



September 8, 2023

Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, Colorado 80202

To: KC Becker

On behalf of myself and City Council, we are writing regarding the recent \$300,000 compliance order fine issued against Suncor under the Clean Air Act, (Risk Management Program); the toxic chemical release reporting requirements under the Emergency Planning and Community Right-to-Know Act (EPCRA) and reporting requirements under the Comprehensive Environmental Response, Compensation, and Liability Act.

Based on the findings from the September 14 -17, 2020 inspection, Suncor failed to maintain correct process safety information, complete outstanding process hazard analyses, update operating procedures and follow management of change procedures. Additionally, Suncor failed to timely report two releases and failed to report sulfuric acid in their industrial batteries to the local emergency responders.¹

City staff and select Council members did have the opportunity to meet with your staff and appreciated the dialogue. As discussed in the meeting, developing a schedule for staff to meet with EPA on a quarterly basis to discuss community concerns, rule-makings, notice of grant opportunities; compliance issues and subsequent Supplemental Environmental Projects is an important step to strengthen our partnership to improve health and welfare of the Commerce City community and address Commerce City's economic, equity and environmental challenges.

Council understands the financial parameters of select fines. However, in the recent study conducted by EPA of refineries with the worst environmental compliance records in the

¹ ERG (2023) Suncor Consent Decree Reportable Incident Analysis

nation, Suncor is the most recalcitrant in the majority of categories examined in the study.² Specifically, compared to eleven other refineries from around the United States during 2016 to 2020, Suncor had the greatest number of tail gas incidents and second greatest number of acid gas flaring incidents. For hydrocarbon flaring incidents, Suncor was in the middle of the comparison group at the seventh greatest number of incidents out of the twelve refineries.

EPCRA violations are commonplace at the facility repeated almost on a monthly basis. To date in 2023, EPCRA was violated seven times. Additional permit violations range from 16 to 36 occurrences in select months this year. Unfortunately, these violations are not an anomaly. Data from 2018 through 2022, shows that Suncor has been out of compliance at its facilities approximately 11,500 hours. See table in Appendix A.

In a previous correspondence to Colorado Department of Public Health and the Environment (“CDPHE”), dated April 3, 2023 Council respectfully requested that CDPHE personnel:

- Increase the number and frequency of inspections at the facility;
- Apply the maximum fines allowable under statute;
- Apply Compliance Order fines to community projects including but not limited to tree plantings; mycelium restoration projects along Sand Creek, cumulative impact health studies, and additional stack and fence line monitoring;
- Conduct an equity analysis of cumulative impacts within Commerce City and North Denver communities, centered on the one-mile radius of Suncor and beyond;
- Combine Suncor’s two permits into a single permit and reduce permit limits for each contaminant listed above;
- Require Best Available Control Technology for units with repeated violations;
- Coordinate enforcement between federal and state air permitting and environmental justice staff; and
- Require Suncor to undergo a third-party comprehensive audit from a consultant chosen by CDPHE or EPA within the year.

² [Suncor Refinery Consent Decree Reportable Incident Analysis \(pdf\)](#)

Given EPA's authority to oversee CDPHE's operations, Commerce City reiterates its request that EPA personnel discuss these recommendations with CDPHE. Alternatively, if funding is available for other actions, such as a cumulative health impact study, restoration projects and tree plantings, that Commerce City be awarded financial awards to conduct those projects. In the meantime community members have requested reverse osmosis water filters and air filters for their homes to lessen the impact of cumulative exposures. Water testing has been requested as well.

Commerce City has worked for over a year on a monthly basis with the local governmental coalition to develop a fair rule-making under the GEMMS 2 regulations to address the cumulative impacts and repeated violations from Suncor. It is clear from an analysis of criteria pollutant and HAP levels of the surrounding counties and the Environmental Justice screening that community members are being exposed to GHG and multiple pollutants, Suncor being responsible for almost 40% of GEMMS 2 GHG emissions.³ See Table 2 in Appendix A.

Cultivando's (i.e. local non-profit) research about the intensity of exposures indicated that although over a three or twelve hour period Suncor may technically not exceed standards per current regulation, repeated spikes of the above mentioned toxins is unreasonable and should be addressed.⁴ Related to these Emergency Planning and Community Right to Know Act incidents, community members have requested that an improved notification process be implemented. In 2022, Suncor violated EPCRA ten times. Given the situation, community members question the notifications from Suncor and requested a more timely and descriptive notification from Colorado Division of Homeland Security & Emergency Management Office. There have been incidences that Suncor releases a notification on Friday and the State's notice isn't issued until the following Monday. In both cases, the information is generic and the community has requested health impact information be included in these notifications.

³ See APCD PHS, at 20-21. The Division's proposed facility baseline emissions for Suncor is 951,858 MT CO₂e, which represents 37.86 percent of the GEMM 2 facilities' cumulative baseline emissions of 2,514,352 MT CO₂e.

⁴ [1.Cultivando Press Briefing Mar 15, 2023.pptx](#)

In addition to compliance strategies, EPA, AQCC and CDPHE has the ability in September under the GEMMS Rule-making to rectify historical, current and future exposures by requiring on-site near term reductions at the Suncor facility. Additional requirements could include:

- Upgrades at the fluid catalytic cracking units, given the GHG emissions emitters at those units;
- Conversion of refineries to partial or full biofuel feedstock's;
- Conversion of the jet fuel product to a more sustainable end product;
- Electrification of low and medium temperature heat-intensive units.
- Use of hydrogen as fuel for high-temperature applications.
- Reduction of leaks; and
- Minimizing flaring emissions by diversion to gas system in conjunction with storage.

We look forward to working with you to resolve these issues. If you need additional information or have comments, please contact Dr. Rosemarie Russo at rrusso@c3gov.com. Thank you for your consideration.

Respectfully submitted,

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Appendix A

Table 1: Non Compliance by Pollutant and Plants

Pollutant	Plants 1 & 3	Plant 2	Totals
Hydrogen Sulfide (H2S)	2868	810	3678
Sulfur Dioxide (SO2)	4510	655	5165
Carbon Monoxide	1308	394	1702
Nitrogen Oxides (NO2)*	284	0	284
Opacity	546	126	672
* 2022 NO2 data wasn't available	9516	1985	11,501

Table 2. Total Annual Criteria Air Pollutants for Adams, Arapahoe, and Denver Counties.

Criteria Air Pollutant	Adams (Annual Tons)	Arapahoe (Annual Tons)	Denver (Annual Tons)
Carbon Monoxide (CO)	2,763	938	528
PM 10	773	557	209
PM 2.5	453	506	125
Nitrogen Oxides (NO _x)	3,367	895	750
Volatile Organic Compounds (VOCs)	3,719	2,059	897
Sulfur Dioxide (SO ₂)	462	32	99
Total	11,537	4,987	2,608