

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

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 22-0552.01 Sarah Lozano x3858

**HOUSE BILL 22-1244**

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**HOUSE SPONSORSHIP**

**Kennedy and Gonzales-Gutierrez,**

**SENATE SPONSORSHIP**

**Gonzales,**

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**House Committees**

Energy & Environment  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING MEASURES TO INCREASE PUBLIC PROTECTION FROM**  
102              **TOXIC AIR CONTAMINANTS, AND, IN CONNECTION THEREWITH,**  
103              **MAKING AN APPROPRIATION.**

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**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

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.

implementing the program, the commission has the authority to adopt 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.

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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, 25-7-103, **amend**  
6 (11) introductory portion and (11)(a) as follows:

7 **25-7-103. Definitions.** As used in this article 7, unless the context  
8 otherwise requires:

9 (11) "Emission control regulation" means and includes any  
10 standard promulgated by regulation ~~which~~ THAT is applicable to all air  
11 pollution sources within a specified area and ~~which~~ THAT prohibits or  
12 establishes permissible limits for specific types of emissions in such area;  
13 ~~and also~~ any regulation ~~which~~ THAT by its terms is applicable to a  
14 specified type of facility, process, or activity for the purpose of  
15 controlling the extent, degree, or nature of pollution emitted from such  
16 type of facility, process, or activity; any regulation adopted for the  
17 purpose of preventing or minimizing emission of any air pollutant in  
18 potentially dangerous quantities; and ~~also~~ any regulation that adopts any  
19 design, equipment, work practice, or operational standard. ~~Emission~~  
20 ~~control regulations shall not include standards which describe maximum~~  
21 ~~ambient air concentrations of specifically identified pollutants or which~~  
22 ~~describe varying degrees of pollution of ambient air. Emission control~~  
23 ~~regulations pertaining to hazardous air pollutants, as defined in subsection~~  
24 ~~(13) of this section, shall be consistent with the emission standards~~  
25 ~~promulgated under section 112 of the federal act or section 25-7-109.3 in~~  
26 ~~reducing or preventing emissions of hazardous air pollutants, and~~  
27 ~~EMISSION CONTROL REGULATIONS DESIGNED TO REDUCE OR PREVENT THE~~

1 EMISSIONS OF TOXIC AIR CONTAMINANTS PURSUANT TO SECTION  
2 25-7-109.5 (7) may include application of measures, processes, methods,  
3 systems, or techniques, including, but not limited to, measures which  
4 THAT:

5 (a) Reduce the volume of, or eliminate emissions of, such  
6 pollutants through process changes, EMISSIONS LIMITATIONS, CONTROL  
7 TECHNOLOGIES, substitution of materials, or other modifications;

8 SECTION 3. In Colorado Revised Statutes, add 25-7-109.5 as  
9 follows:

10 25-7-109.5. Toxic air contaminants - annual emissions  
11 inventory reports - monitoring program - health-based standards -  
12 emission control regulations - air pollution permits - rules -  
13 enforcement - definitions. (1) Definitions. AS USED IN THIS SECTION,  
14 UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

27 [REDACTED]

1 (c) "COMMUNITY-LED MONITORING PROGRAMS" MEANS AIR  
2 MONITORING AND DATA COLLECTION, CONCERNING CONCENTRATIONS OF  
3 TOXIC AIR CONTAMINANTS IN THE AMBIENT AIR, CONDUCTED BY LOCAL  
4 GOVERNMENTS, NONGOVERNMENTAL ORGANIZATIONS, OR COMMUNITY  
5 GROUPS PURSUANT TO THE SECOND EDITION OF THE FEDERAL  
6 ENVIRONMENTAL PROTECTION AGENCY'S "COMPENDIUM OF METHODS  
7 FROM THE DETERMINATION OF TOXIC ORGANIC COMPOUNDS IN AMBIENT  
8 AIR".

9 (d) "CRITERIA AIR POLLUTANT" MEANS AN AIR POLLUTANT FOR  
10 WHICH THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY HAS SET  
11 NATIONAL AMBIENT AIR QUALITY STANDARDS UNDER 40 CFR 50.

12 (e) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH  
13 AND ENVIRONMENT.

14 (f) "EMISSION UNIT" MEANS ONE OR MORE INDIVIDUAL  
15 EMISSIONS-PRODUCING ACTIVITIES THAT EMIT OR HAVE THE POTENTIAL TO  
16 EMIT ANY TOXIC AIR CONTAMINANT OR CRITERIA AIR POLLUTANT.

17 (g) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF  
18 THE DEPARTMENT.

19 [REDACTED]

20 (h) "HEALTH-BASED STANDARDS" MEANS, AS DETERMINED BY THE  
21 COMMISSION BY RULE UNDER SUBSECTION (6)(a)(II) OF THIS SECTION, THE  
22 ACUTE AND CHRONIC TOXIC AIR CONTAMINANT EXPOSURE LEVELS  
23 REQUIRED TO PROTECT THE PUBLIC FROM ADVERSE HEALTH EFFECTS,  
24 ALLOWING FOR AN AMPLE MARGIN OF SAFETY, REPRESENTED AS  
25 BENCHMARK NUMERICAL CONCENTRATIONS IN THE AMBIENT AIR.

26 [REDACTED]

27 (i) "MAJOR SOURCE" HAS THE MEANING SET FORTH IN SECTION

1 25-7-114 (3).

2 (j) "PRIORITY TOXIC AIR CONTAMINANT" MEANS, AS DETERMINED  
3 BY THE COMMISSION BY RULE UNDER SUBSECTION (6)(a)(I) OF THIS  
4 SECTION, TOXIC AIR CONTAMINANTS THAT MAY POSE A RISK OF HARM TO  
5 PUBLIC HEALTH.

6 (k) "PROCESS" MEANS, FOR THE PURPOSES OF AN ANNUAL  
7 EMISSIONS INVENTORY REPORT SUBMITTED UNDER SUBSECTION (5)(a) OF  
8 THIS SECTION, A TYPE OF ACTIVITY FOR AN EMISSION UNIT THAT CAUSES  
9 EMISSIONS OF ANY TOXIC AIR CONTAMINANT OR CRITERIA AIR POLLUTANT,  
10 INCLUDING FLARING, INTERNAL COMBUSTION, HEATING, PAINTING,  
11 GRAVEL SCREENING, STORAGE TANK BREATHING LOSS, VEHICLE FUELING,  
12 SPILLAGE, AND SOLVENT CLEANING.

13 (l) "SYNTHETIC MINOR SOURCE " HAS THE MEANING SET FORTH IN  
14 SECTION 25-7-114 (6).

15 (m) "TOXIC AIR CONTAMINANT" MEANS:

16 (I) A HAZARDOUS AIR POLLUTANT;

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

19 (III) ANY OTHER AIR POLLUTANT THAT THE COMMISSION  
20 DESIGNATES AS A TOXIC AIR CONTAMINANT PURSUANT TO SUBSECTION (3)  
21 OF THIS SECTION.

22 (2) **Rules.** (a) THE COMMISSION SHALL PROMULGATE RULES THAT  
23 ARE NECESSARY FOR THE PROPER IMPLEMENTATION AND ADMINISTRATION  
24 OF THIS SECTION AND, TO THE GREATEST EXTENT POSSIBLE, CONSISTENT  
25 WITH THE FEDERAL ACT AND THE REGULATIONS ADOPTED PURSUANT TO  
26 THE FEDERAL ACT.

27 (b) NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE



1 COMMISSION MAY ADOPT RULES UNDER THIS SECTION THAT ARE MORE  
2 STRINGENT THAN THE CORRESPONDING REQUIREMENTS OF THE FEDERAL  
3 ACT AND THE REGULATIONS ADOPTED PURSUANT TO THE FEDERAL ACT.

4 (c) AS PART OF THE COMMISSION'S RULES PROMULGATED  
5 PURSUANT TO THIS SUBSECTION (2), THE COMMISSION MAY ESTABLISH  
6 SCHEDULES FOR VARYING LEVELS OF COMPLIANCE LEADING TO COMPLETE  
7 COMPLIANCE FOR ANY RULE PROMULGATED PURSUANT TO THIS SECTION.

8 [REDACTED]

9 **(3) Review of the list of toxic air contaminants - rules.**

10 BEGINNING NO LATER THAN JANUARY 1, 2024, AND EVERY FIVE YEARS  
11 THEREAFTER, OR MORE FREQUENTLY IF THE COMMISSION DEEMS IT  
12 APPROPRIATE TO DO SO, THE COMMISSION SHALL CREATE AN INITIAL LIST  
13 OF TOXIC AIR CONTAMINANTS BASED ON SUBSECTIONS (1)(m)(I) AND  
14 (1)(m)(II) OF THIS SECTION AND, PURSUANT TO SUBSECTION (1)(m)(III) OF  
15 THIS SECTION, REVIEW THE LIST OF TOXIC AIR CONTAMINANTS AND  
16 DETERMINE BY RULE WHETHER TO ADD ANY ADDITIONAL AIR POLLUTANTS.  
17 THE COMMISSION MAY DETERMINE THAT A REVIEW IS APPROPRIATE BASED  
18 ON A REQUEST OF ANY PERSON IF, AS PART OF THE REQUEST, THE PERSON  
19 DEMONSTRATES TO THE COMMISSION'S SATISFACTION THAT NEW OR  
20 UPDATED SCIENTIFIC DATA RELATED TO THE ADVERSE EFFECTS OF AN AIR  
21 POLLUTANT WARRANTS ADDITIONAL REVIEW. THE COMMISSION SHALL  
22 MAKE THE DETERMINATIONS BASED ON:

23 (a) INPUT FROM THE PUBLIC AND THE SCIENTIFIC COMMUNITY;

24 (b) ANY EXISTING DATA CONCERNING EMISSIONS OF AIR  
25 POLLUTANTS, INCLUDING:

26 (I) DATA PROVIDED TO THE DIVISION THROUGH ANNUAL EMISSIONS  
27 INVENTORY REPORTS SUBMITTED PURSUANT TO SUBSECTION (4) OF THIS

1 SECTION; AND

2 (II) DATA REPORTED TO THE FEDERAL TOXIC RELEASE INVENTORY  
3 PURSUANT TO 42 U.S.C. SEC. 11023;

4 (c) INFORMATION GATHERED ABOUT THE TOXICITY OF AIR  
5 POLLUTANTS THROUGH EVALUATIONS OF PEER-REVIEWED SCIENTIFIC  
6 DATA RELATED TO:

- 7 (I) POTENCY;
- 8 (II) MODE OF ACTION;
- 9 (III) EXPOSURE PATTERNS;
- 10 (IV) ADVERSE HEALTH EFFECTS; AND

11 (V) LEVELS OF EXPOSURE THAT MAY CAUSE OR CONTRIBUTE TO  
12 ADVERSE HEALTH EFFECTS, INCLUDING ADVERSE HEALTH EFFECTS ARISING  
13 FROM DISPROPORTIONATELY HIGH EXPOSURE OF PARTICULARLY  
14 VULNERABLE GROUPS, INCLUDING DISPROPORTIONATELY IMPACTED  
15 COMMUNITIES, WORKERS AT STATIONARY SOURCES, INFANTS, CHILDREN,  
16 FETUSES, THE ELDERLY, AND PEOPLE WITH DISABILITIES; AND

17 (d) IDENTIFICATIONS OF AIR POLLUTANTS AS TOXIC AIR  
18 CONTAMINANTS IN OTHER STATES AND JURISDICTIONS.

19 (4) **Annual emissions inventory reports - study - rules.** (a) ON  
20 OR BEFORE APRIL 1 OF EACH YEAR, BEGINNING ON APRIL 1, 2024, ALL  
21 OWNERS AND OPERATORS OF MAJOR SOURCES AND SYNTHETIC MINOR  
22 SOURCES MUST SUBMIT AN ANNUAL EMISSIONS INVENTORY REPORT TO THE  
23 DIVISION THAT REPORTS THE AMOUNT OF EACH TOXIC AIR CONTAMINANT  
24 AND CRITERIA AIR POLLUTANT EMITTED BY EACH MAJOR SOURCE AND  
25 SYNTHETIC MINOR SOURCE IN THE PRECEDING CALENDAR YEAR,  
26 BEGINNING WITH JANUARY 1, 2023, TO DECEMBER 31, 2023. THE DIVISION  
27 SHALL MAKE ANNUAL EMISSIONS INVENTORY REPORTS SUBMITTED TO

1 THE DIVISION PURSUANT TO THIS SUBSECTION (4)(a) AVAILABLE TO THE  
2 PUBLIC.

3 [REDACTED]

4 (b) IF THERE IS A CHANGE OF OWNERSHIP OR CONTROL OF THE  
5 STATIONARY SOURCE PRIOR TO APRIL 1 OF THE YEAR THAT AN ANNUAL  
6 EMISSIONS INVENTORY REPORT MUST BE SUBMITTED, THE OWNER OR  
7 OPERATOR AS OF APRIL 1 OF THAT YEAR IS RESPONSIBLE FOR SUBMITTING  
8 THE ANNUAL EMISSIONS INVENTORY REPORT REQUIRED UNDER  
9 SUBSECTION (4)(a) OF THIS SECTION.

10 (c) (I) THE DIVISION SHALL CONDUCT A STUDY AND PREPARE A  
11 REPORT THAT INCLUDES:

12 (A) AN ANALYSIS OF THE EXISTING REQUIREMENTS FOR REPORTING  
13 TOXIC AIR CONTAMINANTS TO THE DIVISION AND THE FEDERAL  
14 ENVIRONMENTAL PROTECTION AGENCY;

15 (B) AN ASSESSMENT OF THE AVAILABILITY AND QUALITY OF TOXIC  
16 AIR CONTAMINANT DATA REPORTED TO THE DIVISION AND THE FEDERAL  
17 ENVIRONMENTAL PROTECTION AGENCY, WITH THE REPORTING DATA  
18 BROKEN DOWN BY INDIVIDUAL TOXIC AIR CONTAMINANT, GEOGRAPHIC  
19 AREA, INDUSTRY SECTOR, AND WHETHER THE STATIONARY SOURCE  
20 REPORTING THE DATA IS A MAJOR SOURCE, SYNTHETIC MINOR SOURCE, OR  
21 MINOR SOURCE; AND

22 (C) AN IDENTIFICATION OF THE INFORMATIONAL GAPS IN THE  
23 REPORTING OF TOXIC AIR CONTAMINANTS TO THE DIVISION AND THE  
24 FEDERAL ENVIRONMENTAL PROTECTION AGENCY.

25 (II) THE DIVISION SHALL PROVIDE PUBLIC NOTICE AND HOLD AT  
26 LEAST TWO PUBLIC MEETINGS AT WHICH MEMBERS OF THE PUBLIC HAVE AN  
27 OPPORTUNITY TO COMMENT ON THE REPORT. THE DIVISION SHALL ALSO

1 CONDUCT OUTREACH TO AND SOLICIT FEEDBACK FROM  
2 DISPROPORTIONATELY IMPACTED COMMUNITIES AND WORKERS AT  
3 STATIONARY SOURCES. IN FINALIZING THE REPORT, THE DIVISION SHALL  
4 INCLUDE IN THE REPORT A SUMMARY OF ANY COMMENTS RECEIVED FROM  
5 THE PUBLIC, DISPROPORTIONATELY IMPACTED COMMUNITIES, WORKERS AT  
6 STATIONARY SOURCES, AND THE SCIENTIFIC COMMUNITY AND IDENTIFY  
7 ANY SIGNIFICANT CHANGES MADE TO THE REPORT BASED ON THOSE  
8 COMMENTS. NO LATER THAN JULY 1, 2024, THE DIVISION SHALL SUBMIT  
9 THE FINALIZED REPORT TO THE COMMISSION.

10 (III) NO LATER THAN DECEMBER 31, 2024, THE COMMISSION  
11 SHALL, BASED ON THE INFORMATIONAL GAPS IDENTIFIED IN THE REPORT,  
12 ADOPT RULES THAT REQUIRE ADDITIONAL TYPES OF INFORMATION TO BE  
13 INCLUDED IN ANNUAL EMISSIONS INVENTORY REPORTS SUBMITTED TO THE  
14 DIVISION FOR CALENDAR YEAR 2025 AND EACH CALENDAR YEAR  
15 THEREAFTER.

16 (d) THE COMMISSION MAY ESTABLISH BY RULE A DE MINIMUS  
17 LEVEL OF ANNUAL EMISSIONS OF A TOXIC AIR CONTAMINANT OR CRITERIA  
18 AIR POLLUTANT BENEATH WHICH AN OWNER OR OPERATOR IS NOT  
19 REQUIRED TO REPORT ON THE EMISSIONS OF THE TOXIC AIR CONTAMINANT  
20 OR CRITERIA AIR POLLUTANT THROUGH AN ANNUAL EMISSIONS INVENTORY  
21 REPORT SUBMITTED PURSUANT TO SUBSECTION (4)(a) OF THIS SECTION.

22 (5) **Toxic air contaminant monitoring program - reporting -**  
23 **rules.** (a) BEGINNING NO LATER THAN JANUARY 1, 2024, IN ADDITION TO  
24 THE FENCELINE MONITORING PROGRAM ESTABLISHED UNDER SECTION  
25 25-7-141 (5) AND THE COMMUNITY-BASED MONITORING PROGRAM  
26 ESTABLISHED UNDER SECTION 25-7-141 (6), THE DIVISION SHALL DEVELOP  
27 AND BEGIN TO CONDUCT A MONITORING PROGRAM TO DETERMINE THE

1 CONCENTRATIONS OF TOXIC AIR CONTAMINANTS IN THE AMBIENT AIR OF  
2 THE STATE.

3 (b) THE PROGRAM SHALL INCLUDE THE INSTALLATION AND  
4 OPERATION OF AT LEAST SIX LONG-TERM MONITORING SITES IN BOTH  
5 URBAN AND RURAL AREAS OF THE STATE. THE DIVISION SHALL ENSURE  
6 THAT AT LEAST THREE LONG-TERM MONITORING SITES ARE INSTALLED AND  
7 OPERATING BY JANUARY 1, 2024, AND THAT AT LEAST THREE ADDITIONAL  
8 LONG-TERM MONITORING SITES ARE INSTALLED AND OPERATING BY  
9 JANUARY 1, 2025. EACH MONITORING SITE MUST HAVE THE ABILITY TO  
10 DETECT TRENDS IN CONCENTRATIONS OF VARIOUS TOXIC AIR  
11 CONTAMINANTS IN THE AMBIENT AIR OVER TIME AT THE SITE.

12 (c) AT A MINIMUM, A MONITORING SITE MUST MEASURE THE  
13 CONCENTRATIONS OF:

14 (I) THE TOXIC AIR CONTAMINANTS IDENTIFIED IN SECTION 2.3 OF  
15 THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S "NATIONAL AIR  
16 TOXICS TRENDS STATION WORK PLAN TEMPLATE (REVISED APRIL 2019)".  
17 FOR THE MEASUREMENT OF A TOXIC AIR CONTAMINANT SPECIFIED IN THIS  
18 SUBSECTION (5)(c)(I), THE MEASUREMENT MUST MEET THE REQUIRED  
19 MINIMUM DETECTION LIMIT SPECIFIED FOR THE MEASURED AIR POLLUTANT  
20 IN SECTION 3.1 OF THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S  
21 "NATIONAL AIR TOXICS TRENDS STATION WORK PLAN TEMPLATE  
22 (REVISED APRIL 2019)" OR THE MOST RECENT VERSION.

23 (II) THE TOXIC AIR CONTAMINANTS IDENTIFIED IN TABLE 1.2-1 OF  
24 THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY'S "TECHNICAL  
25 ASSISTANCE DOCUMENT FOR THE NATIONAL AIR TOXICS TRENDS  
26 STATIONS PROGRAM (REVISION 3)" FROM OCTOBER 2016 OR THE MOST  
27 RECENT VERSION. FOR THE MEASUREMENT OF A TOXIC AIR CONTAMINANT

1 SPECIFIED IN THIS SUBSECTION (5)(c)(II) AND ALL OTHER TOXIC AIR  
2 CONTAMINANTS MEASURED UNDER THE MONITORING PROGRAM, THE  
3 COMMISSION MUST SPECIFY BY RULE A METHOD DETECTION LIMIT FOR  
4 EACH TOXIC AIR CONTAMINANT PURSUANT TO APPENDIX B OF 40 CFR 136.

5 (d) IN DETERMINING THE LOCATION OF THE MONITORING SITES, THE  
6 DIVISION SHALL:

7 (I) PROVIDE PUBLIC NOTICE AND HOLD AT LEAST TWO PUBLIC  
8 MEETINGS WHERE MEMBERS OF THE PUBLIC HAVE AN OPPORTUNITY TO  
9 COMMENT ON THE DIVISION'S PROPOSED LOCATIONS FOR THE MONITORING  
10 SITES; AND

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

14 (e) THE DIVISION MAY CHANGE THE LOCATION OF ANY  
15 MONITORING SITE AFTER FOLLOWING THE PROCEDURE AND REQUIREMENTS  
16 SPECIFIED IN SUBSECTION (5)(d) OF THIS SECTION.

17 (f) NO LATER THAN MAY 1, 2025, AND BY MAY 1 EACH YEAR  
18 THEREAFTER, THE DIVISION SHALL PROVIDE PUBLIC NOTICE AND HOLD AT  
19 LEAST TWO PUBLIC MEETINGS AT WHICH MEMBERS OF THE PUBLIC HAVE AN  
20 OPPORTUNITY TO COMMENT ON THE MONITORING PROGRAM. THE DIVISION  
21 SHALL ALSO CONDUCT OUTREACH TO AND SOLICIT FEEDBACK FROM  
22 DISPROPORTIONATELY IMPACTED COMMUNITIES ON THE MONITORING  
23 PROGRAM.

24 (g) (I) NO LATER THAN JULY 1, 2025, AND BY JULY 1 EACH YEAR  
25 THEREAFTER, THE DIVISION SHALL PREPARE AN ANNUAL REPORT THAT  
26 SUMMARIZES THE TOXIC AIR CONTAMINANT DATA COLLECTED BY THE  
27 MONITORING SITES IN THE PREVIOUS CALENDAR YEAR. THE DIVISION

1 SHALL INCLUDE IN THE REPORT A SUMMARY OF ANY COMMENTS RECEIVED  
2 FROM THE PUBLIC, DISPROPORTIONATELY IMPACTED COMMUNITIES, AND  
3 THE SCIENTIFIC COMMUNITY DURING THE TWO PUBLIC MEETINGS HELD  
4 PURSUANT TO SUBSECTION (5)(f) OF THIS SECTION.

5 (II) ONCE THE REPORT IS FINALIZED, THE DIVISION SHALL:

6 (A) POST THE REPORT ON THE DIVISION'S WEBSITE IN BOTH  
7 ENGLISH AND SPANISH; AND

8 (B) SUBMIT THE FINALIZED REPORT TO THE HEALTH AND HUMAN  
9 SERVICES COMMITTEE OF THE SENATE AND THE ENERGY AND  
10 ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR THEIR  
11 SUCCESSOR COMMITTEES. NOTWITHSTANDING SECTION 24-1-136  
12 (11)(a)(I), THE REQUIREMENT TO REPORT TO THE LEGISLATIVE  
13 COMMITTEES CONTINUES INDEFINITELY.

14 (h) THE DIVISION SHALL REPORT ON THE NEED FOR ANY  
15 ADDITIONAL MONITORING SITES FOR THE MONITORING PROGRAM TO THE  
16 HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE AND THE  
17 ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF  
18 REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, DURING THE  
19 COMMITTEES' HEARINGS HELD PRIOR TO THE 2027 REGULAR SESSION OF  
20 THE GENERAL ASSEMBLY UNDER THE "STATE MEASUREMENT FOR  
21 ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)  
22 GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

23 (6) **Health-based standards - rules.** (a) NO LATER THAN  
24 OCTOBER 1, 2025, THE COMMISSION SHALL, IN CONSULTATION WITH THE  
25 SCIENTIFIC COMMUNITY, ADOPT RULES THAT:

26 (I) IDENTIFY UP TO FIVE PRIORITY TOXIC AIR CONTAMINANTS  
27 BASED ON:

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

2 (B) DATA GATHERED THROUGH THE MONITORING PROGRAM  
3 ESTABLISHED UNDER SUBSECTION (5)(a) OF THIS SECTION, THE FENCELINE  
4 MONITORING PROGRAM ESTABLISHED UNDER SECTION 25-7-141 (5), THE  
5 COMMUNITY-BASED MONITORING PROGRAM ESTABLISHED UNDER SECTION  
6 25-7-141 (6), AND COMMUNITY-LED MONITORING PROGRAMS;

7 (C) DATA PROVIDED TO THE DIVISION THROUGH THE ANNUAL  
8 EMISSIONS INVENTORY REPORTS SUBMITTED TO THE DIVISION PURSUANT  
9 TO SUBSECTION (4)(a) OF THIS SECTION;

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

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

15 (II) ESTABLISH HEALTH-BASED STANDARDS FOR PRIORITY TOXIC  
16 AIR CONTAMINANTS THAT ARE PROTECTIVE OF PUBLIC HEALTH AND  
17 CONSISTENT WITH CURRENT PEER-REVIEWED SCIENTIFIC DATA.

18 (b) IN DETERMINING THE HEALTH-BASED STANDARDS, THE  
19 COMMISSION SHALL:

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

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

26 (III) CONSIDER THE EFFECTS OF EXPOSURE TO TOXIC AIR  
27 CONTAMINANTS ON VULNERABLE GROUPS OF THE STATE, INCLUDING



1 DISPROPORTIONATELY IMPACTED COMMUNITIES, WORKERS AT  
2 STATIONARY SOURCES, INFANTS, CHILDREN, FETUSES, THE ELDERLY, AND  
3 PEOPLE WITH DISABILITIES;

4 (IV) CONSIDER BOTH CANCER-RELATED HEALTH RISKS AND  
5 NON-CANCER-RELATED HEALTH RISKS. ANY CANCER-RELATED HEALTH  
6 RISKS ALLOWED BY THE HEALTH-BASED STANDARDS SHALL NOT EXCEED  
7 A LIFETIME CANCER RISK OF FIFTY IN ONE MILLION PEOPLE.

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

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

13 (c) BEGINNING NO LATER THAN OCTOBER 1, 2030, AND OCTOBER  
14 1 EVERY FIVE YEARS THEREAFTER, OR MORE FREQUENTLY IF THE  
15 COMMISSION DEEMS IT APPROPRIATE TO DO SO, INCLUDING PURSUANT TO  
16 A REQUEST BY A PERSON BASED ON NEW OR UPDATED PEER-REVIEWED  
17 SCIENTIFIC DATA RELATED TO THE ADVERSE HEALTH EFFECTS OF A TOXIC  
18 AIR CONTAMINANT, THE COMMISSION SHALL, IN CONSULTATION WITH THE  
19 SCIENTIFIC COMMUNITY:

20 (I) DETERMINE WHETHER TO IDENTIFY ANY ADDITIONAL PRIORITY  
21 TOXIC AIR CONTAMINANTS BASED ON THE DATA DESCRIBED IN SUBSECTION  
22 (6)(a)(I) OF THIS SECTION;

23 (II) ADOPT HEALTH-BASED STANDARDS FOR ANY ADDITIONAL  
24 PRIORITY TOXIC AIR CONTAMINANTS IDENTIFIED BY THE COMMISSION IN  
25 ACCORDANCE WITH THE CONSIDERATIONS SET FORTH IN SUBSECTION  
26 (6)(b) OF THIS SECTION;

27 (III) REVIEW EXISTING HEALTH-BASED STANDARDS TO ENSURE

1 THAT THE STANDARDS SUFFICIENTLY PROTECT PUBLIC HEALTH; AND  
2 (IV) DETERMINE WHETHER TO REVISE THE EXISTING  
3 HEALTH-BASED STANDARDS IN ACCORDANCE WITH THE CONSIDERATIONS  
4 SET FORTH IN SUBSECTION (6)(b) OF THIS SECTION AND ADOPT RULES TO  
5 THAT EFFECT.

6 (7) **Emission control regulations - rules.** (a) NO LATER THAN  
7 JULY 1, 2026, THE COMMISSION SHALL ADOPT EMISSION CONTROL  
8 REGULATIONS BY RULE FOR EACH PRIORITY TOXIC AIR CONTAMINANT. THE  
9 EMISSION CONTROL REGULATIONS SHALL BE DESIGNED TO REDUCE  
10 EMISSIONS THROUGH THE APPLICATION OF BEST AVAILABLE CONTROL  
11 TECHNOLOGY.

12 (b) IN DETERMINING THE EMISSION CONTROL REGULATIONS, THE  
13 COMMISSION SHALL CONSIDER:

14 (I) ANY EMISSION CONTROL REGULATIONS ADOPTED FOR PRIORITY  
15 TOXIC AIR CONTAMINANTS IN OTHER STATES OR JURISDICTIONS;

16 (II) THE EMISSION LEVELS OF A PRIORITY TOXIC AIR CONTAMINANT  
17 AND ANY ASSOCIATED IMPACTS OF SUCH EMISSION LEVELS ON  
18 CONCENTRATIONS OF THE PRIORITY TOXIC AIR CONTAMINANT IN THE  
19 AMBIENT AIR;

20 (III) THE TYPES AND LEVELS OF PRIORITY TOXIC AIR  
21 CONTAMINANTS THAT DIFFERENT STATIONARY SOURCES AND INDUSTRIES  
22 EMIT;

23 (IV) THE CATEGORIES, NUMBERS, AND RELATIVE CONTRIBUTION  
24 OF STATIONARY SOURCES OF A PRIORITY TOXIC AIR CONTAMINANT;

25 (V) THE ABILITY OF EMISSION CONTROL REGULATIONS TO REDUCE  
26 OR ELIMINATE THE EMISSIONS OF A PRIORITY TOXIC AIR CONTAMINANT,  
27 INCLUDING NON-EMITTING ALTERNATIVE PROCESSES AND CONTROL

1 TECHNOLOGIES;

2 (VI) THE ANTICIPATED EFFECT OF EMISSION CONTROL  
3 REGULATIONS ON LEVELS OF EXPOSURE TO A PRIORITY TOXIC AIR  
4 CONTAMINANT;

5 (VII) THE DEGREE THAT RECENT TECHNOLOGICAL ADVANCEMENTS  
6 OR OTHER IMPROVEMENTS THAT AN OWNER OR OPERATOR HAS  
7 IMPLEMENTED AFFECTS THE STATIONARY SOURCE'S LEVEL OF EMISSIONS  
8 OF A PRIORITY TOXIC AIR CONTAMINANT;

9 (VIII) THE AVAILABILITY, SUITABILITY, AND RELATIVE EFFICACY  
10 OF A LESS HAZARDOUS SUBSTITUTE FOR A PRIORITY TOXIC AIR  
11 CONTAMINANT; AND

12 (IX) THE POTENTIAL ADVERSE HEALTH, SAFETY, OR  
13 ENVIRONMENTAL IMPACTS THAT MAY OCCUR AS A RESULT OF AN EMISSION  
14 CONTROL REGULATION.

15 (c) BEGINNING NO LATER THAN JULY 1, 2031, AND BY JULY 1  
16 EVERY FIVE YEARS THEREAFTER, OR MORE FREQUENTLY IF THE  
17 COMMISSION DEEMS IT APPROPRIATE TO DO SO, INCLUDING PURSUANT TO  
18 A REQUEST BY ANY PERSON BASED ON NEW OR UPDATED PEER-REVIEWED  
19 SCIENTIFIC DATA, THE COMMISSION SHALL:

20 (I) ADOPT EMISSION CONTROL REGULATIONS FOR ANY ADDITIONAL  
21 PRIORITY TOXIC AIR CONTAMINANTS IDENTIFIED BY THE COMMISSION IN  
22 ACCORDANCE WITH SUBSECTION (6)(c)(I) OF THIS SECTION; AND

23 (II) DETERMINE WHETHER TO REVISE THE EXISTING EMISSION  
24 CONTROL REGULATIONS IN ACCORDANCE WITH THE CONSIDERATIONS SET  
25 FORTH IN SUBSECTION (7)(b) OF THIS SECTION.

26 (d) IN REVIEWING AND APPROVING AIR POLLUTION PERMITS UNDER  
27 SECTION 25-7-114.3, THE DIVISION SHALL INCLUDE ANY APPLICABLE

1 EMISSION CONTROL REGULATIONS IN THE PERMIT.

2 (8) **Air pollution permits for new or modified sources of toxic**  
3 **air contaminants - rules.** (a) BEGINNING ON JULY 1, 2027, WHEN  
4 APPLYING FOR A NEW OR MODIFIED AIR POLLUTION PERMIT UNDER THIS  
5 ARTICLE 7 THAT WOULD CAUSE A NET INCREASE IN THE EMISSIONS OF ANY  
6 PRIORITY TOXIC AIR CONTAMINANT AND IS SUBJECT TO THE NEW SOURCE  
7 REVIEW REQUIREMENTS OF THE FEDERAL ACT, INCLUDING MINOR SOURCE  
8 NEW SOURCE REVIEW, IN ADDITION TO ANY OTHER AIR POLLUTION PERMIT  
9 REQUIREMENTS ESTABLISHED UNDER THIS ARTICLE 7, THE OWNER OR  
10 OPERATOR MUST:

11 (I) CONDUCT AN AMBIENT IMPACTS ANALYSIS THAT INCLUDES AN  
12 ANALYSIS OF THE IMPACTS OF THE STATIONARY SOURCE'S EMISSIONS OF  
13 TOXIC AIR CONTAMINANTS ON THE CONCENTRATIONS OF TOXIC AIR  
14 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 AS  
20 PART OF ITS AIR POLLUTION PERMIT APPLICATION.

21 (b) THE DIVISION MAY ONLY APPROVE A NEW OR MODIFIED AIR  
22 POLLUTION PERMIT IF, BASED ON THE RESULTS OF THE ANALYSIS, THE  
23 DIVISION FINDS THAT THE POTENTIAL LEVEL OF EMISSIONS OF TOXIC AIR  
24 CONTAMINANTS FROM THE STATIONARY SOURCE WILL NOT RESULT IN OR  
25 CONTRIBUTE TO CONCENTRATIONS IN THE AMBIENT AIR AT OR IN EXCESS  
26 OF THE APPLICABLE HEALTH-BASED STANDARDS.

27 (c) IN ALL AIR POLLUTION PERMITS DESCRIBED UNDER SUBSECTION

1 (8)(a) OF THIS SECTION THAT THE DIVISION APPROVES, THE DIVISION  
2 SHALL:

3 (I) REQUIRE IN THE PERMIT THAT THE STATIONARY SOURCE DOES  
4 NOT EMIT LEVELS OF PRIORITY TOXIC AIR CONTAMINANTS THAT  
5 CONTRIBUTE TO CONCENTRATIONS IN THE AMBIENT AIR AT OR IN EXCESS  
6 OF THE APPLICABLE HEALTH-BASED STANDARDS;

7 (II) INCLUDE ANY APPLICABLE EMISSION CONTROL REGULATIONS  
8 IN THE PERMIT; AND

9 (III) ENSURE THAT ANY EMISSION LIMITS INCLUDED IN THE PERMIT  
10 ARE FEDERALLY AND PRACTICALLY ENFORCEABLE AND INCLUDE  
11 ADEQUATE TESTING, MONITORING, RECORD KEEPING, AND PUBLICLY  
12 AVAILABLE REPORTING TO ENSURE COMPLIANCE WITH THE REQUIREMENTS  
13 INCLUDED IN THE PERMIT PURSUANT TO SUBSECTION (8)(c)(I) OF THIS  
14 SECTION.

15 (d) THE COMMISSION MAY ESTABLISH BY RULE:

16 (I) FOR APPLICATIONS FOR NEW AIR POLLUTION PERMITS, A  
17 THRESHOLD LEVEL OF ANNUAL POTENTIAL EMISSIONS OF PRIORITY TOXIC  
18 AIR CONTAMINANTS BENEATH WHICH THE REQUIREMENTS OF THIS  
19 SUBSECTION (8) DO NOT APPLY; AND

20 (II) FOR APPLICATIONS FOR MODIFIED AIR POLLUTION PERMITS, A  
21 LEVEL OF INCREASED ANNUAL POTENTIAL EMISSIONS BENEATH WHICH THE  
22 REQUIREMENTS OF THIS SUBSECTION (8) DO NOT APPLY.

23 (e) IF THE APPLICATION FOR A NEW OR MODIFIED AIR POLLUTION  
24 PERMIT COVERS A STATIONARY SOURCE THAT IS LOCATED IN AN AREA  
25 THAT HAS BEEN DESIGNATED BY THE COMMISSION BY RULE TO EXCEED  
26 HEALTH-BASED STANDARDS FOR A PRIORITY TOXIC AIR CONTAMINANT,  
27 THE OWNER OR OPERATOR SHALL NOT CONDUCT THE ANALYSIS REQUIRED

1 BY SUBSECTIONS (8)(a)(I) AND (8)(a)(II) OF THIS SECTION AND THE  
2 DIVISION SHALL DENY THE PERMIT APPLICATION.

3 **(9) Air pollution regulation for existing sources of toxic air**  
4 **contaminants - needs assessment.** (a) NO LATER THAN JULY 1, 2025,  
5 THE DIVISION SHALL CONDUCT A NEEDS ASSESSMENT TO DETERMINE THE  
6 NEEDS OF THE DIVISION TO ADMINISTER AN AIR PERMITTING PROGRAM TO  
7 REGULATE EXISTING STATIONARY SOURCES THAT EMIT LEVELS OF TOXIC  
8 AIR CONTAMINANTS THAT POSE A RISK TO PUBLIC HEALTH, REFERRED TO  
9 IN THIS SUBSECTION (9) AS THE "AIR PERMITTING PROGRAM".

10 (b) THE NEEDS ASSESSMENT MUST:

11 (I) EVALUATE AIR PERMITTING PROGRAMS FOR EXISTING  
12 STATIONARY SOURCES OF TOXIC AIR CONTAMINANTS IN OTHER STATES OR  
13 JURISDICTIONS;

14 (II) DETERMINE THE SCOPE OF THE AIR PERMITTING PROGRAM,  
15 INCLUDING THE TYPES OF PERMITS, STATIONARY SOURCES, INDUSTRIES,  
16 AND GEOGRAPHIC AREAS OF THE STATE THAT WILL BE IMPACTED BY THE  
17 PROGRAM;

18 (III) IDENTIFY THE TYPES OF STATIONARY SOURCES OR  
19 CONDITIONS THAT WOULD PROMPT THE REOPENING OF AN AIR PERMIT BY  
20 THE DIVISION UNDER THE AIR PERMITTING PROGRAM; AND

21 (IV) IDENTIFY PROCESSES AND REASONABLE TIMELINES FOR THE  
22 IMPLEMENTATION OF THE AIR PERMITTING PROGRAM, INCLUDING  
23 PROCESSES TO:

24 (A) NOTIFY ANY STATIONARY SOURCES THAT WOULD BE SUBJECT  
25 TO THE AIR PERMITTING PROGRAM;

26 (B) ASSESS PUBLIC HEALTH RISKS ASSOCIATED WITH A  
27 STATIONARY SOURCE'S EMISSIONS OF TOXIC AIR CONTAMINANTS; AND

1 (C) IMPLEMENT EMISSION CONTROL REGULATIONS OR ANY OTHER  
2 STRATEGIES DESIGNED TO REDUCE EMISSIONS OF TOXIC AIR  
3 CONTAMINANTS FROM A STATIONARY SOURCE.

4 (c) THE DIVISION SHALL PROVIDE PUBLIC NOTICE AND HOLD AT  
5 LEAST TWO PUBLIC MEETINGS AT WHICH MEMBERS OF THE PUBLIC HAVE AN  
6 OPPORTUNITY TO COMMENT ON THE NEEDS ASSESSMENT. THE DIVISION  
7 SHALL ALSO CONDUCT OUTREACH TO AND SOLICIT FEEDBACK FROM  
8 DISPROPORTIONATELY IMPACTED COMMUNITIES AND WORKERS AT  
9 STATIONARY SOURCES ON THE NEEDS ASSESSMENT.

10 (d) IN FINALIZING THE NEEDS ASSESSMENT, THE DIVISION SHALL  
11 INCLUDE IN THE NEEDS ASSESSMENT A SUMMARY OF ANY COMMENTS  
12 RECEIVED FROM THE PUBLIC, WORKERS AT STATIONARY SOURCES, AND  
13 DISPROPORTIONATELY IMPACTED COMMUNITIES AND IDENTIFY ANY  
14 SIGNIFICANT CHANGES MADE TO THE NEEDS ASSESSMENT BASED ON SUCH  
15 COMMENTS.

16 (e) THE DIVISION SHALL REPORT ON THE NEEDS ASSESSMENT TO  
17 THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE AND THE  
18 ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF  
19 REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, DURING THE  
20 COMMITTEES' HEARINGS HELD PRIOR TO THE 2026 REGULAR SESSION OF  
21 THE GENERAL ASSEMBLY UNDER THE "STATE MEASUREMENT FOR  
22 ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)  
23 GOVERNMENT ACT", PART 2 OF ARTICLE 7 OF TITLE 2.

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

27 **25-7-109.3. Colorado hazardous air pollutant control and**

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

11 (2) ~~Except as provided in section 25-7-114.4 (5),~~ The commission  
12 may ~~only~~ promulgate rules pertaining to hazardous air pollutants ~~as~~  
13 ~~defined in section 25-7-103 (13)~~ in accordance with this section, SECTION  
14 25-7-109.5, AND SECTION 25-7-114.4. In order to minimize additional  
15 regulatory and compliance costs to the state's economy, any program  
16 created by the commission pursuant to this section ~~must~~ MAY contain a  
17 provision that exempts FROM THE REQUIREMENTS OF THE PROGRAM those  
18 sources or categories of sources that it determines to be of minor  
19 significance. ~~from the requirements of the program.~~ Consistent with the  
20 provisions of section 25-7-105.1, the commission shall authorize  
21 synthetic minor sources of hazardous air pollutants by the issuance of  
22 construction permits or prohibitory or other rules. ~~Such permits or rules~~  
23 ~~must only be as stringent as necessary to establish synthetic minor status.~~  
24 The commission shall expeditiously implement this subsection (2) to  
25 ~~assure~~ ENSURE that all sources may be able to timely qualify as a synthetic  
26 minor source, thereby avoiding the costs of the operating permit program.

27 (3) (b) ~~This section shall only apply to sources emitting a~~



1 ~~hazardous air pollutant identified in the list established or amended~~  
2 ~~pursuant to subsection (5) of this section which:~~

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

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

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

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

21 ~~(b.1) The commission may recognize similarities among regulated~~  
22 ~~sources or apply, when appropriate, previous control requirements~~  
23 ~~established by the commission in making a determination about the need~~  
24 ~~for such regulation under this subsection (3). The commission shall also~~  
25 ~~consider fundamentally different factors between sources in making these~~  
26 ~~determinations.~~

27 ~~(f) This section shall not apply to sources subject to national~~

1 emission standards for hazardous air pollutants (NESHAP) established by  
2 the administrator pursuant to the federal act, but only for those emissions  
3 for which a NESHAP is established.

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

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

22 (h) **Temporary exceptional authority.** (III) ~~This paragraph (h)~~  
23 ~~shall remain effective only until such time as the commission acts~~  
24 ~~pursuant to its authority under paragraph (a) of this subsection (4)~~  
25 SUBSECTION (4)(h) IS REPEALED, EFFECTIVE JULY 1, 2026.

26



27

**SECTION 5. Appropriation.** (1) For the 2022-23 state fiscal

1 year, \$3,135,853 is appropriated to the department of public health and  
2 environment. This appropriation is from the general fund. To implement  
3 this act, the department may use this appropriation as follows:

4 (a) \$2,192,791 for use by the air pollution control division for  
5 program costs, which amount is based on an assumption that the division  
6 will require an additional 10.1 FTE;

7 (b) \$271,906 for use by the division of environmental health and  
8 sustainability for the toxicology and environmental epidemiology unit,  
9 which amount is based on an assumption that the division will require an  
10 additional 7.0 FTE;

11 (c) \$73,928 for the purchase of legal services; and

12 (d) \$597,228 for the purchase of information technology services.

13 (2) For the 2022-23 state fiscal year, \$73,928 is appropriated to  
14 the department of law. This appropriation is from reappropriated funds  
15 received from the department of public health and environment under  
16 subsection (1)(c) of this section and is based on an assumption that the  
17 department of law will require an additional 0.4 FTE. To implement this  
18 act, the department of law may use this appropriation to provide legal  
19 services for the department of public health and environment.

20 (3) For the 2022-23 state fiscal year, \$597,228 is appropriated to  
21 the office of the governor for use by the office of information technology.  
22 This appropriation is from reappropriated funds received from the  
23 department of public health and environment under subsection (1)(d) of  
24 this section. To implement this act, the office may use this appropriation  
25 to provide information technology services for the department of public  
26 health and environment.

27 **SECTION 6. Applicability.** This act applies to conduct occurring

1 on or after the effective date of this act.

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