



**EARTHWORKS**

May 12, 2026

Earthworks is grateful for the opportunity to provide comments on the proposed revisions to Regulations 3 and 7 which will increase fees to cover the direct and indirect costs of administering air quality programs.

Earthworks is a nonprofit organization committed to working with frontline communities to address the adverse impacts of mining and energy development on public health and the environment while promoting sustainable solutions. For more than 10 years, Earthworks staff have worked on the ground with local partners across Colorado, the US, and the world using FLIR G-Series optical gas imaging (OGI) cameras<sup>1</sup> to expose harmful hydrocarbon pollution from oil and gas facilities. This extensive field experience and our strong relationships with communities impacted by oil and gas production and processing guides our advocacy and informs our engagement with local, state, and federal regulators and lawmakers. We strive for reformed policies and stricter rules that put the lives of people before the interests of industry.

Over the last decade, we supported the expansion of the Air Pollution Control Division's ("Division") regulatory authority in revisions to Regulation 7 resulting in the creation of new and often novel programs such as the pre-production air quality monitoring program<sup>2</sup> and the greenhouse gas intensity program.<sup>3</sup> We consistently advocated for Colorado to take rapid action on regulating methane and serve as a model for responsible climate leadership,<sup>4</sup> and celebrated the progress that Colorado has made on this front while bedrock environmental rules are under attack at the federal level.<sup>5</sup> Finally, we joined community partners in pushing the Division to develop expansive new regulations such as Regulation 30 to improve oversight of priority toxic air contaminants.<sup>6</sup>

Earthworks has also long recognized that the real work of regulating air quality occurs after rules have been adopted, as the impact of those rules on impacted communities is measured in how effectively they are implemented and enforced on the ground. For years, we pushed the Division's compliance and enforcement staff to improve the Oil and Gas Health Information and Response program's<sup>7</sup>

*Dedicated to protecting communities and the environment from the adverse impacts of mineral and energy development while promoting sustainable solutions.*

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<sup>1</sup> <https://www.flir.com/products/flir-g-series/>

<sup>2</sup> <https://earthworks.org/blog/improved-monitoring-data-will-it-lead-to-meaningful-action/>

<sup>3</sup> <https://earthworks.org/releases/air-quality-control-commission-state-make-promising-progress-by-adopting-consensus-rules-requiring-direct-measurement-of-oil-and-gas-pollution/>

<sup>4</sup> <https://earthworks.org/releases/colorado-takes-important-step-in-cutting-methane-pollution-but-more-action-is-needed/>

<sup>5</sup> <https://earthworks.org/blog/colorado-state-action-to-cutmethane/>

<sup>6</sup> <https://earthworks.org/blog/victory-advocating-with-compassion-a-win-for-clean-air-in-commerce-city-and-north-denver/>

<sup>7</sup> <https://cdphe.colorado.gov/dehs/oghealth>

accessibility<sup>8</sup> and data transparency,<sup>9</sup> and we continue to engage with staff on additional improvements that can be made to ensure that the agency responds rapidly and effectively to community air quality concerns.

Implementing new rules while also making meaningful investments in improving enforcement necessitates new staff, training, tools, outreach efforts, data portals, etc. All of this comes with added costs.

The Division must be well-funded to carry out this work, so we urge the Air Quality Control Commission (“Commission”) to adopt the Division’s proposal to increase fees to cover the direct and indirect costs associated with these additional administrative burdens.

### **Improvements to Enforcement and Community Outreach Require Sustained Investment**

For over a decade, Earthworks has responded to community concerns about oil and gas facilities throughout the state of Colorado with surveys of facilities using OGI technology. When we gather evidence of hydrocarbon emissions that could indicate possible noncompliance with air quality rules, we share that evidence with the Division. We encourage community members to share their observations and any concerns they might have with the Division as well. This work allows us to assess how accessible and responsive the Division’s air quality compliance and enforcement teams are to the public.

We have been especially encouraged by recent progress that the Division has made to:

- 1) Advance environmental justice by prioritizing on the ground inspections at facilities located in disproportionately impacted (DI) communities.<sup>10</sup>
- 2) Make compliance and enforcement data more accessible to the public.<sup>11</sup>
- 3) Invest in a rapid response model for the oil and gas program resulting in improved response times to community concerns and significantly increasing the number of on the ground inspections when investigating concerns.<sup>12</sup>

In addition, the Division has made important investments in community outreach efforts. Community members that we work with are sharing positive impressions of increased levels of transparency and engagement from Division staff, which they contrast with vastly different experiences even just a few years ago.

The Division must maintain this momentum and build on these improvements. For both residents of DI communities and Coloradans in general, rules and regulations are words on paper unless they are backed up by on the ground enforcement efforts and robust community engagement.

<sup>8</sup> <https://earthworks.org/releases/cdphe-takes-initial-steps-in-right-direction-begins-overhaul-to-improve-public-complaint-system/>

<sup>9</sup> <https://earthworks.org/releases/cdphe-improves-transparency-of-polluter-data-in-response-to-community-advocate-requests/>

<sup>10</sup> <https://drive.google.com/file/d/1wvV9aXSIW8zGToAdhGmEHE-Hy4ntO-IF/view>

<sup>11</sup> [https://datastudio.google.com/reporting/3b673953-8ae9-43d3-9f04-0ed27c6654b8/page/p\\_3r5dzl8xyd](https://datastudio.google.com/reporting/3b673953-8ae9-43d3-9f04-0ed27c6654b8/page/p_3r5dzl8xyd)

<sup>12</sup> <https://earthworks.org/blog/earthworks-field-survey-2025-for-colorado/>

The increase in fees is necessary for the Division to continue this essential work of ensuring that rules have a tangible impact on the communities they are meant to protect.

### **The Legislature Intends for the Division to Fulfill an Expanded Role**

On an almost annual basis, the Colorado Legislature passes bills that promulgate new rulemakings and/or require the Division to make new investments in programs and initiatives to satisfy a statutory mandate.

For example:

- 1) House Bill 2021 1266 required the Division to increase engagement with DI communities and take additional actions to reduce greenhouse gas emissions from stationary sources.<sup>13</sup>
- 2) House Bill 2022 1244 required the Division to adopt new rules to reduce emissions of toxic air contaminants from stationary sources.<sup>14</sup>
- 3) House Bill 2023 1294 required the Division to respond more rapidly to community concerns about possible noncompliance with air quality rules.<sup>15</sup>
- 4) House Bill 2024 1338 required the Division to hire a petroleum refinery regulation expert and create a rapid response inspection team.<sup>16</sup>
- 5) Senate Bill 2024 229 required the Division to take action to reduce nitrogen oxide emissions from the upstream oil and gas sector and expanded the enforcement authority of the Division.<sup>17</sup>

This overview of some relevant legislation since 2020 highlights how the Division is frequently required by the Legislature to expand its scope of work, pass new rules, and invest in new programs and priorities in addition to all of the work that it is already required to do. Satisfying these statutory mandates as well as the legislative intent of these laws requires additional resources. The Division's proposal to increase fees acknowledges and responds to this requirement.

### **Increased Fees Do Not Pose an Undue Financial Burden on Regulated Entities**

As Environmental Defense Fund points out in their Position Statement, the proposed increase in fees is not a significant burden on fee payers when compared to their revenues.<sup>18</sup> Meanwhile, this increased funding is absolutely vital for the Division to be able to perform necessary functions, including provide services that are essential to the regulated community. Fee payers benefit from a streamlined and timely permitting program, as well as efforts by the Division to ensure greater access to data and more transparency in regards to processes, including enforcement and compliance processes.

<sup>13</sup> <https://leg.colorado.gov/bills/hb21-1266>

<sup>14</sup> <https://leg.colorado.gov/bills/hb22-1244>

<sup>15</sup> <https://leg.colorado.gov/bills/hb23-1294>

<sup>16</sup> <https://leg.colorado.gov/bills/hb24-1338>

<sup>17</sup> <https://leg.colorado.gov/bills/sb24-229>

<sup>18</sup> [https://drive.google.com/file/d/11TG4RTq2R5oFtdpsA3Ab2PRZOqjk6nU8/view?usp=drive\\_link](https://drive.google.com/file/d/11TG4RTq2R5oFtdpsA3Ab2PRZOqjk6nU8/view?usp=drive_link)

For this reason, the Commission should not consider arguments that the fees should not be increased or that the increased fees should be sunset after a certain date.

As we have already highlighted, the financial strain on the Division will only increase as more programs and refinements are implemented in order to continue to invest in community outreach and engagement, satisfy statutory requirements, and provide efficient services for fee payers.

Instead, in addition to adopting the Division's proposal to increase fees, the Commission should also consider how additional funds might be raised in the future to continue to support the Division's work.

Colorado is often held up as a model for other states as they seek to regulate upstream oil and gas emissions, advance environmental justice efforts, and expand access to data and regulatory processes. Much of the credit for Colorado's reputation in this regard is owed to the dedicated work of Division staff. This proposal to increase fees ensures that this work will continue and, most importantly, be expanded and improved upon to ensure that Colorado truly lives up to the ideals that this reputation is founded upon.



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