

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 21-0452.01 Thomas Morris x4218

HOUSE BILL 21-1189

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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.**

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.

SENATE
3rd Reading Unamended
June 2, 2021

SENATE
Amended 2nd Reading
June 1, 2021

HOUSE
3rd Reading Unamended
May 20, 2021

HOUSE
Amended 2nd Reading
May 19, 2021

- 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 ~~(c)~~ (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 ~~(d)~~ (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 ___ FOR USE IN THE NORTHERN
9 METROPOLITAN DENVER AREA, HENDERSON, THE CITY OF PUEBLO, AND
10 OTHER COMMUNITIES. TO CONDUCT COMMUNITY-BASED MONITORING
11 PURSUANT TO THIS SUBSECTION (7).

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

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

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

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

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

27 (d) THE DIVISION SHALL [REDACTED] MAKE COMMUNITY-BASED

1 MONITORING DATA AVAILABLE TO THE PUBLIC. ■

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

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

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

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

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

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

1 (c) \$12,761 for the purchase of legal services; and
2 (d) \$283,896 for the purchase of information technology services.

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

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

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

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