

EPA Moves To Place Air Quality Restrictions on Region

NCLA Weighs in on Fentanyl, Crime and Business

EPA Shifts Region to "Severe" Non-Attainment Status

The EPA has begun the formal process of moving the Denver Metro/North Front Range Non-Attainment Area to a "Severe" rating from "Serious". When approved, the status will trigger a myriad of costly and more stringent air quality measures and requirements across the region for many years. The measures will work alongside ongoing monitoring to reduce GHG within a 6-year time horizon. Among the measures that are anticipated are:

- The use of reformulated gasoline in the summer months
 - Projected to increase cost of gas by 40 - 50 cents per gallon
- A reduction of the threshold that requires control measures on emissions sources from 50 tons per year to 25 tons per year
 - Will trigger requirement for new state permits for emissions for 473 new emission sources than currently permitted

Any improvements to air quality demonstrated in the next few years as a result of policy and regulatory measures advanced by the Governor's administration and legislators in the last two years will be applied to consideration of a reversal of the severe status at the next 5 year interval but were not factored in EPA's determination to move to a "Severe" status. Such policy and regulatory changes include new limits on emissions from oil and gas operations (SB 19-181), demands and plans for the closure of coal-fired power plants (HB 19-1261), policies and funding to accelerate electric vehicle sales (SB 21-260, others), and new Colorado Department of Transportation rules on reducing emissions when planning major road projects (SB 21-260).

CDPHE successfully secured \$43M in new funding to fund over 100 new staff in anticipation of the new standard and requirements to get through the backlog of 100 permits already in process and work through the 473 more that will be processed.

EPA's formal public comment process will begin in May and NCLA will be an active voice in expressing our concerns about impact of the downgraded status to the region economically and to businesses specifically.

The [formal EPA rule submission](#) and a few news articles provide more context.

- <https://www.cpr.org/2022/04/12/front-range-air-quality-ozone-violations-epa/>
- <https://coloradosun.com/2022/04/13/colorado-air-pollution-ozone-epa-downgrade-higher-budget/>

NCLA Testifies Against Overreaching Air Toxics Measure

[HB 1244](#), regarding “Public Protections From Toxic Air Contaminants”, was heard in the House Energy & Environment committee this week. NCLA is strongly opposed to the air quality bill and testified against the measure alongside the Denver Metro Chamber and Colorado Chamber. The measure provides all-inclusive and blanket authority to CDPHE for regulating “air toxics”, a term that is loosely defined within the bill.

Sandra Hagen Solin, testifying on behalf of the NCLA, noted that the bill is unnecessary and duplicates or fails to account for recent legislation and rule-makings addressing air quality monitoring and pollutant emissions reductions in Colorado. She highlighted in her testimony that :

“HB 1244 ignores recent numerous legislative acts, including SB19-181, HB 19-1261, HB19-1265, HB20-1189, HB21-1266, SB 21-264, which resulted in hundreds of hours of rule makings and new regulations on all types of sources with still more to come. The bill also ignores the progress made by LEV/ZEV rules for the transportation sector, Reg 7, Reg 8 and Reg 22 revisions, Clean Power Plans, utility electric resource plans, the CO GHG Emission Reduction Roadmap, GEMM Phase 1 and 2 rulemakings completed and planned, and other recent rule-making and administrative initiatives, all of which help to reduce ambient concentrations of many air pollutants, including air toxics”

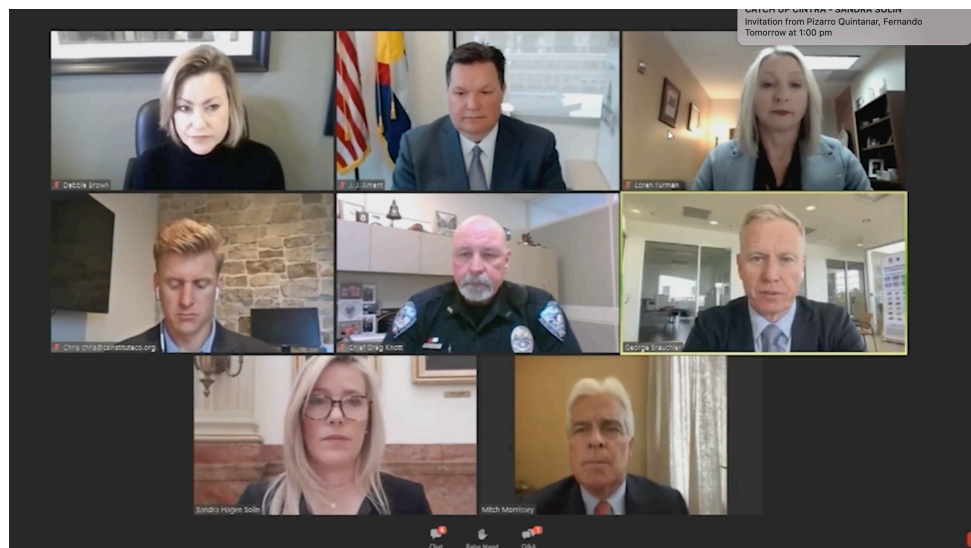
“The bill’s approach and procedures,” she argued, “also lack scientific rigor and established protocols for identifying and regulating air toxics...and is also contrary in this respect to existing CDPHE policies on how environmental risk assessment should be conducted.”

Notably, and to the frustration of bill sponsors, CDPHE’s Chief Strategy Officer of the Air Pollution Control Division, Robyn Wille testified to the department's significant concerns about its ability to carry out the requirements of the bill in the allotted timeframe. Sponsors are scrambling on how they can respond. Additional concern by CDPHE is the [fiscal note](#) starting at \$3.5m and climbing to \$9.5m by 2024-25 while some argue that the costs of the requirements is significantly under estimated.

NCLA will continue to oppose the measure and will work alongside our industry partners to defeat the measure at its next stop in the House Appropriations Committee.

NCLA Joins Denver Metro Chamber, Others Demanding Stronger Consequences for Fentanyl Possession

NCLA Issues Manager [Sandra Hagen Solin](#) moderated a [virtual press conference](#) featuring the JJ Ament of the Denver Metro Chamber of Commerce, Loren Furman of the Colorado Chamber, Debbie Brown of the Colorado Business Roundtable and Common Sense Institute Fellows Former DAs George Brauchler and Mitch Morrissey to highlight the disturbing trend in



the prevalence of the deadly drug, fentanyl and its correlation to the increase in crime across the state and impact upon our economy and business.

The NCLA joined their partners in calling for a zero tolerance policy for the possession of fentanyl by reversing a 2019 policy that defelonized possession up to 4 grams of the drug down to a misdemeanor. 1 gram of fentanyl has the potential to kill hundreds. Correlated increased property crime, dramatically affecting businesses especially retailers, is impacting Colorado quality of life across the state.

The press conference was held the day before the bill's first hearing. Upon introduction, [HB 22-1326](#), re-felonized "possession with intent to distribute" but maintained a misdemeanor for "simple possession" up to 4 grams. The bill was amended in committee to bring the simple possession level down to 1 gram but included a difficult to prove "knowingly" standard. Law enforcement and business community will continue their push during second reading to bring a felony for any amount possessed and remove the "knowingly" standard.

POWR Act to Be Softened

A redo of last session's bill to add significant changes to workplace harassment protections, also known as the POWR Act, was anticipated early in the session but has yet to materialize. Despite the sponsor's strong desire to position a repeat of the measure, the NCLA and our business organization partners, pushed back firmly. The resistance led sponsors to announce this week that they would officially pull away from the POWR act provisions as originally contemplated and proceed with a measure that extends the amount of time a claim may be filed; add domestic workers to those protected by existing laws; and update age discrimination protections. We anticipate the revised bill's introduction shortly.

Collective Bargaining Bill Still Not Introduced

With 23 days remaining in the session, the long anticipated "collective bargaining" bill has not yet been introduced. The NCLA has significant concerns about the increased costs of government and higher education as a result of such a policy leading the Board to take an oppose position on the measure that will dictate prescriptive collective bargaining requirements upon counties and institutions of higher education. Colorado Counties Inc. (CCI) and a coalition of Higher Education institutions continue their pressure upon sponsors to not introduce the measure. For more information, CCI has developed [talking points](#) and a [fact sheet](#).

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.