

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted  
on Second Reading in the Second House*

LLS NO. 18-1236.01 Thomas Morris x4218

HOUSE BILL 18-1400

HOUSE SPONSORSHIP

Becker K. and McKean,

SENATE SPONSORSHIP

Scott and Jahn,

House Committees

Finance  
Appropriations

Senate Committees

Finance  
Appropriations

A BILL FOR AN ACT

101 CONCERNING AN INCREASE IN FEES PAID BY STATIONARY SOURCES OF  
102 AIR POLLUTANTS, AND, IN CONNECTION THEREWITH,  
103 PRIORITIZING THE USE OF THE REVENUES GENERATED BY THE  
104 FEE INCREASES TO REDUCE PERMIT PROCESSING TIMES AND  
105 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>.)*

Current law sets the fees paid by stationary sources of air pollutants by statute and allows the air quality control commission to set

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.

SENATE  
Amended 2nd Reading  
May 3, 2018

HOUSE  
3rd Reading Unamended  
April 27, 2018

HOUSE  
Amended 2nd Reading  
April 26, 2018

the fees below the cap by rule as needed to comply with TABOR. The bill increases the statutory caps as follows:

<u>Type of Fee</u>	<u>Current Cap</u>	<u>New Cap</u>
Air pollutant emission notices	\$152.90	\$191.13
Per-ton fee for regulated pollutants	\$ 22.90	\$ 28.63
Per-ton fee for hazardous pollutants	\$152.90	\$191.13
Per-hour permit processing fee	\$ 76.45	\$ 95.56

The maximum statutory fees automatically increase by the rate of inflation on each January 1 from 2019 to 2028, but the actual fees collected will be set at or below the statutory cap by the commission by rule. The division of administration in the department of public health and environment shall prioritize its use of the revenues generated by the fee increases to reduce permit processing times.

The division will:

- ! Engage affected industries to identify and assess measures to improve billing practices, increase accounting transparency, and assess potential efficiency improvements with respect to division activities financed by the fees; and
- ! Report to the general assembly as part of the SMART Act presentations through 2022 to provide status updates on the stakeholder process.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby:

4 (a) Finds that the 2018-19 long bill significantly reduced the  
5 spending authority in the air pollution control stationary sources program  
6 due to a reduction in projected revenue and fund balance;

7 (b) Determines that it will be necessary for the department of  
8 public health and environment to work with the joint budget committee  
9 following the enactment of fee increases up to the caps established in this  
10 act, by rule of the commission, to request additional spending authority  
11 to comply with the intent of this act; and

12 (c) Declares that this act is necessary to ensure the continued  
13 operation of the stationary sources program and to ensure timeliness of

1 ~~permitting and responsiveness to stakeholders and the public.~~

2 **SECTION 2.** In Colorado Revised Statutes, 25-7-114.1, **amend**  
3 (6)(a) as follows:

4 **25-7-114.1. Air pollutant emission notices.** (6) (a) The  
5 MAXIMUM fee for filing an air pollutant emission notice or amendment  
6 thereto under this section ~~shall be~~ IS one hundred ~~fifty-two~~ NINETY-ONE  
7 dollars and ~~ninety~~ THIRTEEN cents; EXCEPT THAT, ON EACH JANUARY 1  
8 FROM 2019 TO 2028, THE MAXIMUM FEE IS AUTOMATICALLY ADJUSTED  
9 BASED ON THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES  
10 DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE  
11 INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN  
12 CONSUMERS, OR ITS SUCCESSOR INDEX. THE COMMISSION SHALL SET THE  
13 ACTUAL FEE BY RULE. BEGINNING ON JULY 1, 2018, THE COMMISSION, BY  
14 RULE, MAY PERIODICALLY ADJUST THE FEE UP TO THE MAXIMUM FEE. The  
15 ~~moneys~~ MONEY collected pursuant to this section shall be transmitted to  
16 the state treasurer, who shall credit ~~the same~~ IT to the stationary sources  
17 control fund created in section 25-7-114.7 (2)(b)(I).

18 **SECTION 3.** In Colorado Revised Statutes, 25-7-114.7, **amend**  
19 (2)(a)(I)(A), (2)(a)(I)(B), and (2)(a)(III); and **add** (2)(g) as follows:

20 **25-7-114.7. Emission fees - fund - rules - repeal.** (2) (a) (I) The  
21 commission shall designate by rule those classes of sources of air  
22 pollution that are exempt from the requirement to pay an annual emission  
23 fee. Every owner or operator of an air pollution source not otherwise  
24 exempt in accordance with such commission rules shall pay an annual fee  
25 as follows:

26 (A) For fiscal years ~~2008-09~~ 2018-19 and thereafter, ~~twenty-two~~  
27 THE MAXIMUM FEE IS TWENTY-EIGHT dollars and ~~ninety~~ SIXTY-THREE

1 cents per ton of regulated pollutant reported in the most recent air  
2 pollution emission notice on file with the division; EXCEPT THAT, ON EACH  
3 JANUARY 1 FROM 2019 TO 2028, THE MAXIMUM FEE IS AUTOMATICALLY  
4 ADJUSTED BASED ON THE ANNUAL PERCENTAGE CHANGE IN THE UNITED  
5 STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS,  
6 CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL  
7 ITEMS AND ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX. THE  
8 COMMISSION SHALL SET THE ACTUAL FEE BY RULE. BEGINNING ON JULY 1,  
9 2018, THE COMMISSION, BY RULE, MAY PERIODICALLY ADJUST THE FEE UP  
10 TO THE MAXIMUM FEE.

11 (B) For fiscal years ~~2008-09~~ 2018-19 and thereafter, in addition  
12 to the annual fee set forth in ~~sub-subparagraph (A) of this subparagraph~~  
13 ~~(F)~~ SUBSECTION (2)(a)(I)(A) OF THIS SECTION, for hazardous air pollutants,  
14 including ozone-depleting compounds, ~~an~~ A MAXIMUM annual fee of one  
15 hundred ~~fifty-two~~ NINETY-ONE dollars and ~~ninety~~ THIRTEEN cents per ton;  
16 EXCEPT THAT, ON EACH JANUARY 1 FROM 2019 TO 2028, THE MAXIMUM  
17 FEE IS AUTOMATICALLY ADJUSTED BASED ON THE ANNUAL PERCENTAGE  
18 CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF  
19 LABOR STATISTICS, CONSUMER PRICE INDEX FOR  
20 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN  
21 CONSUMERS, OR ITS SUCCESSOR INDEX. THE COMMISSION SHALL SET THE  
22 ACTUAL FEE BY RULE. BEGINNING ON JULY 1, 2018, THE COMMISSION, BY  
23 RULE, MAY PERIODICALLY ADJUST THE FEE UP TO THE MAXIMUM FEE.

24 (III) Every owner or operator subject to the requirements ~~of~~  
25 ~~paying~~ TO PAY fees set forth in ~~subparagraph (F) of this paragraph (a)~~  
26 SUBSECTION (2)(a)(I) OF THIS SECTION shall also pay a processing fee for  
27 the costs of processing any application other than an air pollution

1 emission notice under this article 7. Every significant user of prescribed  
2 fire, including federal facilities, submitting a planning document to the  
3 commission pursuant to section 25-7-106 (8)(b) shall pay a fee for costs  
4 of evaluating ~~such~~ THE documents. FOR FISCAL YEAR 2018-19, the  
5 division shall assess a fee for work it performs, up to a maximum of thirty  
6 hours at a MAXIMUM rate of ~~seventy-six~~ NINETY-FIVE dollars and  
7 ~~forty-five~~ FIFTY-SIX cents per hour; EXCEPT THAT, ON EACH JANUARY 1  
8 FROM 2019 TO 2028, THE MAXIMUM FEE IS AUTOMATICALLY ADJUSTED  
9 BASED ON THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES  
10 DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE  
11 INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN  
12 CONSUMERS, OR ITS SUCCESSOR INDEX. THE COMMISSION SHALL SET THE  
13 ACTUAL FEE BY RULE. BEGINNING ON JULY 1, 2018, THE COMMISSION, BY  
14 RULE, MAY PERIODICALLY ADJUST THE FEE UP TO THE MAXIMUM FEE. If the  
15 division requires more than thirty hours to process the application or  
16 evaluate the prescribed fire-related planning documents, the fee paid by  
17 the applicant ~~shall~~ MUST not exceed three thousand SEVEN HUNDRED FIFTY  
18 dollars unless the division has informed the source that the respective  
19 billings may exceed three thousand SEVEN HUNDRED FIFTY dollars and has  
20 provided the source with an estimate of what the actual charges may be  
21 prior to commencing the work.

22 (g) (I) THE DIVISION SHALL PRIORITIZE ITS USE OF THE  
23 REVENUES GENERATED BY THE FEE INCREASES AUTHORIZED BY THE  
24 GENERAL ASSEMBLY IN 2018 TO REDUCE PERMIT PROCESSING TIMES FOR  
25 ALL CATEGORIES OF PERMITS THROUGH INCREASED EFFICIENCIES AND  
26 INFORMATION SYSTEM IMPROVEMENTS THAT ARE IDENTIFIED THROUGH  
27 THE STAKEHOLDER PROCESS IDENTIFIED IN SUBSECTION (2)(g)(II) OF THIS

1 SECTION.

2 (II) BEFORE SEPTEMBER 1, 2018, THE DIVISION SHALL CONVENE A  
3 STAKEHOLDER GROUP CONSISTING OF AFFECTED INDUSTRIES TO:

4 (A) IDENTIFY AND ASSESS MEASURES TO IMPROVE BILLING  
5 PRACTICES AND INCREASE ACCOUNTING TRANSPARENCY WITH RESPECT TO  
6 APPLICATION PROCESSING FEES, INCLUDING PROVIDING MORE DETAIL ON  
7 THE APPLICATION REVIEW PROCESS AND THE TIME SPENT ON THE PROCESS;  
8 AND

9 (B) ASSESS POTENTIAL EFFICIENCY IMPROVEMENTS, INCLUDING  
10 ASSOCIATED METRICS TO MEASURE THE DIVISION'S PERFORMANCE, WITH  
11 RESPECT TO DIVISION ACTIVITIES FINANCED BY THE STATIONARY SOURCES  
12 CONTROL FUND.

13 (III) BEGINNING IN 2019, THE DIVISION SHALL PRESENT DURING  
14 THE LEGISLATIVE SESSION THE RESULTS OF THE STAKEHOLDER PROCESS  
15 REQUIRED BY SUBSECTION (2)(g)(II) OF THIS SECTION, INCLUDING  
16 IMPROVED BILLING PRACTICES, INCREASED ACCOUNTING TRANSPARENCY,  
17 IMPLEMENTED EFFICIENCY IMPROVEMENTS, AND EFFICIENCY METRICS, TO  
18 THE HOUSE HEALTH, INSURANCE, AND ENVIRONMENT COMMITTEE AND THE  
19 SENATE HEALTH AND HUMAN SERVICES COMMITTEE, OR ANY SUCCESSOR  
20 COMMITTEES.

21 (IV) SUBSECTIONS (2)(g)(II) AND (2)(g)(III) OF THIS SECTION AND  
22 THIS SUBSECTION (2)(g)(IV) ARE REPEALED, EFFECTIVE SEPTEMBER 1,  
23 2023.

24 **SECTION 4. Appropriation.** (1) For the 2018-19 state fiscal  
25 year, \$1,555,293 is appropriated to the department of public health and  
26 environment. This appropriation is from the stationary sources control  
27 fund created in section 25-7-114.7 (2)(b)(I), C.R.S. To implement this act,

1 the department may use this appropriation as follows:

2 **Administration and Support Division, Administration**

3 Health, Life, and Dental \$108,898

4 Short-term Disability \$1,803

5 S.B. 04-257 Amortization Equalization Disbursement \$44,675

6 S.B. 06-235 Supplemental Amortization

7 Equalization Disbursement \$44,675

8 **Air Pollution Control Division, Administration**

9 Program Costs \$84,752

10 Indirect Cost Assessment \$292,109

11 **Air Pollution Control Division, Technical Services**

12 Personal Services \$98,095

13 Operating Expenses \$13,008

14 Local Contracts \$29,918

15 **Air Pollution Control Division, Stationary Sources**

16 Personal Services \$722,186

17 Operating Expenses \$26,478

18 Local Contracts \$74,096

19 Preservation of the Ozone Layer \$3,362

20 **Division of Environmental Health and Sustainability**

21 Administration and Support \$360

22 Sustainability Programs \$8,745

23 Indirect Cost Assessment \$2,592.

24 **SECTION 5. Applicability.** This act applies to conduct occurring  
25 on or after the applicable effective date of this act.

26 **SECTION 6. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.