

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REREVISED

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

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
Appropriations

Senate Committees

Finance
Appropriations

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 AND**
105 **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 sets the fees paid by stationary sources of air pollutants by statute and allows the air quality control commission to set

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
May 4, 2018

SENATE
Amended 2nd Reading
May 3, 2018

HOUSE
3rd Reading Unamended
April 27, 2018

HOUSE
Amended 2nd Reading
April 26, 2018

the fees below the cap by rule as needed to comply with TABOR. The bill 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. Legislative declaration.** (1) The general assembly
3 hereby:

4 (a) Finds that the 2018-19 long bill significantly reduced the
5 spending authority in the air pollution control stationary sources program
6 due to a reduction in projected revenue and fund balance;

7 (b) Determines that it will be necessary for the department of
8 public health and environment to work with the joint budget committee
9 following the enactment of fee increases up to the caps established in this
10 act, by rule of the commission, to request additional spending authority
11 to comply with the intent of this act; and

12 (c) Declares that this act is necessary to ensure the continued
13 operation of the stationary sources program and to ensure timeliness of

1 ~~permitting and responsiveness to stakeholders and the public.~~

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

18 **SECTION 3.** In Colorado Revised Statutes, 25-7-114.7, **amend**
19 (2)(a)(I)(A), (2)(a)(I)(B), and (2)(a)(III); and **add** (2)(g) as follows:

20 **25-7-114.7. Emission fees - fund - rules - repeal.** (2) (a) (I) The
21 commission shall designate by rule those classes of sources of air
22 pollution that are exempt from the requirement to pay an annual emission
23 fee. Every owner or operator of an air pollution source not otherwise
24 exempt in accordance with such commission rules shall pay an annual fee
25 as follows:

26 (A) For fiscal years ~~2008-09~~ 2018-19 and thereafter, ~~twenty-two~~
27 THE MAXIMUM FEE IS TWENTY-EIGHT dollars and ~~ninety~~ SIXTY-THREE

1 cents per ton of regulated pollutant reported in the most recent air
2 pollution emission notice on file with the division; EXCEPT THAT, ON EACH
3 JANUARY 1 FROM 2019 TO 2028, THE MAXIMUM FEE IS AUTOMATICALLY
4 ADJUSTED BASED ON THE ANNUAL PERCENTAGE CHANGE IN THE UNITED
5 STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS,
6 CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL
7 ITEMS AND ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX. THE
8 COMMISSION SHALL SET THE ACTUAL FEE BY RULE. BEGINNING ON JULY 1,
9 2018, THE COMMISSION, BY RULE, MAY PERIODICALLY ADJUST THE FEE UP
10 TO THE MAXIMUM FEE.

11 (B) For fiscal years ~~2008-09~~ 2018-19 and thereafter, in addition
12 to the annual fee set forth in ~~sub-subparagraph (A) of this subparagraph~~
13 ~~(F)~~ SUBSECTION (2)(a)(I)(A) OF THIS SECTION, for hazardous air pollutants,
14 including ozone-depleting compounds, ~~an~~ A MAXIMUM annual fee of one
15 hundred ~~fifty-two~~ NINETY-ONE dollars and ~~ninety~~ THIRTEEN cents per ton;
16 EXCEPT THAT, ON EACH JANUARY 1 FROM 2019 TO 2028, THE MAXIMUM
17 FEE IS AUTOMATICALLY ADJUSTED BASED ON THE ANNUAL PERCENTAGE
18 CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF
19 LABOR STATISTICS, CONSUMER PRICE INDEX FOR
20 DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN
21 CONSUMERS, OR ITS SUCCESSOR INDEX. THE COMMISSION SHALL SET THE
22 ACTUAL FEE BY RULE. BEGINNING ON JULY 1, 2018, THE COMMISSION, BY
23 RULE, MAY PERIODICALLY ADJUST THE FEE UP TO THE MAXIMUM FEE.

24 (III) Every owner or operator subject to the requirements ~~of~~
25 ~~paying~~ TO PAY fees set forth in ~~subparagraph (F) of this paragraph (a)~~
26 SUBSECTION (2)(a)(I) OF THIS SECTION shall also pay a processing fee for
27 the costs of processing any application other than an air pollution

1 emission notice under this article 7. Every significant user of prescribed
2 fire, including federal facilities, submitting a planning document to the
3 commission pursuant to section 25-7-106 (8)(b) shall pay a fee for costs
4 of evaluating ~~such~~ THE documents. FOR FISCAL YEAR 2018-19, the
5 division shall assess a fee for work it performs, up to a maximum of thirty
6 hours at a MAXIMUM rate of ~~seventy-six~~ NINETY-FIVE dollars and
7 ~~forty-five~~ FIFTY-SIX cents per hour; 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. If the
15 division requires more than thirty hours to process the application or
16 evaluate the prescribed fire-related planning documents, the fee paid by
17 the applicant ~~shall~~ MUST not exceed three thousand SEVEN HUNDRED FIFTY
18 dollars unless the division has informed the source that the respective
19 billings may exceed three thousand SEVEN HUNDRED FIFTY dollars and has
20 provided the source with an estimate of what the actual charges may be
21 prior to commencing the work.

22 (g) (I) THE DIVISION SHALL PRIORITIZE ITS USE OF THE
23 REVENUES GENERATED BY THE FEE INCREASES AUTHORIZED BY THE
24 GENERAL ASSEMBLY IN 2018 TO REDUCE PERMIT PROCESSING TIMES FOR
25 ALL CATEGORIES OF PERMITS THROUGH INCREASED EFFICIENCIES AND
26 INFORMATION SYSTEM IMPROVEMENTS THAT ARE IDENTIFIED THROUGH
27 THE STAKEHOLDER PROCESS IDENTIFIED IN SUBSECTION (2)(g)(II) OF THIS

1 SECTION.

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

4 (A) IDENTIFY AND ASSESS MEASURES TO IMPROVE BILLING
5 PRACTICES AND INCREASE ACCOUNTING TRANSPARENCY WITH RESPECT TO
6 APPLICATION PROCESSING FEES, INCLUDING PROVIDING MORE DETAIL ON
7 THE APPLICATION REVIEW PROCESS AND THE TIME SPENT ON THE PROCESS;
8 AND

9 (B) ASSESS POTENTIAL EFFICIENCY IMPROVEMENTS, INCLUDING
10 ASSOCIATED METRICS TO MEASURE THE DIVISION'S PERFORMANCE, WITH
11 RESPECT TO DIVISION ACTIVITIES FINANCED BY THE STATIONARY SOURCES
12 CONTROL FUND.

13 (III) BEGINNING IN 2019, THE DIVISION SHALL PRESENT DURING
14 THE LEGISLATIVE SESSION THE RESULTS OF THE STAKEHOLDER PROCESS
15 REQUIRED BY SUBSECTION (2)(g)(II) OF THIS SECTION, INCLUDING
16 IMPROVED BILLING PRACTICES, INCREASED ACCOUNTING TRANSPARENCY,
17 IMPLEMENTED EFFICIENCY IMPROVEMENTS, AND EFFICIENCY METRICS, TO
18 THE HOUSE HEALTH, INSURANCE, AND ENVIRONMENT COMMITTEE AND THE
19 SENATE HEALTH AND HUMAN SERVICES COMMITTEE, OR ANY SUCCESSOR
20 COMMITTEES.

21 (IV) SUBSECTIONS (2)(g)(II) AND (2)(g)(III) OF THIS SECTION AND
22 THIS SUBSECTION (2)(g)(IV) ARE REPEALED, EFFECTIVE SEPTEMBER 1,
23 2023.

24 **SECTION 4. Appropriation.** (1) For the 2018-19 state fiscal
25 year, \$1,555,293 is appropriated to the department of public health and
26 environment. This appropriation is from the stationary sources control
27 fund created in section 25-7-114.7 (2)(b)(I), C.R.S. To implement this act,

1 the department may use this appropriation as follows:

2 **Administration and Support Division, Administration**

3 Health, Life, and Dental \$108,898

4 Short-term Disability \$1,803

5 S.B. 04-257 Amortization Equalization Disbursement \$44,675

6 S.B. 06-235 Supplemental Amortization

7 Equalization Disbursement \$44,675

8 **Air Pollution Control Division, Administration**

9 Program Costs \$84,752

10 Indirect Cost Assessment \$292,109

11 **Air Pollution Control Division, Technical Services**

12 Personal Services \$98,095

13 Operating Expenses \$13,008

14 Local Contracts \$29,918

15 **Air Pollution Control Division, Stationary Sources**

16 Personal Services \$722,186

17 Operating Expenses \$26,478

18 Local Contracts \$74,096

19 Preservation of the Ozone Layer \$3,362

20 **Division of Environmental Health and Sustainability**

21 Administration and Support \$360

22 Sustainability Programs \$8,745

23 Indirect Cost Assessment \$2,592.

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

26 **SECTION 6. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.