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SUMMARY
October 15, 2026

2026 COA 74

No. 25CA2022, *GreenLatinos v. Colorado Air Quality Control Commission* — Public Health and Environment — Air Quality Control Commission — Colorado Air Pollution and Prevention Act — Environmental Justice Act

As a matter of first impression, a division of the court of appeals considers whether the Colorado Air Quality Control Commission complied with the Colorado Air Pollution Prevention and Control Act, §§ 25-7-101 to -148, C.R.S. 2026, and the State Administrative Procedure Act, §§ 24-4-101 to -109, C.R.S. 2026, in adopting a rule that imposes enhanced air pollution monitoring requirements for pollution sources in disproportionately impacted communities. The division concludes that the Commission acted reasonably and upholds the rule.

Court of Appeals No. 25CA2022
City and County of Denver District Court No. 23CV32434
Honorable Kandace C. Gerdes, Judge

GreenLatinos, 350 Colorado, and Earthworks,

Plaintiffs-Appellants,

v.

Colorado Air Quality Control Commission,

Defendant-Appellee,

and

Colorado Oil and Gas Association,

Intervenor-Defendant-Appellee.

JUDGMENT AFFIRMED

Division II
Opinion by JUDGE FOX
Johnson and Yun, JJ., concur

Announced October 15, 2026

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Philip J. Weiser, Attorney General, Mary Emily Splitek, Senior Assistant Attorney General, Sarah F. Quigley, Assistant Attorney General, Denver, Colorado, for Defendant-Appellee

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¶ 1 GreenLatinos, 350 Colorado, and Earthworks (collectively, GreenLatinos) appeal the district court’s judgment upholding a rule adopted by the Colorado Air Quality Control Commission (the Commission) under the State Administrative Procedure Act (APA), §§ 24-4-101 to -109, C.R.S. 2026. GreenLatinos argues that the rule is arbitrary and capricious, is unsupported by substantial evidence, and violates Colorado’s Environmental Justice Act (EJA) as codified in the Colorado Air Pollution Prevention and Control Act (Air Act), §§ 25-7-101 to -148, C.R.S. 2026. We affirm.

I. Background

¶ 2 The Air Act governs air pollution in Colorado, establishes the Commission, and charges it with adopting air pollution rules. § 25-7-104, C.R.S. 2026. The Commission’s Regulation 3 (the Rule) directs the Air Pollution Control Division (the Division) to issue permits to stationary sources of air pollution. Dep’t of Pub. Health & Env’t Reg. 3, 5 Code Colo. Regs. 1001-5. A “stationary source” is “[a]ny building, structure, facility, or installation . . . that emits or may emit any air pollutant subject to regulation under” federal regulations, such as power plants, factories, or oil and gas production facilities. *Id.* at Reg. 3, pt. A, § I.B.52.

¶ 3 Recognizing that some communities experience greater adverse effects from air pollutants than others, the Colorado General Assembly enacted the EJA in 2021 with the goal of “rapidly reduc[ing] pollution in disproportionately impacted communities” (DI Communities). Ch. 411, sec. 2(2)(b)(I), 2021 Colo. Sess. Laws 2724. To further this goal, the EJA — codified within the Air Act — directed the Commission to impose “enhanced modeling and monitoring requirements for new and modified sources of affected pollutants in” DI Communities. § 25-7-114.4(5)(b)(II)(A), C.R.S. 2026.¹

¶ 4 “Affected pollutants” are air pollutants that have “the potential to cause or contribute to significant health or environmental impacts.” § 25-7-114.4(5)(d)(I). DI Communities are defined as census blocks that meet at least one of the following criteria:

- (1) over 40% of the population lives below the federal poverty level;
- (2) more than half of the population spends over 30% of household income on housing; (3) over 40% of the population identifies as people of color; (4) over 20% of the community is linguistically

¹ On appeal, GreenLatinos challenges only the Rule’s monitoring provisions.

isolated; (5) the community is a mobile home park; (6) the community is located on the Southern Ute or Ute Mountain Ute Indian reservation; or (7) the community was historically subject to environmental racism or disproportionate vulnerability to climate change and currently faces environmental health disparities, as determined by a state agency. § 24-4-109(2)(b)(II), C.R.S. 2026.

¶ 5 To comply with the EJA’s mandate for enhanced pollution monitoring, the Commission revised the Rule in May 2023. The newly promulgated Rule subdivides DI Communities and requires sources to either (1) implement onsite, source-specific monitoring, if located in a cumulatively impacted community (CI Community) that, based on cumulative environmental burdens, scores above the eightieth risk percentile; or (2) pay a community monitoring fee to the Division if located in a socioeconomically vulnerable community (SV Community) facing fewer cumulative burdens. Dep’t of Pub. Health & Env’t Reg. 3, pt. B, § III, 5 Code Colo. Regs. 1001-5. Sources in SV Communities pay a one-time fee — based on emission rates, source category (i.e., major versus minor source of pollution), and location — which funds a community monitoring program. *Id.*

¶ 6 After rulemaking proceedings, the Commission approved the Rule by majority vote in July 2023. GreenLatinos then challenged the Rule in district court, arguing that (1) the Rule fails to comply with the EJA’s “enhanced monitoring” requirement; (2) the Rule does not reasonably direct any entity to conduct “community monitoring” and lacks a rationale for the fee schedule; (3) the Commission erroneously relied on EnviroScreen scores to distinguish CI Communities from SV Communities; (4) the Rule’s eightieth percentile threshold is arbitrary and capricious, excluding too many sources from source-specific monitoring; and (5) the Commission failed to identify additional pollutants beyond those specified in the EJA. The district court upheld the Rule.

¶ 7 GreenLatinos now appeals, asserting the same five arguments. We address and reject each contention in turn.

II. Standard of Review

¶ 8 When reviewing a district court’s decision on an agency action, we apply the standard set forth in section 24-4-106(7), C.R.S. 2026, of the Colorado APA. *Gessler v. Grossman*, 2015 COA 62, ¶ 9, *aff’d sub nom. Gessler v. Smith*, 2018 CO 48. This section provides, “If the court finds no error, it shall affirm the agency action.” § 24-4-

106(7)(a). Conversely, the court “shall hold unlawful and set aside the agency action” if the court finds that it is arbitrary or capricious; a denial of statutory right; in excess of statutory jurisdiction, authority, or purpose; unsupported by substantial evidence when the record is considered as a whole; or otherwise contrary to law. § 24-4-106(7)(b)(I)-(IX).

¶ 9 Statutory interpretation presents a question of law that we review de novo. *Grossman*, ¶ 12. “Our goal in interpreting a statute is to give effect to the legislature’s intent” by first looking to the language of the statute and giving its words their plain and ordinary meanings. *BP Am. Prod. Co. v. Colo. Dep’t of Revenue*, 2016 CO 23, ¶ 15. We “must give deference to the reasonable interpretations of the administrative agency that is authorized to administer and enforce the statute at issue.” *Grossman*, ¶ 12. Such deference is not warranted, however, if the agency’s interpretation is contrary to constitutional or statutory law. *Id.*

III. Compliance with the EJA’s “Enhanced Monitoring” Requirement

A. Additional Background

¶ 10 Pollution monitoring involves measuring emission rates and pollutant concentrations, determining the ambient effects from air pollution sources, and collecting meteorological data. Colo. Dep’t of Pub. Health & Env’t, *Ambient Air Pollution and Meteorological Monitoring Guidance* (2012), <https://perma.cc/DJ4U-LN9P>. Before the Commission revised the Rule, pollution monitoring as part of permit issuance mainly focused on data collection, public outreach, and evaluating “minor source” emission changes against existing thresholds. Additionally, the Division required oil and gas companies to conduct onsite monitoring before and after operations began.

¶ 11 The revised Rule imposed further monitoring requirements: Part A, Section I.B requires the Division to identify DI Communities, CI Communities, and SV Communities; Part B, Section III.B.4 helps characterize expected pollution impacts of permitted projects and guides the Division in identifying effective monitoring technology; Part B, Section III.B.5 requires all pollution sources to submit an

Environmental Justice Summary with permit applications; and — as relevant here — Part B, Section III.J establishes the source-specific monitoring and fee-based community monitoring framework. See Dep’t of Pub. Health & Env’t Reg. 3, 5 Code Colo. Regs. 1001-5. Part B, Section III.J.2.b-e requires sources subject to source-specific monitoring to develop a monitoring plan, establish a data submittal process, identify three compliance options, and select monitoring technologies. *Id.*

¶ 12 GreenLatinos first takes issue with the community monitoring provision. It argues that community monitoring and the accompanying fee violate the EJA’s mandate for “enhanced monitoring” because, in its view, “enhanced monitoring” requires *all* sources in DI Communities — not just those located in communities facing high cumulative burdens — to conduct source-specific monitoring. Thus, maintains GreenLatinos, the Rule fails to satisfy the EJA’s mandate because it directs sources that fall below the eightieth percentile threshold to pay a community monitoring fee instead of implementing onsite source-specific monitoring.

¶ 13 The Commission counters that the EJA grants it considerable discretion in implementing the statute and revising the Rule. By applying the plain and ordinary meaning of the word “enhanced,” the Commission concludes that the EJA merely requires the Rule to go “beyond current policy and practice” based on any regulations previously in place. We agree with the Commission.

B. Applicable Law and Analysis

¶ 14 The EJA does not define “enhanced,” nor did the General Assembly specify what enhanced monitoring must entail. See § 25-7-114, C.R.S. 2026. “When a statute does not define a term, we assume that the General Assembly intended to give the term its usual and ordinary meaning.” *Roup v. Com. Rsch., LLC*, 2015 CO 38, ¶ 8; *Miller v. Amos*, 2024 CO 11, ¶ 23. We will not read limitations into a statute that its plain language does not suggest. See *Sanchez v. Rains Precision Motorsports, Inc.*, 2025 COA 40, ¶ 19 (citing *Gonzales v. City & County of Denver*, 998 P.2d 51, 54 (Colo. App. 1999)).

¶ 15 Merriam-Webster defines “enhance” as “heighten, increase,” or “raise.” Merriam-Webster Dictionary, <https://perma.cc/NYH3-G5W6>. GreenLatinos similarly characterizes enhancing monitoring

requirements as “improving the quality, amount, or strength’ of those already in place.” Given the dictionary definition of “enhance” and GreenLatinos’ concession, it is difficult to see how the term inherently requires all sources to implement source-specific monitoring. Rather, the Rule heightens, increases, or raises the criteria for pollution permits beyond those previously in place, thus satisfying the plain and ordinary meaning of “enhance” as used in the EJA.

¶ 16 We also reject GreenLatinos’ argument that the General Assembly’s intent can be derived from its overarching policy goal of reducing pollution in DI Communities. Rather, we presume that if the General Assembly intended for “enhanced monitoring” to mean “source-specific monitoring,” it would have employed terminology expressing this intent. *See Colo. Consumer Health Initiative v. Colo. Bd. of Health*, 240 P.3d 525, 531 (Colo. App. 2010) (citing *Mason v. People*, 932 P.2d 1377, 1380 (Colo. 1997)). The General Assembly’s decision to leave “enhanced” undefined suggests that it granted the Commission discretion to heighten, increase, or raise pollution permit requirements as appropriate based on its subject matter

expertise, and the record before us shows that the Rule does just that. *See Roup*, ¶ 8; *Miller*, ¶ 23.

IV. Community Monitoring and the Rule’s Fee Policy

A. Additional Background

¶ 17 Part B, Section III.J.3 of the Rule involves the community monitoring provision and related fee structure. The provision “applies to new or modified sources of Affected Pollutants located in [DI] Communities that are not subject to source-specific monitoring requirements.” Dep’t of Pub. Health & Env’t Reg. 3, pt. B, § III.J.3.a, 5 Code Colo. Regs. 1001-5. The following table describes the fees:

Table 2 - Disproportionately Impacted Community Monitoring Fees			
	Socioeconomically Vulnerable Community	Cumulatively Impacted Community	
Pollutant Above APEN Reporting Thresholds and Less than Affected Construction Source Threshold	\$50.00	\$100.00	<i>Per Affected Pollutant in this Tier</i>
Pollutant Greater than or Equal to Affected Construction Source Threshold	\$200.00	\$400.00	<i>Per Affected Pollutant in this Tier</i>
Pollutant Above APEN Reporting Threshold at a Major Source of Affected Pollutant	\$500.00	\$750.00	<i>Per Affected Pollutant in this Tier</i>

¶ 18 The Rule explains that sources subject to this provision “must participate in [DI] Community Monitoring by paying the invoiced processing fees to the Stationary Source Control Fund,” and that

the Division “shall use the fees collected . . . to administer the [DI] Community Monitoring program.” *Id.* at Reg. 3, pt. B, § III.J.3.b-c.

¶ 19 GreenLatinos maintains that, even if the community monitoring provision satisfies the EJA’s mandate for enhanced monitoring, it is still unreasonable under the Colorado APA for two reasons: (1) it does not require any source to install or operate community monitors, and (2) the administrative record contains no reasoned basis to conclude that the fee model could fund such a program. We disagree.

B. Applicable Law and Analysis

¶ 20 Our review of the Rule is governed by section 24-4-106(7) of the Colorado APA, which requires a court to “hold unlawful and set aside” an administrative agency action, § 24-4-106(7)(b), if it finds that the agency acted “arbitrarily or capriciously, made a decision that is unsupported by the record, erroneously interpreted the law, or exceeded its authority,” *Lawley v. Dep’t of Higher Educ.*, 36 P.3d 1239, 1247 (Colo. 2001). Ultimately, these standards converge on a single question: whether the agency’s action was reasonable. See *Brighton Pharmacy, Inc. v. Colo. State Pharmacy Bd.*, 160 P.3d 412,

415 (Colo. App. 2007); *US W. Commc'ns, Inc. v. Colo. Pub. Utils. Comm'n*, 978 P.2d 671, 676 (Colo. 1999).

¶ 21 The Colorado Supreme Court has explained that when the reasonableness of a regulation is based on policy judgments within an agency's expertise, "the agency is not bound by contrary submissions reflecting a different policy preference." *US W. Commc'ns*, 978 P.2d at 676 (quoting *Citizens for Free Enter. v. Dep't of Revenue*, 649 P.2d 1054, 1063 (Colo. 1982)). Thus, the fact that the agency acted in a manner contrary to that advocated by an objector does not, standing alone, indicate that the agency's action was unreasonable. *Id.*

¶ 22 GreenLatinos' position is unavailing for two reasons. First, its argument rests on the incorrect premise that individual *sources* must conduct community monitoring. Section III.J.3.c, however, expressly directs the *Division* to use the collected fees to carry out community monitoring. Thus, the Rule reasonably ensures that community monitoring will take place because it directs an administrative body to do so. Setting aside this faulty premise, GreenLatinos can only opine that the Division will not appropriate the collected funds or implement community monitoring programs

— an assertion that, without support in the administrative record, does not render the Rule unreasonable. *See Khelik v. City & County of Denver*, 2016 COA 55, ¶ 13 (“An action by an administrative agency is not arbitrary or an abuse of discretion when the reasonableness of the agency’s action is open to a fair difference of opinion, or when there is room for more than one opinion.”).

¶ 23 Second, the administrative record explains the Commission’s rationale for adopting a fee-based model. In its rebuttal statement, the Commission said that it plans to use collected fees to install an average of five pollution monitors per year in DI Communities. While the Commission may not have provided calculations supporting each tiered amount in Table 2, *see supra* Part IV.A, it was not required to do so because the Rule is based on policy considerations commensurate with the EJA’s “enhanced monitoring” mandate. *See Brown v. Colo. Ltd. Gaming Control Comm’n*, 1 P.3d 175, 176 (Colo. App. 1999) (When a rule is based primarily upon policy considerations, “specific factual support is not required, although the reasoning process that led to the adoption of the rule must be defensible.”). And the Commission further explained in its rebuttal statement that it left the

community monitoring plan intentionally broad so that the Division could adapt to different needs in the various communities, which will allow flexibility to move funding to ensure no community is underserved and the Division can adapt to new technologies.

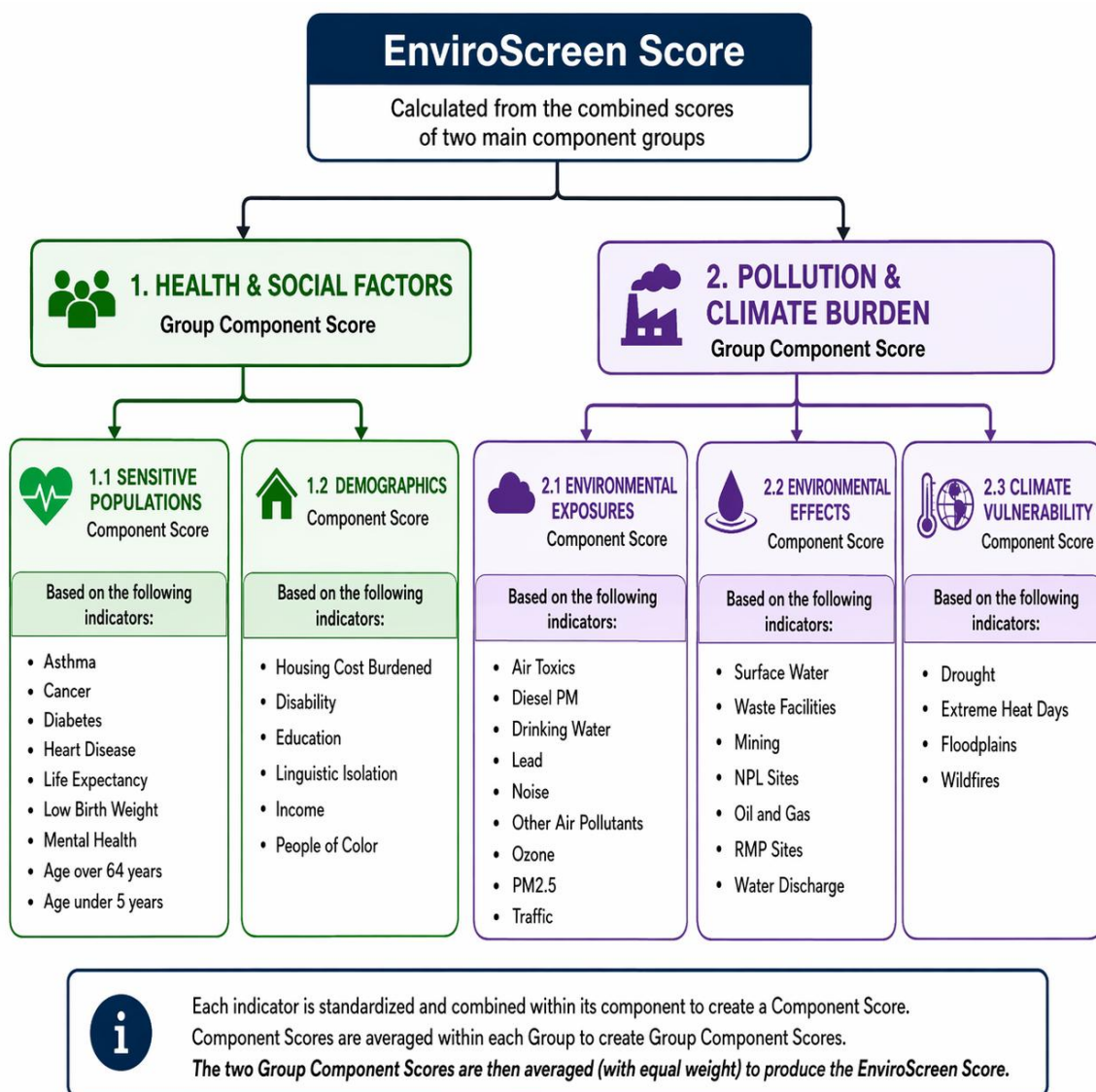
¶ 24 Finally, the Rule’s Statement of Basis and Purpose (SBAP) directs the Division to reevaluate fee amounts every three years to ensure that the program remains adequately funded. Dep’t of Pub. Health & Env’t Reg. 3, pt. F, § I.HHH, 5 Code Colo. Regs. 1001-5. Thus, GreenLatinos’ argument that the fee schedule lacks record support is unpersuasive. We conclude that the community monitoring provision is reasonable. *See Rags Over the Ark. River, Inc. v. Colo. Parks & Wildlife Bd.*, 2015 COA 11M, ¶ 54 (an agency decision must be upheld if the record, viewed as a whole and in a light most favorable to the agency, contains a reasonable basis and substantial evidence for the agency’s action).

V. EnviroScreen Scores and the Affected Pollutants Threshold

A. Additional Background

¶ 25 The Colorado Department of Public Health and Environment (CDPHE) and Colorado State University developed EnviroScreen, a tool that combines data from thirty-five health, social, and

environmental indicators to “best identify potential environmental health risks through the mathematical weighing process.” The following flowchart sets forth the indicators:



EnviroScreen Score Flowchart

After weighing the indicators, EnviroScreen awards a score to each census block group in DI Communities, with a score of 0%

representing the lowest burden and 100% representing the most significant burden.

¶ 26 The EJA provides that the Commission “may set thresholds of affected pollutants below which the [permitting requirements] do not apply.” § 25-7-114.4(5)(a)(II). The Rule sets the “Affected Pollutant” threshold for air pollutants at the eightieth percentile — i.e., the “Significant Rate of Emissions.” Dep’t of Pub. Health & Env’t Reg. 3, pt. A, § I.B.4, 5 Code Colo. Regs. 1001-5. Census blocks in DI Communities with an EnviroScreen score above the eightieth risk percentile are designated CI Communities, requiring sources in those areas to implement source-specific monitoring. Census blocks in DI Communities scoring below this threshold are SV Communities, where sources instead pay a community monitoring fee. The Commission modeled this threshold after the federal “Significant Rate of Emissions” standard that the Environmental Protection Agency (EPA) relies on for emission-reduction requirements.

¶ 27 The Commission explained in the Rule’s SBAP that subdividing and prioritizing census blocks that fall under the DI Community umbrella would allow it to “appropriately tailor the

regulatory requirements to the categories of communities that will most benefit from those requirements.” *Id.* at Reg. 3, pt. F, § I.HHH, 5 Code Colo. Regs. 1001-5. The SBAP also provides that dividing blocks into CI and SV Communities allows “funding for the operation of community monitors and . . . educational outreach in *all* [DI] communities” while still prioritizing the communities that experience the greatest cumulative environmental harm. *Id.* (emphasis added).

¶ 28 As to the use of EnviroScreen and the eightieth percentile threshold, the Commission said,

The [eightieth] percentile was informed by subject matter expert feedback, robust community input through the [Environmental Justice Action Task Force] process, and consultation of best practices established by the U.S. [EPA]. It is also consistent with the presumption established in Section 24-4-109(5)(a)(I), C.R.S. (2023), that the [eightieth] percentile in Colorado EnviroScreen may be used to identify census block groups that meet the cumulative impacts prong of the definition of [DI] Community

Id. The cumulative impacts prong provides that a census block is disproportionately impacted when “multiple factors, including socioeconomic stressors, vulnerable populations, disproportionate

environmental burdens, vulnerability to environmental degradation or climate change, and lack of public participation,” cumulatively affect health and the environment. § 24-4-109(2)(b)(II)(F).

¶ 29 GreenLatinos contends that the eightieth percentile threshold is unreasonable because (1) it is modeled after an “unrelated” federal regulatory standard; (2) it excludes communities with high air pollution burdens in favor of those facing cumulative burdens; and (3) despite this, the Commission provided no rationale for relying on EnviroScreen, which considers more than just air pollution indicators. The Commission responds that the Rule’s SBAP adequately explains the eightieth percentile threshold. While we agree that the Rule excludes certain DI Communities with high air pollution burdens, we conclude that there is adequate record support for the Commission’s decision.

B. Applicable Law and Analysis

¶ 30 Section 24-4-106(7)(b)’s reasonableness inquiry, set forth *supra* Part IV.B, guides our analysis.

¶ 31 GreenLatinos is correct that a census block’s EnviroScreen score is based on more than just air pollution exposure; the Flowchart makes clear that a score accounts for a myriad of

environmental and public health factors. And while the General Assembly adopted the EJA with the overarching goal of reducing air pollution in DI Communities, *see* 2021 Colo. Sess. Laws at 2724, the EJA itself directs the Commission to impose enhanced monitoring requirements, § 25-7-114.4(5)(b)(II)(A). The Commission explained that using EnviroScreen to subdivide DI Communities into CI and SV Communities enables it to tailor monitoring requirements based on the overall environmental burdens each community faces. As a result, prioritizing some communities with cumulative environmental burdens over those with high air pollution levels does not run afoul of the EJA; rather, it provides for customizable enhanced monitoring, consistent with the EJA's mandate.

¶ 32 We also reject GreenLatinos' contention that the Commission provided no rationale for relying on EnviroScreen scores or the eightieth percentile threshold. The Rule's SBAP states that the eightieth percentile benchmark is informed by robust expert feedback and federal practices relevant to National Ambient Air Quality Standards — standards that are highly relevant to monitoring air pollution at the state level. *See* Dep't of Pub. Health

& Env't Reg. 3, pt. F, § I.HHH, 5 Code Colo. Regs. 1001-5.

Additionally, the Rule is consistent with the General Assembly's mandate that the CDPHE "administer the Colorado EnviroScreen tool so that a census block group that scores above the eightieth percentile . . . is presumed to be a disproportionately impacted community under subsection (2)(b)(II)(F) of this section." § 24-4-109(5)(a)(I). Because the Commission's rationale is discernible from the SBAP, we conclude that the Commission acted reasonably by relying on EnviroScreen to set the threshold. *Citizens for Free Enter.*, 649 P.2d at 1062 ("The statement of basis and purpose . . . serves to provide a reference point against which the validity of the rule can be measured. It removes the review process from the realm of speculation and provides a context within which meaningful judicial review can occur.").

VI. Identifying Affected Pollutants

A. Additional Background

¶ 33 As mentioned, "affected pollutants" are air pollutants with "the potential to cause or contribute to significant health or environmental impacts." § 25-7-114.4(5)(d)(I). The EJA defines "affected pollutants" to include "[h]azardous air pollutants" (HAPs)

“as identified by the [C]ommission, including benzene, toluene, ethylbenzene, and xylene.” § 25-7-114.4(5)(d)(I)(C). The Rule adopts these four HAPs in its definition of “affected pollutants,” but it does not identify additional HAPs. Dep’t of Pub. Health & Env’t Reg. 3, pt. A, § I.B.5, 5 Code Colo. Regs. 1001-5. The EJA requires the Commission to “revisit its . . . determination of affected pollutants” at least every three years. § 25-7-114.4 (5)(a)(IV).

¶ 34 GreenLatinos argues that the EJA requires the Commission to identify additional HAPs in the Rule beyond those specifically listed in the statute. To support its contention that the Commission’s failure to include additional HAPs is unreasonable, GreenLatinos points to twelve HAPs identified by EnviroScreen. The Commission counters that the General Assembly intended the Commission to have discretionary authority to identify additional HAPs. We agree with the Commission.

B. Applicable Law and Analysis

¶ 35 Section 24-4-106(7)(b)’s reasonableness inquiry, discussed *supra* Part IV.B, again applies. We also rely on familiar tools of statutory interpretation, giving effect to the legislature’s intent. *Roup*, ¶ 8. As noted, we will not read duties or limitations into a

statute that its plain language does not suggest. *See Sanchez*, ¶ 19; *Arguello v. Balsick*, 2019 COA 20M, ¶ 30. We “give deference to the reasonable interpretations of the administrative agency that is authorized to administer and enforce the statute at issue,” unless the interpretation is contrary to constitutional or statutory law. *Grossman*, ¶ 12.

¶ 36 We are not convinced that the EJA requires the Commission to identify additional HAPs beyond the four listed in the EJA. The plain language at issue — that “affected pollutants” include HAPs “*as identified by the [C]ommission*, including benzene, toluene, ethylbenzene, and xylene,” § 25-7-114.4(5)(d)(I) (emphasis added) — suggests that identifying additional pollutants is left to the Commission’s discretion. Had the General Assembly intended to impose a duty on the Commission, it would have used mandatory language such as “the Commission shall identify additional affected pollutants.” *See Smith v. City & County of Denver*, 2025 COA 70, ¶ 40; *Olson v. State Farm Mut. Auto. Ins. Co.*, 174 P.3d 849, 857 (Colo. App. 2007); *cf. In re Estate of Gonzalez*, 2024 COA 63, ¶ 37 (“When the General Assembly uses the term ‘shall’ in a statute, we construe this to be mandatory . . .”). Because we will not read a

duty into the statute where one does not exist, we conclude that the Commission acted within its authority when identifying only benzene, toluene, ethylbenzene, and xylene as HAPs. *See Sanchez*, ¶ 19; *Arguello*, ¶ 30.

¶ 37 Finally, we disagree with GreenLatinos that the Commission acted unreasonably by declining to include the additional HAPs identified by EnviroScreen in the Rule. Although GreenLatinos demonstrated during rulemaking proceedings that those HAPs have health impacts on DI Communities, the Commission was not obligated to adopt GreenLatinos' evidence and alternative policy proposal in its Rule. *See US W. Commc'ns*, 978 P.2d at 676. Moreover, when presenting the Rule to the Commission, the Division explained that "there are technological limitations on the feasibility of establishing enhanced monitoring requirements for all HAPs" and it would circumvent the EJA's enhanced monitoring mandate to identify additional HAPs when adopting the Rule. The Commission's rationale is clear from the record, the rule is consistent with the Commission's statutory authority, and we therefore decline to disturb its decision. *See* § 24-4-106(7)(b)(VIII).

VII. Disposition

¶ 38 The judgment is affirmed.

JUDGE JOHNSON and JUDGE YUN concur.