

CHAPTER 332

HEALTH AND ENVIRONMENT

HOUSE BILL 22-1244

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 also SENATOR(S) Gonzales, Buckner, Danielson, Donovan, Ginal, Hansen, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Story, Winter, Fenberg.

AN ACT

CONCERNING MEASURES TO INCREASE PUBLIC PROTECTION FROM TOXIC AIR CONTAMINANTS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Public health, safety, and welfare are endangered by the emission of toxic air contaminants into the ambient air;

(b) Coloradans are exposed to a multitude of toxic air contaminants from numerous sources and background levels in the ambient air that may act cumulatively to produce adverse impacts to public health, and these impacts must be taken into account when regulating toxic air contaminants;

(c) The identification and regulation of toxic air contaminants should utilize the best-available scientific evidence gathered from the public, private industry, the scientific community, and global, federal, state, and local agencies;

(d) Emissions of toxic air contaminants should be monitored and controlled to levels that avoid, minimize, or mitigate harm to public health and the environment; and

(e) While there are federal and state programs in Colorado to control air pollutants subject to the national ambient air quality standards, there are no federal

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

or state programs in Colorado to establish health-based ambient air quality standards for toxic air contaminants.

(2) The general assembly further finds and declares that it is the policy of the state to:

(a) Prioritize and protect the health and well-being of all Coloradans, with a particular focus on sensitive and vulnerable groups, such as children, infants, fetuses, the elderly, people with disabilities, and people in disproportionately impacted communities;

(b) Analyze public health risks from toxic air contaminant emissions from sources based on verified science and reporting of emissions data, including consideration of background levels in the ambient air;

(c) Consider regulations of toxic air contaminants in other states and jurisdictions in developing state regulations;

(d) Use a science-based, consistent, and transparent process for communicating and addressing risks from emissions of toxic air contaminants; and

(e) Meaningfully reduce exposure to toxic air contaminant emissions through state regulation.

(3) The general assembly therefore declares that the state should control and reduce the emissions of toxic air contaminants through the identification of toxic air contaminants, the reporting of emissions data, and the setting of protective health-based standards and effective emission control regulations.

SECTION 2. In Colorado Revised Statutes, 25-7-103, **amend** (11) introductory portion and (11)(a) as follows:

25-7-103. Definitions. As used in this article 7, unless the context otherwise requires:

(11) "Emission control regulation" means and includes any standard promulgated by regulation ~~which~~ THAT is applicable to all air pollution sources within a specified area and ~~which~~ THAT prohibits or establishes permissible limits for specific types of emissions in such area; ~~and also~~ any regulation ~~which~~ THAT by its terms is applicable to a specified type of facility, process, or activity for the purpose of controlling the extent, degree, or nature of pollution emitted from such type of facility, process, or activity; any regulation adopted for the purpose of preventing or minimizing emission of any air pollutant in potentially dangerous quantities; and ~~also~~ any regulation that adopts any design, equipment, work practice, or operational standard. Emission control regulations shall not include standards ~~which~~ THAT describe maximum ambient air concentrations of specifically identified pollutants or ~~which~~ THAT describe varying degrees of pollution of ambient air. Emission control regulations pertaining to hazardous air pollutants, as defined in subsection (13) of this section, AND TOXIC AIR CONTAMINANTS DESIGNATED PURSUANT TO SECTION 25-7-109.5, shall be consistent with the emission standards promulgated under section 112 of the federal act or ~~section~~ SECTIONS 25-7-109.3 OR 25-7-109.5

in reducing or preventing emissions of hazardous air pollutants, and may include application of measures, processes, methods, systems, or techniques, including, but not limited to, measures ~~which~~ THAT:

(a) Reduce the volume of, or eliminate emissions of, such pollutants through process changes, EMISSIONS LIMITATIONS, CONTROL TECHNOLOGIES, substitution of materials, or other modifications;

SECTION 3. In Colorado Revised Statutes, 25-7-109, **amend** (2)(c) and (2)(h) as follows:

25-7-109. Commission to promulgate emission control regulations. (2) Such emission control regulations may include, but shall not be limited to, regulations pertaining to:

(c) Sulfur oxides, sulfuric acids, ORGANIC SULFIDES, hydrogen sulfide, nitrogen oxides, carbon oxides, hydrocarbons, fluorides, and any other chemical substance;

(h) Hazardous air pollutants AND TOXIC AIR CONTAMINANTS, AS DEFINED IN SECTION 25-7-109.5 (1)(i).

SECTION 4. In Colorado Revised Statutes, **add** 25-7-109.5 as follows:

25-7-109.5. Toxic air contaminants - annual toxic emissions reporting program - monitoring program - health-based standards - emission control regulations - air toxics permitting program assessment - rules - definitions.

(1) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ADVERSE HEALTH EFFECTS" MEANS THE DETRIMENTAL HEALTH EFFECTS FROM EXPOSURE TO EMISSIONS OF A TOXIC AIR CONTAMINANT, INCLUDING THE CUMULATIVE EFFECTS TO HEALTH FROM EXPOSURE TO THE COMBINED AIR EMISSIONS OF THE TOXIC AIR CONTAMINANT FROM MULTIPLE SOURCES, WHETHER THE EMISSIONS ARE EMITTED ROUTINELY, INTERMITTENTLY, OR ACCIDENTALLY.

(b) "COMMUNITY-LED MONITORING PROGRAMS" MEANS AIR MONITORING AND DATA COLLECTION, CONCERNING CONCENTRATIONS OF TOXIC AIR CONTAMINANTS IN THE AMBIENT AIR, CONDUCTED BY LOCAL GOVERNMENTS, NONGOVERNMENTAL ORGANIZATIONS, OR COMMUNITY GROUPS THAT IS AT LEAST AS STRINGENT AS THE SECOND EDITION OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S "COMPENDIUM OF METHODS FROM THE DETERMINATION OF TOXIC ORGANIC COMPOUNDS IN AMBIENT AIR".

(c) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

(d) "DISPROPORTIONATELY IMPACTED COMMUNITY" HAS THE MEANING SET FORTH IN SECTION 24-4-109 (2)(b)(II).

(e) "HEALTH-BASED STANDARDS" MEANS THE CHRONIC EXPOSURE LIMITS FOR EACH PRIORITY TOXIC AIR CONTAMINANT REQUIRED TO PROTECT THE PUBLIC FROM

ADVERSE HEALTH EFFECTS OF THAT PRIORITY TOXIC AIR CONTAMINANT, ALLOWING FOR AN AMPLE MARGIN OF SAFETY, REPRESENTED AS BENCHMARK NUMERICAL CONCENTRATIONS IN THE AMBIENT AIR.

(f) "PRIORITY TOXIC AIR CONTAMINANT" MEANS, AS DETERMINED BY THE COMMISSION BY RULE UNDER SUBSECTION (6)(a)(I) OF THIS SECTION, A TOXIC AIR CONTAMINANT THAT MAY POSE A RISK OF HARM TO PUBLIC HEALTH.

(g)(I) "SCIENTIFIC COMMUNITY" MEANS INDIVIDUALS WHO ARE PROFESSIONALLY OR ACADEMICALLY ENGAGED IN SCIENTIFIC RESEARCH ABOUT ADVERSE HEALTH EFFECTS FROM EXPOSURE TO TOXIC SUBSTANCES AND HAVE EXPERTISE IN FIELDS THAT INCLUDE PATHOLOGY, ONCOLOGY, EPIDEMIOLOGY, OR TOXICOLOGY.

(II) "SCIENTIFIC COMMUNITY" INCLUDES INDIVIDUALS WITH EXPERIENCE IN THE FIELDS OF ATMOSPHERIC PHYSICS, METEOROLOGY, OR AMBIENT MONITORING OR EXPERIENCE ASSESSING THE IMPACTS OF EMISSIONS OF TOXIC AIR CONTAMINANTS ON CONCENTRATIONS IN THE AMBIENT AIR.

(h) "SYNTHETIC MINOR SOURCE " HAS THE MEANING SET FORTH IN SECTION 25-7-114(6).

(i) "TOXIC AIR CONTAMINANT" MEANS:

(I) A HAZARDOUS AIR POLLUTANT;

(II) A COVERED AIR TOXIC, AS DEFINED IN SECTION 25-7-141 (2)(b); OR

(III) ANY OTHER AIR POLLUTANT THAT THE COMMISSION DESIGNATES AS A TOXIC AIR CONTAMINANT PURSUANT TO SUBSECTION (3) OF THIS SECTION.

(2) **Rules.** (a) THE COMMISSION SHALL PROMULGATE RULES THAT ARE NECESSARY FOR THE PROPER IMPLEMENTATION AND ADMINISTRATION OF THIS SECTION.

(b) NOTWITHSTANDING ANY LIMITATION IN THIS ARTICLE 7 TO THE CONTRARY, THE COMMISSION MAY ADOPT RULES UNDER THIS SECTION THAT ARE MORE STRINGENT THAN THE CORRESPONDING REQUIREMENTS OF THE FEDERAL ACT AND THE REGULATIONS ADOPTED PURSUANT TO THE FEDERAL ACT.

(3) **Review of the list of toxic air contaminants - rules.** (a) THE DIVISION SHALL PUBLISH AN INITIAL LIST OF THE TOXIC AIR CONTAMINANTS DESIGNATED PURSUANT TO SUBSECTIONS (1)(i)(I) AND (1)(i)(II) OF THIS SECTION BY OCTOBER 1, 2022.

(b) BEGINNING NO LATER THAN SEPTEMBER 30, 2030, AND EVERY FIVE YEARS THEREAFTER, OR MORE FREQUENTLY IF THE COMMISSION DEEMS IT APPROPRIATE TO DO SO, THE COMMISSION SHALL, PURSUANT TO SUBSECTION (1)(i)(III) OF THIS SECTION, REVIEW THE LIST OF TOXIC AIR CONTAMINANTS AND DETERMINE WHETHER TO DESIGNATE ANY ADDITIONAL AIR POLLUTANTS AS TOXIC AIR CONTAMINANTS.

(c) THE COMMISSION MAY DETERMINE THAT AN EXPEDITED REVIEW IS APPROPRIATE BASED ON A REQUEST OF ANY PERSON IF, AS PART OF THE REQUEST,

THE PERSON DEMONSTRATES TO THE COMMISSION'S SATISFACTION THAT NEW OR UPDATED SCIENTIFIC DATA RELATED TO THE ADVERSE EFFECTS OF AN AIR POLLUTANT WARRANTS EXPEDITED CONSIDERATION FOR DESIGNATION AS A TOXIC AIR CONTAMINANT. IF THE COMMISSION UNDERTAKES AN EXPEDITED CONSIDERATION OF AN AIR POLLUTANT FOR DESIGNATION AS A TOXIC AIR CONTAMINANT, THE COMMISSION'S NEXT REVIEW OF ADDITIONAL AIR POLLUTANTS MUST TAKE PLACE NO LATER THAN FIVE YEARS AFTER THE EXPEDITED CONSIDERATION.

(d) IN DETERMINING WHETHER ANY AIR POLLUTANT SHOULD BE DESIGNATED BY THE COMMISSION AS A TOXIC AIR CONTAMINANT, THE COMMISSION SHALL CONSIDER:

(I) INPUT FROM THE PUBLIC AND THE SCIENTIFIC COMMUNITY;

(II) EXISTING DATA CONCERNING EMISSIONS OF AIR POLLUTANTS, INCLUDING DATA REPORTED TO:

(A) THE DIVISION CONCERNING THE EMISSIONS OF TOXIC AIR POLLUTANTS; AND

(B) THE FEDERAL TOXIC RELEASE INVENTORY PURSUANT TO 42 U.S.C. SEC. 11023 OR PREPARED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S AIR TOXICS SCREENING ASSESSMENT (AIRTOXSCREEN) PROGRAM;

(III) INFORMATION SUBMITTED TO THE COMMISSION ABOUT THE TOXICITY OF AIR POLLUTANTS THAT IS PUBLICLY AVAILABLE AND PEER-REVIEWED RELATED TO:

(A) POTENCY;

(B) MODE OF ACTION;

(C) EXPOSURE PATTERNS;

(D) ADVERSE HEALTH EFFECTS; AND

(E) LEVELS OF EXPOSURE THAT MAY CAUSE OR CONTRIBUTE TO ADVERSE HEALTH EFFECTS, INCLUDING ADVERSE HEALTH EFFECTS ARISING FROM DISPROPORTIONATELY HIGH EXPOSURE OF PARTICULARLY VULNERABLE GROUPS, INCLUDING DISPROPORTIONATELY IMPACTED COMMUNITIES, INFANTS, CHILDREN, FETUSES, THE ELDERLY, AND PEOPLE WITH DISABILITIES; AND

(IV) IDENTIFICATIONS OF AIR POLLUTANTS AS TOXIC AIR CONTAMINANTS IN OTHER STATES.

(4) **Annual toxic emissions reporting program - study - rules.** (a) ON OR BEFORE JUNE 30 OF EACH YEAR, BEGINNING ON JUNE 30, 2024, ALL OWNERS AND OPERATORS OF SOURCES REQUIRED TO HAVE AN OPERATING PERMIT PURSUANT TO SECTION 25-7-114.3 AND SYNTHETIC MINOR SOURCES MUST SUBMIT AN ANNUAL TOXIC EMISSIONS REPORT TO THE DIVISION THAT REPORTS THE AMOUNT OF EACH TOXIC AIR CONTAMINANT EMITTED BY EACH SOURCE IN THE PRECEDING CALENDAR YEAR, BEGINNING WITH JANUARY 1, 2023, TO DECEMBER 31, 2023. THE DIVISION SHALL MAKE ANNUAL TOXIC EMISSIONS REPORTS SUBMITTED TO THE DIVISION

PURSUANT TO THIS SUBSECTION (4)(a) AVAILABLE TO THE PUBLIC.

(b) IF THERE IS A CHANGE OF OWNERSHIP OR CONTROL OF THE STATIONARY SOURCE PRIOR TO JUNE 30 OF THE YEAR THAT AN ANNUAL TOXIC EMISSIONS REPORT MUST BE SUBMITTED, THE OWNER OR OPERATOR AS OF JUNE 30 OF THAT YEAR IS RESPONSIBLE FOR SUBMITTING THE ANNUAL TOXIC EMISSIONS REPORT REQUIRED UNDER SUBSECTION (4)(a) OF THIS SECTION.

(c) (I) THE DIVISION SHALL CONDUCT A STUDY AND PREPARE A REPORT THAT INCLUDES:

(A) AN ANALYSIS OF THE EXISTING REQUIREMENTS FOR REPORTING TOXIC AIR CONTAMINANTS TO THE DIVISION AND THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY;

(B) AN ASSESSMENT OF THE AVAILABILITY AND QUALITY OF TOXIC AIR CONTAMINANT DATA REPORTED TO THE DIVISION AND THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY, WITH THE REPORTING DATA BROKEN DOWN BY INDIVIDUAL TOXIC AIR CONTAMINANT, GEOGRAPHIC AREA, INDUSTRY SECTOR, AND WHETHER CATEGORIES OF STATIONARY SOURCES REPORTING THE DATA ARE SOURCES REQUIRED TO HAVE AN OPERATING PERMIT PURSUANT TO SECTION 25-7-114.3, SYNTHETIC MINOR SOURCES, OR MINOR SOURCES; AND

(C) AN IDENTIFICATION OF THE INFORMATIONAL GAPS IN THE REPORTING OF TOXIC AIR CONTAMINANTS TO THE DIVISION AND THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY.

(II) THE DIVISION SHALL PROVIDE PUBLIC NOTICE AND HOLD AT LEAST TWO PUBLIC MEETINGS AT WHICH MEMBERS OF THE PUBLIC HAVE AN OPPORTUNITY TO COMMENT ON THE REPORT. THE DIVISION SHALL ALSO CONDUCT OUTREACH TO AND SOLICIT FEEDBACK FROM DISPROPORTIONATELY IMPACTED COMMUNITIES AND WORKERS AT STATIONARY SOURCES. IN FINALIZING THE REPORT, THE DIVISION SHALL INCLUDE IN THE REPORT A SUMMARY OF ANY COMMENTS RECEIVED FROM THE PUBLIC, DISPROPORTIONATELY IMPACTED COMMUNITIES, WORKERS AT STATIONARY SOURCES, AND THE SCIENTIFIC COMMUNITY AND IDENTIFY ANY SIGNIFICANT CHANGES MADE TO THE REPORT BASED ON THOSE COMMENTS. NO LATER THAN OCTOBER 1, 2024, THE DIVISION SHALL SUBMIT THE FINALIZED REPORT TO THE COMMISSION.

(III) NO LATER THAN APRIL 30, 2025, THE COMMISSION SHALL, BASED ON THE INFORMATIONAL GAPS IDENTIFIED IN THE REPORT, CONSIDER THE ADOPTION OF RULES THAT ENSURE ANNUAL REPORTS ON TOXIC AIR CONTAMINANTS ARE SUBMITTED TO THE DIVISION AND MAY REQUIRE ADDITIONAL TYPES OF INFORMATION TO BE INCLUDED IN ANNUAL TOXIC EMISSIONS REPORTS SUBMITTED TO THE DIVISION FOR OPERATIONS AND EMISSIONS OCCURRING IN CALENDAR YEAR 2025 AND EACH CALENDAR YEAR THEREAFTER.

(d) THE COMMISSION MAY ESTABLISH BY RULE A DE MINIMIS LEVEL OF EMISSIONS OF A TOXIC AIR CONTAMINANT BENEATH WHICH AN OWNER OR OPERATOR IS NOT REQUIRED TO REPORT ON THE EMISSIONS OF THE TOXIC AIR CONTAMINANT THROUGH AN ANNUAL TOXIC EMISSIONS REPORT SUBMITTED PURSUANT TO SUBSECTION (4)(a)

OF THIS SECTION.

(5) Toxic air contaminant monitoring program - reporting - rules.

(a) BEGINNING NO LATER THAN JANUARY 1, 2024, IN ADDITION TO THE FENCELINE MONITORING PROGRAM ESTABLISHED UNDER SECTION 25-7-141 (5) AND THE COMMUNITY-BASED MONITORING PROGRAM ESTABLISHED UNDER SECTION 25-7-141 (6), THE DIVISION SHALL DEVELOP AND BEGIN TO CONDUCT A MONITORING PROGRAM TO DETERMINE THE CONCENTRATIONS OF TOXIC AIR CONTAMINANTS IN THE AMBIENT AIR OF THE STATE.

(b) THE PROGRAM SHALL INCLUDE THE INSTALLATION AND OPERATION OF AT LEAST SIX MONITORING SITES COVERING BOTH URBAN AND RURAL AREAS OF THE STATE. THE DIVISION SHALL ENSURE THAT AT LEAST THREE MONITORING SITES ARE INSTALLED AND OPERATING BY JANUARY 1, 2024, AND THAT AT LEAST THREE ADDITIONAL MONITORING SITES ARE INSTALLED AND OPERATING BY JULY 1, 2025. EACH MONITORING SITE MUST HAVE THE ABILITY TO DETECT TRENDS IN CONCENTRATIONS OF VARIOUS TOXIC AIR CONTAMINANTS IN THE AMBIENT AIR OVER TIME AT THE SITE.

(c) AT A MINIMUM, A MONITORING SITE MUST MEASURE THE CONCENTRATIONS OF:

(I) THE TOXIC AIR CONTAMINANTS IDENTIFIED IN SECTION 2.3 OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S "NATIONAL AIR TOXICS TRENDS STATION WORK PLAN TEMPLATE (REVISED APRIL 2019)". FOR THE MEASUREMENT OF A TOXIC AIR CONTAMINANT SPECIFIED IN THIS SUBSECTION (5)(c)(I), THE MEASUREMENT MUST MEET THE REQUIRED MINIMUM DETECTION LIMIT SPECIFIED FOR THE MEASURED AIR POLLUTANT IN SECTION 3.1 OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S "NATIONAL AIR TOXICS TRENDS STATION WORK PLAN TEMPLATE (REVISED APRIL 2019)" OR THE MOST RECENT VERSION.

(II) THE TOXIC AIR CONTAMINANTS IDENTIFIED IN TABLE 1.2-1 OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S "TECHNICAL ASSISTANCE DOCUMENT FOR THE NATIONAL AIR TOXICS TRENDS STATIONS PROGRAM (REVISION 3)" FROM OCTOBER 2016 OR THE MOST RECENT VERSION. FOR THE MEASUREMENT OF A TOXIC AIR CONTAMINANT SPECIFIED IN THIS SUBSECTION (5)(c)(II) AND ALL OTHER TOXIC AIR CONTAMINANTS MEASURED UNDER THE MONITORING PROGRAM, THE DIVISION MUST SPECIFY A METHOD DETECTION LIMIT FOR EACH TOXIC AIR CONTAMINANT PURSUANT TO APPENDIX B OF 40 CFR 136.

(d) IN DETERMINING THE LOCATION OF ANY NEW MONITORING SITE, THE DIVISION SHALL:

(I) PROVIDE PUBLIC NOTICE AND HOLD AT LEAST TWO PUBLIC MEETINGS WHERE MEMBERS OF THE PUBLIC HAVE AN OPPORTUNITY TO COMMENT ON THE DIVISION'S PROPOSED LOCATIONS FOR THE MONITORING SITES; AND

(II) GIVE PRIORITY TO LOCATIONS THAT ARE WITHIN A DISPROPORTIONATELY IMPACTED COMMUNITY.

(e) THE DIVISION MAY CHANGE THE LOCATION OF ANY MONITORING SITE AFTER FOLLOWING THE PROCEDURE AND REQUIREMENTS SPECIFIED IN SUBSECTION (5)(d)

OF THIS SECTION.

(f) NO LATER THAN JULY 1, 2025, AND BY JULY 1 EACH YEAR THEREAFTER, THE DIVISION SHALL PROVIDE PUBLIC NOTICE AND HOLD AT LEAST TWO PUBLIC MEETINGS AT WHICH MEMBERS OF THE PUBLIC HAVE AN OPPORTUNITY TO COMMENT ON THE MONITORING PROGRAM. THE DIVISION SHALL ALSO CONDUCT OUTREACH TO AND SOLICIT FEEDBACK FROM DISPROPORTIONATELY IMPACTED COMMUNITIES ON THE MONITORING PROGRAM.

(g) (I) NO LATER THAN OCTOBER 1, 2025, AND BY OCTOBER 1 EACH YEAR THEREAFTER, THE DIVISION SHALL PREPARE AN ANNUAL REPORT THAT SUMMARIZES THE TOXIC AIR CONTAMINANT DATA COLLECTED BY THE MONITORING SITES IN THE PREVIOUS CALENDAR YEAR. THE DIVISION SHALL INCLUDE IN THE REPORT A SUMMARY OF ANY COMMENTS RECEIVED FROM THE PUBLIC, DISPROPORTIONATELY IMPACTED COMMUNITIES, AND THE SCIENTIFIC COMMUNITY DURING THE TWO PUBLIC MEETINGS HELD PURSUANT TO SUBSECTION (5)(f) OF THIS SECTION.

(II) ONCE THE REPORT IS FINALIZED, THE DIVISION SHALL:

(A) POST THE REPORT ON THE DIVISION'S WEBSITE IN BOTH ENGLISH AND SPANISH; AND

(B) SUBMIT THE FINALIZED REPORT TO THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE AND THE ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES. NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REQUIREMENT TO REPORT TO THE LEGISLATIVE COMMITTEES CONTINUES INDEFINITELY.

(h) THE DIVISION SHALL REPORT ON THE NEED FOR ANY ADDITIONAL MONITORING SITES FOR THE MONITORING PROGRAM, AND THE COSTS ASSOCIATED WITH ADDITIONAL MONITORING SITES, TO THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE AND THE ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, DURING THE COMMITTEES' HEARINGS HELD PRIOR TO THE 2027 REGULAR SESSION OF THE GENERAL ASSEMBLY UNDER THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

(6) **Health-based standards - rules.** (a) THE COMMISSION SHALL ADOPT RULES THAT:

(I) NO LATER THAN APRIL 30, 2025, IDENTIFY UP TO FIVE PRIORITY TOXIC AIR CONTAMINANTS CONSIDERING:

(A) EXISTING DATA CONCERNING TOXIC AIR CONTAMINANTS GATHERED THROUGH DIVISION MONITORING PROGRAMS;

(B) DATA REPORTED TO THE DIVISION CONCERNING EMISSIONS OF TOXIC AIR POLLUTANTS;

(C) DATA REPORTED TO THE FEDERAL TOXICS RELEASE INVENTORY PURSUANT TO 42 U.S.C. SEC. 11023 AND DATA PREPARED BY THE FEDERAL ENVIRONMENTAL

PROTECTION AGENCY'S AIR TOXICS SCREENING ASSESSMENT (AIRTOXSCREEN) PROGRAM;

(D) ANY OTHER RELEVANT DATA SUBMITTED TO THE COMMISSION DURING THE RULE-MAKING PROCESS CONCERNING THE AMOUNT OF EMISSIONS AND CONCENTRATIONS OF TOXIC AIR CONTAMINANTS IN THE AMBIENT AIR OF THE STATE, INCLUDING DATA COLLECTED THROUGH COMMUNITY-LED MONITORING PROGRAMS; AND

(E) INPUT FROM THE SCIENTIFIC COMMUNITY; AND

(II) NO LATER THAN APRIL 30, 2026, PROPOSE HEALTH-BASED STANDARDS FOR PRIORITY TOXIC AIR CONTAMINANTS FOR APPROVAL BY THE GENERAL ASSEMBLY.

(b) IN DETERMINING THE HEALTH-BASED STANDARDS, THE COMMISSION SHALL:

(I) CONSIDER THE BEST AVAILABLE PEER-REVIEWED TOXICITY VALUES REGARDING THE LEVELS OF EXPOSURE TO PRIORITY TOXIC AIR CONTAMINANTS THAT MAY CAUSE OR CONTRIBUTE TO ADVERSE HEALTH EFFECTS;

(II) CONSIDER STANDARDS ADOPTED IN OTHER STATES TO REDUCE OR LIMIT CONCENTRATIONS OF TOXIC AIR CONTAMINANTS IN THE AMBIENT AIR;

(III) CONSIDER THE EFFECTS OF EXPOSURE TO PRIORITY TOXIC AIR CONTAMINANTS ON VULNERABLE GROUPS OF THE STATE, INCLUDING DISPROPORTIONATELY IMPACTED COMMUNITIES, INFANTS, CHILDREN, FETUSES, THE ELDERLY, AND PEOPLE WITH DISABILITIES;

(IV) CONSIDER BOTH CANCER-RELATED HEALTH RISKS AND NON-CANCER-RELATED HEALTH RISKS.

(V) PROVIDE FOR A SUFFICIENT MARGIN OF SAFETY THAT ACCOUNTS FOR THE VARIOUS EFFECTS THAT DIFFERENT POPULATIONS MAY EXPERIENCE FROM EXPOSURE TO PRIORITY TOXIC AIR CONTAMINANTS;

(VI) CONSULT WITH THE SCIENTIFIC COMMUNITY THROUGH HOLDING AT LEAST ONE PUBLIC HEARING SPECIFICALLY FOR THIS CONSULTATION; AND

(VII) IDENTIFY THE EXCESS CANCER AND NON-CANCER RISK LEVELS FOR USE IN DETERMINING THE HEALTH-BASED STANDARDS.

(c) BEGINNING NO LATER THAN SEPTEMBER 30, 2029, AND AT LEAST ONCE EVERY FIVE YEARS THEREAFTER, THE COMMISSION SHALL:

(I) DETERMINE WHETHER TO IDENTIFY ANY ADDITIONAL PRIORITY TOXIC AIR CONTAMINANTS CONSIDERING THE DATA DESCRIBED IN SUBSECTION (6)(a)(I) OF THIS SECTION;

(II) DETERMINE WHETHER TO INCLUDE ACUTE EXPOSURE LIMITS FOR PRIORITY TOXIC AIR CONTAMINANTS IN THE DEFINITION OF HEALTH-BASED STANDARDS;

(III) DETERMINE WHETHER TO REVISE THE EXCESS CANCER AND NON-CANCER RISK LEVELS FOR USE IN DETERMINING THE HEALTH-BASED STANDARDS;

(IV) REVIEW EXISTING HEALTH-BASED STANDARDS TO ENSURE THAT THE STANDARDS SUFFICIENTLY PROTECT PUBLIC HEALTH; AND

(V) DETERMINE WHETHER TO PROPOSE REVISIONS TO THE GENERAL ASSEMBLY TO ANY EXISTING HEALTH-BASED STANDARDS IN ACCORDANCE WITH THE CONSIDERATIONS SET FORTH IN SUBSECTION (6)(b) OF THIS SECTION AND, IF A DETERMINATION IS MADE TO REVISE ANY EXISTING HEALTH-BASED STANDARD, THE COMMISSION MUST, WITHIN TWELVE MONTHS AFTER THE DETERMINATION, ADOPT RULES TO THAT EFFECT.

(d) NO MORE THAN TWELVE MONTHS AFTER THE COMMISSION MAKES THE DETERMINATION PURSUANT TO SECTION (6)(c)(I) OF THIS SECTION, THE COMMISSION SHALL PROPOSE TO THE GENERAL ASSEMBLY HEALTH-BASED STANDARDS FOR ANY ADDITIONAL PRIORITY TOXIC AIR CONTAMINANTS IN ACCORDANCE WITH SUBSECTION (6)(b) OF THIS SECTION.

(7) Emission control regulations - rules. (a) NO LATER THAN APRIL 30, 2026, THE COMMISSION SHALL ADOPT EMISSION CONTROL REGULATIONS TO REDUCE EMISSIONS OF EACH PRIORITY TOXIC AIR CONTAMINANT AND PRIORITIZE REDUCTIONS IN DISPROPORTIONATELY IMPACTED COMMUNITIES WITH MULTIPLE SOURCES OF EMISSIONS OF PRIORITY TOXIC AIR CONTAMINANTS.

(b) IN DETERMINING THE EMISSION CONTROL REGULATIONS, THE COMMISSION SHALL CONSIDER:

(I) ANY EMISSION CONTROL REGULATIONS ADOPTED FOR PRIORITY TOXIC AIR CONTAMINANTS IN OTHER STATES OR BY THE FEDERAL GOVERNMENT;

(II) THE EMISSION LEVELS OF A PRIORITY TOXIC AIR CONTAMINANT FROM DIFFERENT INDUSTRIES AND CATEGORIES OF SOURCES, INCLUDING SOURCES REQUIRED TO HAVE AN OPERATING PERMIT PURSUANT TO SECTION 25-7-114.3, SYNTHETIC MINOR SOURCES, AND MINOR SOURCES;

(III) THE DEGREE OF REDUCTION OF EACH PRIORITY TOXIC AIR CONTAMINANT THAT IS ACHIEVABLE AND TECHNICALLY AND ECONOMICALLY FEASIBLE, TAKING INTO ACCOUNT ENERGY, ENVIRONMENTAL, AND ECONOMIC IMPACTS AND OTHER COSTS PURSUANT TO THE REQUIREMENTS DESCRIBED IN SECTION 25-7-110.8;

(IV) THE ABILITY OF EMISSION CONTROL REGULATIONS TO REDUCE OR ELIMINATE THE EMISSIONS OF A PRIORITY TOXIC AIR CONTAMINANT, INCLUDING NON-EMITTING ALTERNATIVE PROCESSES AND CONTROL TECHNOLOGIES; AND

(V) THE AVAILABILITY, SUITABILITY, AND RELATIVE EFFICACY OF A LESS HAZARDOUS SUBSTITUTE FOR A PRIORITY TOXIC AIR CONTAMINANT.

(c) FOR NEW EMISSION SOURCES OF PRIORITY TOXIC AIR CONTAMINANTS, THE COMMISSION SHALL ADOPT EMISSION CONTROL REGULATIONS THAT ARE MORE STRINGENT THAN THOSE ADOPTED FOR EXISTING EMISSION SOURCES OF PRIORITY

TOXIC AIR CONTAMINANTS. THE COMMISSION MAY ALSO ADOPT AN EMISSIONS THRESHOLD BELOW WHICH NEW EMISSION SOURCES SHALL NOT BE REQUIRED TO COMPLY WITH THE MORE STRINGENT EMISSION CONTROL REGULATIONS.

(d) BEGINNING NO LATER THAN SEPTEMBER 30, 2030, AND AT LEAST ONCE EVERY FIVE YEARS THEREAFTER, THE COMMISSION SHALL:

(I) ADOPT EMISSION CONTROL REGULATIONS FOR ANY ADDITIONAL PRIORITY TOXIC AIR CONTAMINANTS IDENTIFIED BY THE COMMISSION IN ACCORDANCE WITH SUBSECTION (6)(c)(I) OF THIS SECTION; AND

(II) DETERMINE WHETHER TO REVISE THE EXISTING EMISSION CONTROL REGULATIONS IN ACCORDANCE WITH THE CONSIDERATIONS SET FORTH IN SUBSECTION (7)(b) OF THIS SECTION.

(e) IN REVIEWING AND APPROVING AIR POLLUTION PERMITS UNDER SECTION 25-7-114.3, THE DIVISION SHALL INCLUDE ANY APPLICABLE EMISSION CONTROL REGULATIONS IN THE PERMIT.

(f) THE EMISSION CONTROL REGULATIONS ESTABLISHED UNDER THIS SUBSECTION (7) SHALL NOT APPLY TO ANY ELECTRIC GENERATING RESOURCE LOCATED WITHIN THE STATE WITH A CLOSURE DATE NO LATER THAN JANUARY 1, 2031, THAT HAS BEEN APPROVED BY EITHER THE PUBLIC UTILITIES COMMISSION CREATED IN SECTION 40-2-101 (1) AS PART OF AN ELECTRIC RESOURCE PLAN OR THE AIR POLLUTION CONTROL DIVISION AS PART OF A CLEAN ENERGY PLAN.

(8) **Air pollution regulation for sources of toxic air contaminants - assessment.** (a) NO LATER THAN DECEMBER 31, 2025, THE DIVISION SHALL CONDUCT AN ASSESSMENT TO DETERMINE THE NEEDS OF THE DIVISION TO ADMINISTER AN AIR PERMITTING PROGRAM TO REGULATE NEW, MODIFIED, AND EXISTING STATIONARY SOURCES THAT EMIT LEVELS OF PRIORITY TOXIC AIR CONTAMINANTS, REFERRED TO IN THIS SUBSECTION (8) AS THE "AIR TOXICS PERMITTING PROGRAM".

(b) THE ASSESSMENT MUST:

(I) EVALUATE AIR TOXICS PERMITTING PROGRAMS FOR NEW, MODIFIED, AND EXISTING STATIONARY SOURCES OF PRIORITY TOXIC AIR CONTAMINANTS IN OTHER STATES AND ON TRIBAL LANDS;

(II) EVALUATE AND MAKE RECOMMENDATIONS REGARDING THE SCOPE OF THE AIR TOXICS PERMITTING PROGRAM, INCLUDING THE TYPES OF PERMITS, STATIONARY SOURCES, INDUSTRIES, AND GEOGRAPHIC AREAS OF THE STATE THAT WOULD BE IMPACTED BY THE PROGRAM;

(III) IDENTIFY PROCESSES AND REASONABLE TIMELINES FOR:

(A) THE NOTIFICATION TO ANY STATIONARY SOURCES THAT COULD BE SUBJECT TO THE AIR TOXICS PERMITTING PROGRAM;

(B) THE ASSESSMENT OF PUBLIC HEALTH RISKS ASSOCIATED WITH A STATIONARY

SOURCE'S EMISSIONS OF PRIORITY TOXIC AIR CONTAMINANTS; AND

(C) THE ASSESSMENT AND IMPLEMENTATION OF STRATEGIES DESIGNED TO REDUCE EMISSIONS OF PRIORITY TOXIC AIR CONTAMINANTS FROM A STATIONARY SOURCE THROUGH PERMITTING; AND

(IV) IDENTIFY THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE IMPLEMENTATION OF AN AIR TOXICS PERMITTING PROGRAM FOR EXISTING STATIONARY SOURCES AND POSSIBLE FUNDING MECHANISMS.

(c) THE DIVISION SHALL PROVIDE PUBLIC NOTICE AND HOLD AT LEAST TWO PUBLIC MEETINGS AT WHICH MEMBERS OF THE PUBLIC HAVE AN OPPORTUNITY TO COMMENT ON THE ASSESSMENT. THE DIVISION SHALL ALSO CONDUCT OUTREACH TO AND SOLICIT FEEDBACK FROM DISPROPORTIONATELY IMPACTED COMMUNITIES AND WORKERS AT STATIONARY SOURCES ON THE ASSESSMENT.

(d) IN FINALIZING THE ASSESSMENT, THE DIVISION SHALL INCLUDE IN THE ASSESSMENT A SUMMARY OF ANY COMMENTS RECEIVED FROM THE PUBLIC, WORKERS AT STATIONARY SOURCES, AND DISPROPORTIONATELY IMPACTED COMMUNITIES AND IDENTIFY ANY SIGNIFICANT CHANGES MADE TO THE ASSESSMENT BASED ON SUCH COMMENTS.

(e) THE DIVISION SHALL REPORT ON THE ASSESSMENT AND PROVIDE RECOMMENDATIONS TO THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE AND THE ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, DURING THE COMMITTEES' HEARINGS HELD PRIOR TO THE 2026 REGULAR SESSION OF THE GENERAL ASSEMBLY UNDER THE "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

SECTION 5. In Colorado Revised Statutes, 25-7-109.3, **amend** (1), (2), (3)(a)(I), (4)(a)(I), and (4)(h)(III); and **repeal** (3)(b), (3)(b.1), (3)(f), and (3)(g) as follows:

25-7-109.3. Colorado hazardous air pollutant control and reduction program - rules - repeal. (1) The commission shall promulgate appropriate ~~regulations~~ RULES pertaining to hazardous air pollutants ~~as defined in section 25-7-103(13) which~~ THAT are consistent with this section, 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~~ AT LEAST AS PROTECTIVE AS the national strategy.

(2) ~~Except as provided in section 25-7-114.4(5);~~ The commission may **only** promulgate rules pertaining to hazardous air pollutants ~~as defined in section 25-7-103(13)~~ in accordance with this section, SECTION 25-7-109.5, AND SECTION 25-7-114.4. In order to minimize additional regulatory and compliance costs to the state's economy, any program created by the commission pursuant to this section ~~must~~ MAY contain a provision that exempts FROM THE REQUIREMENTS OF THE

PROGRAM those sources or categories of sources 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 or other rules. ~~Such permits or rules must only be as stringent as necessary to establish synthetic minor status.~~ The commission shall expeditiously implement this subsection (2) to ~~assure~~ ENSURE that all sources may be able to timely qualify as a synthetic minor source, thereby avoiding the costs of the operating permit program.

(3) (a) (I) As soon as adequate scientific, technological, and hazardous air pollutant emissions information is available, the commission may promulgate regulations for the control of hazardous air pollutants, INCLUDING utilizing Colorado GACT or Colorado MACT technology-based emission reduction requirements, as defined in section 25-7-103 (6.7) and (6.8).

(b) This section shall only apply to sources emitting a hazardous air pollutant identified in the list established or amended pursuant to subsection (5) of this section which:

(I) ~~Are not included in categories or subcategories of sources listed or proposed to be listed by the environmental protection agency under section 112 of the federal act and thus will not be required to comply with GACT or MACT under the federal act, as defined in section 25-7-103 (12.1) and (16.5); or~~

(II) ~~Are included in categories or subcategories of sources listed or proposed to be listed under section 112 of the federal act and which have:~~

(A) ~~Levels of emissions of hazardous air pollutants listed under section 112 (b) of the federal act which are below thresholds established under the federal act and thus will not be required to comply with GACT and MACT under the federal act and as defined in section 25-7-103 (12.1) and (16.5); except that this section shall not apply to a source included in a category or subcategory for which a lesser quantity emission rate has been proposed or adopted under section 112 of the federal act; or~~

(B) ~~Hazardous air pollutant emissions above a threshold level of the substance listed under subparagraph (II) of paragraph (a) and paragraph (b) of subsection (5) of this section.~~

(b.1) ~~The commission may recognize similarities among regulated sources or apply, when appropriate, previous control requirements established by the commission in making a determination about the need for such regulation under this subsection (3). The commission shall also consider fundamentally different factors between sources in making these determinations.~~

(f) ~~This section shall not apply to sources subject to national emission standards for hazardous air pollutants (NESHAP) established by the administrator pursuant to the federal act, but only for those emissions for which a NESHAP is established.~~

(g) ~~This section shall not impose requirements on sources included in categories or subcategories of sources which are listed in section 112(n) of the federal act~~

~~which are inconsistent with the timing of studies or assessments conducted under or definitions set forth in section 112(n) of the federal act.~~

~~(4) (a) (I) On or after the risk-based studies required under sections 112(k)(3), 112(o), and 112(f) of the federal act are completed and received by the commission, The commission may adopt regulations~~ RULES pertaining to those sources identified as emitting hazardous air pollutants regulated under this section, which may include additional emission reduction requirements to address any residual risk of health effects with respect to actual persons living in the vicinity of sources after installation of technology-based controls. Imposition of such requirements may be made PURSUANT TO SECTION 25-7-109.5 OR upon a determination by the commission that operation of sources without health-based controls does not or will not represent an inconsequential threat to public health. ~~Regulations~~ RULES as finally adopted pursuant to this subsection (4) may apply on a source-specific basis.

~~(h) Temporary exceptional authority. (III) This paragraph (h) shall remain effective only until such time as the commission acts pursuant to its authority under paragraph (a) of this subsection (4)~~ SUBSECTION (4)(h) IS REPEALED, EFFECTIVE JULY 1, 2026.

SECTION 6. Appropriation. (1) For the 2022-23 state fiscal year, \$3,135,853 is appropriated to the department of public health and environment. This appropriation is from the general fund. To implement this act, the department may use this appropriation as follows:

(a) \$1,792,791 for use by the air pollution control division for program costs, which amount is based on an assumption that the division will require an additional 13.1 FTE;

(b) \$671,906 for use by the division of environmental health and sustainability for the toxicology and environmental epidemiology unit, which amount is based on an assumption that the division will require an additional 4.0 FTE;

(c) \$73,928 for the purchase of legal services; and

(d) \$597,228 for the purchase of information technology services.

(2) For the 2022-23 state fiscal year, \$73,928 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of public health and environment under subsection (1)(c) of this section and is based on an assumption that the department of law will require an additional 0.4 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of public health and environment.

(3) For the 2022-23 state fiscal year, \$597,228 is appropriated to the office of the governor for use by the office of information technology. This appropriation is from reappropriated funds received from the department of public health and environment under subsection (1)(d) of this section. To implement this act, the office may use this appropriation to provide information technology services for the department of public health and environment.

SECTION 7. Applicability. This act applies to conduct occurring on or after the effective date of this act.

SECTION 8. 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.

Approved: June 2, 2022