EARTHWORKS

October 30, 2026

Earthworks is grateful for the opportunity to provide initial comments on the proposed rulemaking to reduce air quality impacts from refinery operations in the state of Colorado.

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[1] 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.

Since 2021, Earthworks has worked with grassroots organizations such as Cultivando[2] and the Greenhouse Connection Center[3] to raise public awareness about air quality impacts from refinery operations. We have exposed shortcomings in regulatory oversight of refineries,[4] invited decisionmakers to learn about the local impacts of refinery operations firsthand,[5] and publicly advocated for rules to reduce harmful emissions from refineries, including most recently during the Regulations 24, 26, and 30 rulemaking to adopt additional emissions controls of Priority Toxic Air Contaminants.[6]

This work is essential because harmful, excess emissions events from refinery operations continue to threaten Colorado communities[7] and Colorado continues to assess significant fines and penalties for air quality violations at refinery facilities.[8] Despite all of this, refinery facilities opted to achieve mandated emissions reductions goals by purchasing greenhouse gas credits rather than by improving facilities and reducing pollution in the communities most impacted by that pollution.[9]

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

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[1] https://www.flir.com/products/flir-g-series/
[2] https://cultivando.org/
[3] https://www.greenhouseconnectioncenter.com/
[4] https://youtu.be/37bXZi-6gCY?si=_c5F9g8fcxyJy85H
[5] https://youtu.be/Y_xq5kZjTds?si=fj8_sO3Oz1zkMHue
[6] https://earthworks.org/wp-content/uploads/2026/04/EW_04_2026_Reg30_Comments.pdf
[7] https://coloradosun.com/2023/04/29/suncor-pollution-hazardous-commerce-city-release/
[8] https://cdphe.colorado.gov/press-release/colorado-announces-largest-state-enforcement-package-against-single-facility
[9] https://www.denverpost.com/2025/08/16/suncor-refinery-colorado-pollution-reduction/

In other words, community health impacts persist and action to reduce those impacts has been inconsistent. A recent report commissioned by the state reinforced this reality: Colorado's refinery facilities represent some of the largest individual sources of harmful pollutants in the state, and they compare unfavorably to similar refineries nationwide, even those located in states with far less stringent air quality rules than Colorado. For instance, the flares at Colorado's refinery facilities produce some of the highest levels of harmful pollutants such as volatile organic compounds and sulfur dioxides of all the refineries considered in the report.[10]

Action is long overdue, so we are encouraged by the Air Pollution Control Division's (Division) initial rule concept[11] for the proposed refinery rulemaking. The proposed rules are tailored to address some of the most significant findings from the report and are a strong first draft. However, we are concerned that the proposal is too reliant on flexible approaches to achieve greater emissions reductions. Community members have been demanding that the state take action to reduce impacts from refinery operations for decades. It is imperative that these community members, many of whom have been engaging with the Division in the development of this proposal, are finally acknowledged and that the final draft rules provide more assurance that impacts will be reduced.

**General Duty Language and Enforcement**

Earthworks is generally supportive of the general duty clause proposed by the Division and agrees with the Division that this language has been effective in creating opportunities for expanded regulatory oversight of equipment on upstream oil and gas facilities. However, we are concerned that the complexity of refinery facilities results in a greater lack of clarity as to "best air pollution control practices" in this context. The adoption of this language alone does not provide community members with any certainty as to what equipment or practices can and should be improved to comply with this new requirement. Similarly, while we have seen this language used for enforcement and compliance in the upstream oil and gas sector, we have also witnessed and documented numerous instances of operators taking advantage of vague rule language to avoid accountability.[12]

One idea for improvement is to bolster the regulatory definition of "best air pollution control practices" for refinery operations by linking the proposed root cause analyses more explicitly to the general duty language. If refinery operations are required to determine and implement corrective actions based on root cause analyses, then that process could also form the basis for understanding and enforcing best practices to prevent future excess emissions events. This would serve to strengthen the root cause analyses concept as well by providing a clearer indication that the goal of the analyses should be an overall reduction in excess emission events over time.

The general duty language could also be strengthened by a commitment to greater oversight and enforcement of refinery operations. As rule language, the clause does not prompt any specific

[10] https://cdphe.colorado.gov/press-release/colorado-refinery-report-highlights-potential-opportunities-to-further-reduce
[11] https://oitco.hylandcloud.com/cdphermpop/docpop/docpop.aspx?docid=68768345
[12] https://earthworks.org/blog/enhanced-enforcement/

action on the part of the regulated entity. For the clause to be actionable and result in meaningful reductions of emissions, the Division must proactively identify equipment or practices that can be improved, which requires an extensive understanding and ongoing scrutiny of refinery operations. This process should be transparent to the public to ensure that community members are informed of both any improvements that are made and of any equipment or practices where possible improvements have been identified but are not yet feasible.

**Pair Performance Testing with More Extensive Monitoring**

Earthworks is also generally supportive of the proposal to require additional stack performance testing for combustion units that are not currently equipped with continuous emissions monitors (CEMs). However, unless this proposal is paired with a requirement to increase the adoption of CEMs in stacks where this technology is not already deployed, these performance tests alone do not guarantee that emissions from combustion units are within permitted limits.

Performance testing is useful for periodically identifying combustion units that are not operating within desired limits. It is not a substitute for monitoring that can identify potential issues or upset events as they occur. It is also not a substitute for emissions data that can be used to determine whether permit limits are being adhered to on an ongoing basis or that can contribute to a baseline understanding of actual facility emissions.

Once more, the goal of increased performance testing should be a reduction in instances where combustion units are not operating as intended and are therefore producing excess harmful emissions. To determine whether increased performance testing is contributing to this outcome, it should be paired with increased adoption of CEMs in stacks where they are not currently deployed.

**Certainty not Flexibility**

For too long, communities in Colorado have been impacted by refinery operations that are not held to the highest standards and not subject to strict regulatory oversight. The forthcoming refinery rulemaking is a long overdue opportunity for the state to address this injustice, but only if the state commits to ensuring that community concerns are truly reflected in the rule proposal. Community members have been unambiguous: they want certainty that actions are being taken to reduce impacts. Prescriptive rules can foreclose unforeseen possibilities and prevent regulators from adapting to changing circumstances, but rules that are too flexible and vague can provide operators with ample opportunity to preserve the status quo. For Colorado communities that host refinery facilities, the status quo has failed to provide adequate protections and quality of life. This is an opportunity to change that status quo.

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