

CHAPTER 218

HEALTH AND ENVIRONMENT

HOUSE BILL 18-1400

BY REPRESENTATIVE(S) Becker K. and McKean, Arndt, Gray, Hamner, Hansen, Hooton, Lontine, Reyher, Roberts, Rosenthal, Salazar, Winter, Young, Duran, McLachlan, Michaelson Jenet, Valdez;
also SENATOR(S) Scott and Jahn, Jones, Tate.

AN ACT

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

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

SECTION 1. Legislative declaration. (1) The general assembly hereby:

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

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

(c) Declares that this act is necessary to ensure the continued operation of the stationary sources program and to ensure timeliness of permitting and responsiveness to stakeholders and the public.

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

25-7-114.1. Air pollutant emission notices. (6) (a) The MAXIMUM fee for filing an air pollutant emission notice or amendment thereto under this section ~~shall be~~ IS one hundred ~~fifty-two~~ NINETY-ONE dollars and ~~ninety~~ THIRTEEN cents; EXCEPT THAT, ON EACH JANUARY 1 FROM 2019 TO 2028, THE MAXIMUM FEE IS

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

AUTOMATICALLY ADJUSTED BASED ON THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX. THE COMMISSION SHALL SET THE ACTUAL FEE BY RULE. BEGINNING ON JULY 1, 2018, THE COMMISSION, BY RULE, MAY PERIODICALLY ADJUST THE FEE UP TO THE MAXIMUM FEE. ~~The moneys~~ MONEY collected pursuant to this section shall be transmitted to the state treasurer, who shall credit ~~the same~~ IT to the stationary sources control fund created in section 25-7-114.7 (2)(b)(I).

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

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

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

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

(III) Every owner or operator subject to the requirements ~~of paying~~ TO PAY fees set forth in ~~subparagraph (I) of this paragraph (a)~~ SUBSECTION (2)(a)(I) OF THIS SECTION shall also pay a processing fee for the costs of processing any application other than an air pollution emission notice under this article 7. Every significant user of prescribed fire, including federal facilities, submitting a planning document to the commission pursuant to section 25-7-106 (8)(b) shall pay a fee for costs of evaluating ~~such~~ THE documents. FOR FISCAL YEAR 2018-19, the division shall assess a fee for work it performs, up to a maximum of thirty hours at a MAXIMUM rate of

~~seventy-six~~ NINETY-FIVE dollars and ~~forty-five~~ FIFTY-SIX cents per hour; EXCEPT THAT, ON EACH JANUARY 1 FROM 2019 TO 2028, THE MAXIMUM FEE IS AUTOMATICALLY ADJUSTED BASED ON THE ANNUAL PERCENTAGE CHANGE IN THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, CONSUMER PRICE INDEX FOR DENVER-AURORA-LAKEWOOD FOR ALL ITEMS AND ALL URBAN CONSUMERS, OR ITS SUCCESSOR INDEX. THE COMMISSION SHALL SET THE ACTUAL FEE BY RULE. BEGINNING ON JULY 1, 2018, THE COMMISSION, BY RULE, MAY PERIODICALLY ADJUST THE FEE UP TO THE MAXIMUM FEE. If the division requires more than thirty hours to process the application or evaluate the prescribed fire-related planning documents, the fee paid by the applicant ~~shall~~ MUST not exceed three thousand SEVEN HUNDRED FIFTY dollars unless the division has informed the source that the respective billings may exceed three thousand SEVEN HUNDRED FIFTY dollars and has provided the source with an estimate of what the actual charges may be prior to commencing the work.

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

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

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

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

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

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

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

Administration and Support Division, Administration

Health, Life, and Dental	\$108,898
Short-term Disability	\$1,803
S.B. 04-257 Amortization Equalization Disbursement	\$44,675
S.B. 06-235 Supplemental Amortization Equalization Disbursement	\$44,675

Air Pollution Control Division, Administration

Program Costs	\$84,752
Indirect Cost Assessment	\$292,109

Air Pollution Control Division, Technical Services

Personal Services	\$98,095
Operating Expenses	\$13,008
Local Contracts	\$29,918

Air Pollution Control Division, Stationary Sources

Personal Services	\$722,186
Operating Expenses	\$26,478
Local Contracts	\$74,096
Preservation of the Ozone Layer	\$3,362

Division of Environmental Health and Sustainability

Administration and Support	\$360
Sustainability Programs	\$8,745
Indirect Cost Assessment	\$2,592.

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

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 18, 2018