

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0552.01 Sarah Lozano x3858

HOUSE BILL 22-1244

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A BILL FOR AN ACT

101 CONCERNING MEASURES TO INCREASE PUBLIC PROTECTION FROM
102 TOXIC AIR CONTAMINANTS.

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>.)

The bill creates a new program to regulate a subset of air pollutants, referred to as "toxic air contaminants", which are defined as hazardous air pollutants, covered air toxics, and all other air pollutants that the air quality control commission (commission) designates by rule as a toxic air contaminant based on its adverse health effects. In implementing the program, the commission has the authority to adopt

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.

rules that are more stringent than the corresponding requirements of the federal "Clean Air Act".

Beginning no later than January 1, 2024, and every 5 years thereafter, the commission will review the list of existing toxic air contaminants and determine whether to add any additional toxic air contaminants to the list.

On or before April 1 of each year, beginning on April 1, 2024, owners and operators of major and synthetic minor sources of pollution will submit to the division of administration (division) in the department of public health and environment (department) an annual emissions inventory report that reports the levels of criteria air pollutants and toxic air contaminants that were emitted by the source in the preceding calendar year, beginning with January 1, 2023, to December 31, 2023.

Beginning no later than January 1, 2024, the division will develop a monitoring program to determine the concentration of toxic air contaminants in the ambient air of the state. The monitoring program will establish at least 6 long-term monitoring sites throughout urban and rural areas of the state. The division must provide public notice of and an opportunity to comment on the locations of the monitoring sites.

On or before November 1, 2025, and at least every 5 years thereafter, the division will prepare a report summarizing the findings of the monitoring program, provide public notice of and an opportunity to comment on the report, and submit the report to the general assembly.

Beginning no later than July 1, 2027, the commission will identify by rule toxic air contaminants that may pose a risk of harm to public health in the state (high-risk toxic air contaminants) and adopt health-based standards and emissions limitations (airborne toxic control measures) for high-risk toxic air contaminants.

On or before July 1, 2032, and at least every 5 years thereafter, the commission will review the health-based standards and airborne toxic control measures to determine if the commission should:

- Identify any additional high-risk toxic air contaminants; and
- Adjust the existing health-based standards and airborne toxic control measures.

Beginning on July 1, 2027, when applying for a new or modified air pollution permit that is subject to the new source review requirements of the federal "Clean Air Act", the owner or operator of a stationary source of pollution must submit an analysis of the impacts of the stationary source's emissions of toxic air contaminants on concentrations of toxic air contaminants in the ambient air. The division may only approve the application if the division determines, based on the analysis, that the source's emissions will not contribute to an increase in concentrations in the ambient air at or in excess of a health-based standard.

Beginning on July 1, 2027, to protect public health and the environment, the division may reopen any existing air pollution permits and require the owner or operator of a stationary source of pollution to submit to the division an analysis of the impacts of the stationary source's emissions of toxic air contaminants on concentrations of toxic air contaminants in the ambient air. If the division determines, based on the analysis, that the source's emissions contribute to concentrations in the ambient air at or in excess of a health-based standard, the division may require a decrease or cessation in the applicable emissions over the shortest practicable time until the emissions no longer contribute to concentrations in the ambient air at or in excess of a health-based standard.

The bill also creates the toxic air contaminant scientific advisory board (advisory board) in the department. The advisory board consists of 3 voting members appointed by the executive director of the department and a nonvoting member representing the department. Each member of the advisory board shall:

- Be professionally active or engaged in scientific research;
- Be highly qualified to evaluate health effects from exposure to toxic substances; and
- Have expertise in pathology, oncology, epidemiology, or toxicology.

The advisory board will advise the commission on identifying toxic air contaminants and high-risk toxic air contaminants, establishing and revising health-based standards for high-risk toxic air contaminants, and reviewing and revising the list of covered air toxics.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Public health, safety, and welfare are endangered by the
5 emission of toxic air contaminants into the ambient air;

6 (b) Coloradans are exposed to a multitude of toxic air
7 contaminants from numerous sources that may act cumulatively to
8 produce adverse impacts to public health, and these impacts must be
9 taken into account when regulating toxic air contaminants;

10 (c) The identification and regulation of toxic air contaminants

1 should utilize the best-available scientific evidence gathered from the
2 public, private industry, the scientific community, and global, federal,
3 state, and local agencies;

4 (d) Emissions of toxic air contaminants should be monitored and
5 controlled to levels that prevent harm to public health and the
6 environment; and

7 (e) While there are federal and state programs in Colorado to
8 control air pollutants subject to the national ambient air quality standards,
9 there are no federal or state programs in Colorado to establish
10 health-based ambient air quality standards for toxic air contaminants.

11 (2) The general assembly further finds and declares that it is the
12 policy of the state to:

13 (a) Prioritize and protect the health and well-being of all
14 Coloradans, with a particular focus on sensitive and vulnerable groups,
15 such as children, infants, fetuses, the elderly, people with disabilities, and
16 people in disproportionately impacted communities;

17 (b) Analyze public health risks from toxic air contaminant
18 emissions from sources based on verified science and reporting of
19 emissions data;

20 (c) Consider regulations of toxic air contaminants in other states
21 and jurisdictions in developing state regulations;

22 (d) Use a science-based, consistent, and transparent process for
23 communicating and addressing risks from emissions of toxic air
24 contaminants; and

25 (e) Meaningfully reduce exposure to toxic air contaminant
26 emissions through state regulation.

27 (3) The general assembly therefore declares that the state should

1 control and reduce the emissions of toxic air contaminants through the
2 identification of toxic air contaminants, the reporting of emissions data,
3 and the setting of protective health-based standards and effective airborne
4 toxic control measures.

5 **SECTION 2.** In Colorado Revised Statutes, **add 25-7-109.5** as
6 follows:

7 **25-7-109.5. Toxic air contaminants - advisory board - annual**
8 **emissions inventory reports - monitoring program - health-based**
9 **standards - airborne toxic control measures - air pollution permits -**
10 **rules - enforcement - definitions. (1) Definitions.** AS USED IN THIS

11 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

12 (a) "ACTIVITY LEVEL" MEANS A MEASURABLE FACTOR OR
13 PARAMETER OF A PROCESS THAT RELATES DIRECTLY OR INDIRECTLY TO
14 THE EMISSIONS OF A TOXIC AIR CONTAMINANT OR CRITERIA AIR
15 POLLUTANT, INCLUDING THROUGHPUT, HOURS OF OPERATION, QUANTITY
16 OF FUEL CONSUMED, QUANTITY OF MATERIAL PRODUCED, OR QUANTITY OF
17 COATING APPLIED.

18 (b) "ADVERSE HEALTH EFFECTS" MEANS THE ADVERSE HEALTH
19 EFFECTS FROM EXPOSURE TO TOXIC AIR CONTAMINANT EMISSIONS,
20 INCLUDING THE CUMULATIVE AND SYNERGISTIC EFFECTS TO HEALTH FROM
21 EXPOSURE TO THE COMBINED AIR EMISSIONS FROM MULTIPLE SOURCES,
22 WHETHER THE EMISSIONS ARE EMITTED ROUTINELY, INTERMITTENTLY, OR
23 ACCIDENTALLY.

24 (c) "ADVISORY BOARD" MEANS THE TOXIC AIR CONTAMINANT
25 SCIENTIFIC ADVISORY BOARD CREATED UNDER SUBSECTION (3)(a) OF THIS
26 SECTION.

27 (d) (I) "AIRBORNE TOXIC CONTROL MEASURE" MEANS, AS

1 DETERMINED BY THE COMMISSION BY RULE UNDER SUBSECTION (8) OF THIS
2 SECTION, AN EMISSION CONTROL METHOD THAT IS DESIGNED TO REDUCE,
3 AVOID, OR ELIMINATE THE EMISSIONS OF TOXIC AIR CONTAMINANTS BASED
4 ON THE MAXIMUM DEGREE OF REDUCTION OR AVOIDANCE THAT IS
5 NECESSARY TO MEET THE HEALTH-BASED STANDARDS.

6 (II) "AIRBORNE TOXIC CONTROL MEASURE" INCLUDES:

7 (A) EMISSIONS LIMITATIONS, CONTROL TECHNOLOGIES, THE USE
8 OF OPERATIONAL AND MAINTENANCE CONDITIONS, CLOSED SYSTEM
9 ENGINEERING, DESIGN, EQUIPMENT, PRACTICE STANDARDS, AND OTHER
10 MEASURES OR MODIFICATIONS THAT ARE DESIGNED TO REDUCE, AVOID, OR
11 ELIMINATE EMISSIONS OF TOXIC AIR CONTAMINANTS; AND

12 (B) EMISSIONS STANDARDS AND REGULATIONS ADOPTED BY THE
13 FEDERAL ENVIRONMENTAL PROTECTION AGENCY PURSUANT TO SECTION
14 112 OF THE FEDERAL ACT.

15 (e) "COMMUNITY-LED MONITORING PROGRAMS" MEANS AIR
16 MONITORING AND DATA COLLECTION, CONCERNING CONCENTRATIONS OF
17 TOXIC AIR CONTAMINANTS IN THE AMBIENT AIR, CONDUCTED BY LOCAL
18 GOVERNMENTS, NONGOVERNMENTAL ORGANIZATIONS, OR COMMUNITY
19 GROUPS PURSUANT TO THE SECOND EDITION OF THE FEDERAL
20 ENVIRONMENTAL PROTECTION AGENCY'S "COMPENDIUM OF METHODS
21 FROM THE DETERMINATION OF TOXIC ORGANIC COMPOUNDS IN AMBIENT
22 AIR".

23 (f) "CRITERIA AIR POLLUTANT" MEANS AN AIR POLLUTANT FOR
24 WHICH THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY HAS SET
25 NATIONAL AMBIENT AIR QUALITY STANDARDS UNDER 40 CFR 50.

26 (g) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
27 AND ENVIRONMENT.

1 (h) "EMISSION UNIT" MEANS ONE OR MORE INDIVIDUAL
2 EMISSIONS-PRODUCING ACTIVITIES THAT EMIT OR HAVE THE POTENTIAL TO
3 EMIT ANY TOXIC AIR CONTAMINANT OR CRITERIA AIR POLLUTANT.

4 (i) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF
5 THE DEPARTMENT.

6 (j) "GOOD CAUSE" MEANS, FOR AN OWNER OR OPERATOR REQUIRED
7 TO COMPLY WITH THE REPORTING REQUIREMENTS SET FORTH IN
8 SUBSECTION (5)(a) OF THIS SECTION, THE OWNER OR OPERATOR REQUIRES
9 ADDITIONAL TIME TO:

10 (I) OBTAIN MORE ACCURATE OR ADDITIONAL DATA;

11 (II) PERFORM ADDITIONAL ANALYSES; OR

12 (III) ADDRESS CHANGES IN OPERATIONS OF THE STATIONARY
13 SOURCE THAT HAVE A SUBSTANTIAL IMPACT ON THE INFORMATION AND
14 DATA REQUIRED BY SUBSECTION (5)(a) OF THIS SECTION.

15 (k) "HEALTH-BASED STANDARDS" MEANS, AS DETERMINED BY THE
16 COMMISSION BY RULE UNDER SUBSECTION (7)(a)(II) OF THIS SECTION, THE
17 ACUTE AND CHRONIC TOXIC AIR CONTAMINANT EXPOSURE LEVELS
18 REQUIRED TO PROTECT THE PUBLIC FROM ADVERSE HEALTH EFFECTS,
19 ALLOWING FOR AN AMPLE MARGIN OF SAFETY, REPRESENTED AS
20 BENCHMARK NUMERICAL CONCENTRATIONS IN THE AMBIENT AIR.

21 (l) "HIGH-RISK TOXIC AIR CONTAMINANTS" MEANS, AS
22 DETERMINED BY THE COMMISSION BY RULE UNDER SUBSECTION (7)(a)(I)
23 OF THIS SECTION, TOXIC AIR CONTAMINANTS THAT MAY POSE A RISK OF
24 HARM TO PUBLIC HEALTH IN THE STATE.

25 (m) "MAJOR SOURCE" HAS THE MEANING SET FORTH IN SECTION
26 25-7-114 (3).

27 (n) "PROCESS" MEANS, FOR THE PURPOSES OF AN ANNUAL

1 EMISSIONS INVENTORY REPORT SUBMITTED UNDER SUBSECTION (5)(a) OF
2 THIS SECTION, A TYPE OF ACTIVITY FOR AN EMISSION UNIT THAT CAUSES
3 EMISSIONS OF ANY TOXIC AIR CONTAMINANT OR CRITERIA AIR POLLUTANT,
4 INCLUDING FLARING, INTERNAL COMBUSTION, HEATING, PAINTING,
5 GRAVEL SCREENING, STORAGE TANK BREATHING LOSS, VEHICLE FUELING,
6 SPILLAGE, AND SOLVENT CLEANING.

7 (o) "SYNTHETIC MINOR SOURCE " HAS THE MEANING SET FORTH IN
8 SECTION 25-7-114 (6).

9 (p) "TOXIC AIR CONTAMINANT" MEANS:

10 (I) A HAZARDOUS AIR POLLUTANT;

11 (II) A COVERED AIR TOXIC, AS DEFINED IN SECTION 25-7-141
12 (2)(b); OR

13 (III) ANY OTHER AIR POLLUTANT THAT THE COMMISSION
14 DESIGNATES AS A TOXIC AIR CONTAMINANT PURSUANT TO SUBSECTION (4)
15 OF THIS SECTION.

16 (2) **Rules.** (a) THE COMMISSION SHALL PROMULGATE RULES THAT
17 ARE NECESSARY FOR THE PROPER IMPLEMENTATION AND ADMINISTRATION
18 OF THIS SECTION AND, TO THE GREATEST EXTENT POSSIBLE, CONSISTENT
19 WITH THE FEDERAL ACT AND THE REGULATIONS ADOPTED PURSUANT TO
20 THE FEDERAL ACT.

21 (b) NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE
22 COMMISSION MAY ADOPT RULES UNDER THIS SECTION THAT ARE MORE
23 STRINGENT THAN THE CORRESPONDING REQUIREMENTS OF THE FEDERAL
24 ACT AND THE REGULATIONS ADOPTED PURSUANT TO THE FEDERAL ACT.

25 (c) AS PART OF THE COMMISSION'S RULES PROMULGATED
26 PURSUANT TO THIS SUBSECTION (2), THE COMMISSION MAY ESTABLISH
27 SCHEDULES FOR VARYING LEVELS OF COMPLIANCE LEADING TO COMPLETE

1 COMPLIANCE FOR ANY RULE PROMULGATED PURSUANT TO THIS SECTION.

2 (3) **Advisory board.** (a) THE TOXIC AIR CONTAMINANT SCIENTIFIC
3 ADVISORY BOARD IS HEREBY CREATED IN THE DEPARTMENT.

4 (b) (I) THE ADVISORY BOARD CONSISTS OF THREE VOTING
5 MEMBERS APPOINTED BY THE EXECUTIVE DIRECTOR AND A NONVOTING
6 MEMBER REPRESENTING THE DEPARTMENT.

7 (II) THE MEMBERS SHALL:

8 (A) BE PROFESSIONALLY ACTIVE OR ENGAGED IN SCIENTIFIC
9 RESEARCH;

10 (B) BE HIGHLY QUALIFIED TO EVALUATE HEALTH EFFECTS FROM
11 EXPOSURE TO TOXIC SUBSTANCES; AND

12 (C) HAVE EXPERTISE IN PATHOLOGY, ONCOLOGY, EPIDEMIOLOGY,
13 OR TOXICOLOGY.

14 (III) THE EXECUTIVE DIRECTOR SHALL CONSULT WITH THE
15 COLORADO SCHOOL OF PUBLIC HEALTH IN APPOINTING THE MEMBERS OF
16 THE ADVISORY BOARD.

17 (c) THE EXECUTIVE DIRECTOR SHALL APPOINT MEMBERS TO THE
18 ADVISORY BOARD NO LATER THAN NOVEMBER 30, 2022, AND FOR TERMS
19 OF FIVE YEARS. THE EXECUTIVE DIRECTOR SHALL FILL ANY VACANCY BY
20 APPOINTMENT FOR THE REMAINDER OF THE UNEXPIRED TERM.

21 (d) THE ADVISORY BOARD SHALL CONVENE ITS FIRST MEETING NO
22 LATER THAN MARCH 1, 2023. THE MEMBERS SHALL SELECT A CHAIR FROM
23 AMONG ITS VOTING MEMBERS. THE ADVISORY BOARD SHALL CONDUCT
24 TWO MEETINGS EACH YEAR AND MAY AGREE TO CONDUCT MEETINGS MORE
25 FREQUENTLY.

26 (e) ADVISORY BOARD MEMBERS ARE ENTITLED TO BE REIMBURSED
27 FOR NECESSARY TRAVEL AND OTHER REASONABLE EXPENSES INCURRED IN

1 THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

2 (f) THE ADVISORY BOARD SHALL ADVISE THE COMMISSION ON:

3 (I) IDENTIFYING ADDITIONAL TOXIC AIR CONTAMINANTS TO ADD
4 TO THE LIST OF TOXIC AIR CONTAMINANTS UNDER SUBSECTION (4) OF THIS
5 SECTION;

6 (II) IDENTIFYING HIGH-RISK TOXIC AIR CONTAMINANTS UNDER
7 SUBSECTION (7)(a)(I) OF THIS SECTION;

8 (III) IDENTIFYING ADDITIONAL HIGH-RISK TOXIC AIR
9 CONTAMINANTS UNDER SUBSECTION (7)(c)(I) OF THIS SECTION;

10 (IV) ESTABLISHING HEALTH-BASED STANDARDS FOR HIGH-RISK
11 TOXIC AIR CONTAMINANTS UNDER SUBSECTION (7)(a)(II) OF THIS SECTION;

12 (V) REVIEWING AND REVISING EXISTING HEALTH-BASED
13 STANDARDS UNDER SUBSECTIONS (7)(c)(III) AND (7)(c)(IV) OF THIS
14 SECTION; AND

15 (VI) REVIEWING AND REVISING THE LIST OF COVERED AIR TOXICS
16 PURSUANT TO SECTION 25-7-141 (3)(a).

17 (4) **Review of the list of toxic air contaminants - rules.**
18 BEGINNING NO LATER THAN JANUARY 1, 2024, AND EVERY FIVE YEARS
19 THEREAFTER, OR MORE FREQUENTLY IF THE COMMISSION DEEMS IT
20 APPROPRIATE TO DO SO, THE COMMISSION SHALL, IN CONSULTATION WITH
21 THE ADVISORY BOARD, REVIEW THE LIST OF TOXIC AIR CONTAMINANTS
22 AND DETERMINE BY RULE WHETHER TO ADD ANY ADDITIONAL TOXIC AIR
23 CONTAMINANTS TO THE LIST. THE COMMISSION MAY DETERMINE THAT A
24 REVIEW IS APPROPRIATE BASED ON A REQUEST OF ANY PERSON IF, AS PART
25 OF THE REQUEST, THE PERSON DEMONSTRATES TO THE COMMISSION'S
26 SATISFACTION THAT NEW OR UPDATED SCIENTIFIC DATA RELATED TO THE
27 ADVERSE EFFECTS OF AN AIR POLLUTANT WARRANTS ADDITIONAL REVIEW.

1 THE COMMISSION SHALL MAKE THE DETERMINATIONS BASED ON:
2 (a) INPUT FROM THE PUBLIC;
3 (b) DATA GATHERED THROUGH:
4 (I) THE MONITORING PROGRAM ESTABLISHED UNDER SUBSECTION
5 (6) OF THIS SECTION;
6 (II) THE FENCELINE MONITORING PROGRAM ESTABLISHED UNDER
7 SECTION 25-7-141 (5);
8 (III) THE COMMUNITY-BASED MONITORING PROGRAM
9 ESTABLISHED UNDER SECTION 25-7-141 (6); AND
10 (IV) COMMUNITY-LED MONITORING PROGRAMS.
11 (c) DATA PROVIDED TO THE DIVISION THROUGH THE ANNUAL
12 EMISSIONS INVENTORY REPORTS SUBMITTED PURSUANT TO SUBSECTION
13 (5)(a) OF THIS SECTION;
14 (d) DATA REPORTED TO THE FEDERAL TOXICS RELEASE INVENTORY
15 PURSUANT TO 42 U.S.C. SEC. 11023;
16 (e) INFORMATION GATHERED THROUGH EVALUATIONS OF ALL
17 AVAILABLE PEER-REVIEWED SCIENTIFIC DATA RELATED TO:
18 (I) POTENCY;
19 (II) MODE OF ACTION;
20 (III) EXPOSURE PATTERNS;
21 (IV) ADVERSE HEALTH EFFECTS;
22 (V) LEVELS OF EXPOSURE THAT MAY CAUSE OR CONTRIBUTE TO
23 ADVERSE HEALTH EFFECTS; AND
24 (VI) ANY ADVERSE HEALTH EFFECTS OF TOXIC AIR
25 CONTAMINANTS, INCLUDING ADVERSE HEALTH EFFECTS ARISING FROM
26 DISPROPORTIONATELY HIGH EXPOSURE OF PARTICULARLY VULNERABLE
27 GROUPS, INCLUDING DISPROPORTIONATELY IMPACTED COMMUNITIES,

1 INFANTS, CHILDREN, FETUSES, THE ELDERLY, AND PEOPLE WITH
2 DISABILITIES;

3 (f) THE AVAILABILITY AND QUALITY OF SCIENTIFIC DATA; AND

4 (g) IDENTIFICATIONS OF AIR POLLUTANTS AS TOXIC AIR
5 CONTAMINANTS IN OTHER STATES AND JURISDICTIONS.

6 (5) **Annual emissions inventory reports - rules.** (a) ON OR
7 BEFORE APRIL 1 OF EACH YEAR, BEGINNING ON APRIL 1, 2024, ALL
8 OWNERS AND OPERATORS OF MAJOR SOURCES AND SYNTHETIC MINOR
9 SOURCES MUST SUBMIT AN ANNUAL EMISSIONS INVENTORY REPORT TO THE
10 DIVISION THAT REPORTS THE AMOUNT OF EACH TOXIC AIR CONTAMINANT
11 AND CRITERIA AIR POLLUTANT EMITTED BY EACH MAJOR SOURCE AND
12 SYNTHETIC MINOR SOURCE IN THE PRECEDING CALENDAR YEAR,
13 BEGINNING WITH JANUARY 1, 2023, TO DECEMBER 31, 2023. THE DIVISION
14 SHALL MAKE ANY ANNUAL EMISSIONS INVENTORY REPORTS SUBMITTED TO
15 THE DIVISION PURSUANT TO THIS SUBSECTION (5)(a) AVAILABLE TO THE
16 PUBLIC.

17 (b) ANY EMISSIONS INVENTORY REPORT SUBMITTED TO THE
18 DIVISION PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION MUST, AT A
19 MINIMUM, INCLUDE THE FOLLOWING INFORMATION:

20 (I) THE NAME AND IDENTIFICATION NUMBER OF THE STATIONARY
21 SOURCE;

22 (II) THE NAME OF THE OWNER OR OPERATOR OF THE STATIONARY
23 SOURCE AS OF APRIL 1 OF THE YEAR THAT THE ANNUAL EMISSIONS
24 INVENTORY REPORT MUST BE SUBMITTED;

25 (III) ANY NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM
26 CODES ESTABLISHED BY THE FEDERAL OFFICE OF MANAGEMENT AND
27 BUDGET THAT APPLY TO THE STATIONARY SOURCE;

1 (IV) ANY STANDARD INDUSTRIAL CLASSIFICATION CODES
2 ESTABLISHED BY THE FEDERAL OFFICE OF MANAGEMENT AND BUDGET
3 THAT APPLY TO THE STATIONARY SOURCE;

4 (V) THE PHYSICAL ADDRESS, GEOSPATIAL COORDINATES, AND
5 COUNTY OF THE STATIONARY SOURCE;

6 (VI) WHETHER THE STATIONARY SOURCE IS LOCATED IN A
7 DISPROPORTIONATELY IMPACTED COMMUNITY;

8 (VII) A LIST OF EMISSION UNITS APPLICABLE TO THE STATIONARY
9 SOURCE. FOR EACH APPLICABLE EMISSION UNIT, THE LIST MUST INCLUDE:

10 (A) ANY APPLICABLE FEDERAL-ISSUED AIR POLLUTION PERMIT
11 IDENTIFICATION NUMBER;

12 (B) ANY APPLICABLE STATE-ISSUED AIR POLLUTION PERMIT
13 IDENTIFICATION NUMBER;

14 (C) ANY APPLICABLE SOURCE CLASSIFICATION CODE ESTABLISHED
15 BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY;

16 (D) ANY APPLICABLE UNIT TYPE CODES ESTABLISHED BY THE
17 FEDERAL ENVIRONMENTAL PROTECTION AGENCY;

18 (E) THE ACTIVITY LEVEL FOR THE PRECEDING CALENDAR YEAR,
19 INCLUDING DESCRIPTIONS OF THE UNITS OF MEASUREMENT AND THE DATA
20 ACQUISITION METHODS USED; AND

21 (F) A DESCRIPTION OF ANY PROCESSES ASSOCIATED WITH THE
22 EMISSION UNIT, INCLUDING A DESCRIPTION OF HOW THE TOXIC AIR
23 CONTAMINANT OR CRITERIA AIR POLLUTANT IS EMITTED INTO THE
24 ATMOSPHERE THROUGH ANY PROCESS OR PROCESSES.

25 (VIII) DIRECT AND FUGITIVE EMISSIONS DATA, INCLUDING UNITS
26 OF MEASUREMENT, CALCULATION METHODS, AND EMISSION FACTORS, FOR
27 EACH TOXIC AIR CONTAMINANT AND CRITERIA AIR POLLUTANT EMITTED IN

1 THE PRECEDING CALENDAR YEAR BY A FACILITY, INCLUDING:

2 (A) THE TOTAL MASS OF TOXIC AIR CONTAMINANT OR CRITERIA
3 AIR POLLUTANT EMITTED OVER THE PRECEDING CALENDAR YEAR;

4 (B) THE MAXIMUM MASS OF TOXIC AIR CONTAMINANT OR CRITERIA
5 AIR POLLUTANT THAT MAY BE EMITTED IN A TWENTY-FOUR HOUR PERIOD;

6 (C) ANY EMISSION UNITS OR PROCESSES ASSOCIATED WITH THE
7 TOXIC AIR CONTAMINANT OR CRITERIA AIR POLLUTANT EMITTED BY THE
8 FACILITY;

9 (D) RELEASE LOCATION TYPE ;

10 (E) STACK LOCATION, STACK HEIGHT, EXIT VELOCITY AND
11 TEMPERATURE, AND STACK DIAMETER, IF APPLICABLE;

12 (F) THE CONTROL EFFICIENCY OF ALL EMISSIONS CONTROL
13 DEVICES IF A CONTROL EFFICIENCY IS USED TO QUANTIFY EMISSIONS; AND

14 (G) THE AMOUNT OF EACH TOXIC AIR CONTAMINANT THAT IS
15 PRODUCED OR USED AT THE FACILITY DURING THE DATA YEAR; AND

16 (IX) ANY OTHER INFORMATION THAT THE COMMISSION MAY
17 REQUIRE BY RULE.

18 (c) UPON A SHOWING OF GOOD CAUSE BY AN OWNER OR OPERATOR,
19 THE DIVISION MAY GRANT AN EXTENSION OF THE DEADLINE OF APRIL 1 TO
20 SUBMIT AN ANNUAL EMISSIONS INVENTORY REPORT FOR A PERIOD NOT TO
21 EXCEED SIXTY DAYS FROM APRIL 1 OF THE YEAR THAT AN ANNUAL
22 EMISSIONS INVENTORY REPORT MUST BE SUBMITTED. ANY REQUEST FOR
23 AN EXTENSION MUST BE IN WRITING AND SUBMITTED TO THE DIVISION AT
24 LEAST FIFTEEN DAYS PRIOR TO APRIL 1 OF THE YEAR THAT AN ANNUAL
25 EMISSIONS INVENTORY REPORT MUST BE SUBMITTED.

26 (d) IF THERE IS A CHANGE OF OWNERSHIP OR CONTROL OF THE
27 STATIONARY SOURCE PRIOR TO APRIL 1 OF THE YEAR THAT AN ANNUAL

1 EMISSIONS INVENTORY REPORT MUST BE SUBMITTED, THE OWNER OR
2 OPERATOR AS OF APRIL 1 OF THAT YEAR IS RESPONSIBLE FOR SUBMITTING
3 THE ANNUAL EMISSIONS INVENTORY REPORT REQUIRED UNDER
4 SUBSECTION (5)(a) OF THIS SECTION.

5 (e) THE DIVISION SHALL REVIEW ANY ANNUAL EMISSIONS
6 INVENTORY REPORTS SUBMITTED UNDER SUBSECTION (5)(a) OF THIS
7 SECTION FOR ACCURACY AND COMPLETENESS. IF THE DIVISION FINDS THAT
8 AN ANNUAL EMISSIONS INVENTORY REPORT IS INACCURATE OR
9 INCOMPLETE, THE DIVISION SHALL NOTIFY IN WRITING THE OWNER OR
10 OPERATOR THAT SUBMITTED THE REPORT, AND THE OWNER OR OPERATOR
11 MUST PROMPTLY SUBMIT ANY REQUESTED REVISIONS OR ADDITIONS
12 WITHIN FORTY-FIVE DAYS AFTER NOTIFICATION BY THE DIVISION.

13 (f) THE COMMISSION MAY ESTABLISH BY RULE A DE MINIMUS
14 LEVEL OF ANNUAL EMISSIONS OF A TOXIC AIR CONTAMINANT OR CRITERIA
15 AIR POLLUTANT BENEATH WHICH AN OWNER OR OPERATOR IS NOT
16 REQUIRED TO REPORT ON THE EMISSIONS OF THE TOXIC AIR CONTAMINANT
17 OR CRITERIA AIR POLLUTANT THROUGH AN ANNUAL EMISSIONS INVENTORY
18 REPORT SUBMITTED PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION.

19 (6) **Toxic air contaminant monitoring program - rules.**

20 (a) BEGINNING NO LATER THAN JANUARY 1, 2024, IN ADDITION TO THE
21 FENCELINE MONITORING PROGRAM ESTABLISHED UNDER SECTION 25-7-141
22 (5) AND THE COMMUNITY-BASED MONITORING PROGRAM ESTABLISHED
23 UNDER SECTION 25-7-141 (6), THE DIVISION SHALL DEVELOP AND BEGIN TO
24 CONDUCT A MONITORING PROGRAM TO DETERMINE THE CONCENTRATIONS
25 OF TOXIC AIR CONTAMINANTS IN THE AMBIENT AIR OF THE STATE.

26 (b) THE PROGRAM SHALL INCLUDE THE INSTALLATION AND
27 OPERATION OF AT LEAST SIX LONG-TERM MONITORING SITES IN BOTH

1 URBAN AND RURAL AREAS OF THE STATE. THE DIVISION SHALL ENSURE
2 THAT AT LEAST THREE LONG-TERM MONITORING SITES ARE INSTALLED AND
3 OPERATING BY JANUARY 1, 2024, AND THAT AT LEAST THREE ADDITIONAL
4 LONG-TERM MONITORING SITES ARE INSTALLED AND OPERATING BY JULY
5 1, 2025. EACH MONITORING SITE MUST HAVE THE ABILITY TO DETECT
6 TRENDS IN CONCENTRATIONS OF VARIOUS TOXIC AIR CONTAMINANTS IN
7 THE AMBIENT AIR OVER TIME AT THE SITE.

8 (c) AT A MINIMUM, A MONITORING SITE MUST MEASURE THE
9 CONCENTRATIONS OF:

10 (I) THE TOXIC AIR CONTAMINANTS IDENTIFIED IN SECTION 2.3 OF
11 THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S "NATIONAL AIR
12 TOXICS TRENDS STATION WORK PLAN TEMPLATE (REVISED APRIL 2019)".
13 FOR THE MEASUREMENT OF A TOXIC AIR CONTAMINANT SPECIFIED IN THIS
14 SUBSECTION (6)(c)(I), THE MEASUREMENT MUST MEET THE REQUIRED
15 MINIMUM DETECTION LIMIT SPECIFIED FOR THE MEASURED AIR POLLUTANT
16 IN SECTION 3.1 OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S
17 "NATIONAL AIR TOXICS TRENDS STATION WORK PLAN TEMPLATE
18 (REVISED APRIL 2019)" OR THE MOST RECENT VERSION.

19 (II) THE TOXIC AIR CONTAMINANTS IDENTIFIED IN TABLE 1.2-1 OF
20 THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S "TECHNICAL
21 ASSISTANCE DOCUMENT FOR THE NATIONAL AIR TOXICS TRENDS
22 STATIONS PROGRAM (REVISION 3)" FROM OCTOBER 2016 OR THE MOST
23 RECENT VERSION. FOR THE MEASUREMENT OF A TOXIC AIR CONTAMINANT
24 SPECIFIED IN THIS SUBSECTION (6)(c)(II) AND ALL OTHER TOXIC AIR
25 CONTAMINANTS MEASURED UNDER THE MONITORING PROGRAM, THE
26 COMMISSION MUST SPECIFY BY RULE A METHOD DETECTION LIMIT FOR
27 EACH TOXIC AIR CONTAMINANT PURSUANT TO APPENDIX B OF 40 CFR 136.

1 (d) IN DETERMINING THE LOCATION OF THE MONITORING SITES, THE
2 DIVISION SHALL:

3 (I) PROVIDE PUBLIC NOTICE AND HOLD AT LEAST TWO PUBLIC
4 MEETINGS WHERE MEMBERS OF THE PUBLIC HAVE AN OPPORTUNITY TO
5 COMMENT ON THE DIVISION'S PROPOSED LOCATIONS FOR THE MONITORING
6 SITES; AND

7 (II) GIVE PRIORITY TO LOCATIONS THAT ARE WITHIN A
8 DISPROPORTIONATELY IMPACTED COMMUNITY AND AT THE GREATEST RISK
9 FOR EXPOSURE TO TOXIC AIR CONTAMINANTS.

10 (e) THE DIVISION MAY CHANGE THE LOCATION OF ANY
11 MONITORING SITE AFTER FOLLOWING THE PROCEDURE AND REQUIREMENTS
12 SPECIFIED IN SUBSECTION (6)(d) OF THIS SECTION.

13 (f) NO LATER THAN NOVEMBER 1, 2025, AND BY NOVEMBER 1
14 EVERY FIVE YEARS THEREAFTER, THE DIVISION SHALL PREPARE A DRAFT
15 REPORT COVERING THE FINDINGS OF THE MONITORING SITES. THE DRAFT
16 REPORT, AT A MINIMUM, MUST:

17 (I) INCLUDE AN ANALYSIS OF THE CONCENTRATIONS OF TOXIC AIR
18 CONTAMINANTS IN THE AMBIENT AIR AT EACH MONITORING SITE;

19 (II) IDENTIFY TOXIC AIR CONTAMINANTS THAT MAY POSE A RISK
20 TO PUBLIC HEALTH IN THE STATE. THE LIST MUST CONSIDER THE:

21 (A) RISKS POSED BY INDIVIDUAL TOXIC AIR CONTAMINANTS; AND

22 (B) ADVERSE HEALTH EFFECTS OF MULTIPLE TOXIC AIR
23 CONTAMINANTS; AND

24 (III) EVALUATE THE EFFECTIVENESS OF THE MONITORING
25 PROGRAM.

26 (g) ONCE THE DRAFT REPORT IS PREPARED, THE DIVISION SHALL
27 POST THE DRAFT REPORT ON THE DIVISION'S WEBSITE. THE DIVISION SHALL

1 PROVIDE PUBLIC NOTICE AND HOLD AT LEAST TWO PUBLIC MEETINGS AT
2 WHICH MEMBERS OF THE PUBLIC HAVE AN OPPORTUNITY TO COMMENT ON
3 THE DRAFT REPORT. THE DIVISION SHALL ALSO CONDUCT OUTREACH TO
4 AND SOLICIT FEEDBACK FROM DISPROPORTIONATELY IMPACTED
5 COMMUNITIES ON THE DRAFT REPORT.

6 (h) IN FINALIZING THE DRAFT REPORT, THE DIVISION SHALL
7 INCLUDE IN THE DRAFT REPORT A SUMMARY OF ANY COMMENTS RECEIVED
8 FROM THE PUBLIC AND DISPROPORTIONATELY IMPACTED COMMUNITIES
9 AND IDENTIFY ANY SIGNIFICANT CHANGES MADE TO THE DRAFT REPORT
10 BASED ON SUCH COMMENTS.

11 (i) NO LATER THAN JULY 1, 2026, AND BY JULY 1 EVERY FIVE
12 YEARS THEREAFTER, THE DIVISION SHALL FINALIZE THE DRAFT REPORT
13 AND:

14 (I) POST THE FINALIZED REPORT ON THE DIVISION'S WEBSITE; AND

15 (II) SUBMIT THE FINALIZED REPORT TO THE HEALTH AND HUMAN
16 SERVICES COMMITTEE OF THE SENATE AND THE ENERGY AND
17 ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY
18 SUCCESSOR COMMITTEES. NOTWITHSTANDING SECTION 24-1-136
19 (11)(a)(I), THE REQUIREMENT TO REPORT TO THE LEGISLATIVE
20 COMMITTEES CONTINUES INDEFINITELY.

21 (7) **Health-based standards - rules.** (a) NO LATER THAN JULY 1,
22 2027, THE COMMISSION SHALL, IN CONSULTATION WITH THE ADVISORY
23 BOARD, ADOPT RULES THAT:

24 (I) IDENTIFY HIGH-RISK TOXIC AIR CONTAMINANTS BASED ON:

25 (A) THE RISK OF HARM TO HUMAN HEALTH;

26 (B) DATA GATHERED THROUGH THE MONITORING PROGRAM
27 ESTABLISHED UNDER SUBSECTION (6)(a) OF THIS SECTION, THE FENCELINE

1 MONITORING PROGRAM ESTABLISHED UNDER SECTION 25-7-141 (5), THE
2 COMMUNITY-BASED MONITORING PROGRAM ESTABLISHED UNDER SECTION
3 25-7-141 (6), AND COMMUNITY-LED MONITORING PROGRAMS;

4 (C) Data provided to the division through the annual emissions
5 inventory reports submitted to the division pursuant to subsection
6 (5)(a) of this section;

7 (D) DATA REPORTED TO THE FEDERAL TOXICS RELEASE
8 INVENTORY PURSUANT TO 42 U.S.C. SEC. 11023; AND

9 (E) ANY OTHER RELEVANT DATA AVAILABLE TO THE COMMISSION
10 CONCERNING THE AMOUNT OF EMISSIONS AND CONCENTRATIONS OF TOXIC
11 AIR CONTAMINANTS IN THE AMBIENT AIR OF THE STATE; AND

12 (II) ESTABLISH HEALTH-BASED STANDARDS FOR HIGH-RISK TOXIC
13 AIR CONTAMINANTS THAT ARE PROTECTIVE OF PUBLIC HEALTH AND
14 CONSISTENT WITH CURRENT PEER-REVIEWED SCIENTIFIC DATA.

15 (b) IN DETERMINING THE HEALTH-BASED STANDARDS, THE
16 COMMISSION SHALL:

17 (I) REVIEW THE BEST AVAILABLE PEER-REVIEWED SCIENTIFIC DATA
18 REGARDING THE LEVELS OF EXPOSURE TO TOXIC AIR CONTAMINANTS THAT
19 MAY CAUSE OR CONTRIBUTE TO ACUTE OR CHRONIC HEALTH CONDITIONS;

20 (II) SET HEALTH-BASED STANDARDS THAT ARE NO LESS
21 PROTECTIVE THAN THE MOST STRINGENT HEALTH-BASED STANDARDS
22 ADOPTED IN OTHER STATES OR JURISDICTIONS;

23 (III) CONSIDER THE EFFECTS OF EXPOSURE TO TOXIC AIR
24 CONTAMINANTS TO VULNERABLE GROUPS OF THE STATE, INCLUDING
25 DISPROPORTIONATELY IMPACTED COMMUNITIES, INFANTS, CHILDREN,
26 FETUSES, THE ELDERLY, AND PEOPLE WITH DISABILITIES;

27 (IV) CONSIDER BOTH CANCER-RELATED HEALTH RISKS AND

1 NON-CANCER-RELATED HEALTH RISKS. ANY CANCER-RELATED HEALTH
2 RISKS ALLOWED BY THE HEALTH-BASED STANDARDS SHALL NOT EXCEED
3 A LIFETIME CANCER RISK OF FIFTY IN ONE MILLION PEOPLE.

4 (V) PROVIDE FOR A SUFFICIENT MARGIN OF SAFETY THAT
5 ACCOUNTS FOR THE VARIOUS EFFECTS THAT DIFFERENT POPULATIONS MAY
6 EXPERIENCE FROM EXPOSURE TO TOXIC AIR CONTAMINANTS; AND

7 (VI) FOR ANY UNCERTAIN OR UNKNOWN HEALTH RISKS, ERR ON
8 THE SIDE OF PROTECTING HUMAN HEALTH.

9 (c) BEGINNING NO LATER THAN JULY 1, 2032, AND BY JULY 1
10 EVERY FIVE YEARS THEREAFTER, OR MORE FREQUENTLY IF THE
11 COMMISSION DEEMS IT APPROPRIATE TO DO SO, INCLUDING PURSUANT TO
12 A REQUEST BY A PERSON BASED ON NEW OR UPDATED PEER-REVIEWED
13 SCIENTIFIC DATA RELATED TO THE ADVERSE HEALTH EFFECTS OF A TOXIC
14 AIR CONTAMINANT, THE COMMISSION SHALL, IN CONSULTATION WITH THE
15 ADVISORY BOARD:

16 (I) DETERMINE WHETHER TO IDENTIFY ANY ADDITIONAL HIGH-RISK
17 TOXIC AIR CONTAMINANTS BASED ON THE DATA DESCRIBED IN SUBSECTION
18 (7)(a)(I) OF THIS SECTION;

19 (II) ADOPT HEALTH-BASED STANDARDS FOR ANY ADDITIONAL
20 HIGH-RISK TOXIC AIR CONTAMINANTS IDENTIFIED BY THE COMMISSION IN
21 ACCORDANCE WITH THE CONSIDERATIONS SET FORTH IN SUBSECTION
22 (7)(b) OF THIS SECTION;

23 (III) REVIEW EXISTING HEALTH-BASED STANDARDS TO ENSURE
24 THAT THE STANDARDS SUFFICIENTLY PROTECT PUBLIC HEALTH; AND

25 (IV) DETERMINE WHETHER TO REVISE THE EXISTING
26 HEALTH-BASED STANDARDS IN ACCORDANCE WITH THE CONSIDERATIONS
27 SET FORTH IN SUBSECTION (7)(b) OF THIS SECTION AND ADOPT RULES TO

1 THAT EFFECT.

2 (8) **Airborne toxic control measures - rules.** (a) NO LATER
3 THAN JULY 1, 2027, THE COMMISSION SHALL ADOPT AIRBORNE TOXIC
4 CONTROL MEASURES BY RULE FOR EACH HIGH-RISK TOXIC AIR
5 CONTAMINANT. THE AIRBORNE TOXIC CONTROL MEASURES SHALL BE
6 DESIGNED:

7 (I) BASED ON THE TYPES AND LEVELS OF HIGH-RISK TOXIC AIR
8 CONTAMINANTS THAT DIFFERENT TYPES OF STATIONARY SOURCES AND
9 INDUSTRIES EMIT; AND

10 (II) TO ACHIEVE THE MAXIMUM DEGREE OF REDUCTIONS IN THE
11 EMISSIONS OF HIGH-RISK TOXIC AIR CONTAMINANTS NECESSARY TO
12 ENSURE THAT EMISSIONS DO NOT RESULT IN OR CONTRIBUTE TO
13 CONCENTRATIONS OF HIGH-RISK TOXIC AIR CONTAMINANTS IN THE
14 AMBIENT AIR AT OR IN EXCESS OF THE APPLICABLE HEALTH-BASED
15 STANDARDS.

16 (b) IN DETERMINING THE AIRBORNE TOXIC CONTROL MEASURES,
17 THE COMMISSION SHALL CONSIDER:

18 (I) ANY AIRBORNE TOXIC CONTROL MEASURES ADOPTED FOR
19 HIGH-RISK TOXIC AIR CONTAMINANTS IN OTHER STATES OR JURISDICTIONS;

20 (II) THE PRESENT AND ANTICIPATED EMISSION LEVELS OF A
21 HIGH-RISK TOXIC AIR CONTAMINANT AND ANY ASSOCIATED IMPACTS OF
22 SUCH EMISSION LEVELS ON CONCENTRATIONS OF THE HIGH-RISK TOXIC AIR
23 CONTAMINANT IN THE AMBIENT AIR;

24 (III) THE STABILITY, PERSISTENCE, TRANSFORMATION PRODUCTS,
25 DISPERSION POTENTIAL, AND OTHER PHYSICAL AND CHEMICAL
26 CHARACTERISTICS OF A HIGH-RISK TOXIC AIR CONTAMINANT WHEN
27 PRESENT IN THE AMBIENT AIR;

1 (IV) THE CATEGORIES, NUMBERS, AND RELATIVE CONTRIBUTION
2 OF PRESENT OR ANTICIPATED STATIONARY SOURCES OF A HIGH-RISK TOXIC
3 AIR CONTAMINANT;

4 (V) THE ABILITY OF AIRBORNE TOXIC CONTROL MEASURES TO
5 REDUCE OR ELIMINATE THE EMISSIONS OF A HIGH-RISK TOXIC AIR
6 CONTAMINANT, INCLUDING NON-EMITTING ALTERNATIVE PROCESSES AND
7 CONTROL TECHNOLOGIES;

8 (VI) THE ANTICIPATED EFFECT OF AIRBORNE TOXIC CONTROL
9 MEASURES ON LEVELS OF EXPOSURE TO A HIGH-RISK TOXIC AIR
10 CONTAMINANT;

11 (VII) THE DEGREE THAT RECENT TECHNOLOGICAL ADVANCEMENTS
12 OR OTHER IMPROVEMENTS THAT AN OWNER OR OPERATOR HAS
13 IMPLEMENTED AFFECTS THE STATIONARY SOURCE'S LEVEL OF EMISSIONS
14 OF A HIGH-RISK TOXIC AIR CONTAMINANT;

15 (VIII) THE AVAILABILITY, SUITABILITY, AND RELATIVE EFFICACY
16 OF A LESS HAZARDOUS SUBSTITUTE FOR A HIGH-RISK TOXIC AIR
17 CONTAMINANT; AND

18 (IX) THE POTENTIAL ADVERSE HEALTH, SAFETY, OR
19 ENVIRONMENTAL IMPACTS THAT MAY OCCUR AS A RESULT OF AN
20 AIRBORNE TOXIC CONTROL MEASURE.

21 (c) BEGINNING NO LATER THAN JULY 1, 2032, AND BY JULY 1
22 EVERY FIVE YEARS THEREAFTER, OR MORE FREQUENTLY IF THE
23 COMMISSION DEEMS IT APPROPRIATE TO DO SO, INCLUDING PURSUANT TO
24 A REQUEST BY ANY PERSON BASED ON NEW OR UPDATED PEER-REVIEWED
25 SCIENTIFIC DATA, THE COMMISSION SHALL:

26 (I) ADOPT AIRBORNE TOXIC CONTROL MEASURES FOR ANY
27 ADDITIONAL HIGH-RISK TOXIC AIR CONTAMINANTS IDENTIFIED BY THE

1 COMMISSION IN ACCORDANCE WITH SUBSECTION (7)(c)(I) OF THIS
2 SECTION;

3 (II) REVIEW EXISTING AIRBORNE TOXIC CONTROL MEASURES TO
4 ENSURE THAT THE MEASURES ARE ACHIEVING THE MAXIMUM DEGREE OF
5 REDUCTIONS IN THE EMISSIONS OF HIGH-RISK TOXIC AIR CONTAMINANTS
6 NECESSARY TO ENSURE THAT EMISSIONS DO NOT RESULT IN OR
7 CONTRIBUTE TO CONCENTRATIONS OF HIGH-RISK TOXIC AIR
8 CONTAMINANTS IN THE AMBIENT AIR AT OR IN EXCESS OF THE APPLICABLE
9 HEALTH-BASED STANDARDS; AND

10 (III) DETERMINE WHETHER TO REVISE THE EXISTING AIRBORNE
11 TOXIC CONTROL MEASURES IN ACCORDANCE WITH THE CONSIDERATIONS
12 SET FORTH IN SUBSECTION (8)(b) OF THIS SECTION.

13 (d) IN REVIEWING AND APPROVING AIR POLLUTION PERMITS UNDER
14 SECTION 25-7-114.3, THE DIVISION SHALL INCLUDE ANY APPLICABLE
15 AIRBORNE TOXIC CONTROL MEASURES IN THE PERMIT.

16 (9) **Air pollution permits for new or modified sources of toxic**
17 **air contaminants - rules.** (a) BEGINNING ON JULY 1, 2027, WHEN
18 APPLYING FOR A NEW OR MODIFIED AIR POLLUTION PERMIT UNDER THIS
19 ARTICLE 7 THAT IS SUBJECT TO THE NEW SOURCE REVIEW REQUIREMENTS
20 OF THE FEDERAL ACT, INCLUDING MINOR SOURCE NEW SOURCE REVIEW, IN
21 ADDITION TO ANY OTHER AIR POLLUTION PERMIT REQUIREMENTS
22 ESTABLISHED UNDER THIS ARTICLE 7, THE OWNER OR OPERATOR MUST:

23 (I) ANALYZE THE IMPACTS OF THE STATIONARY SOURCE'S
24 EMISSIONS OF TOXIC AIR CONTAMINANTS ON THE CONCENTRATIONS OF
25 TOXIC AIR CONTAMINANTS IN THE AMBIENT AIR, BASED ON THE
26 STATIONARY SOURCE'S POTENTIAL TO EMIT TOXIC AIR CONTAMINANTS,
27 WHICH MAY INCLUDE THE USE OF MODELING OR OTHER METHODS USED TO

1 ESTIMATE IMPACTS OF EMISSIONS ON THE AMBIENT AIR, AS DETERMINED
2 BY THE COMMISSION BY RULE; AND

3 (II) SUBMIT THE RESULTS OF THE ANALYSIS TO THE DIVISION AS
4 PART OF ITS AIR POLLUTION PERMIT APPLICATION.

5 (b) THE DIVISION MAY ONLY APPROVE A NEW OR MODIFIED AIR
6 POLLUTION PERMIT IF, BASED ON THE RESULTS OF THE ANALYSIS, THE
7 DIVISION FINDS THAT THE POTENTIAL LEVEL OF EMISSIONS OF TOXIC AIR
8 CONTAMINANTS FROM THE STATIONARY SOURCE WILL NOT RESULT IN OR
9 CONTRIBUTE TO CONCENTRATIONS IN THE AMBIENT AIR AT OR IN EXCESS
10 OF THE APPLICABLE HEALTH-BASED STANDARDS.

11 (c) IN ALL AIR POLLUTION PERMITS DESCRIBED UNDER SUBSECTION
12 (9)(a) OF THIS SECTION THAT THE DIVISION APPROVES, THE DIVISION
13 SHALL:

14 (I) REQUIRE IN THE PERMIT THAT THE STATIONARY SOURCE DOES
15 NOT EMIT LEVELS OF HIGH-RISK TOXIC AIR CONTAMINANTS THAT
16 CONTRIBUTE TO CONCENTRATIONS IN THE AMBIENT AIR AT OR IN EXCESS
17 OF THE APPLICABLE HEALTH-BASED STANDARDS;

18 (II) INCLUDE ANY APPLICABLE AIRBORNE TOXIC CONTROL
19 MEASURES IN THE PERMIT; AND

20 (III) ENSURE THAT ANY EMISSION LIMITS INCLUDED IN THE PERMIT
21 ARE FEDERALLY AND PRACTICALLY ENFORCEABLE AND INCLUDE
22 ADEQUATE TESTING, MONITORING, RECORD KEEPING, AND PUBLICLY
23 AVAILABLE REPORTING TO ENSURE COMPLIANCE WITH THE REQUIREMENTS
24 INCLUDED IN THE PERMIT PURSUANT TO SUBSECTION (9)(c)(I) OF THIS
25 SECTION.

26 (10) **Air pollution permits for existing sources of toxic air**
27 **contaminants - rules.** (a) BEGINNING ON JULY 1, 2027, TO PROTECT

1 PUBLIC HEALTH AND THE ENVIRONMENT, AND TO ENSURE COMPLIANCE
2 WITH THIS SECTION, THE DIVISION MAY REOPEN ANY EXISTING AIR
3 POLLUTION PERMITS PURSUANT TO SECTION 25-7-114.5 (12.5)(a)(I)(F).
4 THE DIVISION SHALL PRIORITIZE THE REOPENING OF ANY AIR POLLUTION
5 PERMITS ISSUED FOR STATIONARY SOURCES THAT ARE IN
6 DISPROPORTIONATELY IMPACTED COMMUNITIES WITH SIGNIFICANT LEVELS
7 OF TOXIC AIR CONTAMINANTS IN THE AMBIENT AIR.

8 (b) IF THE DIVISION REOPENS AN AIR POLLUTION PERMIT PURSUANT
9 TO SECTION 25-7-114.5 (12.5)(a)(I)(F), THE DIVISION SHALL PROVIDE
10 WRITTEN NOTICE TO THE OWNER OR OPERATOR. THE OWNER OR OPERATOR
11 MUST:

12 (I) ANALYZE THE IMPACTS OF THE STATIONARY SOURCE'S
13 EMISSIONS OF TOXIC AIR CONTAMINANTS ON CONCENTRATIONS OF TOXIC
14 AIR CONTAMINANTS IN THE AMBIENT AIR, BASED ON THE STATIONARY
15 SOURCE'S POTENTIAL TO EMIT TOXIC AIR CONTAMINANTS, WHICH MAY
16 INCLUDE THE USE OF MODELING OR OTHER METHODS USED TO ESTIMATE
17 IMPACTS OF EMISSIONS ON THE AMBIENT AIR, AS DETERMINED BY THE
18 COMMISSION BY RULE; AND

19 (II) SUBMIT THE RESULTS OF THE ANALYSIS TO THE DIVISION
20 WITHIN SIXTY DAYS AFTER THE WRITTEN NOTICE.

21 (c) IF, BASED ON THE RESULTS OF THE ANALYSIS, THE DIVISION
22 FINDS THAT THE STATIONARY SOURCE'S LEVELS OF EMISSIONS OF TOXIC
23 AIR CONTAMINANTS RESULT IN OR CONTRIBUTE TO CONCENTRATIONS IN
24 THE AMBIENT AIR AT OR IN EXCESS OF ANY APPLICABLE HEALTH-BASED
25 STANDARDS, THE DIVISION:

26 (I) SHALL, PURSUANT TO STANDARDS DETERMINED BY THE
27 COMMISSION BY RULE, REQUIRE A DECREASE OR CESSATION IN THE

1 APPLICABLE TOXIC AIR CONTAMINANT EMISSIONS OVER THE SHORTEST
2 PRACTICABLE TIME, IN NO EVENT TO EXCEED NINETY DAYS, UNTIL THE
3 LEVELS OF EMISSIONS NO LONGER RESULT IN OR CONTRIBUTE TO
4 CONCENTRATIONS IN THE AMBIENT AIR AT OR IN EXCESS OF ANY
5 APPLICABLE HEALTH-BASED STANDARDS; AND

6 (II) MAY PROCEED PURSUANT TO SECTION 25-7-112 OR 25-7-113.

7 (d) IN ALL AIR POLLUTION PERMITS REOPENED UNDER THIS
8 SUBSECTION (10), THE DIVISION SHALL:

9 (I) REQUIRE IN THE PERMIT THAT THE STATIONARY SOURCE DOES
10 NOT EMIT LEVELS OF HIGH-RISK TOXIC AIR CONTAMINANTS THAT
11 CONTRIBUTE TO CONCENTRATIONS IN THE AMBIENT AIR AT OR IN EXCESS
12 OF THE APPLICABLE HEALTH-BASED STANDARDS;

13 (II) INCLUDE ANY APPLICABLE AIRBORNE TOXIC CONTROL
14 MEASURES; AND

15 (III) ENSURE THAT ANY EMISSION LIMITS INCLUDED IN THE PERMIT
16 ARE FEDERALLY AND PRACTICALLY ENFORCEABLE AND INCLUDE
17 ADEQUATE TESTING, MONITORING, RECORD KEEPING, AND PUBLICLY
18 AVAILABLE REPORTING TO ENSURE COMPLIANCE WITH THE REQUIREMENTS
19 INCLUDED IN THE PERMIT PURSUANT TO SUBSECTION (10)(d)(I) OF THIS
20 SECTION.

21 (11) **Enforcement.** THE DIVISION SHALL ENFORCE, IN
22 ACCORDANCE WITH SECTION 25-7-115, ANY VIOLATIONS OF THIS SECTION,
23 INCLUDING FALSIFYING INFORMATION REPORTED IN AN ANNUAL EMISSIONS
24 INVENTORY REPORT SUBMITTED UNDER SUBSECTION (5)(a) OF THIS
25 SECTION AND FAILING TO PROVIDE AN ANNUAL EMISSIONS INVENTORY
26 REPORT WITHIN THE TIME PERIOD REQUIRED UNDER SUBSECTION (5)(a) OF
27 THIS SECTION.

1 **SECTION 3.** In Colorado Revised Statutes, 25-7-109.3, **amend**
2 (1), (2), (4)(a)(I), and (4)(h)(III); and **repeal** (3)(b), (3)(b.1), (3)(f), and
3 (3)(g) as follows:

4 **25-7-109.3. Colorado hazardous air pollutant control and**
5 **reduction program - rules - repeal.** (1) The commission shall
6 promulgate appropriate ~~regulations~~ RULES pertaining to hazardous air
7 pollutants ~~as defined in section 25-7-103 (13) which~~ THAT are consistent
8 with this section, SECTION 25-7-109.5, and the requirements of and
9 emission standards promulgated pursuant to section 112 of the federal act,
10 including any standard required to be imposed under section 112(r) of the
11 federal act. The commission shall monitor the progress and results of the
12 risk studies performed under section 112 of the federal act to show that
13 Colorado's hazardous air pollutant control and reduction program is
14 ~~consistent with~~ AT LEAST AS PROTECTIVE AS the national strategy.

15 (2) ~~Except as provided in section 25-7-114.4 (5);~~ The commission
16 may ~~only~~ promulgate rules pertaining to hazardous air pollutants ~~as~~
17 ~~defined in section 25-7-103 (13)~~ in accordance with this section, SECTION
18 25-7-109.5, AND SECTION 25-7-114.4. In order to minimize additional
19 regulatory and compliance costs to the state's economy, any program
20 created by the commission pursuant to this section ~~must~~ MAY contain a
21 provision that exempts FROM THE REQUIREMENTS OF THE PROGRAM those
22 sources or categories of sources that it determines to be of minor
23 significance. ~~from the requirements of the program.~~ Consistent with the
24 provisions of section 25-7-105.1, the commission shall authorize
25 synthetic minor sources of hazardous air pollutants by the issuance of
26 construction permits or prohibitory or other rules. ~~Such permits or rules~~
27 ~~must only be as stringent as necessary to establish synthetic minor status.~~

1 The commission shall expeditiously implement this subsection (2) to
2 assure ENSURE that all sources may be able to timely qualify as a synthetic
3 minor source, thereby avoiding the costs of the operating permit program.

4 ~~(3) (b) This section shall only apply to sources emitting a~~
5 ~~hazardous air pollutant identified in the list established or amended~~
6 ~~pursuant to subsection (5) of this section which:~~

7 ~~(I) Are not included in categories or subcategories of sources~~
8 ~~listed or proposed to be listed by the environmental protection agency~~
9 ~~under section 112 of the federal act and thus will not be required to~~
10 ~~comply with GACT or MACT under the federal act, as defined in section~~
11 ~~25-7-103 (12.1) and (16.5); or~~

12 ~~(II) Are included in categories or subcategories of sources listed~~
13 ~~or proposed to be listed under section 112 of the federal act and which~~
14 ~~have:~~

15 ~~(A) Levels of emissions of hazardous air pollutants listed under~~
16 ~~section 112 (b) of the federal act which are below thresholds established~~
17 ~~under the federal act and thus will not be required to comply with GACT~~
18 ~~and MACT under the federal act and as defined in section 25-7-103~~
19 ~~(12.1) and (16.5); except that this section shall not apply to a source~~
20 ~~included in a category or subcategory for which a lesser quantity emission~~
21 ~~rate has been proposed or adopted under section 112 of the federal act; or~~

22 ~~(B) Hazardous air pollutant emissions above a threshold level of~~
23 ~~the substance listed under subparagraph (II) of paragraph (a) and~~
24 ~~paragraph (b) of subsection (5) of this section.~~

25 (b.1) The commission may recognize similarities among regulated
26 sources or apply, when appropriate, previous control requirements
27 established by the commission in making a determination about the need

1 for such regulation under this subsection (3). The commission shall also
2 consider fundamentally different factors between sources in making these
3 determinations.

4 (f) This section shall not apply to sources subject to national
5 emission standards for hazardous air pollutants (NESHAP) established by
6 the administrator pursuant to the federal act, but only for those emissions
7 for which a NESHAP is established.

8 (g) This section shall not impose requirements on sources
9 included in categories or subcategories of sources which are listed in
10 section 112(n) of the federal act which are inconsistent with the timing of
11 studies or assessments conducted under or definitions set forth in section
12 112(n) of the federal act.

13 (4) (a) (I) ~~On or after the risk-based studies required under~~
14 ~~sections 112(k)(3), 112(o), and 112(f) of the federal act are completed~~
15 ~~and received by the commission,~~ The commission may adopt regulations
16 RULES pertaining to those sources identified as emitting hazardous air
17 pollutants regulated under this section, which may include additional
18 emission reduction requirements to address any residual risk of health
19 effects with respect to actual persons living in the vicinity of sources after
20 installation of technology-based controls. Imposition of such
21 requirements may be made PURSUANT TO SECTION 25-7-109.5 OR upon a
22 determination by the commission that operation of sources without
23 health-based controls does not or will not represent an inconsequential
24 threat to public health. ~~Regulations~~ RULES as finally adopted pursuant to
25 this subsection (4) may apply on a source-specific basis.

26 (h) **Temporary exceptional authority.** (III) This paragraph (h)
27 shall remain effective only until such time as the commission acts

1 ~~pursuant to its authority under paragraph (a) of this subsection (4)~~
2 SUBSECTION (4)(h) IS REPEALED, EFFECTIVE JULY 1, 2026.

3 **SECTION 4.** In Colorado Revised Statutes, 25-7-114.5, **amend**
4 (12.5)(a)(I)(D), (12.5)(a)(I)(E), and (12.5)(b)(V); and **add** (12.5)(a)(I)(F)
5 as follows:

6 **25-7-114.5. Application review - public participation.**
7 (12.5) (a) (I) Except for sources involved in agricultural, horticultural, or
8 floricultural production, such as farming, seasonal crop drying, animal
9 feeding, or pesticide application, upon determination by the division that
10 the criteria set forth in subsection (12.5)(b) of this section applies to a
11 source that is not required to obtain a renewable operating permit, the
12 division may reopen such construction permit for the purpose of imposing
13 any or all of the following additional terms and conditions:

14 (D) Emission control requirements pursuant to section 25-7-109.3;
15 **and**

16 (E) Additional monitoring requirements for sources affecting
17 disproportionately impacted communities; AND

18 (F) ADDITIONAL REQUIREMENTS FOR THE EMISSIONS OF TOXIC AIR
19 CONTAMINANTS, AS DEFINED IN SECTION 25-7-109.5 (1)(p), PURSUANT TO
20 SECTION 25-7-109.5 (9) AND (10).

21 (b) With the exception of those sources involved in agricultural,
22 horticultural, or floricultural production, such as farming, seasonal crop
23 drying, animal feeding, and pesticide application, a source's construction
24 permit may be reopened for cause for the purposes of subsection (12.5)(a)
25 of this section only upon a determination by the division that the location
26 of the source is significant in terms of its proximity to residential or
27 business areas or a disproportionately impacted community, and one or

1 more of the following criteria apply to the permitted source:

2 (V) The emissions from the source will threaten public health, as
3 determined pursuant to ~~section 25-7-109.3~~ SECTION 25-7-109.3 OR
4 25-7-109.5; or

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

7 **SECTION 6. 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, or safety.