

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

**INTRODUCED**

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

**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.**

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

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 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.

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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 ENABLE FACILITIES TO  
15 QUICKLY ADDRESS 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:

16 (I) For hydrogen cyanide, ten thousand pounds;

17 (II) For hydrogen sulfide, five thousand pounds; ~~and~~

18 (III) For benzene, one thousand pounds; AND

19 (IV) FOR A COVERED AIR TOXIC LISTED BY RULE PURSUANT TO  
20 SUBSECTION (3) OF THIS SECTION, THE AMOUNT SPECIFIED BY THE RULE.

21 ~~(c)~~ (d) "Emergency notification service" has the meaning  
22 established in section 29-11-101 ~~(1.5)~~ (11).

23 (e) "FENCELINE MONITORING" MEANS MONITORING USING  
24 EQUIPMENT THAT CONTINUOUSLY MEASURES AND RECORDS AIR  
25 POLLUTANT CONCENTRATIONS AT OR ADJACENT TO A COVERED FACILITY'S  
26 BOUNDARY.

27 ~~(d)~~ (f) "Incident" means the emission by a covered facility of an

1 air pollutant at a rate or quantity that exceeds allowable emissions as a  
2 result of anticipated or unanticipated circumstances, including a  
3 malfunction, start-up, shutdown, upset, or emergency.

4 (g) "METHOD 325A" MEANS THE TEST METHOD TITLED "VOLATILE  
5 ORGANIC COMPOUNDS FROM FUGITIVE AND AREA SOURCES: SAMPLER  
6 DEPLOYMENT AND VOC SAMPLE COLLECTION" ADOPTED BY THE AIR  
7 EMISSION MEASUREMENT CENTER OF THE FEDERAL ENVIRONMENTAL  
8 PROTECTION AGENCY.

9 (h) "METHOD 325B" MEANS THE TEST METHOD TITLED "VOLATILE  
10 ORGANIC COMPOUNDS FROM FUGITIVE AND AREA SOURCES: SAMPLER  
11 PREPARATION AND ANALYSIS" PROMULGATED BY THE AIR EMISSION  
12 MEASUREMENT CENTER OF THE FEDERAL ENVIRONMENTAL PROTECTION  
13 AGENCY.

14 (i) "METHOD TO-15A" MEANS THE TEST METHOD TITLED  
15 "DETERMINATION OF VOLATILE ORGANIC COMPOUNDS (VOCs) IN AIR  
16 COLLECTED IN SPECIALLY-PREPARED CANISTERS AND ANALYZED BY GAS  
17 CHROMATOGRAPHY/MASS SPECTROMETRY (GC/MS)" PUBLISHED IN THE  
18 SECOND EDITION OF THE FEDERAL ENVIRONMENTAL PROTECTION  
19 AGENCY'S "COMPENDIUM OF METHODS FROM THE DETERMINATION OF  
20 TOXIC ORGANIC COMPOUNDS IN AMBIENT AIR".

21 (j) "OPTICAL REMOTE SENSING TECHNOLOGY" MEANS  
22 TECHNOLOGY WITH THE ABILITY TO PROVIDE REAL-TIME MEASUREMENTS  
23 OF AIR POLLUTANT CONCENTRATIONS ALONG AN OPEN PATH AS DESCRIBED  
24 IN "EPA HANDBOOK: OPTICAL AND REMOTE SENSING FOR MEASUREMENT  
25 AND MONITORING OF EMISSIONS FLUX OF GASES AND PARTICULATE  
26 MATTER" BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY.

27 (k) (I) "PETROLEUM REFINERY" MEANS AN ESTABLISHMENT THAT

1 IS LOCATED ON ONE OR MORE CONTIGUOUS OR ADJACENT PROPERTIES  
2 THAT PROCESSES CRUDE OIL TO PRODUCE MORE USABLE PRODUCTS SUCH  
3 AS GASOLINE, DIESEL FUEL, AVIATION FUEL, LUBRICATING OILS, ASPHALT,  
4 OR PETROCHEMICAL FEEDSTOCKS. THE TERM INCLUDES AUXILIARY  
5 FACILITIES SUCH AS BOILERS, WASTEWATER TREATMENT PLANTS,  
6 HYDROGEN PRODUCTION FACILITIES, SULFUR RECOVERY PLANTS, COOLING  
7 TOWERS, BLOWDOWN SYSTEMS, COMPRESSOR ENGINES, AND POWER  
8 PLANTS.

9 (II) PETROLEUM REFINERY PROCESSES INCLUDE SEPARATION  
10 PROCESSES, INCLUDING ATMOSPHERIC OR VACUUM DISTILLATION AND  
11 LIGHT ENDS RECOVERY; PETROLEUM CONVERSION PROCESSES, INCLUDING  
12 CRACKING, REFORMING, ALKYLATION, POLYMERIZATION, ISOMERIZATION,  
13 COKING, AND VISBREAKING; PETROLEUM TREATING PROCESSES, INCLUDING  
14 HYDRODESULFURIZATION, HYDROTREATING, CHEMICAL SWEETENING, ACID  
15 GAS REMOVAL, AND DEASPHALTING; AND FEEDSTOCK AND PRODUCT  
16 HANDLING, INCLUDING STORAGE, CRUDE-OIL BLENDING, NON-CRUDE-OIL  
17 FEEDSTOCK BLENDING, PRODUCT BLENDING, LOADING, AND UNLOADING.

18 (I) "REAL TIME" MEANS THE ACTUAL OR NEAR ACTUAL TIME  
19 DURING WHICH COVERED AIR TOXICS OR OTHER AIR POLLUTANT EMISSIONS  
20 OCCUR.

21 (m) "RELEVANT AREA" MEANS THE AREA WITHIN THREE MILES OF  
22 A COVERED FACILITY WHERE COMMUNITIES MAY BE EXPOSED TO COVERED  
23 AIR TOXICS.

24 (n) "RELEVANT LANGUAGES" MEANS THE TWO MOST PREVALENT  
25 LANGUAGES SPOKEN IN THE RELEVANT AREA, AS IDENTIFIED IN THE  
26 LATEST AMERICAN COMMUNITY SURVEY PUBLISHED BY THE FEDERAL  
27 CENSUS BUREAU.

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

4           (a) AT LEAST EVERY FIVE YEARS BEGINNING IN 2027, OR MORE  
5 FREQUENTLY IF IT DEEMS IT APPROPRIATE TO DO SO, INCLUDING PURSUANT  
6 TO A REQUEST BY ANY INTERESTED PERSON, REVIEW THE BEST AVAILABLE  
7 SCIENCE, THE LIST OF COVERED AIR TOXICS, AND THE EMISSION  
8 THRESHOLDS FOR COVERED FACILITIES TO DETERMINE WHETHER  
9 ADDITIONAL HAZARDOUS AIR POLLUTANTS SHOULD BE LISTED AS COVERED  
10 AIR TOXICS AND THE APPROPRIATE EMISSION THRESHOLD FOR COVERED  
11 FACILITIES REGARDING EACH ADDITIONAL COVERED AIR TOXIC; AND

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

15           ~~(2)~~ (4) **Emergency notifications.** Each covered facility shall:

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

19           (I) Methods by which the covered facility can disseminate  
20 information to the community IN THE RELEVANT AREA and methods by  
21 which community members can contact the covered facility regarding an  
22 incident; and

23           (II) Provisions for communications in ~~Spanish~~ THE RELEVANT  
24 LANGUAGES;

25           (b) Use an emergency notification service through which the  
26 covered facility will communicate IN THE RELEVANT LANGUAGES with,  
27 and make data available to, the community ~~surrounding the covered~~

1 facility IN THE RELEVANT AREA AND THE DIVISION regarding the  
2 occurrence of an incident;

3 (c) Implement the emergency notification service within six  
4 months after July 2, 2020; and

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

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

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

17 (b) AT LEAST ONE YEAR BEFORE A COVERED FACILITY BEGINS  
18 CONDUCTING FENCELINE MONITORING, THE COVERED FACILITY SHALL  
19 SUBMIT AN INITIAL DRAFT FENCELINE MONITORING PLAN TO THE DIVISION.  
20 EACH FENCELINE MONITORING PLAN MUST:

21 (I) BE AT LEAST AS STRINGENT AS METHOD 325A, METHOD 325B,  
22 AND METHOD TO-15A COMBINED, OR THE MOST UP-TO-DATE EMISSIONS  
23 TEST OR MEASUREMENT METHODS FOR FENCELINE MONITORING APPROVED  
24 OR PROMULGATED BY THE FEDERAL ENVIRONMENTAL PROTECTION  
25 AGENCY;

26 (II) PROVIDE FOR MONITORING OF COVERED AIR TOXICS USING  
27 OPTICAL REMOTE SENSING TECHNOLOGY OR OTHER MONITORING

1 TECHNOLOGY WITH THE ABILITY TO PROVIDE REAL-TIME SPATIAL AND  
2 TEMPORAL DATA TO UNDERSTAND THE TYPE AND AMOUNT OF EMISSIONS;

3 (III) BE SUBMITTED TO THE DIVISION IN THE RELEVANT  
4 LANGUAGES; AND

5 (IV) IDENTIFY:

6 (A) THE EQUIPMENT TO BE USED TO CONTINUOUSLY MONITOR,  
7 RECORD, AND DISSEMINATE EMISSION DATA FOR EACH COVERED AIR TOXIC  
8 IN REAL TIME, INCLUDING EQUIPMENT TO CONTINUOUSLY RECORD WIND  
9 SPEED AND WIND DIRECTION DATA;

10 (B) SITING AND EQUIPMENT SPECIFICATIONS;

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

15 (D) METHODS FOR DISSEMINATING FENCELINE MONITORING DATA  
16 TO THE PUBLIC, LOCAL GOVERNMENTS, AREA SCHOOLS, AND THE DIVISION  
17 IN REAL TIME VIA THE WEBSITE SPECIFIED IN SUBSECTION (5)(h)(I) OF THIS  
18 SECTION; AND

19 (E) AIR POLLUTANTS OTHER THAN COVERED AIR TOXICS THAT THE  
20 MONITORS ARE CAPABLE OF MEASURING.

21 (c) UPON RECEIPT OF AN INITIAL DRAFT FENCELINE MONITORING  
22 PLAN OR PLAN THAT IS RESUBMITTED PURSUANT TO SUBSECTION (5)(i) OF  
23 THIS SECTION, THE DIVISION SHALL:

24 (I) PROMPTLY POST THE PLAN ON THE DIVISION'S WEBSITE;

25 (II) ENSURE THAT THE PLAN IS SUBJECT TO AT LEAST NINETY DAYS  
26 OF PUBLIC COMMENT;

27 (III) RESPOND IN WRITING TO ALL COMMENTS RECEIVED;

1 (IV) CONSULT WITH LOCAL GOVERNMENTS IN THE RELEVANT AREA  
2 ABOUT THE PLAN; AND

3 (V) CONSULT COMMUNITY MEMBERS AND HOLD AT LEAST TWO  
4 PUBLIC HEARINGS REGARDING THE PLAN WITHIN TWO MONTHS AFTER  
5 SUBMISSION TO THE DIVISION. THE HEARINGS MUST:

6 (A) BE HELD AT A LOCATION NEAR THE COVERED FACILITY,  
7 PRIORITIZING DISPROPORTIONATELY IMPACTED COMMUNITIES;

8 (B) BE HELD ONCE DURING THE EVENING AND ONCE DURING A  
9 WEEKEND;

10 (C) BE AVAILABLE FOR REMOTE PARTICIPATION VIA THE INTERNET;

11 (D) INCLUDE INTERPRETATION SERVICES IN THE RELEVANT  
12 LANGUAGES THAT ARE NOT THE SAME LANGUAGE IN WHICH THE HEARING  
13 IS CONDUCTED; AND

14 (E) PROVIDE CHILD CARE SERVICES FOR THE ATTENDEES.

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

19 (II) UPON RECEIPT OF A REVISED PLAN, THE DIVISION SHALL AGAIN  
20 COMPLY WITH SUBSECTION (5)(c) OF THIS SECTION WITH RESPECT TO THE  
21 REVISED PLAN.

22 (e) THE DIVISION SHALL APPROVE OR DISAPPROVE A FENCELINE  
23 MONITORING PLAN NO LATER THAN EIGHT MONTHS AFTER IT IS INITIALLY  
24 SUBMITTED TO THE DIVISION. IF THE DIVISION DISAPPROVES OF A  
25 MONITORING PLAN, IT SHALL PROMPTLY MODIFY THE MONITORING PLAN  
26 TO ENSURE COMPLIANCE WITH SUBSECTION (5)(b) OF THIS SECTION PRIOR  
27 TO APPROVAL.

1 (f) ONCE THE DIVISION APPROVES A FENCELINE MONITORING PLAN,  
2 THE DIVISION SHALL PROMPTLY POST THE PLAN ON ITS WEBSITE. WITHIN  
3 THREE WEEKS AFTER APPROVAL, THE COVERED FACILITY SHALL MAKE THE  
4 APPROVED PLAN AVAILABLE TO THE DIVISION AND THE PUBLIC IN THE  
5 RELEVANT LANGUAGES, AND THE DIVISION SHALL PROMPTLY POST THE  
6 TRANSLATED PLAN ON THE DIVISION'S WEBSITE. THE COVERED FACILITY  
7 SHALL MAKE HARD COPIES OF THE APPROVED AND TRANSLATED PLANS  
8 AVAILABLE AT ANY PUBLIC LIBRARIES IN THE RELEVANT AREA.

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

13 (h) EACH COVERED FACILITY SHALL COLLECT REAL-TIME DATA  
14 FROM THE FENCELINE MONITORING SYSTEM, SHALL MAINTAIN RECORDS OF  
15 THE DATA, AND SHALL DISSEMINATE THE DATA TO THE DIVISION AND THE  
16 PUBLIC. THE DISSEMINATION MUST:

17 (I) BE AVAILABLE IN REAL TIME ON A WEBSITE MAINTAINED BY  
18 THE COVERED FACILITY AND INCLUDE A MAP OF ALL FENCELINE  
19 MONITORING EQUIPMENT LOCATIONS AND THE ABILITY TO ACCESS  
20 HISTORICAL FENCELINE MONITORING DATA;

21 (II) BE IN THE RELEVANT LANGUAGES SPOKEN IN THE RELEVANT  
22 AREA;

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

26 (IV) INCLUDE DATA ABOUT AIR CONCENTRATIONS OF ANY  
27 POLLUTANT OTHER THAN COVERED AIR TOXICS THAT THE FENCELINE

1 MONITORING EQUIPMENT IS CAPABLE OF MEASURING; AND

2 (V) BE PRESENTED IN A MANNER THAT CAN BE UNDERSTOOD BY

3 MEMBERS OF THE PUBLIC REGARDLESS OF SOCIOECONOMIC BACKGROUND.

4 (i) A COVERED FACILITY SHALL UPDATE AND RESUBMIT FOR

5 DIVISION APPROVAL ITS FENCELINE MONITORING PLAN EVERY FIVE YEARS;

6 EXCEPT THAT THE DIVISION MAY REQUIRE AN UPDATED PLAN BEFORE THE

7 EXPIRATION OF FIVE YEARS BASED ON:

8 (I) ITS OWN DETERMINATION THAT THERE HAS BEEN A

9 SUBSTANTIAL CHANGE IN THE COVERED FACILITY'S OPERATIONS OR

10 EMISSIONS; OR

11 (II) A WRITTEN REQUEST SUBMITTED BY A MEMBER OF THE PUBLIC

12 THAT THE DIVISION DETERMINES JUSTIFIES AN UPDATED PLAN.

13 (6) **Corrective action.** (a) IF DATA FROM A FENCELINE

14 MONITORING SYSTEM IDENTIFIES A PERMIT VIOLATION BY A COVERED

15 FACILITY, THE COVERED FACILITY SHALL:

16 (I) IMMEDIATELY NOTIFY THE DIVISION AND COMMUNITIES IN THE

17 RELEVANT AREA OF THE VIOLATION PURSUANT TO THE EMERGENCY

18 NOTIFICATION REQUIREMENTS SPECIFIED IN SUBSECTION (4)(b) OF THIS

19 SECTION;

20 (II) ANALYZE THE CAUSE OF THE VIOLATION; AND

21 (III) PROMPTLY TAKE CORRECTIVE ACTION TO ADDRESS THE CAUSE

22 OF THE VIOLATION, NOT TO EXCEED FIFTEEN DAYS.

23 (b) IF A FACILITY FAILS TO TAKE CORRECTIVE ACTION WITHIN

24 FIFTEEN DAYS, THE DIVISION SHALL PURSUE ENFORCEMENT PURSUANT TO

25 SECTION 25-7-115.

26 (7) **Community-based monitoring.** (a) BEGINNING NO LATER

27 THAN JANUARY 1, 2023, THE DIVISION SHALL CONDUCT

1 COMMUNITY-BASED MONITORING OF COVERED AIR TOXICS IN THE  
2 RELEVANT AREAS. THE COMMUNITY-BASED MONITORING MUST OCCUR FOR  
3 NO LESS THAN THIRTY CUMULATIVE DAYS DURING EACH QUARTER OF  
4 EVERY YEAR.

5 (b) NO LATER THAN JULY 1, 2022, AND EVERY THREE YEARS  
6 THEREAFTER, THE DIVISION SHALL:

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

10 (II) ENSURE THAT THE LIST OF INTENDED MONITORING EQUIPMENT  
11 LOCATIONS IS SUBJECT TO AT LEAST NINETY DAYS OF PUBLIC COMMENT;  
12 AND

13 (III) CONSIDER INPUT FROM LOCAL GOVERNMENTS AND SCHOOL  
14 DISTRICTS IN THE RELEVANT AREAS ABOUT THE LIST OF INTENDED  
15 MONITORING EQUIPMENT LOCATIONS.

16 (c) THE DIVISION SHALL PROMPTLY MAKE COMMUNITY-BASED  
17 MONITORING DATA AVAILABLE TO THE PUBLIC, INCLUDING DATA ABOUT  
18 CONCENTRATIONS OF AIR POLLUTANTS OTHER THAN COVERED AIR TOXICS  
19 THAT THE MONITORING EQUIPMENT IS CAPABLE OF MEASURING.

20 (8) **Costs paid by covered facilities.** (a) EACH COVERED  
21 FACILITY IS RESPONSIBLE FOR THE COST OF INSTALLING, OPERATING, AND  
22 MAINTAINING ALL FENCELINE MONITORING EQUIPMENT USED PURSUANT  
23 TO THE MONITORING PLAN AS WELL AS THE COST OF DISSEMINATING THE  
24 DATA TO THE PUBLIC.

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

1 PLANS; EXCEPT THAT THE PROCESSING FEE CALCULATED PURSUANT TO  
2 SECTION 25-7-114.7 (2)(a)(III) MUST INCLUDE THE COVERED FACILITY'S  
3 PRO RATA SHARE OF THE DIVISION'S COSTS OF CONDUCTING  
4 COMMUNITY-BASED MONITORING AND IN OTHERWISE IMPLEMENTING THIS  
5 SECTION.

6 **SECTION 2. Applicability.** This act applies to conduct occurring  
7 on or after the effective date of this act.

8 **SECTION 3. Safety clause.** The general assembly hereby finds,  
9 determines, and declares that this act is necessary for the immediate  
10 preservation of the public peace, health, or safety.