

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0069.01 Thomas Morris x4218

HOUSE BILL 20-1265

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A BILL FOR AN ACT

101 **CONCERNING INCREASED PUBLIC PROTECTIONS FROM EMISSIONS OF**
102 **AIR TOXICS.**

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 emissions of a subset of hazardous air pollutants, referred to as "covered air toxics", which are defined as hydrogen cyanide, hydrogen fluoride, hydrogen sulfide, benzene, and other hazardous air pollutants specified by the air quality control commission by rule. A stationary source of air pollutants that reported in its federal toxics release inventory filing at least one of the

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.

following amounts of a covered air toxic in one year is defined as a "covered facility":

- ! For hydrogen cyanide, 10,000 pounds;
- ! For hydrogen fluoride, 10,000 pounds;
- ! For hydrogen sulfide, 5,000 pounds; and
- ! For benzene, 1,000 pounds.

At least every 5 years beginning in 2026, the commission will review the best available science and adjust, as necessary to protect public health, the list of covered air toxics and their associated emission levels.

The commission will:

- ! Regulate covered air toxics more strictly than is required by the federal clean air act;
- ! Require covered facilities to monitor their emissions of covered air toxics;
- ! Set health-based emission limits for covered air toxics if no such limit exists under state or federal law; and
- ! Establish a real-time community alert system for "incidents", which are unauthorized emissions of an air pollutant from a covered facility.

The division of administration in the department of public health and environment will:

- ! Consider and prevent adverse cumulative impacts from covered facilities' emissions of hazardous air pollutants when processing air pollution permits for covered facilities that are located in or near disproportionately impacted communities, as determined by the commission by rule;
- ! Approve a new or amended permit for a covered facility only if there is no net increase in the adverse cumulative impacts of hazardous air pollutant emissions above existing levels in each disproportionately impacted community affected by the emissions; and
- ! If existing emissions of hazardous air pollutants exceed the health-based emission limits or have unacceptable adverse cumulative impacts on any disproportionately impacted community, require a decrease or cessation in the applicable emissions over the shortest practicable time until the emissions comply with the health-based emission limits and no longer have unacceptable adverse cumulative impacts on any disproportionately impacted community.

Covered facilities will:

- ! Monitor their covered air toxics emissions and make the monitoring data widely available, including to the public; and
- ! Promptly disseminate information regarding an incident pursuant to the commission's real-time community alert

system to the public, affected local governments and other community entities, and local emergency planning and response organizations.

The bill specifies violations for a covered facility that is covered by specified federal regulations based on the unauthorized emission of an air pollutant from a flare or pressure relief device and any uncontrolled atmospheric release of an air pollutant from an organic hazardous air pollutant pressure relief device. The commission will review its rules for these facilities and specifically consider adopting more stringent provisions, including:

- ! A requirement that leak detection and repair inspections occur at these facilities on, at a minimum, a semiannual basis or that an alternative approved instrument monitoring method is in place pursuant to existing rules; and
- ! Reductions in fugitive emissions from equipment leaks and wastewater at these facilities.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-7-109.3, **amend**
3 (1) and (2) as follows:

4 **25-7-109.3. Colorado hazardous air pollutant control and**
5 **reduction program - rules.** (1) The commission shall promulgate
6 appropriate ~~regulations~~ RULES pertaining to hazardous air pollutants ~~as~~
7 ~~defined in section 25-7-103 (13) which~~ THAT are consistent with this
8 section OR SECTION 25-7-109.5 and the requirements of and emission
9 standards promulgated pursuant to section 112 of the federal act,
10 including any standard required to be imposed under section 112 (r) of the
11 federal act. The commission shall monitor the progress and results of the
12 risk studies performed under section 112 of the federal act to show that
13 Colorado's hazardous air pollutant control and reduction program is
14 consistent with the national strategy.

15 (2) (a) The commission may ~~only~~ promulgate ~~regulations~~ RULES
16 pertaining to:

1 (I) Hazardous air pollutants ~~as defined in section 25-7-103 (13)~~
2 ONLY in accordance with this section; OR

3 (II) COVERED AIR TOXICS, AS THAT TERM IS DEFINED IN SECTION
4 25-7-109.5 (1)(a), IN ACCORDANCE WITH SECTION 25-7-109.5.

5 (b) In order to minimize additional regulatory and compliance
6 costs to the state's economy, any program created by the commission
7 pursuant to this section ~~shall~~ MUST contain a provision ~~which~~ THAT
8 exempts those sources or categories of sources ~~which~~ THAT it determines
9 to be of minor significance from the requirements of the program.
10 Consistent with ~~the provisions of~~ section 25-7-105.1, the commission
11 shall authorize synthetic minor sources of hazardous air pollutants by the
12 issuance of construction permits or prohibitory rules or other ~~regulations~~.
13 ~~Such~~ RULES. THE permits OR rules ~~or regulations shall only~~ MUST be ONLY
14 as stringent as necessary to establish synthetic minor status. The
15 commission shall expeditiously implement this subsection (2), OTHER
16 THAN SUBSECTION (2)(a)(II) OF THIS SECTION, to assure that all sources
17 may be able to timely qualify as a synthetic minor source, thereby
18 avoiding the costs of the operating permit program.

19 **SECTION 2.** In Colorado Revised Statutes, **add** 25-7-109.5 as
20 follows:

21 **25-7-109.5. Air toxics - covered facilities - health-based**
22 **emission limits - monitoring - cumulative impacts - public notice of**
23 **incidents - refinery requirements - rules - definitions - repeal.**

24 (1) **Definitions.** AS USED IN THIS SECTION, SUBJECT TO SUBSECTION (2)
25 OF THIS SECTION:

26 (a) "COVERED AIR TOXIC" MEANS:

27 (I) HYDROGEN CYANIDE, HYDROGEN FLUORIDE, HYDROGEN

1 SULFIDE, AND BENZENE; AND

2 (II) ANY OTHER HAZARDOUS AIR POLLUTANT THAT THE
3 COMMISSION LISTS, BY RULE, PURSUANT TO SUBSECTION (2) OF THIS
4 SECTION.

5 (b) "COVERED FACILITY" MEANS A STATIONARY SOURCE THAT
6 REPORTED AT LEAST ONE OF THE FOLLOWING AMOUNTS OF A COVERED AIR
7 TOXIC IN ITS FEDERAL TOXICS RELEASE INVENTORY FILING PURSUANT TO
8 42 U.S.C. SEC. 11023:

9 (I) FOR HYDROGEN CYANIDE, TEN THOUSAND POUNDS;

10 (II) FOR HYDROGEN FLUORIDE, TEN THOUSAND POUNDS;

11 (III) FOR HYDROGEN SULFIDE, FIVE THOUSAND POUNDS;

12 (IV) FOR BENZENE, ONE THOUSAND POUNDS; AND

13 (V) FOR AN AIR TOXIC LISTED BY RULE PURSUANT TO SUBSECTION
14 (2) OF THIS SECTION, THE AMOUNT SPECIFIED BY THE RULE.

15 (c) "CUMULATIVE IMPACTS" MEANS THE EFFECTS OF:

16 (I) ALL HAZARDOUS AIR POLLUTANT EMISSIONS CONSIDERED
17 CUMULATIVELY, NOT JUST INDIVIDUALLY; AND

18 (II) ALL EXISTING AND REASONABLY FORESEEABLE FUTURE
19 SOURCES OF HAZARDOUS AIR POLLUTANT EMISSIONS WITHIN THE
20 RELEVANT AREA.

21 (d) "DISPROPORTIONATELY IMPACTED COMMUNITY" MEANS A
22 COMMUNITY DESCRIBED IN SECTION 25-7-105 (1)(e)(III).

23 (e) "FENCELINE MONITORING" MEANS EQUIPMENT THAT MEASURES
24 AND RECORDS AIR POLLUTANT CONCENTRATIONS AT OR ADJACENT TO A
25 COVERED FACILITY AND THAT MAY BE USEFUL FOR DETECTING OR
26 ESTIMATING THE QUANTITY OF FUGITIVE EMISSIONS, GAS LEAKS, AND
27 OTHER AIR EMISSIONS FROM THE COVERED FACILITY.

1 (f) "INCIDENT" MEANS THE EMISSION BY A COVERED FACILITY OF
2 AN AIR POLLUTANT AT A RATE OR QUANTITY THAT EXCEEDS ALLOWABLE
3 EMISSIONS AS A RESULT OF ANTICIPATED OR UNANTICIPATED
4 CIRCUMSTANCES, INCLUDING A MALFUNCTION, START-UP, SHUTDOWN,
5 UPSET, OR EMERGENCY.

6 (g) "NEAR-SOURCE MONITORING" MEANS MONITORING EQUIPMENT
7 WITHIN THE PERIMETER OF A COVERED FACILITY THAT MEASURES AND
8 RECORDS AIR POLLUTANT CONCENTRATIONS WITHIN THE PERIMETER OF A
9 COVERED FACILITY AND THAT MAY BE USEFUL FOR DETECTING OR
10 ESTIMATING THE QUANTITY OF FUGITIVE EMISSIONS, GAS LEAKS, AND
11 OTHER AIR EMISSIONS FROM THE COVERED FACILITY.

12 (2) **Review of covered air toxics and emission thresholds for**
13 **covered facilities.** (a) IN ORDER TO BETTER PROTECT PUBLIC HEALTH, THE
14 COMMISSION SHALL:

15 (I) AT LEAST EVERY FIVE YEARS BEGINNING IN 2026, OR MORE
16 FREQUENTLY IF IT DEEMS IT APPROPRIATE TO DO SO, INCLUDING PURSUANT
17 TO A REQUEST BY ANY INTERESTED PERSON, REVIEW THE BEST AVAILABLE
18 SCIENCE, THE LIST OF COVERED AIR TOXICS, AND THE EMISSION
19 THRESHOLDS FOR COVERED FACILITIES TO DETERMINE WHETHER
20 ADDITIONAL HAZARDOUS AIR POLLUTANTS SHOULD BE LISTED AS COVERED
21 AIR TOXICS, THE APPROPRIATE EMISSION THRESHOLD FOR COVERED
22 FACILITIES REGARDING EACH ADDITIONAL COVERED AIR TOXIC, AND
23 WHETHER ANY EMISSION THRESHOLD FOR EXISTING COVERED FACILITIES
24 SHOULD BE LOWERED; AND

25 (II) BASED ON ITS REVIEW, ADJUST THE LISTS OF COVERED AIR
26 TOXICS AND COVERED FACILITIES AND THE EMISSION THRESHOLDS FOR
27 COVERED FACILITIES BY RULE.

1 (b) IN CONDUCTING A REVIEW PURSUANT TO THIS SUBSECTION (2),
2 THE COMMISSION SHALL PROVIDE PUBLIC NOTICE AND AN OPPORTUNITY TO
3 COMMENT ON THE COMMISSION'S PROPOSED ADDITIONS AND ADJUSTMENTS
4 TO THE LISTS OF COVERED AIR TOXICS AND COVERED FACILITIES AND THE
5 EMISSION THRESHOLDS FOR COVERED FACILITIES.

6 (3) **Health-based emission limits.** (a) THE COMMISSION SHALL:

7 (I) REGULATE COVERED AIR TOXICS MORE STRINGENTLY THAN THE
8 FEDERAL ACT;

9 (II) REQUIRE FENCELINE MONITORING AND NEAR-SOURCE
10 MONITORING OF COVERED AIR TOXICS BY COVERED FACILITIES PURSUANT
11 TO RULES PROMULGATED UNDER SUBSECTION (4)(h) OF THIS SECTION.

12 (b) (I) (A) IF THERE IS NO EXISTING HEALTH-BASED EMISSION LIMIT
13 AT THE STATE OR FEDERAL LEVEL FOR A COVERED AIR TOXIC, THE
14 COMMISSION SHALL SET, BY RULE, A HEALTH-BASED EMISSION LIMIT FOR
15 EACH COVERED AIR TOXIC. ONCE ESTABLISHED BY RULE, THE COMMISSION
16 SHALL REEVALUATE EACH HEALTH-BASED EMISSION LIMIT EVERY FIVE
17 YEARS BEGINNING IN 2026 AND REVISE THE LIMITS TO ENSURE THAT THEY
18 PROTECT PUBLIC HEALTH.

19 (B) BY JANUARY 1, 2021, THE COMMISSION SHALL SUBMIT A
20 REPORT TO THE GENERAL ASSEMBLY REGARDING THE ESTIMATED
21 RESOURCES NEEDED TO PROMULGATE THE RULES ESTABLISHING
22 HEALTH-BASED EMISSION LIMITS PURSUANT TO THIS SUBSECTION (3). THIS
23 SUBSECTION (3)(b)(I)(B) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.

24 (II) THE COMMISSION SHALL NOT:

25 (A) REVISE A HEALTH-BASED EMISSION LIMIT THAT HAS BEEN
26 INCORPORATED INTO A COVERED FACILITY'S PERMIT UNLESS THE REVISION
27 IS MORE PROTECTIVE OF PUBLIC HEALTH THAN THE PREVIOUS LIMIT; OR

1 (B) SOLELY CONSIDER COST OR TECHNICAL FEASIBILITY IN SETTING
2 A LIMIT.

3 (III) THE DIVISION SHALL REVISE A COVERED FACILITY'S PERMIT TO
4 INCLUDE THE MOST UP-TO-DATE HEALTH-BASED STANDARDS FOR
5 COVERED AIR TOXICS. THE REVISED STANDARDS MUST BE THOSE THAT ARE
6 THE MOST PROTECTIVE OF PUBLIC HEALTH, INCLUDING FOR BOTH
7 SHORT-TERM AND LONG-TERM RELEASES.

8 (IV) THE HEALTH-BASED EMISSION LIMITS MUST:

9 (A) CONTAIN A NUMERICAL LIMIT;

10 (B) REQUIRE THE MAXIMUM DEGREE OF REDUCTION IN EMISSIONS;

11 (C) PROVIDE AN AMPLE MARGIN OF SAFETY TO PROTECT PUBLIC
12 HEALTH, CONSIDERING EFFECTS TO VULNERABLE SUBPOPULATIONS,
13 INCLUDING FETAL AND CHILDREN'S HEALTH OVER AN EXTENDED PERIOD
14 OF CONTINUOUS EXPOSURE, AND, FOR ANY UNCERTAIN OR UNKNOWN
15 RISKS, ERR ON THE SIDE OF PROTECTING HUMAN HEALTH;

16 (D) CONSIDER CUMULATIVE EFFECTS FROM MULTIPLE
17 POLLUTANTS, SOURCES OF POLLUTION, AND PATHWAYS OF EXPOSURE,
18 BASED ON THE BEST AVAILABLE SCIENCE;

19 (E) CONSIDER EXPOSURE DATA OF NEARBY POPULATIONS AND
20 EMPLOYEES AT COVERED FACILITIES ACCORDING TO AVAILABLE
21 FENCELINE MONITORING AND NEAR-SOURCE MONITORING DATA;

22 (F) INCLUDE CONSIDERATION OF BOTH CANCER AND NONCANCER
23 HEALTH RISKS, WITH AN ACCEPTABLE CANCER RISK NOT TO EXCEED ONE
24 EXTRA CANCER CASE PER EVERY ONE HUNDRED THOUSAND PEOPLE; AND

25 (G) CONSIDER THE EFFECTS OF THE EMISSIONS OF COVERED AIR
26 TOXICS ON DISPROPORTIONATELY IMPACTED COMMUNITIES AND
27 EMPLOYEES AT COVERED FACILITIES.

1 (V) THE COMMISSION SHALL MAKE ALL RESEARCH, STUDIES, AND
2 OTHER UNDERLYING SUPPORT FOR THE HEALTH-BASED EMISSION LIMITS
3 READILY AVAILABLE TO THE PUBLIC.

4 (VI) THE HEALTH-BASED EMISSION LIMITS MAY INCLUDE A SET,
5 BUT PROMPT, PHASE-IN PERIOD FOR COVERED FACILITIES' COMPLIANCE.

6 (4) **Monitoring.** (a) EACH COVERED FACILITY SHALL, BY MAY 1,
7 2021, SUBMIT A FENCELINE MONITORING AND NEAR-SOURCE MONITORING
8 PLAN TO THE DIVISION. A PLAN MUST IDENTIFY:

9 (I) THE EQUIPMENT TO BE USED TO CONTINUOUSLY MONITOR,
10 RECORD, AND REPORT EMISSION DATA FOR EACH COVERED AIR TOXIC IN
11 REAL TIME, AT OR NEAR THE COVERED FACILITY BOUNDARY, INCLUDING
12 EQUIPMENT TO CONTINUOUSLY RECORD WIND SPEED AND WIND DIRECTION
13 DATA;

14 (II) SITING AND EQUIPMENT SPECIFICATIONS;

15 (III) PROCEDURES FOR AIR MONITORING EQUIPMENT MAINTENANCE
16 AND FAILURES, MAINTENANCE PLANS AND SCHEDULES, TEMPORARY
17 BACK-UP MEASURES TO IMPLEMENT DURING EQUIPMENT FAILURES, DATA
18 MANAGEMENT, QUALITY ASSURANCE, AND QUALITY CONTROL;

19 (IV) METHODS FOR DISSEMINATING MONITORING DATA TO THE
20 PUBLIC, LOCAL GOVERNMENTS, AREA SCHOOLS, AND THE DIVISION IN REAL
21 TIME; AND

22 (V) OTHER AIR POLLUTANTS THAT THE MONITORS ARE CAPABLE OF
23 MEASURING.

24 (b) WITHIN TWO YEARS AFTER INITIATION OF THE MONITORING
25 PLAN, ALL DATA DISSEMINATION MUST BE IN THE TWO MOST PREVALENT
26 LANGUAGES SPOKEN IN THE AFFECTED COMMUNITY, AS IDENTIFIED IN THE
27 LATEST AMERICAN COMMUNITY SURVEY PUBLISHED BY THE FEDERAL

1 CENSUS BUREAU, AND MUST BE AVAILABLE ONLINE ON THE DIVISION'S
2 WEBSITE.

3 (c) THE REPORTING OF MONITORING DATA MUST INCLUDE OTHER
4 AIR POLLUTANTS MEASURED BY THE MONITORS, EVEN IF THOSE AIR
5 POLLUTANTS ARE NOT A COVERED AIR TOXIC.

6 (d) COVERED FACILITIES SHALL SUBMIT DRAFT MONITORING PLANS
7 TO THE DIVISION IN THE TWO MOST PREVALENT LANGUAGES SPOKEN IN
8 THE AFFECTED COMMUNITY, AS IDENTIFIED IN THE LATEST AMERICAN
9 COMMUNITY SURVEY PUBLISHED BY THE FEDERAL CENSUS BUREAU. THE
10 DIVISION SHALL POST DRAFT PLANS ON THE DIVISION'S WEBSITE PROMPTLY
11 UPON SUBMISSION.

12 (e) (I) ALL DRAFT MONITORING PLANS, INCLUDING PLANS THAT
13 ARE RESUBMITTED PURSUANT TO SUBSECTION (4)(g) OF THIS SECTION, ARE
14 SUBJECT TO AT LEAST NINETY DAYS OF PUBLIC COMMENT.

15 (II) THE DIVISION SHALL HOLD AT LEAST TWO PUBLIC HEARINGS
16 REGARDING A DRAFT MONITORING PLAN AT A LOCATION NEAR THE
17 COVERED FACILITY. INTERPRETATION SERVICES AS NECESSARY FOR THE
18 TWO MOST PREVALENT LANGUAGES SPOKEN IN THE AFFECTED
19 COMMUNITY, AS IDENTIFIED IN THE LATEST AMERICAN COMMUNITY
20 SURVEY PUBLISHED BY THE FEDERAL CENSUS BUREAU, MUST BE PROVIDED
21 AT THE HEARINGS, ONE OF WHICH MUST BE HELD DURING THE EVENING
22 AND ONE OF WHICH MUST BE HELD DURING A WEEKEND.

23 (III) THE DIVISION AND THE COVERED FACILITY SHALL CONSULT
24 WITH AFFECTED LOCAL GOVERNMENTS ABOUT EACH VERSION OF A DRAFT
25 MONITORING PLAN SUBMITTED TO THE DIVISION FOR APPROVAL DURING
26 THE COMMENT PERIOD.

27 (IV) THE DIVISION SHALL RESPOND, IN WRITING, TO ALL WRITTEN

1 AND ORAL PUBLIC COMMENTS RECEIVED BEFORE APPROVING A
2 MONITORING PLAN.

3 (V) ALL MONITORING PLANS APPROVED BY THE DIVISION MUST BE
4 AVAILABLE IN THE TWO MOST PREVALENT LANGUAGES SPOKEN IN THE
5 AFFECTED COMMUNITY, AS IDENTIFIED IN THE LATEST AMERICAN
6 COMMUNITY SURVEY PUBLISHED BY THE FEDERAL CENSUS BUREAU, AND
7 MUST BE POSTED ON THE DIVISION'S WEBSITE PROMPTLY UPON APPROVAL.
8 THE DIVISION SHALL MAKE A HARD COPY OF THE APPROVED PLAN
9 PUBLICLY AVAILABLE AT THE DIVISION. A COVERED FACILITY SHALL MAKE
10 HARD COPIES OF THE APPROVED PLAN PUBLICLY AVAILABLE AT LIBRARIES
11 IN THE AFFECTED COMMUNITIES, AS DETERMINED BY THE COMMISSION BY
12 RULE.

13 (f) A COVERED FACILITY SHALL PAY A PROCESSING FEE
14 CALCULATED PURSUANT TO SECTION 25-7-114.7 (2)(a)(III) TO COVER THE
15 DIVISION'S INDIRECT AND DIRECT COSTS OF REVIEWING AND APPROVING
16 THE PLAN.

17 (g) A COVERED FACILITY SHALL UPDATE AND RESUBMIT FOR
18 DIVISION APPROVAL ITS MONITORING PLAN EVERY FIVE YEARS; EXCEPT
19 THAT THE DIVISION MAY REQUIRE AN UPDATED PLAN BEFORE THE
20 EXPIRATION OF FIVE YEARS BASED ON:

21 (I) ITS OWN DETERMINATION THAT THERE HAS BEEN A
22 SUBSTANTIAL CHANGE IN THE COVERED FACILITY'S OPERATIONS OR
23 EMISSIONS; OR

24 (II) A WRITTEN REQUEST SUBMITTED BY A MEMBER OF THE PUBLIC
25 THAT THE DIVISION DETERMINES JUSTIFIES AN UPDATED PLAN.

26 (h) THE COMMISSION SHALL PROMULGATE RULES REQUIRING
27 FENCELINE MONITORING AND NEAR-SOURCE MONITORING BY JANUARY 1,

1 2021. THE DIVISION MUST APPROVE MONITORING PLANS BY NOVEMBER 1,
2 2021. COVERED FACILITIES SHALL BEGIN TO COLLECT MONITORING DATA
3 BY JANUARY 1, 2022.

4 (5) **Cumulative impacts.** WHEN APPLYING FOR OR PROCESSING
5 AIR POLLUTION PERMITS FOR COVERED FACILITIES THAT ARE LOCATED IN
6 OR NEAR DISPROPORTIONATELY IMPACTED COMMUNITIES, AS DETERMINED
7 BY THE COMMISSION BY RULE:

8 (a) THE DIVISION SHALL CONSIDER AND PREVENT ADVERSE
9 CUMULATIVE IMPACTS OF COVERED FACILITIES' EMISSIONS OF HAZARDOUS
10 AIR POLLUTANTS;

11 (b) A COVERED FACILITY SHALL CONDUCT A CUMULATIVE IMPACTS
12 ANALYSIS AND SUBMIT THE ANALYSIS AS PART OF ITS AIR POLLUTION
13 PERMIT APPLICATION;

14 (c) THE DIVISION MAY APPROVE A NEW OR AMENDED PERMIT FOR
15 A COVERED FACILITY ONLY IF THERE IS NO NET INCREASE IN THE ADVERSE
16 CUMULATIVE IMPACTS OF HAZARDOUS AIR POLLUTANT EMISSIONS ABOVE
17 LEVELS EXISTING AT THE TIME OF APPLICATION IN EACH
18 DISPROPORTIONATELY IMPACTED COMMUNITY AFFECTED BY THE
19 EMISSIONS; AND

20 (d) (I) IF THE DIVISION DETERMINES THAT EXISTING EMISSIONS OF
21 HAZARDOUS AIR POLLUTANTS EXCEED THE HEALTH-BASED EMISSION
22 LIMITS ESTABLISHED PURSUANT TO SUBSECTION (3) OF THIS SECTION OR,
23 PURSUANT TO STANDARDS DETERMINED BY THE COMMISSION BY RULE,
24 HAVE UNACCEPTABLE ADVERSE CUMULATIVE IMPACTS ON ANY
25 DISPROPORTIONATELY IMPACTED COMMUNITY, THE DIVISION:

26 (A) SHALL, PURSUANT TO RULES PROMULGATED BY THE
27 COMMISSION, REQUIRE A DECREASE OR CESSATION IN THE APPLICABLE

1 EMISSIONS FROM THE PARTICULAR EMISSION UNIT IN THE COVERED
2 FACILITY OVER THE SHORTEST PRACTICABLE TIME, IN NO EVENT TO
3 EXCEED NINETY DAYS, UNTIL THE EMISSIONS COMPLY WITH THE
4 HEALTH-BASED EMISSION LIMITS AND NO LONGER HAVE UNACCEPTABLE
5 ADVERSE CUMULATIVE IMPACTS ON ANY DISPROPORTIONATELY IMPACTED
6 COMMUNITY; AND

7 (B) MAY PROCEED PURSUANT TO SECTION 25-7-112 OR 25-7-113.

8 (II) THE COMMISSION MAY MODEL ITS EMISSION REDUCTION RULES
9 PROMULGATED PURSUANT TO SUBSECTION (5)(d)(I) OF THIS SECTION ON
10 THE REGIONAL HAZE REQUIREMENTS OF THE FEDERAL ACT, 42 U.S.C. SEC.
11 7491, AS AMENDED, AND IMPLEMENTING REGULATIONS, 40 CFR 51.308
12 (d)(1) AND (f)(2) AND SHALL CONSIDER THE FOLLOWING:

13 (A) REQUIRING THAT A BASELINE EMISSIONS INVENTORY BE
14 DEVELOPED FOR EACH DISPROPORTIONATELY IMPACTED COMMUNITY;

15 (B) ESTABLISHING A HEALTH-BASED CUMULATIVE AIR POLLUTION
16 TARGET AND AN EXPEDITIOUS DEADLINE FOR ATTAINING THAT TARGET
17 FOR EACH DISPROPORTIONATELY IMPACTED COMMUNITY THAT ARE BASED
18 ON THE BEST AVAILABLE SCIENCE WITH AN ADEQUATE MARGIN OF SAFETY
19 TO PROTECT VULNERABLE SUBPOPULATIONS AND AFTER CONSULTATION
20 WITH COMMUNITY MEMBERS;

21 (C) CREATING A MONITORING PLAN FOR EACH
22 DISPROPORTIONATELY IMPACTED COMMUNITY, SUBJECT TO PUBLIC
23 COMMENT AND HEARING, AND MONITORING PROGRESS TOWARD
24 ATTAINING HEALTH-BASED CUMULATIVE AIR POLLUTION TARGETS;

25 (D) REQUIRING THAT THE HEALTH-BASED CUMULATIVE AIR
26 POLLUTION TARGET, RELATED DEADLINE, AND IMPLEMENTATION AND
27 MONITORING PLANS FOR EACH DISPROPORTIONATELY IMPACTED

1 COMMUNITY BE PERIODICALLY REVIEWED AND REVISED BASED ON THE
2 BEST AVAILABLE SCIENCE AT LEAST EVERY FIVE YEARS WITH AN
3 OPPORTUNITY FOR PUBLIC COMMENT AND HEARING; AND

4 (E) REQUIRING THAT ALL BASELINE INVENTORIES, HEALTH-BASED
5 CUMULATIVE AIR POLLUTION TARGETS, IMPLEMENTATION AND
6 MONITORING PLANS, AND MONITORING DATA BE AVAILABLE TO THE PUBLIC
7 ON THE DIVISION'S WEBSITE AND AT THE DIVISION'S HEADQUARTERS.

8 (6) **Public notice of incidents.** (a) THE COMMISSION SHALL, BY
9 RULE, ESTABLISH A REAL-TIME COMMUNITY ALERT SYSTEM FOR
10 INCIDENTS. THE RULES MUST SPECIFY DEADLINES FOR INITIATION OF THE
11 ALERT SYSTEM AND THE TYPES OF INFORMATION THAT MUST BE
12 DISSEMINATED. THE COMMISSION MAY MODEL THE ALERT SYSTEM ON
13 ANALOGOUS PROGRAMS ESTABLISHED PURSUANT TO THE FEDERAL ACT OR
14 THE HAZARDOUS SUBSTANCE INCIDENTS PROGRAM ESTABLISHED IN
15 ARTICLE 22 OF TITLE 29.

16 (b) INFORMATION DISSEMINATED BY THE ALERT SYSTEM MUST:

17 (I) BE IN THE TWO MOST PREVALENT LANGUAGES SPOKEN IN THE
18 AFFECTED COMMUNITY, AS IDENTIFIED IN THE LATEST AMERICAN
19 COMMUNITY SURVEY PUBLISHED BY THE FEDERAL CENSUS BUREAU;

20 (II) BE AVAILABLE:

21 (A) THROUGH OPT-OUT TEXT MESSAGES AND REVERSE 911 CALLS;

22 (B) TO LOCAL EMERGENCY PLANNING AND RESPONSE
23 ORGANIZATIONS AND AREA HEALTH AGENCIES, CLINICS, AND HOSPITALS;

24 (C) TO LOCAL GOVERNMENTS AND THE PUBLIC; AND

25 (D) TO SCHOOL ADMINISTRATORS AND PARENTS OF SCHOOL
26 CHILDREN.

27 (c) WHEN AN INCIDENT OCCURS, A COVERED FACILITY SHALL:

1 (I) IMMEDIATELY CALL THE EMERGENCY TELEPHONE NUMBER SET
2 UP FOR THE REPORTING OF INCIDENTS AND NOTIFY THE DIVISION AND THE
3 DEPARTMENT OF PUBLIC SAFETY OF EACH INCIDENT PURSUANT TO THE
4 PARAMETERS ESTABLISHED BY THE COMMISSION BY RULE; AND

5 (II) DISSEMINATE THE TYPES OF INFORMATION SPECIFIED IN
6 SUBSECTION (6)(a) OF THIS SECTION TO THE ENTITIES SPECIFIED IN
7 SUBSECTION (6)(b)(II) OF THIS SECTION.

8 (d) THE DEPARTMENT OF PUBLIC SAFETY SHALL WORK WITH LOCAL
9 EMERGENCY PLANNING AND RESPONSE ORGANIZATIONS TO DEVELOP A
10 MODEL MEMORANDUM OF UNDERSTANDING BETWEEN ADJACENT
11 JURISDICTIONS FOR INTEGRATION OF THE ALERT SYSTEMS THAT OPERATE
12 ACROSS JURISDICTIONAL BOUNDARIES. THE LOCAL EMERGENCY PLANNING
13 AND RESPONSE ORGANIZATIONS SHALL ENSURE THAT APPROPRIATE
14 AGREEMENTS ARE EXECUTED BETWEEN OR AMONG ADJACENT
15 JURISDICTIONS TO COORDINATE ALERTS, NOTIFICATIONS, AND MESSAGING
16 WHEN EMISSIONS FROM AN INCIDENT CROSSES OR THREATENS TO CROSS
17 JURISDICTIONAL BOUNDARIES.

18 (e) A COVERED FACILITY SHALL:

19 (I) COORDINATE WITH LOCAL FIRST RESPONDERS AT LEAST
20 ANNUALLY;

21 (II) PROVIDE FIRST RESPONDERS RELEVANT INFORMATION TO
22 PREPARE FOR INCIDENTS;

23 (III) PROVIDE TO LOCAL EMERGENCY PLANNING AND RESPONSE
24 ORGANIZATIONS:

25 (A) THE COVERED FACILITY'S EMERGENCY RESPONSE PLAN IF ONE
26 EXISTS;

27 (B) THE COVERED FACILITY'S EMERGENCY ACTION PLAN;

1 (C) THE COVERED FACILITY'S UPDATED EMERGENCY CONTACT
2 INFORMATION; AND

3 (D) ANY OTHER INFORMATION THAT LOCAL EMERGENCY PLANNING
4 AND RESPONSE ORGANIZATIONS IDENTIFY AS RELEVANT TO LOCAL
5 EMERGENCY RESPONSE PLANNING; AND

6 (IV) CONSULT WITH LOCAL EMERGENCY RESPONSE OFFICIALS TO
7 ESTABLISH APPROPRIATE SCHEDULES AND PLANS FOR FIELD AND TABLETOP
8 EXERCISES REQUIRED UNDER 40 CFR 68.96 (b). A COVERED FACILITY
9 SHALL REQUEST AN OPPORTUNITY TO MEET WITH THE LOCAL EMERGENCY
10 PLANNING COMMITTEE, ITS EQUIVALENT, OR THE LOCAL FIRE
11 DEPARTMENT, AS APPROPRIATE, TO REVIEW AND DISCUSS THE DOCUMENTS
12 AND INFORMATION SPECIFIED IN THIS SUBSECTION (6)(e).

13 (7) **Additional requirements.** (a) A COVERED FACILITY THAT IS
14 COVERED BY ONE OR MORE OF THE EXEMPTIONS SPECIFIED IN 40 CFR
15 63.648 (j)(4) OR (j)(5) OR THAT IS COVERED BY 40 CFR 63.670 (o)(7),
16 REFERRED TO IN THIS SUBSECTION (7) AS A "SUBSECTION (7) FACILITY", IS
17 SUBJECT TO THIS SUBSECTION (7). THE COMMISSION SHALL PROMPTLY
18 PROMULGATE RULES TO IMPLEMENT THIS SUBSECTION (7).

19 (b) ONCE THE RULES PROMULGATED PURSUANT TO SUBSECTION
20 (7)(a) OF THIS SECTION BECOME EFFECTIVE, THE FOLLOWING CONDUCT
21 VIOLATES THIS SUBSECTION (7):

22 (I) ANY EMISSION OF AN AIR POLLUTANT FROM A FLARE OR
23 PRESSURE RELIEF DEVICE AT A SUBSECTION (7) FACILITY THAT IS NOT AN
24 ALLOWABLE EMISSION, NOTWITHSTANDING SECTION 25-7-109 (5) AND
25 REGARDLESS OF WHETHER THE EMISSION WAS CAUSED BY AN INCIDENT;
26 AND

27 (II) ANY UNCONTROLLED ATMOSPHERIC RELEASE OF AN AIR

1 POLLUTANT FROM A PRESSURE RELIEF DEVICE AT A SUBSECTION (7)
2 FACILITY THAT IS IN ORGANIC HAZARDOUS AIR POLLUTANT SERVICE.

3 (c) THE COMMISSION SHALL REVIEW ITS RULES FOR SUBSECTION (7)
4 FACILITIES AND SPECIFICALLY CONSIDER ADOPTING MORE STRINGENT
5 PROVISIONS, INCLUDING:

6 (I) A REQUIREMENT THAT LEAK DETECTION AND REPAIR
7 INSPECTIONS OCCUR AT ALL SUBSECTION (7) FACILITIES ON, AT A
8 MINIMUM, A SEMIANNUAL BASIS OR THAT AN ALTERNATIVE APPROVED
9 INSTRUMENT MONITORING METHOD IS IN PLACE PURSUANT TO EXISTING
10 RULES; AND

11 (II) REDUCTIONS IN FUGITIVE EMISSIONS FROM EQUIPMENT LEAKS
12 AND WASTEWATER AT ALL SUBSECTION (7) FACILITIES.

13 **SECTION 3.** In Colorado Revised Statutes, 25-7-114.7, **amend**
14 (2)(a)(I)(B) as follows:

15 **25-7-114.7. Emission fees - fund - rules - definition - repeal.**

16 (2) (a) (I) The commission shall designate by rule those classes of
17 sources of air pollution that are exempt from the requirement to pay an
18 annual emission fee. Every owner or operator of an air pollution source
19 not otherwise exempt in accordance with such commission rules shall pay
20 an annual fee as follows:

21 (B) For fiscal years 2018-19 and thereafter, in addition to the
22 annual fee set forth in subsection (2)(a)(I)(A) of this section, for
23 hazardous air pollutants, including ozone-depleting compounds, a
24 maximum annual fee of one hundred ninety-one dollars and thirteen cents
25 per ton; except that, on each January 1 from 2019 to 2028, the maximum
26 fee is automatically adjusted based on the annual percentage change in the
27 United States department of labor, bureau of labor statistics, consumer

1 price index for Denver-Aurora-Lakewood for all items and all urban
2 consumers, or its successor index, AND BY AN AMOUNT DETERMINED BY
3 THE COMMISSION BY RULE TO COVER THE DIVISION'S AND COMMISSION'S
4 INDIRECT AND DIRECT COSTS IN ADMINISTERING SECTION 25-7-109.5. The
5 commission shall set the actual fee by rule. Beginning on July 1, 2018, the
6 commission, by rule, may periodically adjust the fee up to the maximum
7 fee.

8 **SECTION 4. Applicability.** This act applies to conduct occurring
9 on or after the effective date of this act.

10 **SECTION 5. Safety clause.** The general assembly hereby finds,
11 determines, and declares that this act is necessary for the immediate
12 preservation of the public peace, health, or safety.