

Procedure for Requesting the Third Party Modeling Review Option Under SB 11-235

Senate Bill 11-235, codified at § 25-7-114.5(16) C.R.S., sets forth a qualified option to utilize external contractors whenever a modeling review backlog exists within the Air Pollution Control Division (APCD) of the Colorado Department of Public Health and Environment. In the event of a statutory backlog, and upon request by an applicant for a source that is not subject to part C of the federal act (Prevention of Significant Deterioration of Air Quality), an independent contractor shall be made available to review the air modeling associated with the permit application.

Under Colorado's EPA-approved State Implementation Plan, the APCD is the reviewing authority for air permits. Per Senate Bill 11-235, the air quality modeling that is submitted with the air permit application shall be reviewed by an independent contractor for acceptance as demonstrating compliance in lieu of the review being conducted by APCD staff. The APCD will use the contractor review findings to confirm whether a new or modified minor source or activity will comply with applicable regulations and air quality standards.

It is expected that this process will likely cost more for the applicant. Contractor rates from documented quotes range from \$60 to \$160 per hour, depending on the level of experience. However, the expectation is that a modeling review will be completed in a shorter timeframe, particularly for those applications that are new or have been recently submitted. The costs of the contract consultant review will be reimbursed by the air permit applicant to the APCD as part of the permit processing fees. The APCD will, in turn, reimburse the contract consultant.

To request the use of this third party modeling review option:

1. The applicant shall send an email requesting use of the third party modeling option. The email should be sent to gordon.pierce@state.co.us and shall include:
 - a. Applicant's name;
 - b. Permit project name; and
 - c. Applicant's contact information.
2. Once the permit application has been deemed complete by the assigned APCD permit engineer, the APCD will determine if the request is appropriate based on whether there is currently a modeling review backlog, the type of permit, the current status in the modeling review queue, and any other relevant factors.
3. If the request is appropriate, the APCD will select a contractor to perform the modeling review.
4. The applicant will be informed of the contractor selection and will need to sign an agreement to formalize the third party modeling review process. The agreement form is attached.

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Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department
of Public Health
and Environment

AGREEMENT TO USE THIRD PARTY AIR MODELER FOR AIR PERMIT APPLICATION

The purpose of this Agreement is to document the terms associated with the request by _____ (Applicant) to utilize a contract air modeling entity (“Contract Modeler”) in lieu of staff from the Air Pollution Control Division in the Colorado Department of Public Health and Environment (Department), to perform the review of Applicant’s air modeling submitted with the Applicant’s air permit.

Permit Project Name: _____

Applicant agrees to the following terms regarding Applicant’s election to use a Contract Modeler:

- Upon receipt of Applicant’s request to use a Contract Modeler, the Department will select an appropriate Contract Modeler to perform the review and provide to Applicant an estimate of work hours and costs anticipated by the Contract Modeler, not to exceed \$15,000. Costs above \$15,000 will require additional Applicant approval.
- Applicant understands that the costs associated with the use of a Contract Modeler to review Applicant’s air modeling will likely exceed the costs of Department staff performing such review.
- Applicant agrees to pay to the Department in full all costs associated with work performed by the Contract Modeler within 15 days of receipt of an invoice from the Department.
- Applicant agrees to indemnify and hold the Department harmless regarding any claims associated with the Contract Modeler costs.
- Applicant understands and agrees that if Applicant fails to pay the Contract Modeler’s invoiced costs in full, the Department shall not issue an air permit to Applicant.

Applicant warrants that it possesses actual, legal authority to enter into this Agreement. The person or persons signing this Agreement, or any attachments or amendments hereto, also warrant(s) that such person or persons have actual legal authority to execute this Agreement, or any attachments or amendments hereto.

Applicant

Date

Title