



## Regulators Poised to Further Regulate Air Quality

*NCLA Board Positions Taken on Key Bills*

### More Air Quality Regulation Bills Introduced

The exhaustive [HB22-1244 – Public Protections from Toxic Air Contaminants](#) creates another new program in the Colorado Department of Public Health and Environment (CDPHE) to regulate air toxics in Colorado. “Air Toxics” are defined as “hazardous air pollutants, covered air toxics, and all other air pollutants that the Air Quality Control Commission (AQCC) designates by rule” based on their adverse health effects. The bill creates very broad authority for the AQCC authorizing them to adopt more stringent rules than the corresponding requirements of the federal Clean Air Act. Among other things, the bill requires:

- By January 1, 2024, APCD will establish a monitoring program to determine the concentration of toxic air contaminants in the state's ambient air.
- Annually, owners and operators of major and synthetic minor sources of pollution will submit an annual emissions inventory report that reports the levels of criteria air pollutants and toxic air contaminants that were emitted by the source in the preceding year, beginning January 1, 2023, to December 31, 2023.
- No later than July 1, 2027, the commission will identify by rule toxic air contaminants that may pose a risk of harm to public health in the state (high-risk toxic air contaminants) and adopt health-based standards and emissions limitations (airborne toxic control measures) for high-risk toxic air contaminants.
- On or before July 1, 2032, and at least every five years after that, the commission will review the health-based standards and airborne toxic control measures to determine if the commission should:
  - Identify any additional high-risk toxic air contaminants; and
  - Adjust the existing health-based standards and airborne toxic control measures.

Senator Chris Hansen (D-Denver) and Representative Alex Valdez (D-Denver) introduced [SB22-138. Reduce Greenhouse Gas \(GHG\) Emissions In Colorado](#) late last week. This multi-topic GHG bill tackles a myriad of items, including:

- Requires PERA and private insurance companies to file a "climate risk assessment" report on their investment portfolio submitted to the state legislature annually.
- Adds two mid-point GHG reduction goals of 40% by 2028 and 75% by 2040. Currently, the goals are 25% by 2025, 50% by 2030, and 90% by 2050.
- Addresses lawn mowers and other small, off-road gas-powered engines, prohibit their sale by 2030 in non-attainment areas and establishes a rebate incentive program before 2030.
- Gives the Colorado Oil and Gas Conservation Commission (COGCC) authority over class VI injection wells used for sequestration of GHG, including through the issuance and enforcement of permits.
- Directs the Dept of Ag with CEO and AQCC to study carbon reduction and sequestration opportunities in the ag sector w/ potential for carbon offset programs/credit instruments with the report due Dec 2022.
- Authorizes the Colorado Ag value-add development board to provide financing/grants/loans for ag research on agrivoltaics with consideration of wildlife impacts
- Updates definition of agrivoltaics to list additional agricultural activities on the parcel of land on which solar panel generation facilities may be colocated, including animal husbandry, cover cropping for soil health, and carbon sequestration.
- Amends the statutory definition of solar energy facility used in determining the valuation of public utilities for property tax purposes to include agrivoltaics.

### NCLA Positions on Priority Legislation

During its bi-monthly board meeting on February 17, the NCLA Board took positions on the following measures:

## **Transportation**

[HB22-1138. Reduce Employee Single-occupancy Vehicle Trips](#) – STRONG OPPOSE --As discussed in our last Under the Dome, this measure is a heavy handed “incentive” program to reduce vehicle miles traveled by employees. The measure provides a 50% tax credit employers to provide alternative travel-to-work options. However, to qualify for those tax credits, employers have extensive requirements. Further, employers with 100 or more employees would be required to conduct surveys, report, and additional requirements in addition to prescriptive travel to work options. The bill will have its first stop in the House Finance Committee on February 24.

## **Labor**

[HB22-1152. Prohibit Employer Adverse Action Marijuana Use](#) – STRONG OPPOSE – Prohibits an employer from taking action against an employee engaging in medical marijuana at work during working hours or using retail marijuana off-premises during nonworking hours. The bill will visit the House Business Affairs and Labor Committee on February 24.

[HB22-1216. Uniform Restrictive Employment Agreement Act](#) – OPPOSE - This bill would restrict and significantly limit the use of various types of non-compete and confidentiality agreements for businesses in Colorado. The House Judiciary Committee will hear the bill on February 22.

[SB22-097. Whistleblower Protection Health & Safety](#) – OPPOSE – Far reaching whistleblower protection was given to workers during the pandemic related to health and safety concerns/violations. SB 22-097 expands that protection to ALL health and safety concerns regardless of whether we are in a pandemic. The bill creates a private cause of action for any citizen to have the right to sue an employer if a person took public action complaining about any public safety issue. The bill awaits the Senate Business, Labor, and Technology Committee.

## **Water**

[SB22-126. Prioritize Water Storage Projects South Platte Basin](#)- STRONGLY SUPPORT – A significant issue to Northern Colorado, this bill directs the Water Conservation Board to prioritize projects that improve water storage in the South Platte river basin as a responsive measure to the Nebraska Governor's recent efforts. The bill awaits the Senate Agriculture and Natural Resources Committee and has bipartisan support.

## **Workforce**

[HB22-1155. In-state Tuition For Colorado High School Graduates](#) – SUPPORT- The bill repeals the requirement for higher education institutions to classify a student as an in-state for tuition purposes if the student graduated from a Colorado high school or completed a high school and has resided in Colorado for at least 12 consecutive months. The bill's goal will be to attract more people to allow employees to have immediate in-state tuition for their children.

[HB22-1230. Employment Support And Job Retention Services](#) – SUPPORT - Expands the definition of service provider in the Employment Support and Job Retention Services Program to include faith-based organizations and churches, community centers, neighborhood organizations, food banks, outreach providers, and local entities that provide employment services to community members to obtain federal grant funds. The bill also moves this economic development workforce function to the Department of Labor.

## **Environment/Air Quality**

[SB22-129. Process For Proposed Air Quality Rules](#)- SUPPORT - With this bill, Senator Cooke hopes to require the Air Quality Control Commission to modify various rulemaking requirements. Some of these elements include announcing the classes of persons, including businesses affected by a proposed rule, and economic impact analysis for the rules. The bill is headed to the State, Veterans, and Military Affairs, on February 22.

[HB22-1218. Resource Efficiency Buildings Electric Vehicles](#)- OPPOSE - HB1218 will require new commercial buildings greater than 25,000 square feet and multifamily residences to include electric vehicle charging for at least 10% of the parking spaces. There is also a requirement for EV infrastructure expansion.

## **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.