



## Rules...Rules...Rules...

### *Various Agencies Race to Administer Rulemakings Required from Previous Session's Fallout*

In recent years, very consequential policy making has moved from the Capitol to the Governor's Executive Agency board rooms. The sheer number of rules shifting Colorado's policy and industry landscape over the last 3 years has been profound and vast. NCLA has assumed leadership roles in the myriad of rulemakings to ensure our voice is heard and the economic and direct impacts of rules on business are fully considered throughout the process. We are having an impact.

During the session of 2021, several bills became law that passed the baton to the Air Quality Control Commission, the Transportation Commission, the Colorado Oil and Gas Commission, and the Public Utilities Commission. Additionally, several Enterprise Boards are now in full swing to implement legislation from the 2021 session each of which drives their own rules that translate into real impacts on Coloradans.

Unfortunately, the rulemaking process for one agency might look dramatically different to another agency. For instance, the rulemaking process adhered to by the Air Quality Control Commission (AQCC) requires establishing party status, prehearing statements, formal testimony, and opportunities for rebuttal to other party comments. The Transportation Commission, on the otherhand, undertook a less formal process during its most recent rulemaking conducting nine listening sessions across the state.

Rule making is happening continually, making it difficult for business leaders to keep up with the developments. We are tracking current rulemaking and regulatory schedules [here](#). Every rulemaking has opportunities for public comment and input. If you have an interest in sharing your perspective and becoming involved, please contact us.

Below is an in-depth overview of the various agencies in which the NCLA is engaged as well as the issues that have kept us busy over the course of the last year:

## [Air Quality Control Commission \(AQCC\)](#)

The AQCC is appointed by the Governor and authorized by the Colorado General Assembly to oversee Colorado's air quality program according to the Colorado Air Pollution Prevention and Control Act. The purpose of the Commission is to adopt a cost-effective and efficient air quality management program that promotes clean and healthy air for Colorado's citizens, protects Colorado's natural resources, and promotes statewide greenhouse gas pollution abatement. Many of the rulemakings over the past year have focused on reducing emissions of greenhouse gasses in an effort to meet the ambitious goals set by House Bill 19-1291 and, more recently, House Bill 21-1266.

Randal Ahrens Broomfield Term expires: 01/31/23	Jana Milford, Ph.D., J.D. Boulder Term expires: 01/31/22
Gerald Arnold Englewood Term expires: 01/31/23 <i>Vice Chair</i>	Martha Rudolph Denver Term expires: 01/31/24
Tony Gerber, MD, Ph.D. Denver Term expires: 01/31/24 <i>Chair</i>	Curtis Rueter Westminster Term expires: 01/31/24
Elise Jones Boulder Term expires: 01/31/22	

In 2021, the NCLA led the Colorado business community in capturing the defeat of the Employer Transportation Reduction Program (E-TRiP). Upon significant business resistance and strong argument against the mandatory program to change employee driving behavior, the Governor interceded and pulled the plug on the AQCC rulemaking of the E-TRiP program.

Additional rulemakings during 2021 included:

- Establishing deadlines by that coal-fired power plants in Colorado must cease operation.
- Tightening emission standards for light-duty vehicles to reduce ozone.
- Phasing out the manufacture and use of hydrofluorocarbons.
- Engagement of disproportionately impacted communities (DICs) to establish a climate equity framework for stakeholder engagement.

Going forward, the AQCC will focus on the following:

- Additional oil and gas measures to reduce VOC and methane emissions from the sector, including from upstream and midstream sources;
- Establishing GHG regulation and policy as directed by HB 19-1261 and HB 21-1266, including stakeholder outreach regarding the most effective ways to meet state goals and collaboration with other commissions and state agencies to reduce GHG emissions
- Further engaging with communities that are disproportionately impacted by air pollution and climate change.

## [Transportation Commission \(TC\)](#)

The TC is comprised of 11 commissioners who represent specific districts across the state. Each commissioner is appointed by the Governor, confirmed by the senate, and serves a four-year term.

On the heels of the passage of SB 21-260, the broad transportation funding and spending measure that included environmental provisions and requirements that the NCLA opposed, the TC commenced the process to adopt rules to establish a greenhouse gas (GHG) reduction planning standard to reduce emissions from the transportation sector to improve air quality and reduce smog. The NCLA, again, led a business coalition in opposition to the rule set as the consequence to



addressing congestion and capacity improvements was untenable. Rules were adopted in December but the rule set changed significantly in response to opposition conveyed by NCLA-led coalition in verbal and written form.

The Fact Sheet, published by CDOT staff, about these rules can be found [here](#).

### [Colorado Oil and Gas Commission](#) (COGCC)

The COGCC is comprised of seven members, also appointed by the Governor, includes one representative from the following sectors: O/G industry, planning and land use, environmental protection, professional with expertise for sound, balanced decisions, one experienced public health member, the Executive Directors of the Department of Natural Resources and the Department of Public Health & Environment.

COGCC was the first of the executive agencies under the Polis Administration to undertake comprehensive rule making that has had significant consequences to northern Colorado and our critical oil and gas industry sector. Currently underway, the COGCC is considering the Financial Assurance Rulemaking, one of the last rules stemming from the onerous Senate Bill 19-181. The rulemaking fulfills the Commission's statutory obligation to require every operator to provide assurance that it is financially capable of fulfilling every obligation imposed by the technical rules adopted in the summer of 2021.

### [Public Utilities Commission](#) (PUC)

The PUC includes only three members appointed by the Governor for four-year terms. Recently the NCLA submitted a [written public comment](#) to the PUC in response to proposed rules that will inhibit the cost offsets for the extension of natural gas lines to housing and commercial developments. The rule presents significant challenges for affordable housing, economic development and has particularly inequitable impacts upon more rural areas of the state that do not enjoy the benefits that are urban areas with existing infrastructure. NCLA argues that the PUC, through the Colorado Energy Plan, consider ALL forms of energy, current and future technologies, and the cost implications to all stakeholders. The final hearing will be held from February 17 – 18.

### [Colorado Energy Office](#) (CEO) –

With their mission is to reduce greenhouse gas emissions and consumer energy costs by advancing clean energy, energy efficiency, and zero-emission vehicles to benefit all Coloradans, the CEO's work centers on state climate goals, the electrification of transportation, utility reductions in GHG emissions and clean energy access for local communities. Over 30 bills passed in the 2021 Colorado legislative session advancing clean buildings, climate action, environmental justice, transportation electrification, renewable energy, energy efficiency, and just transition. These bills advance the implementation of the CEO-led state [Greenhouse Gas Pollution Reduction Roadmap](#), the strategic plan to achieve the statutory goals of 50% GHG pollution reduction in economy-wide emissions below 2005 levels by 2030 and 90% by 2050.

**Enterprises and joint agency initiatives** – SB 21-260 created three new transportation electrification enterprises: the Clean Transit Enterprise housed in CDOT, the Clean Fleet Enterprise housed in CDPHE, and the Community Access Enterprise housed in CEO.

[Clean Transit Enterprise](#) supports public transit electrification planning efforts, facility upgrades, fleet motor vehicle replacement, and construction and development of electric motor vehicle charging and fueling infrastructure. The Board includes six members appointed by the Governor, and executive directors or their designees from CDOT, CDPHE, and the CEO. Appointed board members serve three-year terms.

[Clean Fleet Enterprise](#) is a government-owned business within the CDPHE to collect fee revenue and use the fees to incentivize support and accelerate the adoption of electric motor vehicles in motor vehicle fleets and other specified activities. This enterprise is currently going through a rulemaking to address clean fleet ride fees and retail delivery fees.

[Community Access Enterprise](#) supports electric motor vehicles, equitably invests in transportation infrastructure, and incentivizes the acquisition and use of electric motor vehicles and electric alternatives to motor vehicles. The enterprise is expected to receive approximately \$310 million to support electric vehicle (EV) charging and hydrogen fueling infrastructure and low and moderate-income adoption of EVs and electric bicycles.

[Colorado Clean Truck Strategy](#) - CDOT, CDPHE, and CEO are conducting public meetings to share the Colorado Medium/Heavy Duty Vehicle Study results and discuss Colorado's Clean Truck Strategy. The final strategy will be published in February. The [Fact Sheet](#) notes that medium and heavy-duty vehicles are responsible for 22% of the Transportation sector's GHG pollution.

## **NCLA Tracking Report**

On a bi-weekly basis, the NCLA Board reviews and considers its position on pending legislation. See the [NCLA 2022 Legislative Tracking Report](#) list the measures thus far introduced that the NCLA is monitoring and upon which the NCLA will or has taken a position.