIVE NO COMPENSATION OR REIMBURSEMENT OF EXPENSES FOR THEIR SERVICE ON THE PANEL OR COMMITTEE.

(II) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE MEMBERS OF THE TECHNICAL ADVISORY PANEL BE APPOINTED NO LATER THAN TEN DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION AND THAT A PROCESS FOR A REQUEST FOR PROPOSALS BE IMPLEMENTED AS EXPEDITIOUSLY AS POSSIBLE AFTER THE EFFECTIVE DATE OF THIS SECTION BY THE GOVERNOR, PRESIDENT OF THE SENATE, AND SPEAKER OF THE HOUSE OF REPRESENTATIVES, WITH A DETERMINATION ON OR BEFORE JUNE 12, 1995, OF WHETHER ADEQUATE RESOURCES HAVE BEEN MADE AVAILABLE TO CONDUCT THE STUDY SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (3).

(4) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 1997.

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

Approved: May 31, 1995