

Problem the bill aims to solve: This bill aims to address issues concerning environmental justice and air pollution by:

1. Reducing air pollution burdens in communities that are already overburdened by the cumulative impacts of pollution by empowering local governments to limit new and/or increased emissions of certain air pollutants that affect health in their jurisdiction;
2. Ensuring the Air Pollution Control Division has sufficient authority to address the root cause of air pollution challenges at petroleum refineries through future permitting and enforcement actions by directing the Division to propose regulations to the Air Quality Control Commission specific to petroleum refineries;
3. Implementing the recommendations of the Environmental Justice Action Task Force to develop scientifically robust tools that can be used in the future to address cumulative impacts by directing the Colorado Department of Public Health and Environment to develop Environmental Equity and Cumulative Impact Analyses; and
4. Ensuring quicker responses to community air pollution complaints about oil and gas facilities and improving community engagement about air pollution complaints by establishing a rapid response inspection team within the Air Pollution Control Division.

Section 1: Local Control of Air Pollution in Disproportionately Impacted Communities

Statutory Suggestion: § 25-7-128, C.R.S.

A local government body of elected officials is expressly authorized to request that the Air Quality Control Commission in the Colorado Department of Public Health and Environment limit new and/or increased emissions of certain air pollutants that affect public health (Particulate Matter 2.5 (PM_{2.5}), hydrogen sulfide, benzene, hydrogen cyanide, and nitrogen dioxide) within a certain geographic region within their jurisdiction unless the local government body authorizes the new and/or increased emissions.

Local governments must demonstrate that the geographical region is cumulatively impacted by pollution through a straightforward process to be determined by the commission and that overlapping jurisdictions are in agreement with the decision.

Local governments must also demonstrate that there is a program in place for them to process requests for off-ramps or exemptions from the limitations.

The Air Pollution Control Division within the Colorado Department of Public Health and Environment must propose a rule to the Air Quality Control Commission that will create a process by which local governments can opt into this local control program.

State Override

A source that is proposing new and/or increase in emissions will not have to obtain local government approval if an increase in and/or new emissions are required to comply with a state or federal law.

Off-ramps

The local government can make a determination that the new and/or increased emissions should be allowed by a particular source of emissions for economic or other justified reasons.

Section 2: Petroleum Refinery Regulation

Statutory Suggestion: § 25-7-164, C.R.S.

The Air Pollution Control Division within the Colorado Department of Public Health and Environment must develop a petroleum refinery specific regulation to propose to the Air Quality Control Commission for consideration.

The proposed regulation shall be informed by regulations in other states and explore best management practices for petroleum refineries.

The division should comprehensively examine the unique pollution challenges presented by petroleum refineries, previously identified root causes of compliance issues at Colorado refineries, and community input to develop a proposed regulation that protects public health.

Section 3: Environmental Equity and Cumulative Impact Analyses (EECIA)

Statutory Suggestion: replace § 25-1-133, C.R.S.¹

Direct the Colorado Department of Public Health and Environment to implement the [recommendations of the Environmental Justice Action Task Force](#) by developing at least two Environmental Equity and Cumulative Impact Analyses.

- **Part 1: What is an EECIA?** The term Environmental Equity and Cumulative Impact Analysis (EECIA) refers to a cross-media cumulative impact analysis for a specific area.
 - **Purpose:** To provide information to ensure state agency decisions are informed to avoid perpetuating a history of unfairly distributed environmental harms, and instead address past harms by providing benefits to impacted communities that improve environmental health and livability.
 - **Cumulative Impacts:**
 - EECIA will employ an interdisciplinary approach to analyzing cumulative impacts and environmental health burdens, taking into consideration the natural and built environment, including a regional health impact assessment.
 - The Environmental Justice Action Task Force recommended the scope of cumulative impacts to be considered in an EECIA.

¹ § 25-1-133, C.R.S. created the Environmental Justice Action Task Force. The task force completed its duties on November 14, 2022. The statutory section is scheduled for repeal on September 1, 2024. The Task Force developed recommendations for creating EECIA, and it is therefore appropriate to replace the statutory authorization for the task force with statutory authorization to implement the task force's recommendations.

- **Centralized:** Conducting a single EECIA for an area that can be used by all agencies is a more efficient use of state resources than each agency conducting their own separate analysis.
 - **Implementation:** The Task Force recognized that it would take time to complete EECIA, and that once they are created it will be up to the legislature to prioritize the types of agency decisions, and which agencies should implement the findings of the EECIA in their decisions.
- **Part 2: How will EECIA be created?**
 - **Agency:** As recommended by the Task Force, the Environmental Justice Program within the Colorado Department of Public Health and Environment shall oversee the process of selecting contractor(s) and/or academic institution(s) to create at least two EECIA.
 - **Funding:** In addition to funding committed by the General Assembly, the EJP is authorized to accept outside funding to create part or all of one or more EECIA.
 - **Geographic location:**
 - EECIA shall be geographically limited in scope to cover specific areas that meet the definition of Disproportionately Impacted (DI) Community. Not every place that meets the definition of DI Community will be analyzed in an EECIA.
 - The geographic scope of each EECIA will vary but should include a group of mostly-contiguous census block groups and surrounding areas that holistically make up a community.
 - Local governments (or a partnership of one or more local governments and one or more community organizations) may submit a formal request to the EJP to complete an EECIA for a specific area by a fixed deadline.
 - The request may be a straightforward statement of interest that is not burdensome for a local government to complete.
 - In selecting proposals to move forward, the EJP will:
 - Use Colorado EnviroScreen as a tool to help prioritize areas with disproportionate environmental health burdens.
 - Prioritize areas that are most impacted by environmental contaminants, have potential for wide-spread human exposure to those contaminants, and are home to populations that may be more vulnerable to those exposures.
 - Transparently engage stakeholders in the selection process
 - **Contractor Selection**
 - After selecting locations for EECIA, the Environmental Justice Program will initiate a contractor selection process.
 - The process of selecting contractor(s) and/or academic institution(s) to complete EECIA shall be transparent with opportunities for public input from stakeholders.
 - **Timeline:** Because of their breadth, depth, complexity, and existence at the frontiers of science, it will take time to complete an effective, robust, and accurate EECIA that reflects thorough scientific research and extensive community input.
 - The timeline for developing EECIA should recognize the urgency around the health disparities that communities are currently experiencing while also acknowledging the time needed for appropriate problem formulation and to ensure extensive engagement with communities and other stakeholders.

- As recommended by the Task Force, the legislature should not specify a deadline for completing EECIA and should instead provide general guidance for the EJP to set deadlines and milestones for each individual EECIA.
- **Part 3: What will be in an EECIA?**
 - **Components:** EECIA should generally include most of the components recommended on pages 13 to 15 of the [Final Environmental Justice Action Task Force Recommendations](#).
 - **Framework:**
 - The Environmental Justice Program should establish a general framework and guidelines for what should be included in an EECIA, informed by existing examples of cumulative impact analysis frameworks including but not limited to [EPA's Cumulative Impacts: Recommendations for Office of Research & Development Research](#).
 - In addition to the EPA framework referenced above and other similar EPA guidance documents, a potential framework to be considered is the CERCLA risk assessment framework.
 - **Recommendations:** EECIA should identify key problems and indicators but should not recommend specific solutions to those problems.

Section 4: Rapid Response Inspection Team

Statutory Suggestion: § 25-7-164, C.R.S.

Direct the Air Pollution Control Division within the Colorado Department of Public Health and Environment to hire and develop a rapid response inspection team to respond quickly to air quality complaints, especially in Disproportionately Impacted Communities, and engage with communities during excess emission events that generate complaints.