



Hazardous Air Pollutants Under Review

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Local governments, conservation groups and community groups, including local leagues, are taking action to address toxic air pollution from petroleum refining and storage and distribution of petroleum products in Colorado.

Hazardous Air Pollutants (HAP) are regulated by the Environmental Protection Agency (EPA) under the Clean Air Act (CAA). EPA defines HAP as those pollutants that are known or suspected to cause cancer or other serious health effects, such as reproductive effects or birth defects, or adverse environmental effects. EPA is working with state, local, and tribal governments to reduce air emissions of 187 toxic air pollutants to the environment.

EPA's Toxic Release Inventory Program (TRI) tracks certain chemicals that may pose a threat to health and the environment by requiring facilities to report annually regarding each chemical. There are currently 770 listed chemicals; not all of the chemicals are considered HAP. TRI data reports are available on an interactive website. <https://www.epa.gov/toxics-release-inventory-tri-program>

EPA has delegated to the states the authority to enforce a wide range of Federal statutes and regulations. In Colorado, the Air Quality Control Commission (AQCC) Department of Public Health & Environment (CDPHE) grants permits to Colorado industry for air pollutant limits under the federal Clean Air Act Title V for pollutants such as small particles and volatile organic compounds (VOC: nitrogen oxides, sulfur oxides, hydrogen sulfide). Compliance is monitored and enforced by the Air Pollution Control Division (APCD) of CDPHE through programs for inspection and facility self-monitoring/ self-reporting. Exceeding permitted limits can result in fines and consent orders.

In 2020 Suncor Energy in Commerce City (Adams County) was fined \$9M for operations emissions in excess of permit from AQCC.

The health department says Suncor emitted volatile organic compounds in excess of its permit, including sulfur dioxide, hydrogen sulfide, hydrogen cyanide, nitrogen oxides, carbon monoxide, and particulate matter, which the EPA says can cause breathing problems for people with asthma, children and older adults. Suncor has also agreed to undertake additional and increased monitoring of hydrogen cyanide emissions, both at the refinery and in the community [Colorado Sun Mar 6, 2020]



According to CDPHE there have been 9 enforcement actions between 2011 and 2019. <https://cdphe.colorado.gov/enforcement-actions-against-suncor>

In 2019 alone, the Commerce City refinery had 75 separate “upsets” in which more chemicals were released than its permit allows. Before this year’s settlement, Suncor had been fined more than \$3.6 million for violations since 2010. The plant will be 90 years old in 2021. [Colorado Sun Sep 14, 2020]

In a presentation by Adams County Commissioners to LWV Adams County we learned that in the last 5 years Suncor has been out of compliance for air quality regulations multiple times, which finally resulted in the \$9M settlement with CDPHE. There are 4 main parts of the settlement:

- Third-party investigation and root cause analysis of the non-compliance events. Root-cause analysis usually looks for human-driven causes such as malfunctions. Adams County believes they should also look for violations that are caused by poor design or poor engineering of the facilities.
- Monitoring for hydrogen cyanide by Suncor. The state Air Pollution Control Division (APCD) will begin conducting hydrogen cyanide monitoring in communities using funds provided by Suncor.
- Supplemental Environment Projects (SEP) by 3rd party groups to mitigate impacts. SEPs may mitigate an agreed component of a penalty, as part of the resolution of an enforcement action. CDPHE has received applications from 16 organizations for 19 projects and a total funding request of over \$11M. Projects will be selected by the end of March.
- Community Communications Plan by Suncor to include timely alerts of accidental emissions. Suncor has recently launched a new notification system when there is an event or incident at their facility. The system will begin sending notifications in June. Community members can sign up at suncor.com/ccrsignup, or by texting SUNCOR to 888777. Notifications will be in both English and Spanish.

Renewal of Suncor’s operating permit under Title V of the Clean Air Act is pending before the APCD. A request has been made by Adams County for a public hearing. The public comment period is ongoing; use the web form at <https://www.colorado.gov/pacific/cdphe/air-permit-public-notice>.

Representatives Benavidez and Valdez and Senators Gonzales and Moreno are sponsoring HB21-1189 Public Health Protections in Relation to the Emissions of Air Toxics that



will be heard first in the House Energy & Environment committee. The bill expands upon the regulation of covered facilities by requiring AQCC to consider adding new air toxics at least every 5 years, adjusting thresholds for permit violations based on new data.

Current Colorado law defines a covered facility as a stationary sources of air pollution that has reported in its Toxic Release Inventory report at least one of the following in the indicated amounts:

- Hydrogen cyanide, 10,000 lbs
- Hydrogen sulfide, 5000 lbs
- Benzene, 1000 lbs

It should be noted that hydrogen sulfide is not listed by EPA as a HAP unlike the other two. Hydrogen sulfide is a noxious air pollutant that is an eye and respiratory irritant.

In addition to incident reporting, the bill mandates fence line monitoring in real-time by specified methods that can detect fugitive emissions that escape from processes or equipment leaks and can detect a great variety of Volatile Organic Compounds (VOC).

There is a new requirement for APCD to monitor ambient air in nearby communities at sensitive detection points for at least 30 days out of each quarter and to post results for the public. Community engagement in planning for monitoring and communication of emergency notifications, results of fence line monitoring, and results of ambient air monitoring to be provided in at least two relevant languages in the community.

A coalition of environmental and conservation groups have determined that, in addition to Suncor, at least 3 more facilities in Colorado would meet the criteria defining a *covered facility*. In addition to the 3 listed air toxics, there are other chemicals of concern that have been released (or may be released in the future) for which there are currently no permit thresholds: Propylene, Xylene, Toluene, N-Hexane.

The League supports ensuring air quality by regulation and reduction of pollution from stationary sources and of ambient toxic air pollution.

The League supports inclusion for success in engaging individuals, households, and communities in policymaking.