

New Toxic Air Contaminants Bill (HB22-1244) and Individual State's Responses

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The Colorado General Assembly is hard at work – in person – during these spring months of 2022. One of the bills that the Climate Justice Committee of Together Colorado is following closely is HB22-1244: *Public Protections from Toxic Air Contaminants: concerning measures to increase public protection from Toxic Air Contaminants*. Sponsored by Representatives Chris Kennedy, Serena Gutierrez-Gonzales and Senator Julie Gonzales, HB22-1244 seeks to implement rules about air pollutants that are harmful to human health (and the environment) that are more stringent than those in use with the Federal Environmental Protection Agency (EPA).

“Toxic Air Contaminants” (TACs) are a subset of hazardous air pollutants – so designated because of their adverse health effects. It has become a well-known, if grievous, fact that many of Colorado’s most polluting industries exist in zip code 80216 – “the most toxic zip code in the United States.” But the legislators promoting this bill also heard testimony from people in Pueblo and rural areas in the state, as well as densely populated Front Range urban areas. Children, workers, and communities in general are experiencing a rise in cancers, birth defects, asthma, and other serious health impacts. Indeed, this bill’s proposed efforts to regulate TACs and establish higher health-based air quality standards would offer important protections through Colorado.

Fifty years ago, in 1970, the Environmental Protection Agency (EPA) set forth The Clean Air Act, calling for the EPA along with States to solve multiple air pollution problems through programs based on the latest scientific and technological information.ⁱ Through assessments, monitoring, and regulation, the agency seeks to reduce the number of hazardous air-borne compounds. And they realize that state, local, and tribal governments and entities need to do their own work, with the support and backing of the EPA (a federal agency), to address issues where they exist locally.

At least fifteen other states have stepped forward with laws and strategies that go further than those of the EPA. **Kentucky**, for example, passed a law in 2018 that states quite straightforwardly the need to monitor and reduce air toxins at their source. In **Texas**, the Commission on Environmental Quality (TCEQ) operates at 102 sites throughout the state, with particular attention to urban and industrial areas. In most of these locations, it collects data every six days. The data start in 2003 and are available up until 2019 (as of this writing).ⁱⁱ See tceq.texas.gov if interested in more details of their work. **Oregon’s** Governor Kate Brown began “Cleaner Air Oregon” rulemaking process in April 2016. The existing

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(federal) rules allowed industrial facilities to continue to emit potentially harmful levels of air toxins. Oregon’s Environmental Quality Commission (EQC) adopted Cleaner Air Oregon rules in Nov. 2018 to close the gaps mentioned above.

So, Colorado’s **HB22-1244**ⁱⁱⁱ had a lot of examples from which to draw as it outlines rules for our state. Colorado’s proposed legislation places particular emphasis on *health-based* evidence around the air pollutants, as the “*Public Protections*” in the title indicates. The EPA has failed to adopt a *health-based* approach to reducing toxic emissions. Some of the main aspects of the bill are as follows:

1. The bill creates a new program to regulate a subset of toxic air contaminants (TACs), based on their adverse health effects – rules that will be more stringent than the EPA’s Clean Air Act.
2. Beginning in 2024, the commission created by this bill will review current pollutants and determine whether other TACs need to be included in the list of problematic substances.
3. Each year, beginning in 2024, the Colorado Dept. of Public Health and Environment (CDPHE) will receive from major and minor polluting sources and emissions inventory. The administration of CDPHE will develop a monitoring program to determine the concentration of TACs throughout the state, establishing at least six long-term monitoring sites in various locations, and include the opportunity for public comments and input.
4. Beginning no later than 1 July 2027, the commission will identify TACs that may pose a risk to public health and adopt health-based standards and emissions limits for these substances. This process will include cease-and-desist orders and/or refusal to renew permits to industries and other polluters who are operating with an excess of toxic emissions.
5. HB22-1244 also creates an advisory board of 3 voting and 1 non-voting members, all of whom will need to demonstrate professional activity in scientific research and are qualified to evaluate health effects from exposure to toxic air pollutants. They will have expertise in pathology, oncology, epidemiology, or toxicology.

Numerous organizations throughout the state support the passage of HB22-1244, including Colorado People’s Alliance, Earthjustice, Conservation Colorado, Green Latinos, Western Resource Advocates, Together Colorado, Moms Clean Air Force Colorado Chapter and Colorado Sierra Club, Healthy Air & Water Colorado, Mothers Out Front, Colo. Latino Forum.

Together Colorado recommends contacting your state legislator to urge them to support this important bill. You can find your legislators here: <https://leg.colorado.gov/find-my-legislator>. A letter, a phone call, or a zoom coffee with your legislator can make a big difference.

We all breathe the common air, though those who live down-wind of the most polluting industries suffer the most from lack of regulation and reduction of these air-borne toxins. Please take action to support the wellbeing of all Coloradans.

ⁱ See <https://www.epa.gov/clean-air-act-overview> for more information.

ⁱⁱ See ceq.texas.gov if interested in more details of their work.

ⁱⁱⁱ To read the content of the bill as it currently stands, see <https://leg.colorado.gov/bills/hb22-1244>.