

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 18-1236.01 Thomas Morris x4218

HOUSE BILL 18-1400

---

HOUSE SPONSORSHIP

Becker K. and McKean,

SENATE SPONSORSHIP

Scott and Jahn,

---

House Committees

Finance

Senate Committees

---

A BILL FOR AN ACT

101 CONCERNING AN INCREASE IN FEES PAID BY STATIONARY SOURCES OF  
102 AIR POLLUTANTS, AND, IN CONNECTION THEREWITH,  
103 PRIORITIZING THE USE OF THE REVENUES GENERATED BY THE  
104 FEE INCREASES TO REDUCE PERMIT PROCESSING TIMES.

---

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 sets the fees paid by stationary sources of air pollutants by statute and allows the air quality control commission to set the fees below the cap by rule as needed to comply with TABOR. The bill

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.

increases the statutory caps as follows:

| <u>Type of Fee</u>                   | <u>Current Cap</u> | <u>New Cap</u> |
|--------------------------------------|--------------------|----------------|
| Air pollutant emission notices       | \$152.90           | \$191.13       |
| Per-ton fee for regulated pollutants | \$ 22.90           | \$ 28.63       |
| Per-ton fee for hazardous pollutants | \$152.90           | \$191.13       |
| Per-hour permit processing fee       | \$ 76.45           | \$ 95.56       |

The maximum statutory fees automatically increase by the rate of inflation on each January 1 from 2019 to 2028, but the actual fees collected will be set at or below the statutory cap by the commission by rule. The division of administration in the department of public health and environment shall prioritize its use of the revenues generated by the fee increases to reduce permit processing times.

The division will:

- ! Engage affected industries to identify and assess measures to improve billing practices, increase accounting transparency, and assess potential efficiency improvements with respect to division activities financed by the fees; and
- ! Report to the general assembly as part of the SMART Act presentations through 2022 to provide status updates on the stakeholder process.

---

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-7-114.1, **amend**  
3 (6)(a) as follows:

4 **25-7-114.1. Air pollutant emission notices.** (6) (a) The  
5 MAXIMUM fee for filing an air pollutant emission notice or amendment  
6 thereto under this section ~~shall be~~ IS one hundred ~~fifty-two~~ NINETY-ONE  
7 dollars and ~~ninety~~ THIRTEEN cents; EXCEPT THAT, ON EACH JANUARY 1  
8 FROM 2019 TO 2028, THE MAXIMUM FEE IS AUTOMATICALLY ADJUSTED  
9 BASED ON THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES  
10 DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE  
11 INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN  
12 CONSUMERS, OR ITS SUCCESSOR INDEX. THE COMMISSION SHALL SET THE  
13 ACTUAL FEE BY RULE. BEGINNING ON JULY 1, 2018, THE COMMISSION, BY  
14 RULE, MAY PERIODICALLY ADJUST THE FEE UP TO THE MAXIMUM FEE. The

1 ~~moneys~~ MONEY collected pursuant to this section shall be transmitted to  
2 the state treasurer, who shall credit ~~the same~~ IT to the stationary sources  
3 control fund created in section 25-7-114.7 (2)(b)(I).

4 **SECTION 2.** In Colorado Revised Statutes, 25-7-114.7, **amend**  
5 (2)(a)(I)(A), (2)(a)(I)(B), and (2)(a)(III); and **add** (2)(g) as follows:

6 **25-7-114.7. Emission fees - fund - rules - repeal.** (2) (a) (I) The  
7 commission shall designate by rule those classes of sources of air  
8 pollution that are exempt from the requirement to pay an annual emission  
9 fee. Every owner or operator of an air pollution source not otherwise  
10 exempt in accordance with such commission rules shall pay an annual fee  
11 as follows:

12 (A) For fiscal years ~~2008-09~~ 2018-19 and thereafter, ~~twenty-two~~  
13 THE MAXIMUM FEE IS TWENTY-EIGHT dollars and ~~ninety~~ SIXTY-THREE  
14 cents per ton of regulated pollutant reported in the most recent air  
15 pollution emission notice on file with the division; EXCEPT THAT, ONE EACH  
16 JANUARY 1 FROM 2019 TO 2028, THE MAXIMUM FEE IS AUTOMATICALLY  
17 ADJUSTED BASED ON THE ANNUAL PERCENTAGE CHANGE IN THE UNITED  
18 STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS,  
19 CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL  
20 ITEMS AND ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX. THE  
21 COMMISSION SHALL SET THE ACTUAL FEE BY RULE. BEGINNING ON JULY 1,  
22 2018, THE COMMISSION, BY RULE, MAY PERIODICALLY ADJUST THE FEE UP  
23 TO THE MAXIMUM FEE.

24 (B) For fiscal years ~~2008-09~~ 2018-19 and thereafter, in addition  
25 to the annual fee set forth in ~~sub-subparagraph (A) of this subparagraph~~  
26 ~~(H)~~ SUBSECTION (2)(a)(I)(A) OF THIS SECTION, for hazardous air pollutants,  
27 including ozone-depleting compounds, ~~an~~ A MAXIMUM annual fee of one

1 hundred ~~forty-two~~ NINETY-ONE dollars and ~~ninety~~ THIRTEEN cents per ton;  
2 EXCEPT THAT, ON EACH JANUARY 1 FROM 2019 TO 2028, THE MAXIMUM  
3 FEE IS AUTOMATICALLY ADJUSTED BASED ON THE ANNUAL PERCENTAGE  
4 CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF  
5 LABOR STATISTICS, CONSUMER PRICE INDEX FOR  
6 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN  
7 CONSUMERS, OR ITS SUCCESSOR INDEX. THE COMMISSION SHALL SET THE  
8 ACTUAL FEE BY RULE. BEGINNING ON JULY 1, 2018, THE COMMISSION, BY  
9 RULE, MAY PERIODICALLY ADJUST THE FEE UP TO THE MAXIMUM FEE.

10 (III) Every owner or operator subject to the requirements of  
11 ~~paying~~ TO PAY fees set forth in ~~subparagraph (f) of this paragraph (a)~~  
12 SUBSECTION (2)(a)(I) OF THIS SECTION shall also pay a processing fee for  
13 the costs of processing any application other than an air pollution  
14 emission notice under this article 7. Every significant user of prescribed  
15 fire, including federal facilities, submitting a planning document to the  
16 commission pursuant to section 25-7-106 (8)(b) shall pay a fee for costs  
17 of evaluating ~~such~~ THE documents. FOR FISCAL YEAR 2018-19, the  
18 division shall assess a fee for work it performs, up to a maximum of thirty  
19 hours at a MAXIMUM rate of ~~seventy-six~~ NINETY-FIVE dollars and  
20 ~~forty-five~~ FIFTY-SIX cents per hour; EXCEPT THAT, ON EACH JANUARY 1  
21 FROM 2019 TO 2028, THE MAXIMUM FEE IS AUTOMATICALLY ADJUSTED  
22 BASED ON THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES  
23 DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE  
24 INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN  
25 CONSUMERS, OR ITS SUCCESSOR INDEX. THE COMMISSION SHALL SET THE  
26 ACTUAL FEE BY RULE. BEGINNING ON JULY 1, 2018, THE COMMISSION, BY  
27 RULE, MAY PERIODICALLY ADJUST THE FEE UP TO THE MAXIMUM FEE. If the

1 division requires more than thirty hours to process the application or  
2 evaluate the prescribed fire-related planning documents, the fee paid by  
3 the applicant shall MUST not exceed three thousand SEVEN HUNDRED FIFTY  
4 dollars unless the division has informed the source that the respective  
5 billings may exceed three thousand SEVEN HUNDRED FIFTY dollars and has  
6 provided the source with an estimate of what the actual charges may be  
7 prior to commencing the work.

8 (g) (I) THE DIVISION SHALL PRIORITIZE ITS USE OF THE REVENUES  
9 GENERATED BY THE FEE INCREASES AUTHORIZED BY THE GENERAL  
10 ASSEMBLY IN 2018 TO REDUCE PERMIT PROCESSING TIMES THROUGH THE  
11 MODERNIZATION OF DATABASES AND PERMITTING PROCESSES AND OTHER  
12 MEANS AS THE DIVISION MAY IDENTIFY.

13 (II) BEFORE SEPTEMBER 1, 2018, THE DIVISION SHALL CONVENE A  
14 STAKEHOLDER GROUP CONSISTING OF AFFECTED INDUSTRIES TO:

15 (A) IDENTIFY AND ASSESS MEASURES TO IMPROVE BILLING  
16 PRACTICES AND INCREASE ACCOUNTING TRANSPARENCY WITH RESPECT TO  
17 APPLICATION PROCESSING FEES, INCLUDING PROVIDING MORE DETAIL ON  
18 THE APPLICATION REVIEW PROCESS AND THE TIME SPENT ON THE PROCESS;  
19 AND

20 (B) ASSESS POTENTIAL EFFICIENCY IMPROVEMENTS, INCLUDING  
21 ASSOCIATED METRICS, WITH RESPECT TO DIVISION ACTIVITIES FINANCED  
22 BY THE STATIONARY SOURCES CONTROL FUND.

23 (III) BEGINNING IN 2019, THE DIVISION SHALL INCLUDE IN THE  
24 ANNUAL PRESENTATIONS REQUIRED BY SECTION 2-7-203 (2) THE RESULTS  
25 OF THE STAKEHOLDER PROCESS REQUIRED BY SUBSECTION (2)(g)(II) OF  
26 THIS SECTION, INCLUDING IMPROVED BILLING PRACTICES, INCREASED  
27 ACCOUNTING TRANSPARENCY, IMPLEMENTED EFFICIENCY IMPROVEMENTS,

1 AND EFFICIENCY METRICS.

2 (IV) SUBSECTIONS (2)(g)(II) AND (2)(g)(III) OF THIS SECTION AND  
3 THIS SUBSECTION (2)(g)(IV) ARE REPEALED, EFFECTIVE SEPTEMBER 1,  
4 2023.

5 **SECTION 3. Applicability.** This act applies to conduct occurring  
6 on or after the applicable effective date of this act.

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