

**First Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO**

**PREAMENDED**

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

LLS NO. 21-0452.01 Thomas Morris x4218

**HOUSE BILL 21-1189**

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**HOUSE SPONSORSHIP**

**Benavidez and Valdez A.,**

**SENATE SPONSORSHIP**

**Gonzales and Moreno,**

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**House Committees**

Energy & Environment  
Finance  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING ADDITIONAL PUBLIC HEALTH PROTECTIONS IN RELATION**  
102              **TO THE EMISSION OF AIR TOXICS, AND, IN CONNECTION**  
103              **THEREWITH, MAKING AN APPROPRIATION.**

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**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 defines as a "covered facility" a stationary source of air pollutants that reported in its federal toxics release inventory filing at least one of the following amounts of the following "covered air toxics" in one year:

- For hydrogen cyanide, 10,000 pounds;

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.

- For hydrogen sulfide, 5,000 pounds; and
- For benzene, 5,000 pounds.

The bill expands upon the requirements applicable to covered facilities by:

- Directing the air quality control commission to consider, at least every 5 years, adding new types of covered air toxics and adjusting the applicable emission thresholds;
- Requiring that a covered facility's outreach to communities near the covered facility, in particular disproportionately impacted communities, be conducted in the 2 most prevalent languages spoken in the communities;
- Requiring covered facilities to conduct fenceline monitoring of covered air toxics and to publicly report the results of the monitoring; and
- Requiring covered facilities to take corrective action within 15 days after a violation occurs.

The bill also requires the division of administration in the department of public health and environment to conduct community-based monitoring of covered air toxics in areas near covered facilities and to publicly report the results.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 25-7-141 as  
3 follows:

4 **25-7-141. Air toxics - duties of covered entities - public notice**  
5 **of air quality incidents - monitoring - corrective action - legislative**  
6 **declaration - definitions - rules. (1) Legislative declaration. THE**

7 GENERAL ASSEMBLY HEREBY:

8 (a) FINDS THAT:

9 (I) AIR TOXICS ARE POLLUTANTS THAT CAUSE OR MAY CAUSE  
10 CANCER OR OTHER SERIOUS HEALTH EFFECTS, SUCH AS ADVERSE  
11 REPRODUCTIVE EFFECTS OR BIRTH DEFECTS, OR ADVERSE ENVIRONMENTAL  
12 AND ECOLOGICAL EFFECTS; AND

13 (II) DISPROPORTIONATELY IMPACTED COMMUNITIES OFTEN  
14 INCLUDE LOW-INCOME NEIGHBORHOODS AND RESIDENTS WHO IDENTIFY AS

1 BLACK, INDIGENOUS, LATINO, AND PEOPLE OF COLOR AND ARE  
2 DISPROPORTIONATELY AFFECTED BY AIR TOXICS EMISSIONS;

3 (b) DETERMINES THAT:

4 (I) COLORADO COMMUNITIES HAVE A RIGHT TO KNOW ABOUT  
5 EXPOSURES TO AIR TOXICS IN REAL TIME;

6 (II) COLORADO COMMUNITIES ARE INCREASINGLY CONCERNED  
7 ABOUT THE POTENTIAL HEALTH IMPACTS OF AIR TOXICS RESULTING FROM  
8 ROUTINE FACILITY OPERATIONS, FUGITIVE LEAKS, UPSET CONDITIONS, OR  
9 EMERGENCY SITUATIONS;

10 (III) REAL-TIME AIR MONITORING, INCLUDING FENCELINE AND  
11 COMMUNITY-BASED MONITORING SYSTEMS, CAN PROVIDE VALUABLE AIR  
12 QUALITY DATA TO ASSESS THE POTENTIAL IMPACTS OF AIR TOXICS  
13 EMISSIONS IN NEARBY COMMUNITIES, TO UNDERSTAND TEMPORAL  
14 VARIATIONS IN AIR TOXICS EMISSIONS, AND TO ADVISE FACILITIES OF  
15 SIGNIFICANT CHANGES IN AIR TOXICS EMISSIONS;

16 (IV) COMMUNITY-BASED MONITORING IS USEFUL FOR ESTIMATING  
17 AIR TOXICS EXPOSURES AND HEALTH RISKS AND IN DETERMINING TRENDS  
18 IN AIR POLLUTANT LEVELS OVER TIME; AND

19 (V) FENCELINE MONITORING IS USEFUL FOR DETECTING OR  
20 ESTIMATING LEAKS, THE QUANTITY OF FUGITIVE EMISSIONS, AND OTHER  
21 AIR EMISSIONS FROM A CERTAIN FACILITY; AND

22 (c) DECLARES THAT FACILITIES THAT EMIT AIR TOXICS HAVE A  
23 RESPONSIBILITY TO COLLECT REAL-TIME AIR TOXICS DATA AND TO  
24 PROVIDE MONITORING RESULTS AS QUICKLY AS POSSIBLE IN A PUBLICLY  
25 ACCESSIBLE FORMAT TO HELP COMMUNITIES UNDERSTAND THEIR LEVEL OF  
26 EXPOSURE.

27 (†) (2) **Definitions.** As used in this section, UNLESS THE CONTEXT

1 OTHERWISE REQUIRES:

2 (a) "COMMUNITY-BASED MONITORING" MEANS MONITORING USING  
3 EQUIPMENT THAT MEASURES AND RECORDS AIR POLLUTANT  
4 CONCENTRATIONS IN THE AMBIENT AIR, INCLUDING CONCENTRATIONS OF  
5 COVERED AIR TOXICS, AT OR NEAR SENSITIVE RECEPTOR LOCATIONS NEAR  
6 A COVERED FACILITY.

7 (a) (b) "Covered air toxic" means:

8 (I) Hydrogen cyanide, hydrogen sulfide, and benzene; AND

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

12 (b) (c) "Covered facility" means a stationary source that reported  
13 at least one of the following amounts of a covered air toxic in its federal  
14 toxics release inventory filing pursuant to 42 U.S.C. sec. 11023 for the  
15 year 2017 or later IS COVERED BY ONE OF THE FOLLOWING NORTH  
16 AMERICAN INDUSTRY CLASSIFICATION SYSTEM CODES ESTABLISHED BY  
17 THE FEDERAL OFFICE OF MANAGEMENT AND BUDGET:

18 (I) For hydrogen cyanide, ten thousand pounds 324110,  
19 "PETROLEUM REFINERIES";

20 (II) For hydrogen sulfide, five thousand pounds; and 336413,  
21 "OTHER AIRCRAFT PARTS AND AUXILIARY EQUIPMENT MANUFACTURING";

22 (III) For benzene, one thousand pounds; 424710, "PETROLEUM  
23 BULK STATIONS AND TERMINALS", IF THE SOURCE IS WITHIN AN  
24 EIGHT-HOUR OZONE CONTROL AREA AND HAS REPORTED EMISSIONS OF  
25 BENZENE IN ITS FEDERAL TOXICS RELEASE INVENTORY FILING PURSUANT  
26 TO 42 U.S.C. SEC. 11023 FOR THE YEARS 2017 THROUGH 2019, AS OF JULY  
27 1, 2020; OR

1 (IV) ANY OTHER CODE LISTED BY RULE PURSUANT TO SUBSECTION  
2 (3) OF THIS SECTION.

3 (d) "Emergency notification service" has the meaning  
4 established in section 29-11-101 (1.5) (11).

5 (e) "FENCELINE MONITORING" MEANS MONITORING USING  
6 EQUIPMENT THAT ENCOMPASSES THE COVERED FACILITY AND  
7 CONTINUOUSLY MEASURES AND RECORDS AIR POLLUTANT  
8 CONCENTRATIONS AT OR ADJACENT TO A COVERED FACILITY'S BOUNDARY.

9 (f) "Incident" means the emission by a covered facility of an  
10 air pollutant at a rate or quantity that exceeds allowable emissions as a  
11 result of anticipated or unanticipated circumstances, including a  
12 malfunction, start-up, shutdown, upset, or emergency.

13 (g) "METHOD 325A" MEANS THE TEST METHOD TITLED "VOLATILE  
14 ORGANIC COMPOUNDS FROM FUGITIVE AND AREA SOURCES: SAMPLER  
15 DEPLOYMENT AND VOC SAMPLE COLLECTION" ADOPTED BY THE AIR  
16 EMISSION MEASUREMENT CENTER OF THE FEDERAL ENVIRONMENTAL  
17 PROTECTION AGENCY.

18 (h) "METHOD 325B" MEANS THE TEST METHOD TITLED "VOLATILE  
19 ORGANIC COMPOUNDS FROM FUGITIVE AND AREA SOURCES: SAMPLER  
20 PREPARATION AND ANALYSIS" PROMULGATED BY THE AIR EMISSION  
21 MEASUREMENT CENTER OF THE FEDERAL ENVIRONMENTAL PROTECTION  
22 AGENCY.

23 (i) "METHOD TO-15A" MEANS THE TEST METHOD TITLED  
24 "DETERMINATION OF VOLATILE ORGANIC COMPOUNDS (VOCs) IN AIR  
25 COLLECTED IN SPECIALLY-PREPARED CANISTERS AND ANALYZED BY GAS  
26 CHROMATOGRAPHY/MASS SPECTROMETRY (GC/MS)" PUBLISHED IN THE  
27 SECOND EDITION OF THE FEDERAL ENVIRONMENTAL PROTECTION

1 AGENCY'S "COMPENDIUM OF METHODS FROM THE DETERMINATION OF  
2 TOXIC ORGANIC COMPOUNDS IN AMBIENT AIR".

3 (j) "NOTIFICATION THRESHOLD" MEANS ACUTE EXPOSURE LEVELS  
4 WITH AN AVERAGING TIME OF ONE HOUR AS ESTABLISHED BY THE DIVISION  
5 PURSUANT TO SUBSECTION (5)(a)(III) OF THIS SECTION.

6 (k) "OPTICAL REMOTE SENSING TECHNOLOGY" MEANS  
7 TECHNOLOGY WITH THE ABILITY TO PROVIDE REAL-TIME MEASUREMENTS  
8 OF AIR POLLUTANT CONCENTRATIONS ALONG AN OPEN PATH AS DESCRIBED  
9 IN "EPA HANDBOOK: OPTICAL AND REMOTE SENSING FOR MEASUREMENT  
10 AND MONITORING OF EMISSIONS FLUX OF GASES AND PARTICULATE  
11 MATTER" BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY.

12 (l) (I) "PETROLEUM REFINERY" MEANS AN ESTABLISHMENT THAT  
13 IS LOCATED ON ONE OR MORE CONTIGUOUS OR ADJACENT PROPERTIES  
14 THAT PROCESSES CRUDE OIL TO PRODUCE MORE USABLE PRODUCTS SUCH  
15 AS GASOLINE, DIESEL FUEL, AVIATION FUEL, LUBRICATING OILS, ASPHALT,  
16 OR PETROCHEMICAL FEEDSTOCKS. THE TERM INCLUDES AUXILIARY  
17 FACILITIES SUCH AS BOILERS, WASTEWATER TREATMENT PLANTS,  
18 HYDROGEN PRODUCTION FACILITIES, SULFUR RECOVERY PLANTS, COOLING  
19 TOWERS, BLOWDOWN SYSTEMS, COMPRESSOR ENGINES, AND POWER  
20 PLANTS.

21 (II) PETROLEUM REFINERY PROCESSES INCLUDE SEPARATION  
22 PROCESSES, INCLUDING ATMOSPHERIC OR VACUUM DISTILLATION AND  
23 LIGHT ENDS RECOVERY; PETROLEUM CONVERSION PROCESSES, INCLUDING  
24 CRACKING, REFORMING, ALKYLATION, POLYMERIZATION, ISOMERIZATION,  
25 COKING, AND VISBREAKING; PETROLEUM TREATING PROCESSES, INCLUDING  
26 HYDRODESULFURIZATION, HYDROTREATING, CHEMICAL SWEETENING, ACID  
27 GAS REMOVAL, AND DEASPHALTING; AND FEEDSTOCK AND PRODUCT

1 HANDLING, INCLUDING STORAGE, CRUDE-OIL BLENDING, NON-CRUDE-OIL  
2 FEEDSTOCK BLENDING, PRODUCT BLENDING, LOADING, AND UNLOADING.

3 (m) "REAL TIME" MEANS THE ACTUAL OR NEAR ACTUAL TIME  
4 DURING WHICH COVERED AIR TOXICS OR OTHER AIR POLLUTANT EMISSIONS  
5 OCCUR.

6 (n) "RELEVANT AREA" MEANS THE AREA WITHIN THREE MILES OF  
7 A COVERED FACILITY WHERE COMMUNITIES MAY BE EXPOSED TO COVERED  
8 AIR TOXICS.

9 (o) "RELEVANT LANGUAGES" MEANS THE TWO MOST PREVALENT  
10 LANGUAGES SPOKEN IN THE RELEVANT AREA, AS IDENTIFIED IN THE  
11 LATEST AMERICAN COMMUNITY SURVEY PUBLISHED BY THE FEDERAL  
12 CENSUS BUREAU.

13 (3) **Review of covered air toxics and industry codes for**  
14 **covered facilities.** IN ORDER TO BETTER PROTECT PUBLIC HEALTH, THE  
15 COMMISSION SHALL:

16 (a) AT LEAST EVERY FIVE YEARS BEGINNING IN 2027, OR MORE  
17 FREQUENTLY IF IT DEEMS IT APPROPRIATE TO DO SO, INCLUDING PURSUANT  
18 TO A REQUEST BY AN INTERESTED PERSON BASED ON DATA EVIDENCING  
19 POTENTIAL EXPOSURE TO A POLLUTANT AT LEVELS POSING A SIGNIFICANT  
20 RISK TO HUMAN HEALTH, REVIEW THE BEST AVAILABLE SCIENCE, THE LIST  
21 OF COVERED AIR TOXICS, AND THE NORTH AMERICAN INDUSTRY  
22 CLASSIFICATION SYSTEM CODES FOR COVERED FACILITIES TO DETERMINE  
23 WHETHER ADDITIONAL HAZARDOUS AIR POLLUTANTS SHOULD BE LISTED  
24 AS COVERED AIR TOXICS AND WHETHER ANY ADDITIONAL STATIONARY  
25 SOURCES SHOULD BE INCLUDED AS COVERED FACILITIES;

26 (b) BASED ON ITS REVIEW, ADJUST THE LISTS OF COVERED AIR  
27 TOXICS AND COVERED FACILITIES BY RULE; AND

1 (c) IF THE COMMISSION ADJUSTS THE LIST OF COVERED AIR TOXICS  
2 OR COVERED FACILITIES, ADJUST BY RULE THE ANNUAL AMOUNT THAT THE  
3 DIVISION MAY ANNUALLY SPEND TO CONDUCT THE COMMUNITY-BASED  
4 MONITORING REQUIRED BY SUBSECTION (7)(a) OF THIS SECTION.

5 (2) (4) **Emergency notifications.** Each covered facility shall:

6 (a) Conduct outreach to representatives of the community  
7 ~~surrounding the covered facility~~ IN THE RELEVANT AREA to discuss  
8 communications regarding the occurrence of an incident, including:

9 (I) Methods by which the covered facility can disseminate  
10 information to the community IN THE RELEVANT AREA and methods by  
11 which community members can contact the covered facility regarding an  
12 incident; and

13 (II) Provisions for communications in ~~Spanish~~ THE RELEVANT  
14 LANGUAGES;

15 (b) Use an emergency notification service through which the  
16 covered facility will, AS SOON AS POSSIBLE, communicate IN THE  
17 RELEVANT LANGUAGES with, and make data available to, the community  
18 ~~surrounding the covered facility~~ IN THE RELEVANT AREA AND THE  
19 DIVISION regarding the occurrence of an incident OR AN EXCEEDANCE OF  
20 A NOTIFICATION THRESHOLD IDENTIFIED BY A FENCELINE MONITORING  
21 SYSTEM;

22 (b.5) FOR TWO YEARS, MAINTAIN A RECORD OF ALL  
23 COMMUNICATIONS MADE THROUGH AN EMERGENCY NOTIFICATION  
24 SERVICE, INCLUDING WHETHER ANY OTHER ACTION WAS TAKEN IN  
25 RESPONSE TO THE INCIDENT OR EXCEEDANCE OF A NOTIFICATION  
26 THRESHOLD, WHICH RECORD MUST BE AVAILABLE TO THE PUBLIC;

27 (c) Implement the emergency notification service within six



1 months after July 2, 2020; and

2 (d) Pay all costs associated with its use of the emergency  
3 notification service.

4 (5) **Fenceline monitoring.** (a) (I) BEGINNING ON JANUARY 1,  
5 2023, A COVERED FACILITY THAT IS A PETROLEUM REFINERY SHALL  
6 CONDUCT FENCELINE MONITORING OF COVERED AIR TOXICS IN REAL TIME  
7 AND SHALL DISSEMINATE ALL FENCELINE MONITORING DATA TO THE  
8 PUBLIC AS DESCRIBED IN SUBSECTION (5)(h) OF THIS SECTION.

9 (II) BEGINNING ON JULY 1, 2024, ALL COVERED FACILITIES NOT  
10 SUBJECT TO SUBSECTION (5)(a)(I) OF THIS SECTION SHALL CONDUCT  
11 FENCELINE MONITORING OF COVERED AIR TOXICS IN REAL TIME AND SHALL  
12 DISSEMINATE ALL FENCELINE MONITORING DATA TO THE PUBLIC AS  
13 DESCRIBED IN SUBSECTION (5)(h) OF THIS SECTION.

14 (III) THE DIVISION SHALL ESTABLISH NOTIFICATION THRESHOLDS  
15 FOR EACH COVERED AIR TOXIC. IN ESTABLISHING THE NOTIFICATION  
16 THRESHOLDS, THE DIVISION SHALL TAKE A PRECAUTIONARY APPROACH TO  
17 ASSURE PROTECTION OF PUBLIC HEALTH. THE NOTIFICATION THRESHOLDS:

18 (A) SHALL BE BASED ON SCIENTIFIC RESEARCH THAT IS PUBLICLY  
19 AVAILABLE AND PEER-REVIEWED ABOUT THE POTENTIAL HUMAN HEALTH  
20 IMPACTS OF SHORT-TERM EXPOSURES TO POLLUTANTS;

21 (B) MAY BE BASED ON ACUTE EXPOSURE LEVELS OR GUIDELINES  
22 UTILIZED BY A FEDERAL AGENCY OR ANOTHER STATE; AND

23 (C) SHALL BE INCLUDED IN THE FENCELINE MONITORING PLAN OF  
24 EACH COVERED FACILITY.

25 (b) AT LEAST ONE YEAR BEFORE A COVERED FACILITY BEGINS  
26 CONDUCTING FENCELINE MONITORING, THE COVERED FACILITY SHALL  
27 SUBMIT AN INITIAL DRAFT FENCELINE MONITORING PLAN TO THE DIVISION.

1 EACH FENCELINE MONITORING PLAN MUST:

2 (I) PROVIDE FOR MONITORING CONSISTENT WITH METHOD 325A,  
3 METHOD 325B, AND METHOD TO-15A COMBINED, OR THE MOST  
4 UP-TO-DATE EMISSIONS TEST OR MEASUREMENT METHODS FOR FENCELINE  
5 MONITORING APPROVED OR PROMULGATED BY THE FEDERAL  
6 ENVIRONMENTAL PROTECTION AGENCY;

7 (II) PROVIDE FOR MONITORING OF COVERED AIR TOXICS USING  
8 OPTICAL REMOTE SENSING TECHNOLOGY OR OTHER MONITORING  
9 TECHNOLOGY WITH THE ABILITY TO PROVIDE REAL-TIME SPATIAL AND  
10 TEMPORAL DATA TO UNDERSTAND THE TYPE AND AMOUNT OF EMISSIONS;

11 (III) BE SUBMITTED TO THE DIVISION IN THE RELEVANT  
12 LANGUAGES; AND

13 (IV) IDENTIFY:

14 (A) THE EQUIPMENT TO BE USED TO CONTINUOUSLY MONITOR,  
15 RECORD, AND DISSEMINATE EMISSION DATA FOR EACH COVERED AIR TOXIC  
16 IN REAL TIME, INCLUDING EQUIPMENT TO CONTINUOUSLY RECORD WIND  
17 SPEED AND WIND DIRECTION DATA;

18 (B) SITING AND EQUIPMENT SPECIFICATIONS;

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

23 (D) METHODS FOR DISSEMINATING FENCELINE MONITORING DATA  
24 TO THE PUBLIC, LOCAL GOVERNMENTS, AREA SCHOOLS, AND THE DIVISION  
25 IN REAL TIME VIA THE WEBSITE SPECIFIED IN SUBSECTION (5)(h)(I) OF THIS  
26 SECTION.

27 (c) UPON RECEIPT OF AN INITIAL DRAFT FENCELINE MONITORING

1 PLAN OR PLAN THAT IS RESUBMITTED PURSUANT TO SUBSECTION (5)(i) OF  
2 THIS SECTION, THE DIVISION SHALL:

- 3 (I) PROMPTLY POST THE PLAN ON THE DIVISION'S WEBSITE;
- 4 (II) ENSURE THAT THE PLAN IS SUBJECT TO AT LEAST NINETY DAYS  
5 OF PUBLIC COMMENT;
- 6 (III) RESPOND IN WRITING TO ALL COMMENTS RECEIVED;
- 7 (IV) CONSULT WITH LOCAL GOVERNMENTS IN THE RELEVANT AREA  
8 ABOUT THE PLAN; AND

9 (V) CONSULT COMMUNITY MEMBERS AND HOLD AT LEAST TWO  
10 PUBLIC HEARINGS REGARDING THE PLAN BEFORE THE DIVISION ACTS ON  
11 THE PLAN. THE HEARINGS MUST:

- 12 (A) BE HELD AT A LOCATION NEAR THE COVERED FACILITY,  
13 PRIORITIZING DISPROPORTIONATELY IMPACTED COMMUNITIES;
- 14 (B) BE HELD ONCE DURING THE EVENING AND ONCE DURING A  
15 WEEKEND;
- 16 (C) BE AVAILABLE FOR REMOTE PARTICIPATION VIA THE INTERNET;
- 17 (D) INCLUDE INTERPRETATION SERVICES IN THE RELEVANT  
18 LANGUAGES THAT ARE NOT THE SAME LANGUAGE IN WHICH THE HEARING  
19 IS CONDUCTED; AND
- 20 (E) PROVIDE CHILD CARE SERVICES FOR THE ATTENDEES.

21 (d) (I) NO LATER THAN FOUR MONTHS AFTER THE SUBMISSION OF  
22 AN INITIAL DRAFT FENCELINE MONITORING PLAN OR PLAN THAT IS  
23 RESUBMITTED PURSUANT TO SUBSECTION (5)(i) OF THIS SECTION, THE  
24 COVERED FACILITY MAY SUBMIT A REVISED PLAN TO THE DIVISION.

25 (II) UPON RECEIPT OF A REVISED PLAN, THE DIVISION SHALL  
26 PROMPTLY POST THE REVISED PLAN ON THE DIVISION'S WEBSITE. IF THE  
27 INITIAL PLAN FAILED TO INCLUDE THE REQUIRED ELEMENTS UNDER

1 SUBSECTION (5)(b) OF THIS SECTION, THE DIVISION SHALL AGAIN COMPLY  
2 WITH SUBSECTION (5)(c) OF THIS SECTION WITH RESPECT TO THE REVISED  
3 PLAN, IN WHICH CASE THE DEADLINE IN SUBSECTION (5)(e) OF THIS  
4 SECTION IS EXTENDED FOR NINETY DAYS.

5 (e) IF THE DIVISION DETERMINES THAT THE COVERED FACILITY IS  
6 EMITTING HAZARDOUS AIR POLLUTANTS IN QUANTITIES THAT MAY POSE A  
7 RISK TO PUBLIC HEALTH IN THE RELEVANT AREA, THE DIVISION MAY  
8 REQUIRE AS PART OF THE PLAN THE REPORTING OF POLLUTANTS OTHER  
9 THAN COVERED AIR TOXICS THAT THE MONITORS ARE REASONABLY  
10 CAPABLE OF MEASURING. THE DIVISION SHALL APPROVE OR DISAPPROVE  
11 A FENCELINE MONITORING PLAN NO LATER THAN EIGHT MONTHS AFTER IT  
12 IS INITIALLY SUBMITTED TO THE DIVISION. IF THE DIVISION DISAPPROVES  
13 OF A MONITORING PLAN, IT SHALL PROMPTLY MODIFY THE MONITORING  
14 PLAN TO ENSURE COMPLIANCE WITH SUBSECTION (5)(b) OF THIS SECTION  
15 PRIOR TO APPROVAL.

16 (f) ONCE THE DIVISION APPROVES A FENCELINE MONITORING PLAN,  
17 THE DIVISION SHALL PROMPTLY POST THE PLAN ON ITS WEBSITE. WITHIN  
18 THREE WEEKS AFTER APPROVAL, THE COVERED FACILITY SHALL MAKE THE  
19 APPROVED PLAN AVAILABLE TO THE DIVISION AND THE PUBLIC IN THE  
20 RELEVANT LANGUAGES, AND THE DIVISION SHALL PROMPTLY POST THE  
21 TRANSLATED PLAN ON THE DIVISION'S WEBSITE. THE COVERED FACILITY  
22 SHALL MAKE HARD COPIES OF THE APPROVED AND TRANSLATED PLANS  
23 AVAILABLE AT ANY PUBLIC LIBRARIES IN THE RELEVANT AREA.

24 (g) IF A COVERED FACILITY IS A MAJOR SOURCE, AS THAT TERM IS  
25 DEFINED IN SECTION 25-7-114 (3), THE DIVISION SHALL INCORPORATE  
26 FENCELINE MONITORING REQUIREMENTS INTO THE COVERED FACILITY'S  
27 OPERATING PERMIT REQUIRED BY SECTION 25-7-114.3.

1 (h) EACH COVERED FACILITY SHALL COLLECT REAL-TIME DATA  
2 FROM THE FENCELINE MONITORING SYSTEM, SHALL MAINTAIN RECORDS OF  
3 THE DATA, AND SHALL DISSEMINATE THE DATA TO THE DIVISION AND THE  
4 PUBLIC. THE DISSEMINATION MUST:

5 (I) BE AVAILABLE IN REAL TIME ON A WEBSITE MAINTAINED BY  
6 THE COVERED FACILITY AND INCLUDE A MAP OF ALL FENCELINE  
7 MONITORING EQUIPMENT LOCATIONS AND THE ABILITY TO ACCESS  
8 HISTORICAL FENCELINE MONITORING DATA;

9 (II) BE IN THE RELEVANT LANGUAGES SPOKEN IN THE RELEVANT  
10 AREA;

11 (III) INCLUDE DESCRIPTIONS IN THE RELEVANT LANGUAGES OF  
12 COVERED AIR TOXICS AND THEIR POSSIBLE HEALTH EFFECTS AS SPECIFIED  
13 BY THE FEDERAL CENTERS FOR DISEASE CONTROL AND PREVENTION; AND

14 (IV) INCLUDE DATA ABOUT AIR CONCENTRATIONS OF ANY  
15 HAZARDOUS AIR POLLUTANT OTHER THAN COVERED AIR TOXICS THAT THE  
16 DIVISION DETERMINED UNDER SUBSECTION (5)(e) OF THIS SECTION MUST  
17 BE INCLUDED IN THE FENCELINE MONITORING PLAN; AND

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

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

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

27

1           **(6) Community-based monitoring.** (a) BEGINNING NO LATER  
2 THAN JANUARY 1, 2023, THE DIVISION SHALL CONDUCT  
3 COMMUNITY-BASED MONITORING OF COVERED AIR TOXICS IN THE  
4 RELEVANT AREAS. THE COMMUNITY-BASED MONITORING MUST OCCUR FOR  
5 NO LESS THAN THIRTY CUMULATIVE DAYS DURING EACH QUARTER OF  
6 EVERY YEAR. THE DIVISION MAY EXPEND UP TO EIGHT HUNDRED  
7 THOUSAND DOLLARS FROM THE GENERAL FUND TO PURCHASE AND EQUIP  
8 A MOBILE AIR-QUALITY MONITORING VAN DEDICATED FOR USE IN THE  
9 NORTHERN METROPOLITAN DENVER AREA TO CONDUCT  
10 COMMUNITY-BASED MONITORING PURSUANT TO THIS SUBSECTION (7).

11           (b) SUBJECT TO SUBSECTION (3)(c) OF THIS SECTION, THE DIVISION  
12 SHALL NOT SPEND MORE THAN ONE MILLION DOLLARS ANNUALLY TO  
13 CONDUCT THE COMMUNITY-BASED MONITORING REQUIRED BY SUBSECTION  
14 (7)(a) OF THIS SECTION.

15           (c) NO LATER THAN JULY 1, 2022, AND EVERY THREE YEARS  
16 THEREAFTER, THE DIVISION SHALL:

17           (I) POST A LIST OF INTENDED COMMUNITY-BASED MONITORING  
18 EQUIPMENT LOCATIONS ON THE DIVISION'S WEBSITE IN THE RELEVANT  
19 LANGUAGES;

20           (II) ENSURE THAT THE LIST OF INTENDED MONITORING EQUIPMENT  
21 LOCATIONS IS SUBJECT TO AT LEAST NINETY DAYS OF PUBLIC COMMENT;  
22 AND

23           (III) CONSIDER INPUT FROM LOCAL GOVERNMENTS AND SCHOOL  
24 DISTRICTS IN THE RELEVANT AREAS ABOUT THE LIST OF INTENDED  
25 MONITORING EQUIPMENT LOCATIONS.

26           (d) THE DIVISION SHALL ██████ MAKE COMMUNITY-BASED  
27 MONITORING DATA AVAILABLE TO THE PUBLIC. ██████

1           **(7) Costs paid by covered facilities.** (a) EACH COVERED  
2 FACILITY IS RESPONSIBLE FOR THE COST OF INSTALLING, OPERATING, AND  
3 MAINTAINING ALL FENCELINE MONITORING EQUIPMENT USED PURSUANT  
4 TO THE MONITORING PLAN AS WELL AS THE COST OF DISSEMINATING THE  
5 DATA TO THE PUBLIC.

6           (b) A COVERED FACILITY SHALL PAY A PROCESSING FEE PURSUANT  
7 TO SECTION 25-7-114.7 (2)(a)(III) TO COVER THE DIVISION'S INDIRECT AND  
8 DIRECT COSTS OF REVIEWING AND APPROVING FENCELINE MONITORING  
9 PLANS.

10           (c) COVERED FACILITIES SHALL PAY THE DIVISION FOR THE  
11 COVERED FACILITY'S ANNUAL PRO RATA SHARE OF THE DIRECT AND  
12 INDIRECT COSTS OF CONDUCTING COMMUNITY-BASED MONITORING, WHICH  
13 MONEY SHALL BE CREDITED TO THE STATIONARY SOURCES CONTROL FUND  
14 CREATED IN SECTION 25-7-114.7 (2)(b)(I). PAYMENT WILL BE RECEIVED  
15 IN ADVANCE OF PERFORMING COMMUNITY-BASED MONITORING UNLESS  
16 THE DIVISION EXPRESSLY AUTHORIZES REIMBURSEMENT.

17           **SECTION 2. Appropriation.** (1) For the 2021-22 state fiscal  
18 year, \$480,939 is appropriated to the department of public health and  
19 environment for use by the air pollution control division. This  
20 appropriation is from the stationary sources control fund created in  
21 section 25-7-114.7 (2)(b)(I), C.R.S. To implement this act, the division  
22 may use this appropriation as follows:

23           (a) \$91,056 for personal services related to stationary sources,  
24 which amount is based on an assumption that the division will require an  
25 additional 1.2 FTE; and

26           (b) \$93,226 for operating expenses related to stationary sources.

27           (c) \$12,761 for the purchase of legal services; and

1 (d) \$283,896 for the purchase of information technology services.

2 (2) For the 2021-22 state fiscal year, \$12,761 is appropriated to  
3 the department of law. This appropriation is from reappropriated funds  
4 received from the department of public health and environment under  
5 subsection (1)(c) of this section and is based on an assumption that the  
6 department of law will require an additional 0.1 FTE. To implement this  
7 act, the department of law may use this appropriation to provide legal  
8 services for the department of public health and environment.

9 (3) For the 2021-22 state fiscal year, \$283,896 is appropriated to  
10 the office of the governor for use by the office of information technology.  
11 This appropriation is from reappropriated funds received from the  
12 department of public health and environment under subsection (1)(d) of  
13 this section. To implement this act, the office may use this appropriation  
14 to provide information technology services for the department of public  
15 health and environment.

16 **SECTION 3. Applicability.** This act applies to conduct occurring  
17 on or after the effective date of this act.

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