



April 4, 2022

House Energy & Environment Committee
Colorado General Assembly
200 E. Colfax Avenue
Denver, CO 80203

Re: HB22-1244 Public Protections from Toxic Air Contaminants

Dear Members of the House Energy & Environment Committee:

My name is Ann Sutton, living in Westminster CO. This testimony represents the position of the League of Women Voters of Colorado (LWVCO) on the bill to control and reduce emissions of Toxic Air Contaminants through identification, data collection, and setting standards that are health-based.

We are pleased to support this bill ensuring air quality by regulation and reduction of pollution from stationary sources and regulation and reduction of ambient toxic air pollution.

Last year LWVCO supported HB-1189 **Public Health Protections in Relation to the Emissions of Air Toxics** that enhanced site monitoring to detect and report emissions of air toxics. That bill was limited to a small set of industries, mainly petroleum refining, storage and transfers operating in an ozone nonattainment area, and was limited to three identified toxic air pollutants.

The proposed bill will extend this important work by allowing AQCC to designate additional air toxics for regulation based on more complete data sets and current health science. Further, APCD will be allowed to re-examine existing air pollution permits for compliance with more stringent health standards. We believe these actions will potentially benefit the public health.

The LWVCO is committed to justice for vulnerable groups including residents of disproportionately impacted communities. In the bill, AQCC will consider vulnerable groups in setting health-based standards and APCD shall give priority to location of new monitoring sites within disproportionately impacted communities.

We thank the committee for their careful review and consideration.

Sincerely,

A handwritten signature in blue ink that reads "Ann Sutton". The signature is written in a cursive style and is placed over a light blue rectangular background.

Ann Sutton Volunteer Lobbyist
League of Women Voters of Colorado
1410 Grant Street, Suite B-204
Denver, CO 80203

Regarding HB22-1244 "Public Protections from Toxic Air Contaminants"

Arnie Schultz to alex.valdez.house, edie.hooton.house,
Tracey.Bernett.house, lisa.cutter.house,
meg.froelich.house, Ron.Hanks.house,

04/05/2022 03:03 AM

Cc Samantha.Falco

History: This message has been replied to.

Dear Honorable Members of the House Energy and Environment Committee

My name is Arnie Schultz and I am asking for your support on HB22-1244 "Public Protections from Toxic Air Contaminants" bill. I am a member of Colorado People's Alliance. We are a member lead organization working on climate justice issues through grassroots organizing. Our organization centers directly impacted communities across Colorado.

My wife and I both moved to Colorado in 1964. That was in the days of clean air with crystal clear days of blue skies and night skies almost completely filled with bright stars. Those days are long gone and now our air all across Colorado is filled with toxic air pollutants known to pose a risk of serious long term health impacts.

Both my wife and I have asthma and, due to our toxic air, the simple task of going out to the mail box often leaves us gasping for air and with irritated eyes, particularly during the summer months when our air is full of smoke from the increased frequency of wildfires caused by climate change, which is directly caused by the polluted air resulting largely from human activity.

Our then 16 year old, healthy granddaughter was a life guard at an outdoor pool last summer and also experienced difficulty breathing and irritated eyes. I worry about how long she and my other grandchildren have to live on our toxic planet.

I also have friends who live in the Globeville, Elyria, Swanson neighborhood which is the most polluted zip code in the country thanks, in large part, to the Suncor refinery.

The latest report issued just this Monday by the Intergovernmental Panel on Climate Change predicts that we only have 8 years before we exceed the 1.5 degrees Celsius (2.7 degrees Fahrenheit) limit in global warming when the planet will see increasingly dangerous heat waves, floods, and storms that would affect millions of people, especially the most vulnerable

Colorado has the opportunity to ensure that our families and workers have a healthy future to look forward to, where our communities can thrive. I ask that we put people first. Please vote in support of HB22-1244.

Thank you for your time.

Respectfully yours,

Please Support the Air Toxics Bill

heartcom2 to Samantha.Falco

04/05/2022 09:39 AM

History: This message has been replied to.

Dear Committee,
Bill HB22-1244 is so important to ameliorate very damaging air pollution deeply affecting the health of our northeast Denver neighborhoods, especially along the I-70 corridor. Thank you for supporting it through committee.

David Engelken
1633 Humboldt Street
Denver CO 80218
303-618-1633
heartcom2@msn.com

Thank you Chairperson and Committee for the opportunity to submit written testimony in support of HB22-1244.

My name is Mitzi Nicoletti. I live in Longmont, Colorado. I strongly support doing everything possible to regulate the subset of air pollutants that are air contaminants and hazardous air pollutants. I believe it is extremely important that more stringent rules are adopted that correspond with requirements of the federal "Clean Air Act".

I live in walking distance to one of the largest well pads in the State of Colorado and frequently experience headaches and respiratory problems. One of these well site "mega pads" is located 500 feet from north shore of the high usage Longmont Union Reservoir where families play, fisherman fish, and dozens of people enjoy recreating on the water. I, myself, am a competitive rower and frequent Union Reservoir for training and pleasure. Dr. Helmig's Longmont Union Reservoir air monitoring site (<https://bouldair.com/longmont.htm>) is located on the west shore. I check this website on a regular basis for the current air conditions. There has been ongoing venting and other releases at the mega-pad, mainly during the early morning hours, and occasionally around midnight. Some days when the VOCs, Methane and Ethane levels are really high, I have to cancel my entire workday because I feel so bad. On several occasions, I have been sick to my stomach and have spent the day throwing up. It can be very depressing because I wonder what the long term health effects are from these exposures on an ongoing basis. Friends have also expressed the same concern and have also experienced similar ongoing health effects from toxic air. I love where I live, the community relationships I have developed. I don't want to be forced to move because of the toxic air quality.

I fully support HB22-1244. It is critical that the air we breathe is not contaminated to the point it affects our health, quality of life and our emotional well-being. What is the point in living in a beautiful state if the air quality is so contaminated you can't enjoy it? I am concerned for those that are immune compromised, the elderly, and young children. Please take this critical step in regulating these toxic air contaminants by implementing HB22-1244

Thank you,

Mitzi Nicoletti



Opening the Future for Business in Jefferson County, Colorado

April 5, 2022

House Committee: Energy & Environment
Rep. Chris Kennedy
Rep. Gonzalez-Gutierrez
Sen. Gonzales

RE: HB22-1244 – Public Protections from Toxic Air Contaminants

Dear Energy & Environment Committee, Rep. Kennedy, Rep. Gonzalez-Gutierrez, and Sen Gonzalez:

On behalf of the Jefferson County Economic Development Corporation's (Jeffco EDC) Government Affairs Committee, I write today in opposition to House Bill 22-1244.

In reviewing the title of the bill, we concur in protecting the public from toxic air, but the contents of this bill are not reflective of that objective but rather, in our opinion, create dire unintended consequences.

We believe that science and assessed risk mitigation should drive policy. Sitting at the lead in this realm is the EPA, which funnels down to state and local levels. As someone who has worked with the EPA on many items, I can assure you they take their role and policy creation with rigor. This bill desires to regulate items not yet identified, researched, or undoubtedly determined to be problematic which reminds me of an old saying – "don't borrow trouble." We should trust our scientific processes and invest first in the research before moving to policy and permitting. Otherwise, we end up with ambiguity that usually deems unintended consequences.

Additionally, this bill makes Colorado more bureaucratically burdensome than other states. By conflicting with and adding layers to the current federal guidelines, we are stepping out and over our scope regarding air quality. Goals around air quality and toxins should be scientifically accepted and implemented to have measured impact. Going at it alone as a state puts us on the forefront to bare unnecessary cost, process implementation, and the unintended consequences that come along the way. There is no impetus for Colorado to take the brunt cost of this learning curve.

Last, we know this language will unfairly target a critical company in Jefferson County, Terumo BCT. Terumo BCT is an international leader in blood component, therapeutic apheresis, and cellular technology. When COVID hit, Terumo led the way in treatment options with their Mirasol Pathogen Reduction Technology. This life saving technology was a critical device in treating the pandemic patients. However, a critical element of ensuring the effectiveness of this treatment technology is the ability to properly sterilize products. The only current methodology to sterilize vital medical

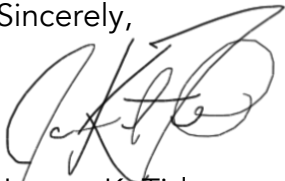
equipment is the ethylene oxide (EtO) sterilization process. This process is federally monitored and an essential function to ensuring health and safety of our population. This bill will target Terumo's ability to conduct this process in Colorado. We would jeopardize quality jobs that are saving lives internationally.

We ask this committee to review this bill with caution and acknowledgment of the unintended consequences it will cause.

We ask this committee to consider the many avenues already in place to address air toxins, specifically around EtO to include work on a national level by the [EPA](#), [FDA](#), and [CDC](#). We also ask the committee to consider the work the state is already doing with the [Air Quality Control Commission](#) within CDPHE.

With all this considered, we believe our opposition to this bill is not in opposition to limiting toxic air contaminants, but rather allowing the process to flow properly through the organizations who have the research and science to guide these policies. As written, I believe we are "borrowing trouble" and the unintended consequences will be dire to our community.

Sincerely,



Jansen K. Tidmore
President | CEO



HB22-1244Carol Hawkins to: committees.lcs.ga@state.co.us 04/05/2022 06:09 PM

To whom it may concern:

I wish to submit written comments to support HB22-1244.

As a resident of Ault, I witness toxic pollution every day from fracking and agricultural practices that pollute our air and water and land. In Weld County we cannot rely on those in public office to police themselves when they are a part of these polluting industries. I see open fires on agricultural land and toxic fumes from fracking sites whenever I leave my driveway. I smell the chemicals from crop planes that dump toxins onto our land and into our water. The dust that fills our air is so thick from grain mills that it chokes the lungs, and these mills run day and night, with grinding machines that are so loud it sounds like living by an airport. Furthermore, we in Ault face proposed and already approved horizontal pipelines that run under our houses from drilling permits approved without question by Weld County Oil and Gas and the COGCC.

One agency I count on for action is the CDPHE. When I see toxic emissions, I write to them and they respond. We need this type of follow-up. We can't depend on polluting industries to police themselves. Just look at our air . . . some days it's the worst air quality in the world, and that's no exaggeration.

I agree with writers T. Trujillo and J. Barnett who wrote on March 25, 2022, in Colorado Newline:

This bill isn't going to spell economic downfall for industries. In fact, it fosters collaboration between state agencies and industry to implement advanced technologies that help cut air toxics emissions and better protect their neighbors. The presence of toxic air pollution threatens other economic drivers like tourism and recreation. Most importantly, poor air quality costs Coloradans millions of dollars a year in additional health care costs, insurance premiums and missed work due to health complications. When it comes down to it, no amount of industry profit or short-term economic gains are worth sacrificing the health and well-being of Coloradans.

We owe it to our children and grandchildren and great grandchildren and all generations that follow to fix this fissure in our state agencies and industries that allow for toxins to pollute our air, land and water.

I pray that our legislators will take the high moral ground and guarantee the right to clean air, in particular, by supporting HB22-1244 and not ignore the rights of all Coloradans to breathe clean air instead of feeding the profits for polluting industries that have proven, by their contribution to the brown air that hangs over the Front Range, that they only care about short-term profits.

It's wrong. It's criminal. Please pass HB22-1244. You owe it to yourselves, your children, future generations, and the citizens of Colorado.

Most sincerely,

Carol Hawkins
Concerned Citizen
Ault, Colorado



AdvaMed

Advanced Medical Technology Association

April 7, 2022

Representative Alex Valdez
Chair, Energy & Environment Committee
Colorado House of Representatives
200 E. Colfax
Room 307
Denver, CO 80203

RE: House Bill 22-1244, Air Toxins Program – Oppose

Dear Chair Valdez and Members of the Committee:

The Advanced Medical Technology Association (AdvaMed), the largest national association of medical device and technology providers, shares this letter to respectfully express our opposition to [HB22-1244](#), a bill creating a new program to further regulate contaminants designated as “hazardous air pollutants (HAPs)” by the United States Environmental Protection Agency (EPA), including Ethylene Oxide (EtO), as well as enable the designation and regulation of additional “toxic air contaminants” by the Colorado Department of Public Health and Environment (CDPHE).

We share the author’s commitment to putting the health and well-being of patients, workers, and communities throughout Colorado first, with an intentional focus on those communities most disproportionately impacted by air pollutants. The medical device industry is heavily regulated by multiple federal agencies, including the Food and Drug Administration, Environmental Protection Agency, and Occupational Safety and Health Administration. We work closely with these regulators to ensure that the safety of patients, workers, and the public is the primary concern. That is why industry has consistently been decreasing EtO emissions, continues to invest in state-of-the-art technology to control and destroy EtO emissions at the highest possible level, and actively innovating to optimize efficiency of current EtO usage and develop alternatives.

Despite this shared commitment we do, however, oppose this bill primarily due to its unnecessary duplication with ongoing efforts by the EPA and its attempt to define a public health standard based on variable and unreliable data that cannot accurately delineate a source. For the reasons outlined above, and detailed below, we request the committee oppose HB22-1244.

Access to safe and effective medical technology is essential for patients throughout the country and around the globe, and this includes ensuring full sterility. The FDA has validated the use of EtO for sterilizing medical devices and it is currently used on more than 25 billion devices annually – approximately 50% of the market – including heart valves, pacemakers, and surgical kits.

Currently, there is no viable alternative to EtO. Until such a substitute is identified, validated, and approved for use, billions of medical devices require EtO to ensure full sterility. Other existing sterilization methods, such as gamma radiation and steam, cannot be used on these devices and continued access to a modality capable of broad material compatibility and reliable penetration is critical. Further, FDA approval of a medical device includes its packaging and sterilization mode, meaning that these must be thought of as part of the device manufacturing process and not as a separate or distinct element that is easily changed. Unnecessarily restricting or eliminating usage of EtO would have a significant negative impact on the medical device supply chain and risk patient access to lifesaving and life-improving medical devices.

Notably, despite the large number of life-saving medical devices requiring EtO sterilization, industry has leveraged new technology and improved sterilization cycles, equipment, and facility design to steadily decrease EtO emissions. Deployment of new emissions control technology has accelerated – including within Colorado – helping to achieve the highest possible destruction and removal efficiency.

AdvaMed respectfully requests that the committee oppose HB22-1244 for the following reasons:

Duplication of efforts by the U.S. EPA

This bill is attempting to replicate the painstaking and comprehensive work being done at the federal level by the U.S. Environmental Protection Agency. The EPA is finalizing a new National Emission Standard for Environmental Pollutants (NESHAP) standard for ethylene oxide commercial sterilizers and fumigation operations. This process has been ongoing since late 2019, with countless hours spent engaging stakeholders and taking and reviewing public comments. We are encouraged by the extensive work being done by the EPA and look forward to helping them enact a workable rule that protects patients, workers, and communities while ensuring there is no unnecessary or unintended impact on the supply of lifesaving and life-improving medical devices. Implementing a state-by-state regulatory regime, especially when implementation of a federal framework is on the horizon, will only result in confusion and likely drive negative consequences to patient safety.

Defining a public health standard based on variable and unreliable data without being able to delineate a source is problematic

This bill proposes to define a public health standard that is rooted in the results of ambient air testing. When applying this to EtO, the significant variability and reliability of air monitoring technology must be considered. There is significant variability in the levels of EtO in the ambient air due to multiple sources – including humans and gas generators – and the reliability of industrial monitoring equipment sensitive enough to detect expected EtO levels near commercial sterilizers brings those systems into serious question. AdvaMed does, however, support appropriate and accurately measured baseline testing to determine how much EtO exists naturally and through other sources.

The variability and unreliability of EtO monitoring was recently highlighted by the Georgia Environmental Protection Division (EPD) as part of permitting a commercial sterilizer in Georgia. The EPD had conducted monitoring for over a year prior to issuing the permit and said the following about the results:

The data is variable and the data precision is not good. This indicates that the EPA method for analyzing for EtO needs improvement at the very low concentrations present in the ambient air.¹

The Georgia EPD also found that EtO levels measured near a commercial sterilizer were similar to those found at a National Air Toxic Trends site – which is not near any known source of EtO emissions – whereas those found at a rural state park were comparable.²

This echoes the results from analysis that the CDPHE performed in Lakewood Colorado in 2018. CDPHE measured the ambient levels of EtO and found that they were lower than those found at the National Air Toxic Trends site in Grand Junction, Colorado – which is similarly not near any known industrial sources of EtO emissions.³

There is also significant variability in the air monitors themselves. Because of the pervasiveness of EtO and how sensitive monitoring requirements must be, even monitors that are placed in close proximity can generate significantly different values – even along the fence line of commercial sterilizers.

It is also important to note that EtO is not an exotic gas that is only generated by commercial sterilizers – which account for only 1% of EtO emissions. EtO is emitted by many, very different, sources, including humans, school buses, gas generators, and fire pits, each with levels far exceeding EPA's benchmark. Moreover, current technology *cannot* delineate the source of EtO – only that it is present in the air.

This bill looks to enact sweeping new standards, specific to Colorado, based on data that is unreliable, variable, and without knowing its true source. Further, these standards could conflict with the work being done by the EPA and push aside the significant public comment and analysis it has undergone in developing the still forthcoming rule. For these reasons, we oppose this bill.

For these reasons, we respectfully request the committee oppose HB 22-1244.

Thank you.



Bobby Patrick
Vice President, State Government and Regional Affairs
Advanced Medical Technology Association (AdvaMed)

cc: Members of the Colorado House Energy & Environment Committee

¹ Georgia Environmental Protection Division, Narrative re: Sterigenics U.S. LLC, Application No. 27153, January 5, 2021, revised with addendum November 24, 2021

² *Id.*

³ Community risk assessment of ethylene oxide near Terumo BCT in Lakewood, Colorado, Toxicology and Risk Assessment Program, Colorado Department of Public Health and Environment, December 3, 2018.

COLORADO HOUSE ENERGY & ENVIRONMENT COMMITTEE

MEETING TO CONSIDER HB22-1244

MARCH 7, 2022

STATEMENT OF LUCY FRAISER, PH.D., DABT

Good afternoon and thank you for the opportunity to speak with the Committee today as you are preparing to consider HB22-1244. My name is Lucy Fraiser. I am a board-certified toxicologist with more than 30 years of experience in exposure and risk assessment and toxicology evaluations. I was asked to provide a statement by AdvaMed, but the scientific views I express here are my own.

Ethylene oxide (EO) is one of the constituents identified as a "toxic air contaminant" in HB22-1244. What I would like to share with the Committee is that the recent increase in concern about EO is not due to any new science showing EO to be more potent than previously thought. Concerns about EO's potential health impact on communities increased overnight when a new model for *predicting* cancer risk was used in the National Air Toxics Assessment (NATA) released in 2018. The 2018 NATA identified communities living near commercial industrial emitters of EO as being at elevated risk of cancer, while previous NATAs had not. As you consider this information, I ask that you think about what the NATA risk estimates are – first-pass, screening estimates, not a harbinger of what may befall communities. There is not a single study showing or suggesting that the low levels of EO in outdoor air causes cancer in anybody.

EO is not an exotic chemical that is only emitted from sterilizers or chemical plants. As a product of combustion and various natural processes, EO is in the air all around us. This is not new or anything to be afraid of. EO has hundreds of everyday sources like school buses/trucks (anything with a diesel engine), charcoal grills, fire pits, trees, ripening fruit, and cigarettes to name but a few. Because of its many sources, levels of EO in outdoor air are already higher than the tiny level predicted as safe by risk models. This is true even for areas not affected by the emissions this bill proposes to reduce. This means that even if emissions from stationary sources are decreased, it will not substantially affect the levels of EO in ambient air and there will be no measurable health benefit.

HB22-1244's attempt to define parameters for a health-based standard and require stationary sources to analyze the impacts of their emissions on ambient air will be challenging for EO, not only because of its pervasiveness, but also because the levels of EO that are measurable in air are above levels identified as "safe" by risk models like the NATA. This not only means that any particular stationary source's contribution to the EO already in the air will be a drop in the bucket, conclusive incrimination or exoneration of any potential source will be unlikely.

April 6, 2022

March 15, 2022

Observations on Scientific Shortfalls in the Language and Stated Goals of the State of Colorado Draft House Bill 22-1244 (CONCERNING MEASURES TO INCREASE PUBLIC PROTECTION FROM TOXIC AIR CONTAMINANTS)

CTEH, LLC (CTEH) is a chemical emergency response and public health consulting firm whose toxicologists, epidemiologists, and health scientists routinely collect environmental data and perform worker and public health risk assessments for private and public sector clients across North America. As CTEH expert scientists in Golden, Colorado, we have conducted air monitoring studies and health risk assessments, held numerous technical discussions with state, county, and private sector stakeholders, and conducted health risk communication for both the public and the press related to airborne chemicals in Colorado.

A Bill for an Act introduced through the State of Colorado House of Representatives (HB 22-1244). HB 22-1244 (the Bill) describes the creation of a new program to regulate a subset of airborne pollutants defined therein as “toxic air contaminants”. The Bill specifically states that, “...*the state should control and reduce the emissions of toxic air contaminants through the identification of toxic air contaminants, the reporting of emissions data, and the setting of protective health-based standards and effective airborne toxic control measures.*” Our intent in this document is to provide a technical review of the draft bill HB 22-1244 (herein called the Bill) and outline our key concerns regarding the scientific shortfalls in the language and stated goals of the Bill.

To provide perspective, the Federal Clean Air Act (CAA) is the primary law that regulates air emissions of hazardous air pollutants (HAPs) (referred to as “toxic air contaminants” in HB 22-1244) from stationary and mobile sources. As part of the CAA, the US EPA conducts human health risk assessments to evaluate the potential for multiple or single sources of HAP emissions to impact public health. In addition, some states have also implemented state-level air toxics programs over the past several years. The apparent intent of this Bill is to establish a state level air toxics program in Colorado that focuses on stationary sources of air emissions.

Overall, the Bill contains several key components that relate to the science of assessing exposures of air toxics and protecting the health of Coloradans. The Bill states that the Air Quality Control Commission (AQCC) will have the authority to make rules that are as least as stringent than the federal CAA and prioritize regulations on facilities located in disproportionately impacted communities. The Bill requires establishment of a scientific advisory board (SAB) that will make recommendations to the Air Quality Control Commission (AQCC), including creation of a list of “high-risk air toxics” and development of “standards” for these air toxics. In addition, the Bill requires conducting regional long-term air monitoring

at unspecified locations across Colorado. Although questions have arisen regarding the need for additional regulations surrounding air quality, the presence of regulatory overreach, and the economic impact from new air toxics regulations, these questions are beyond the scope of our expertise and will not be discussed in this letter. We are greatly concerned, however, that the current language in this Bill lacks the scientific integrity and best scientific practices that should be used to develop a cohesive, well-structured air toxics program that will actually achieve the stated objectives of the Bill.

We would like to bring attention to significant shortfalls within the Bill regarding application of best scientific practices to be used to regulate air toxics, correct messaging of potential for health risks to the public (any source), and effective implementation of actual protection to public health. To this end, CTEH is sharing the following specific observations. These observations were developed independently of Colorado or national stakeholders and are provided for consideration by all stakeholders to ensure that any newly created air toxics program in Colorado is based on best-available scientific methodology.

1. **There are multiple components of the Bill that do not adhere with federally established human health risk assessment principles or methodology for implementing and conducting a scientifically based air toxics program.** For example, the US EPA has several technical documents that outline the established methodologies on the “fundamental principles of risk-based assessment for air toxics and how to apply those principles in different settings as well as strategies for reducing risk at the local level.”¹ However, the Bill does not require or even reference any established risk assessment methodology, which appears contrary to the state health department policies on how environmental risk assessment is conducted. The Bill, as currently written, lacks scientific rigor regarding how toxicological and air monitoring data will be used to objectively determine the presence or absence of disproportionate health risks in communities.
2. **The process for “standard” setting is scientifically questionable and not transparent.** The Bill will allow the AQCC, with recommendations by the SAB in the use of human health toxicity values in environmental risk assessment and remediation management”, dated August 20, 2004)² outlining the process for selecting health-based exposure values for use in assessing the potential risk of air toxics to public health. The implications of a standard far exceed those of health-based guideline values, such as the regulatory structure that exists for criteria air pollutants under the CAA. In general, states that develop their own health-based exposure values do so in a methodical, systematic approach that considers all the toxicological and exposure data and provides opportunity for all stakeholders to give input prior to final determinations. The Bill does not require any of these checks and balances.

¹ USEPA (2004). Air Toxics Risk Assessment Reference Library. Volume 1 Technical Resource Manual

² CDPHE (2004). Colorado Department Of Public Health And Environment policy on use of human health toxicity values in environmental risk assessment and remediation management, Dated August 20, 2004

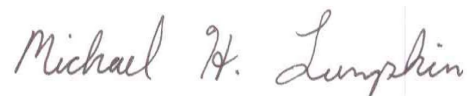
3. **The Bill seems to presume that the mere detection of a substance suggests harm to the public and the presence of a substance in the air equates to a person's exposure.** For example, in Section 2 (9) (II) (b), the Bill summary (page 2), and Section 2 (10) (II) (c), the proposed bill will allow denial of a permit to a stationary source operation if emissions could “contribute” to any concentration in the air at the standard. In other words, the proposed Bill assumes that the mere detection of a substance suggests that the permit holder's emission will push the tolerable concentration above a toxic levels and harm to the public. Additionally, Section 2 (I) (Page 7, line 22) of the proposed bill states that “high-risk toxic air contaminants” are contaminants that “MAY pose a risk of harm to the public health in the state”. Labelling any chemical as “high risk” without first using EPA's established risk assessment methods to determine if there is an actual risk goes against the fundamental principles of human health risk assessment used throughout the world. Chemicals are not inherently a “risk”. The mere detection of a substance, even a HAP under the Clean Air Act, does not equate to likely injury or a health impact and does not mean it is “high-risk”. The hazard of a chemical in the inherent ability of the chemical to cause harm is the exposure is sufficiently high and of sufficient duration. The risk of a chemical to cause harm is the likelihood (i.e., the chance of occurrence) that the harm may occur. Risk depends on multiple factors and can only be determined using EPA risk assessment methodology. This bill is silent on the use of risk assessment methods to determine actual risk. In addition, the Bill language seems to incorrectly imply that reported, estimated, or modeled emission rates at the fenceline of a facility could be assumed to be the airborne levels of an air toxic in a person's breathing zone space.
4. **The Bill requires implementation of concepts that are either inconsistent with fundamental toxicological behavior of chemicals and biological principles of risk assessment or do not have established scientific frameworks for implementing at a regulatory level.** Section 2 (b) of the proposed Bill also requires that adverse health effects must include “cumulative and synergistic effects” of all chemicals present. All chemicals do not interact with the body in the same manner and cannot be assumed to cause “cumulative and synergistic effects” if combined all together. This concept is inconsistent with basic biology of chemical action in a body and inconsistent with the risk methods used by EPA and other health agencies around the world. The bill should state that established risk assessment methods should be used to evaluate the potential for adverse health risks from cumulative exposures to air toxics. Because there is not even a consistent agreement in the scientific community regarding the concept of “synergistic effects” and there are no established risk assessment methods that define how this should be assessed, this language in the Bill is highly problematic.
5. **The roles, responsibilities, decisions, and requisite capabilities of the SAB of scientists and the AQCC are unclear, lack requirements for transparency and engagement of all stakeholders.** In section 3 (III), the executive director of the health department “shall consult with the University of Colorado School of Public Health” in appointing the board. To our knowledge, this type of specific consultation from an academic institution has never been undertaken for any other public health bill in Colorado. In addition, the Bill appears to take authority out of the hands of

state experts in air quality regulations, air monitoring and toxicology and public health from the Colorado Department of Public Health and Environment. These are the trained professionals who should be making the scientific decisions for implementing an air toxics program in Colorado. Rather, the Bill allows for only one member of the three on the SAB to be from CDPHE, but they do not get to be a “voting member”. Under the proposed bill, the SAB may be comprised of members that have authority to vote but have minimal, if any, understanding of current federal and state established regulations, the regulatory processes, the established risks assessment methodologies used by state and federal agency experts to derive “standards” and evaluate public health risks and how those data are used to inform mitigation options. For example, in Section 3 of the proposed bill, the SAB will advise the AQCC on identifying “high-risk air contaminants” (Section 3, (II) and reviewing and revising health-based standards (IV), but there is no requirement for consultation from industry, any public comment process, and any documentation on how the SAB will make those determinations. This proposed process would leave industry and state experts out of the decision making while allowing for the public and the SAB to provide input into standard setting.

In conclusion, our review of the draft HB 22-1244 finds significant scientific deficiencies in both the language and strategy intended to provide adequate public health protection for all Coloradans, including those residing in communities identified as disproportionately impacted. The spirit of the Bill, which is to monitor and assess the potential for health risks to vulnerable communities from air toxic emissions, is very important and should be a public health priority in Colorado. As written, it is unlikely that this Bill will result in science-based, actionable measures to truly prioritize, measure, and reduce, if necessary, the potential community level health risks from air toxics. Rather than making laws with the intent to have “more stringent than any other state or federal standards”, Colorado should pause to develop an air toxics law that will truly protect public health in a manner that is firmly grounded in sound science and requires transparent, rigorous decision-making processes with all stakeholders. Without the aforementioned added detail, it is our concern that the Bill will result in legislation that is scientifically equivocal and unsteady in the face of rigorous criticism and legal challenge, thus, resulting in no measurable change in actual risks to the health of Coloradans, including the vulnerable disproportionately impacted communities.



Tami McMullin, PhD.
Senior Toxicologist, CTEH



Michael Lumpkin, PhD., DABT
Senior Toxicologist, CTEH

**I wish to express my strong SUPPORT
for HB22-1244 HEALTH-BASED REGULATION OF TOXIC AIR EMISSIONS.**

Colorado needs a state-level Air Toxics Program to meaningfully reduce toxic pollution and protect community health.

While some steps were taken to increase monitoring and require public notification when toxics reach unsafe levels, ***Colorado lacks a program to address the health risks from hazardous air pollution.*** As a result, toxic emission limits in facility permits are set without considering the health impacts to neighboring communities!

I live in Longmont, which is measurably proven to be subjected to air toxins produced east of us in Weld County. Since moving here in 1995 I have developed adult-onset asthma. While I cannot prove a direct causal relationship to the toxins coming from Weld Co., the observable correlation is solid. I do not experience breathing problems when I travel outside Longmont!

To manage this asthmatic condition, I have had to resort to 2 types of inhalers, pills, and monitoring by doctors (including annual tests). These medications are very expensive! Also, I have had to choose more costly Medigap programs because not all of them cover asthma drugs. In addition, the physical strain of constant coughing has created other physical problems in my lungs, vocal cords and abdominal muscles.

At times I have considered moving to another state, as staying here seems to be damaging my health!

Here is why Colorado needs our own state-level Air Toxics Program:

- Permitting needs to prioritize health-based assurances that the facility can manage toxic emissions and will be held accountable to do so.
- Though the Clean Air Act promised action to address health risks from exposure, the federal Environmental Protection Agency has failed to adopt a health-based approach to reduce toxic emissions.
- In the absence of federal action, at least 15 other states (including OR, CA, TX and KY) have adopted state-level strategies to address health risks from toxic exposure.
- Further, Colorado relies on federal toxics reporting databases, which typically lag years behind. Toxic polluters should report emissions data more frequently, and these reports need to be accessible to the public.

The committee should ignore arguments claiming this would cause too much of a financial burden to the industry. Right now, the financial burden is being borne by the impacted communities and individual citizens. This is not right! No industry's profits should depend on shifting the cost of their activities to the public.

I beg the members of the committee to vote YES. Thank you for reading my testimony.

April 5, 2022

Observations on Scientific Shortfalls in the Language and Stated Goals of the State of Colorado Draft House Bill 22-1244 (CONCERNING MEASURES TO INCREASE PUBLIC PROTECTION FROM TOXIC AIR CONTAMINANTS)

CTEH, LLC (CTEH) is a chemical emergency response and public health consulting firm whose toxicologists, epidemiologists, and health scientists routinely collect environmental data and perform worker and public health risk assessments for private and public sector clients across North America. As CTEH expert scientists in Golden, Colorado, we have conducted air monitoring studies and health risk assessments, held numerous technical discussions with state, county, and private sector stakeholders, and conducted health risk communication for both the public and the press related to airborne chemicals in Colorado.

A Bill for an Act was introduced through the State of Colorado House of Representatives (HB 22-1244). HB 22-1244 (the Bill) describes the creation of a new program to regulate a subset of airborne pollutants defined therein as “toxic air contaminants”. The Bill specifically states that, “...*the state should control and reduce the emissions of toxic air contaminants through the identification of toxic air contaminants, the reporting of emissions data, and the setting of protective health-based standards and effective airborne toxic control measures.*” Our intent in this document is to provide a technical review of the Bill and outline our key concerns regarding the scientific shortfalls in the language and stated goals of the Bill.

To provide perspective, the Federal Clean Air Act (CAA) is the primary law that regulates air emissions of hazardous air pollutants (HAPs) (referred to as “toxic air contaminants” in HB 22-1244) from stationary and mobile sources. As part of the CAA, the US EPA conducts human health risk assessments to evaluate the potential for multiple or single sources of HAP emissions to impact public health. In addition, some states have also implemented state-level air toxics programs over the past several years. The apparent intent of this Bill is to establish a state level air toxics program in Colorado that focuses on stationary sources of air emissions.

Overall, the Bill contains several key components that relate to the science of assessing exposures of air toxics and protecting the health of Coloradans. The Bill states that the Air Quality Control Commission (AQCC) will have the authority to make rules that are as least as stringent as the federal CAA and prioritize regulations on facilities located in disproportionately impacted communities. The Bill requires establishment of a scientific advisory board (SAB) that will make recommendations to the AQCC, including creation of a list of “high-risk air toxics” and development of “standards” for these air toxics. In addition, the Bill requires conducting regional long-term air monitoring at unspecified locations across Colorado. Although questions have arisen regarding the need for additional regulations surrounding air quality, the

presence of regulatory overreach, and the economic impact from new air toxics regulations, these questions are beyond the scope of our expertise and will not be discussed in this letter. We are greatly concerned, however, that the current language in this Bill lacks the scientific integrity and best scientific practices that should be used to develop a cohesive, well-structured air toxics program that will actually achieve the stated objectives of the Bill.

We would like to bring attention to significant shortfalls within the Bill regarding application of best scientific practices to be used to regulate air toxics, correct messaging of potential for health risks to the public (any source), and effective implementation of actual protection to public health. To this end, CTEH is sharing the following specific observations. These observations were developed independently of Colorado or national stakeholders and are provided for consideration by all stakeholders to ensure that any newly created air toxics program in Colorado is based on best-available scientific methodology.

1. **There are multiple components of the Bill that do not adhere with federally established human health risk assessment principles or methodology for implementing and conducting a scientifically based air toxics program.** For example, the US EPA has several technical documents that outline the established methodologies on the “fundamental principles of risk-based assessment for air toxics and how to apply those principles in different settings as well as strategies for reducing risk at the local level.”¹ However, the Bill does not require or even reference any established risk assessment methodology, which appears contrary to the state health department policies on how environmental risk assessment is conducted. The Bill, as currently written, lacks scientific rigor regarding how toxicological and air monitoring data will be used to objectively determine the presence or absence of disproportionate health risks in communities.
2. **The process for “standard” setting is scientifically questionable and not transparent.** The Bill will allow the AQCC, with recommendations by the scientific advisory board, to set standards for airborne levels of air toxics, which, to our knowledge, would be the first of its kind in Colorado or in any state air toxics programs. Rather, human health risk assessments for “air toxics”, with the exception of the criteria air pollutants, compare estimated exposures to health-based exposure *guideline* values, not standards. In fact, CDPHE has an existing policy entitled “policy on the use of human health toxicity values in environmental risk assessment and remediation management”, dated August 20, 2004)² outlining the process for selecting health-based exposure values for use in assessing the potential risk of air toxics to public health. The implications of a standard far exceed those of health-based guideline values, such as the regulatory structure that exists for criteria air pollutants under the CAA. In general, states that develop their own health-based exposure values do so in a methodical, systematic approach that considers all the toxicological

¹ USEPA (2004). Air Toxics Risk Assessment Reference Library. Volume 1 Technical Resource Manual

² [Human health toxicity values in environmental risk assessment and remediation](#)

and exposure data and provides opportunity for all stakeholders to give input prior to final determinations. The Bill does not require any of these checks and balances.

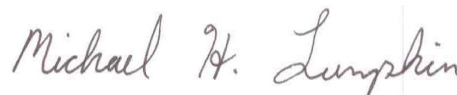
3. **The Bill seems to presume that the mere detection of a substance suggests harm to the public and the presence of a substance in the air equates to a person's exposure.** For example, in Section 2 (9) (II) (b), the Bill summary (page 2), and Section 2 (10) (II) (c), the proposed bill will allow denial of a permit to a stationary source operation if emissions could “contribute” to any increase in the air concentration. In other words, the proposed Bill assumes that the mere detection of a substance suggests that the permit holder's emission will push the tolerable concentration above a toxic level and harm to the public. Additionally, Section 2 (I) (Page 7, line 22) of the proposed bill states that “high-risk toxic air contaminants” are contaminants that “MAY pose a risk of harm to the public health in the state”. Labelling any chemical as “high risk” without first using EPA's established risk assessment methods to determine if there is an actual risk goes against the fundamental principles of human health risk assessment used throughout the world. Chemicals are not inherently a “risk”. The mere detection of a substance, even a HAP under the Clean Air Act, does not equate to likely injury or a health impact and does not mean it is “high-risk”. The hazard of a chemical is the inherent ability of the chemical to cause harm if the exposure is sufficiently high and of sufficient duration. The risk of a chemical to cause harm is the likelihood (i.e., the chance of occurrence) that the harm may occur. Risk depends on multiple factors and can only be determined using EPA risk assessment methodology. This bill is silent on the use of risk assessment methods to determine actual risk. In addition, the Bill language seems to incorrectly imply that reported, estimated, or modeled emission rates at the fence line of a facility could be assumed to be the airborne levels of an air toxic in a person's breathing zone space.
4. **The Bill requires implementation of concepts that are either inconsistent with fundamental toxicological behavior of chemicals and biological principles of risk assessment or do not have established scientific frameworks for implementing at a regulatory level.** Section 2 (b) of the proposed Bill also requires that adverse health effects must include “cumulative and synergistic effects” of all chemicals present. All chemicals do not interact with the body in the same manner and cannot be assumed to cause “cumulative and synergistic effects” if combined all together. This concept is inconsistent with basic biology of chemical action in a body and inconsistent with the risk methods used by EPA and other health agencies around the world. The bill should state that established risk assessment methods should be used to evaluate the potential for adverse health risks from cumulative exposures to air toxics. Because there is not even a consistent agreement in the scientific community regarding the concept of “synergistic effects” and there are no established risk assessment methods that define how this should be assessed, this language in the Bill is highly problematic.
5. **The roles, responsibilities, decisions, and requisite capabilities of the SAB of scientists and the AQCC are unclear, lack requirements for transparency and engagement of all stakeholders.** In section 3 (III), the executive director of the health department “shall consult with the University of Colorado School of Public Health” in appointing the board. To our knowledge, this type of specific consultation from an academic institution has never been undertaken for any other

public health bill in Colorado. In addition, the Bill appears to take authority out of the hands of state experts in air quality regulations, air monitoring and toxicology and public health from the Colorado Department of Public Health and Environment. These are the trained professionals who should be making the scientific decisions for implementing an air toxics program in Colorado. Rather, the Bill allows for only one member of the three on the SAB to be from CDPHE, but they do not get to be a “voting member”. Under the proposed bill, the SAB may be comprised of members that have authority to vote but have minimal, if any, understanding of current federal and state established regulations, the regulatory processes, the established risks assessment methodologies used by state and federal agency experts to derive “standards” and evaluate public health risks and how those data are used to inform mitigation options. For example, in Section 3 of the proposed bill, the SAB will advise the AQCC on identifying “high-risk air contaminants” (Section 3, (II) and reviewing and revising health-based standards (IV), but there is no requirement for consultation from industry, any public comment process, and any documentation on how the SAB will make those determinations. This proposed process would leave industry and state experts out of the decision making while allowing for the public and the SAB to provide input into standard setting.

In conclusion, our review of the draft HB 22-1244 finds significant scientific deficiencies in both the language and strategy intended to provide adequate public health protection for all Coloradans, including those residing in communities identified as disproportionately impacted. The spirit of the Bill, which is to monitor and assess the potential for health risks to vulnerable communities from air toxic emissions, is very important and should be a public health priority in Colorado. As written, it is unlikely that this Bill will result in science-based, actionable measures to truly prioritize, measure, and reduce, if necessary, the potential community level health risks from air toxics. Rather than making laws with the intent to be “more stringent than any other state or federal standards”, Colorado should pause to develop an air toxics law that will truly protect public health in a manner that is firmly grounded in sound science and requires transparent, rigorous decision-making processes with all stakeholders. Without the aforementioned added detail, it is our concern that the Bill will result in legislation that is scientifically equivocal and unsteady in the face of rigorous criticism and legal challenge, thus, resulting in no measurable change in actual risks to the health of Coloradans, including the vulnerable disproportionately impacted communities.



Tami McMullin, PhD.
Senior Toxicologist, CTEH



Michael Lumpkin, PhD., DABT
Senior Toxicologist, CTEH

Good afternoon Mr. Chair and members of the committee, and thank you for the opportunity to speak to you today. My name is Carla Nyquist, representing myself. I'm here to support this bill because Colorado urgently needs to protect residents from the public health issue of hazardous air pollution, and we are falling behind other states due to our inaction.

I share my perspective as a Masters student in environmental public health and graduate researcher in environmental justice in Colorado. I believe every person, regardless of their race, income, or anything else, deserves an opportunity for a healthy life- a prospect currently far from reality.

Though air toxics threaten the health of all Coloradans, this issue doesn't affect all Coloradans equally. The EPA's Toxics Release Inventory has located **28** air toxic producing facilities within 3 miles of North Denver and Commerce City zip code 80216. This represents **almost one third** of the total number of these facilities in the Denver metro region, in **one neighborhood alone**. It may then come as little surprise that North Denver has an environmental cancer risk higher than **90%** of the state.

This is a clear environmental justice issue in this majority Latino neighborhood already experiencing drastic health inequities. Asthma-related emergency room visit rates in the area are **more than double the state average**. Allowing unchecked emissions of air toxics to continue risks creating even larger disparities. And North Denver is just **one** Colorado community facing these injustices.

Extensive public health research has shown that hazardous air pollutants or air toxics cause cancer, brain and nervous system issues, birth defects, fertility issues, worsened asthma and heart disease. Children are at the highest risk from air toxics exposure, leading to

developmental issues, IQ loss, and childhood cancers, just to name a few. Despite their known health risk, over **200** industrial facilities in Colorado release air toxics into our air.

Meanwhile, California, Texas, Kentucky, and other US states have all passed similar or stronger legislation than this bill. California's air toxics program, now in effect for decades, significantly reduced environmental cancer risk in the state- it is now 80% lower than in 1990.

I don't live in an area overburdened with polluting facilities, but I do benefit from the goods they provide, as do most people throughout the state. The gas in my car likely comes from the Suncor refinery, and the concrete and asphalt on our roads likely come from the **several** facilities in this area that produce them. People like me, who benefit from these facilities without paying the price of their air toxics pollution in our neighborhood, must repay our debt to the people who do. This includes acting against threats to their health the same way we would in our own neighborhoods.

If this bill doesn't pass, we consent to continued health inequity in our community. The most vulnerable members of our community will continue to suffer the greatest. That's why I urge the committee to support this bill. Thank you for your time and attention.

**TESTIMONY OF THE AMERICAN CHEMISTRY COUNCIL
CO HB 22-1244 – CONCERNING MEASURES TO INCREASE PUBLIC PROTECTION
FROM TOXIC AIR CONTAMINANTS**

April 6, 2022

ACC offers the following written testimony in opposition to CO HB 22-1244, which creates a new air emissions program using a “one-size-fits-all” approach to identify and regulate state Toxic Air Contaminants (TACs) through the modification and frequent duplication of current state and federal permitting and controls.

Overall, ACC has significant concerns with the bill’s apparent intent to regulate in search of a problem. The bill presumes that a problem exists statewide and that the source of the problem is industrial and manufacturing operations. This presumption and the associated requirements will put in-state businesses at risk and create a disincentive for companies to locate or remain in Colorado by placing requirements on businesses that are overly burdensome, economically harmful, and lacking scientific basis while yielding little to no environmental benefit.

To address these important issues, ACC offers the following general and specific recommendations:

- ACC supports the provision laid out in Section (2)(a) that states that the rules promulgated by the Commission should “to the greatest extent possible” be consistent with the Clean Air Act (CAA) and its implementing regulations. ACC strongly urges the state legislature to consider that any new state-level requirements must not duplicate or delay existing requirements and regulatory processes as administered under the CAA. As a chief example, EPA’s existing regulatory program under CAA Section 112 already does what this bill purports to do but in a more formalized and structured way. Under CAA 112, EPA assesses emissions of designated hazardous air pollutants (HAPs) and sets control requirements based on a comprehensive risk analysis and/or a through technology review focused on an “achievable” or “available” means of emission reduction. The program is focused on regulating HAP emissions, which are comprised of over 180 substances. EPA can also add more substances to the existing HAP list for regulation if it deems necessary, an authority which it is already using through a regulatory effort related 1-bromopropane. HB 1244 lacks that type of structured program to assess these same emissions.
 - As an additional example of duplication, EPA’s Urban Air Toxics program identifies 30 HAPs that present the greatest threat to public health in the largest number of urban areas and address them through a comprehensive strategy, including source-specific and sector-based standards, national, regional, and community-based initiatives, air toxics assessments, and state/local outreach and education campaigns. Currently, the program focuses on 68 area source categories that represent 90% of combined emissions of the 30 urban air toxics. Since the identified sources already report HAP emissions to local Air Pollution Control Districts (APCD), it would be unnecessary for a new state program to require a similar level of reporting for the same covered substances.
- Any newly required emissions inventory reporting should align with existing reporting requirements. Current programs, e.g. EPA’s Toxics Release Inventory

and National Emissions Inventory, contain critical periods of review for QA/QC that must be part of any new process. To avoid duplication, existing emissions inventory reporting should satisfy the requirements of this subsection.

- The level of detail required in this reporting program is significant, in some cases exceeding what is required for federal reporting, resulting in a system that would be incredibly costly and burdensome while requiring the disclosure of critical information that could be central to business operations in the state. For example, the requirements may result in facilities' compelled disclosure of manufacturing process information and activity data such as descriptions of the units of measurement and data acquisition methods. Compliance with these requirements may require costly modification of existing manufacturing systems to collect data accurately and reliably. To avoid unnecessary burdens, the Commission should align its requirements with existing data reporting provisions from current databases.
- ACC also points to the concerns raised by other stakeholders regarding duplication created by the bill's provisions, including the fact that the bill's requirements are duplicative of state-level regulatory and legislative initiatives. For example, the bill ignores recent numerous legislative acts (including SB19-181, HB19-1265, HB20-1189, and HB21-1266) which resulted in significant burdens on both state regulators and the regulated entities, including hundreds of hours of rulemakings and compliance assessments for new requirements on all types of sources. As a more general issue, the bill also seems to ignore the progress made by current programs, e.g. CAA rulemakings, LEV/ZEV, Reg 7, Reg 8, Clean Power Plans, GEMM, and other recent rulemakings.
 - ACC believes that the state's review, identification, and adoption of any new requirements should be consistent with existing state and federal requirements, including CAA regulatory programs.
- Overall, the bill creates opportunities for the Commission to make decisions that should be based on robust scientific criteria but fails to provide an adequately robust scientific basis to guide those decisions. For example, the bill contains criteria for a health-based standards process but does not include epidemiologists, toxicologists, or other expertise from CDPHE that would otherwise be critical to this process. The bill also uses broad and undefined terms like "erring on side of human health," "ample margin of safety," and "cumulative and synergistic effects." The identification of air toxics contaminants based on "risk of harm to human health" should be executed in a manner that promotes best available science and risk-based considerations. The data submitted and considered must be high quality and scientifically credible.
 - Additionally, the bill allows the Air Quality Control Commission (AQCC) to designate TACs with no reference or connection to existing HAPs or urban air toxics. To establish an effective regulatory program, the bill should establish clear criteria to guide this identification and ensure a proper basis in appropriate risk characterizations, environmental benefit, and best available science. Specifically, in its review of the TAC list, the Commission must base any decision to edit the existing list and associated review on a robust risk-basis, adhering to CAA principles emphasizing that these decisions should be made based on substances' actual adverse impact to human health and the environment.
- HB 1244 adds new requirements focused on environmental justice issues, including provisions based on the identification of disproportionately impacted

communities. ACC appreciates and supports the fair treatment and meaningful involvement of all communities in decisions that directly impact them. As such, ACC believes that it is critical to the future program's success to clearly define the term "disproportionately impacted community" for the purposes of the bill, including identifying stationary sources near these areas. The administration's latest screening tools indicate that there are many ways to define a given area, and the term "disproportionately impacted" may not be consistent depending on the types of factors considered. As such, there must be clear criteria to define these types of communities that are based on the best available science and characterized actual risks from environmental exposures.

- Similarly, the bill should set out clear, risk-based, and scientifically robust requirements to determine whether a source may have a disproportionate impact on a community. If so, any new requirements should be addressed during the source's next scheduled permit review and application period. As currently drafted, it is highly likely that the conservative assumptions in the bill compounded with the consideration of cumulative health impacts will result in an overestimation of potential health risk to local communities and overly stringent or unnecessary regulatory requirements. ACC encourages any accounting of risk in the bill's requirements to clearly articulate corresponding principles of best available science and an accurate discussion of source contributions.
- On a similar note, the bill also contains requirements for a new fenceline monitoring program in Section 2(6). Throughout this section, it is critical for the Commission to base its analysis of the fenceline monitoring program on best available science and risk principles. It is also critical the Commission communicate this information, and any associated risks, in a way that appropriately characterizes its sources and contributions in a scientifically accurate and credible way. The Commission should strive to avoid the creation of any unnecessary public confusion through the development of this data and its release to the public.
- Generally, ACC is concerned that the bill will result in unnecessary disincentives for companies to locate or continue to conduct operations in the state. The new permitting requirements apply to a significantly broad category that would include all major and synthetic minor emission sources in the state. The requirements in the bill would create impossible barriers for siting new facilities. The bill would also allow the Air Pollution Control Division to re-open major source permits to impose new requirements or close those operations.
- ACC is significantly concerned about the expansive scope of sources and criteria pollutants that would be covered by the bill as proposed. It would include criteria pollutants as well as air toxics and potentially a full range of sources, potentially covering minor sources and any new and modified source permit actions. This scope would subject any facility operation to review and potential closure under the bill's requirements, which are significantly costly and burdensome (e.g., disclosure of manufacturing process information and activity data like unit descriptions of units of measurement and data acquisition methods). To collect this information accurately and reliably, facilities in the state will be faced with incredibly significant compliance costs and operational burdens.

For the above stated reasons, we must respectfully oppose HB 22-1244. Thank you in advance for considering our views. Should you have any questions, please contact Lindsay Stovall at 916-448-2581.

Aurora Economic Development Council

– Opposition to HB22-1244, Public Protections from Toxic Air Contaminants

Good afternoon, Chair and members of the committee, I want to thank you for the opportunity to submit written testimony in opposition of HB22-1244. I am Jillian Coffey the new Director of Public affairs for Aurora Economic Development Council. The Aurora Economic Development Council is a 501(c)(6) private corporation that has been working in the greater Aurora community for more than 40 years. Grounded in public-private partnerships, we're dedicated to enhancing the economic vitality of the City of Aurora, Adams County, and Arapahoe County in Colorado by recruiting, retaining, and growing primary employers. Our network of change-makers ranges from local municipalities to Fortune 500 companies and to us, our partners are like family.

From conception to site selection to construction and beyond, we're in the community to facilitate projects, provide insight and guidance, and drive a strategy to continue to allow Aurora to compete in the global market. HB-1244 goes against our mission and in its current form will create disincentives for companies to relocate or stay in Colorado. The bill applies to all major and synthetic minor emission sources in the State and creates impossible barriers for siting new facilities. It allows the Air Pollution Control Division to re-open major source permits to impose new requirements or close those operations.

By highlighting all pollutants and not just toxic pollutants and including minor source and new and modified source permit actions this legislation could open up many Aurora Businesses to review and or closure. In our current economy it is important that while we continue to focus on limiting and decreasing all toxic pollutants, we still keep in mind the impact legislation like this can have on small businesses, new businesses and struggling businesses.

As we continue to work to help all businesses bounce back after the past couple years of the pandemic AEDC wants to make sure we take a moderate, calculated approach to avoid any further loss of the businesses that make our community strong.

Like others that are here to testify we believe in clean air for our community and want to work as a partner moving forward to assure that both our businesses can thrive and that we continue to find ways to eliminate toxic air contaminants from our air. In this regard we would like to thank the sponsors and proponents for Amendment 002 that will be presented today. We support this amendment but will remain in an opposition as we think even with this addition there are still too many flaws in this current draft and hope to continue to be a part of this conversation moving forward.

Aurora EDC has helped create thousands of primary jobs in the City of Aurora, Adams County, and Arapahoe County and hope that as we move into the future can continue to act a source of support for both our businesses and the communities, they reside in.

Thank you to the committee for your time and consideration,

Jillian Coffey

720-703-3438

Coffey@AuroraEDC.com

Testimony to the House Energy and Environment Committee

My name is Velma Campbell, speaking in favor of HB22-1244. As a medical doctor specializing in public health, I have seen the impacts of climate, environmental pollution, and other disparities in Pueblo, Colorado, which is my home, and in many other communities. Pueblo is an environmental justice community, with a near-majority Latina/o population, disproportionately impacted by pollution, poverty, health problems, and widely undervalued in economic development, left with polluting industries perceived, mistakenly, as our only options. Our advantages, what remains of our clean air and water have made us a target of polluters rather than a location for the bright future our community deserves.

In the face of multiple polluting industries, we in Pueblo, as in many such communities, look to our state and EPA for justice and environmental/public health protection, and have been disappointed too often.

I thank the sponsors of HB22-1244 for taking steps to correct this situation. Although EPA has identified nearly 200 toxic air pollutants in addition those criteria pollutants for the National Ambient Air Quality Standards, few of them have been assigned health based standards or regulations. With this bill, Colorado can lead the way in protecting our children, families, workers, and elders, as this bill provides for establishment of health based standards for toxic air pollutants, and reducing exposures to them, including requiring a rulemaking to adopt air toxics control measures, which must be designed to cumulatively achieve the level of reductions necessary to meet the health-based standards. These measures could include emissions limitations, technology upgrades, or practice standards, and requiring the state to prevent adverse health impacts in air permits to ensure that they do not contribute to exceedances of air quality standards, prioritizing facilities located in disproportionately impacted communities.

There are other important provisions of HB22-1244 which others are addressing, and which together form the basis of a strong program to make Colorado an even better place to live and work, and to build a future in which all of us can thrive.

Thank you for the opportunity to speak to this issue today.

Velma Campbell, MD, MPH

4/7/2022