HOUSE BILL 20-1265

CONCERNING INCREASED PUBLIC PROTECTIONS FROM EMISSIONS OF 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
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.
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.

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

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

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

(2) (a) The commission may only promulgate regulations pertaining to:
(I) Hazardous air pollutants as defined in section 25-7-103 (13) ONLY in accordance with this section; OR (II) COVERED AIR TOXICS, AS THAT TERM IS DEFINED IN SECTION 25-7-109.5 (1)(a), IN ACCORDANCE WITH SECTION 25-7-109.5. (b) In order to minimize additional regulatory and compliance costs to the state's economy, any program created by the commission pursuant to this section shall MUST contain a provision which THAT exempts those sources or categories of sources which THAT it determines to be of minor significance from the requirements of the program. Consistent with the provisions of section 25-7-105.1, the commission shall authorize synthetic minor sources of hazardous air pollutants by the issuance of construction permits or prohibitory rules or other regulations. Such rules. The permits or rules or regulations shall only MUST be ONLY as stringent as necessary to establish synthetic minor status. The commission shall expeditiously implement this subsection (2), OTHER THAN SUBSECTION (2)(a)(II) OF THIS SECTION, to assure that all sources may be able to timely qualify as a synthetic minor source, thereby avoiding the costs of the operating permit program.

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


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

(a) "Covered air toxic" means:

(I) HYDROGEN CYANIDE, HYDROGEN FLUORIDE, HYDROGEN
SULFIDE, AND BENZENE; AND

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

(b) (I) "COVERED FACILITY" MEANS A STATIONARY SOURCE THAT
REPORTED AT LEAST ONE OF THE FOLLOWING AMOUNTS OF A COVERED AIR
TOXIC IN ITS FEDERAL TOXICS RELEASE INVENTORY FILING PURSUANT TO
42 U.S.C. sec. 11023 FOR THE YEAR 2017 OR LATER:

(A) FOR HYDROGEN CYANIDE, TEN THOUSAND POUNDS;
(B) FOR HYDROGEN FLUORIDE, TEN THOUSAND POUNDS;
(C) FOR HYDROGEN SULFIDE, FIVE THOUSAND POUNDS; AND
(D) FOR BENZENE, ONE THOUSAND POUNDS; AND

(II) "COVERED FACILITY" INCLUDES A STATIONARY SOURCE THAT
EMITS AN AIR TOXIC LISTED BY RULE PURSUANT TO SUBSECTION (2)(a) OF
THIS SECTION IF THE FACILITY HAS REPORTED AN AMOUNT THAT IS AT
LEAST THE AMOUNT SPECIFIED BY THE RULE BASED ON ITS FEDERAL
TOXICS RELEASE INVENTORY FILINGS PURSUANT TO 42 U.S.C. sec. 11023
FOR THE TEN CALENDAR YEARS BEFORE THE EFFECTIVE DATE OF THE RULE.

(III) A STATIONARY SOURCE REMAINS A COVERED FACILITY UNTIL
BOTH THE FOLLOWING EVENTS OCCUR:

(A) THE FACILITY HAS NOT EXCEEDED ANY HEALTH-BASED
EMISSION LIMIT STANDARD PURSUANT TO SUBSECTION (3) OF THIS SECTION
DURING THE PREVIOUS TEN YEARS; AND

(B) THE EMISSION DATA DISSEMINATED PURSUANT TO SUBSECTION
(4)(a)(IV) OF THIS SECTION DEMONSTRATE THAT THE FACILITY NO LONGER
POSES A RISK TO PUBLIC HEALTH, AS DETERMINED BY THE DIVISION AFTER
OPPORTUNITY FOR NOTICE AND COMMENT AND A PUBLIC HEARING IN THE
AFFECTED COMMUNITY.

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

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

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

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

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

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

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

(2) Review of covered air toxics and emission thresholds for covered facilities. (a) In order to better protect public health, the
COMMISSION SHALL:

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

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

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

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

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

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

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

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

(II) THE COMMISSION SHALL NOT:

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

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

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

(IV) THE HEALTH-BASED EMISSION LIMITS MUST:

(A) CONTAIN A NUMERICAL LIMIT;

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

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

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

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

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

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

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

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

(4) Monitoring. (a) Each covered facility shall, by May 1,
2021, submit a fenceline monitoring and near-source monitoring
plan to the division. A plan must identify:

(I) The equipment to be used to continuously monitor,
record, and report emission data for each covered air toxic in
real time, at or near the covered facility boundary, including
equipment to continuously record wind speed and wind direction
data;
(II) SITING AND EQUIPMENT SPECIFICATIONS;

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

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

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

(b) WITHIN TWO YEARS AFTER INITIATION OF THE MONITORING PLAN, ALL DATA DISSEMINATION MUST BE IN THE TWO MOST PREVALENT LANGUAGES SPOKEN IN THE AFFECTED COMMUNITY, AS IDENTIFIED IN THE LATEST AMERICAN COMMUNITY SURVEY PUBLISHED BY THE FEDERAL CENSUS BUREAU, AND MUST BE AVAILABLE ONLINE ON THE DIVISION'S WEBSITE.

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

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

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

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

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

(IV) THE DIVISION SHALL RESPOND, IN WRITING, TO ALL WRITTEN AND ORAL PUBLIC COMMENTS RECEIVED BEFORE APPROVING A MONITORING PLAN.

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

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

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

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

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

(h) THE COMMISSION SHALL PROMULGATE RULES REQUIRING FENCETLINE MONITORING AND NEAR-SOURCE MONITORING BY JANUARY 1, 2021. THE DIVISION MUST APPROVE MONITORING PLANS BY NOVEMBER 1, 2021. COVERED FACILITIES SHALL BEGIN TO COLLECT MONITORING DATA BY JANUARY 1, 2022.

(i) A FACILITY THAT HAS INSTALLED MONITORING EQUIPMENT PURSUANT TO A MONITORING PLAN SHALL CONTINUE TO DISSEMINATE EMISSION DATA PURSUANT TO SUBSECTION (4)(a)(IV) OF THIS SECTION IRRESPECTIVE OF WHETHER IT REMAINS A COVERED FACILITY.

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

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

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

(c) THE DIVISION MAY 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 LEVELS EXISTING AT THE TIME OF APPLICATION IN EACH DISPROPORTIONATELY IMPACTED COMMUNITY AFFECTED BY THE EMISSIONS; AND

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

(A) SHALL, PURSUANT TO RULES PROMULGATED BY THE COMMISSION, REQUIRE A DECREASE OR CESSATION IN THE APPLICABLE EMISSIONS FROM THE PARTICULAR EMISSION UNIT IN THE COVERED FACILITY OVER THE SHORTEST PRACTICABLE TIME, IN NO EVENT TO EXCEED NINETY DAYS, UNTIL THE EMISSIONS COMPLY WITH THE HEALTH-BASED EMISSION LIMITS AND NO LONGER HAVE UNACCEPTABLE ADVERSE CUMULATIVE IMPACTS ON ANY DISPROPORTIONATELY IMPACTED COMMUNITY; AND

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

(II) THE COMMISSION MAY MODEL ITS EMISSION REDUCTION RULES PROMULGATED PURSUANT TO SUBSECTION (5)(d)(I) OF THIS SECTION ON

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

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

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

(D) REQUIRING THAT THE HEALTH-BASED CUMULATIVE AIR POLLUTION TARGET, RELATED DEADLINE, AND IMPLEMENTATION AND MONITORING PLANS FOR EACH DISPROPORTIONATELY IMPACTED COMMUNITY BE PERIODICALLY REVIEWED AND REVISED BASED ON THE BEST AVAILABLE SCIENCE AT LEAST EVERY FIVE YEARS WITH AN OPPORTUNITY FOR PUBLIC COMMENT AND HEARING; AND

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

(6) Public notice of incidents. (a) The commission shall, by rule, establish a real-time community alert system for
INCIDENTS. THE RULES MUST SPECIFY DEADLINES FOR INITIATION OF THE ALERT SYSTEM AND THE TYPES OF INFORMATION THAT MUST BE DISSEMINATED. THE COMMISSION MAY MODEL THE ALERT SYSTEM ON ANALOGOUS PROGRAMS ESTABLISHED PURSUANT TO THE FEDERAL ACT OR THE HAZARDOUS SUBSTANCE INCIDENTS PROGRAM ESTABLISHED IN ARTICLE 22 OF TITLE 29.

(b) INFORMATION DISSEMINATED BY THE ALERT SYSTEM MUST:

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

(II) BE AVAILABLE:

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

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

(C) TO LOCAL GOVERNMENTS AND THE PUBLIC; AND

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

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

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

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

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

(e) A COVERED FACILITY SHALL:

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

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

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

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

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

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

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

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

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

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

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

(II) ANY UNCONTROLLED ATMOSPHERIC RELEASE OF AN AIR
POLLUTANT FROM A PRESSURE RELIEF DEVICE AT A SUBSECTION (7)
FACILITY THAT IS IN ORGANIC HAZARDOUS AIR POLLUTANT SERVICE.

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

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

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

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

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

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

(B) For fiscal years 2018-19 and thereafter, in addition to the annual fee set forth in subsection (2)(a)(I)(A) of this section, for hazardous air pollutants, including ozone-depleting compounds, a maximum annual fee of one hundred ninety-one dollars and thirteen cents per ton; except that, on each January 1 from 2019 to 2028, the maximum fee is automatically adjusted based on the annual percentage change in the United States department of labor, bureau of labor statistics, consumer price index for Denver-Aurora-Lakewood for all items and all urban consumers, or its successor index, AND BY AN AMOUNT DETERMINED BY THE COMMISSION BY RULE TO COVER THE DIVISION'S AND COMMISSION'S INDIRECT AND DIRECT COSTS IN ADMINISTERING SECTION 25-7-109.5. The commission shall set the actual fee by rule. Beginning on July 1, 2018, the commission, by rule, may periodically adjust the fee up to the maximum fee.

**SECTION 4. Applicability.** This act applies to conduct occurring on or after the effective date of this act.
SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.