



April 19, 2021

Dear Senators Winter and Moreno, Representative Jackson, and members of the Senate Transportation and Energy Committee,

I am writing to express the administration's strong opposition to Senate Bill 21-200. The administration shares the sponsors' commitment to achieving our economy-wide GHG emission reduction goals currently outlined in C.R.S. 25-7-102(2)(g), and the sector-specific targets developed as part of the Administration's [Greenhouse Gas Pollution Reduction Roadmap](#) and adopted by the Air Quality Control Commission's (AQCC) [Resolution to Ensure Greenhouse Gas Reductions Goals are Met](#). We also fully support the sponsors' focus on ensuring that our collective efforts to reduce emissions simultaneously minimize environmental burdens and maximize benefits for disproportionately impacted communities, including black and indigenous people, communities of color, and low-income communities. However, as described below, we believe that the approach required in this bill will disrupt the implementation of the Roadmap. This administration has consistently and clearly conveyed opposition to the AQCC establishing economy-wide or a series of sector-wide emissions caps that cover the economy and will not support the directives in SB21-200 that call for such rulemakings.

Background: Senate Bill 21-200 requires the AQCC to adopt final rules, no later than March 1, 2022, that will at a minimum require greenhouse gas (GHG) emissions from all major sectors of the economy are reduced at a linear or more stringent pathway towards sector specific emission limits by 2025 and 2030. These emissions limits, subject to AQCC rulemaking, include the electric power sector, residential and commercial buildings, industrial processes, the transportation sector, oil and gas sector, and all remaining sources of emissions.

The bill establishes an Environmental Justice Ombudsperson in the Colorado Department of Public Health and Environment (CDPHE), to promote environmental justice and serve as an advocate for disproportionately impacted communities. An Environmental Justice Advisory Board is also established to serve in an advisory capacity to the Ombudsperson and work to ensure that no community is disproportionately impacted by environmental burdens. The AQCC is also directed to engage disproportionately impacted communities that may be affected by newly proposed rules, including developing best practices to be reviewed by the AQCC no later than July 1, 2021.

The bill includes a number of requirements and clarifications around the development and submission of Clean Energy Plans and Responsible Energy Plans submitted by electric utilities, including deadlines for submission, evaluation and approval of plans and measures to prevent the double counting of emission reductions. The bill also directs that all electric utilities shall reduce greenhouse gas (GHG) emissions at least ninety-five percent between 2035 and 2040 and by one hundred percent by 2040, relative to 2005 emissions levels.





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The bill also adds greenhouse gas to the definition of “regulated pollutant,” prohibits the AQCC from excluding GHG emission from the requirement to pay annual emissions fees that are based on emissions of regulated pollutants, gives the AQCC rule-making authority to set the GHG annual emission fee, and authorizes the use of these fees for outreach to and engagement of disproportionately impacted communities and paying for the environmental justice ombudsperson and the environmental justice advisory board. Finally, the bill allows the AQCC to consider the social cost of greenhouse gas emissions in relevant rulemaking proceedings. The Air Pollution Control Division (APCD) is directed to utilize the social cost of greenhouse gas emissions in any economic impact analysis of the emission reductions or benefits of a proposal and in any cost-benefit analysis.

Discussion:

Achieving our climate goals requires not only regulation, but market transformation. We have deep concerns about the legislation’s requirement for the AQCC to adopt final rules, no later than March 1, 2022, that require greenhouse gas (GHG) emissions from all major sectors of the economy in a linear or more stringent pathway towards sector specific emission limits by 2025 and 2030. This requirement conflicts with the Roadmap’s ‘whole of government’ sector based approach, and our belief that to transform our economy towards a low carbon future we must advance a broad suite of regulations, rulemakings, investments, and public private partnerships in a manner that is iterative, targeted and builds broad-based support over time. Achieving our climate goals in a manner that is durable and aligned with co-imperatives to ensure affordability, equity, just transition for affected workers, high quality job growth, and reliability of our energy system cannot feasibly be accomplished through a singular rulemaking process at the AQCC, especially for the building and transportation sectors where we need to implement solutions that will create incentives to help millions of Coloradans have more transportation options, drive cleaner cars, and heat their homes and businesses with cleaner technologies. This will involve additional legislation both this session and likely in future sessions.

This bill would also disrupt the near term action plan identified in the Roadmap, with its robust set of actions at the AQCC, the Public Utilities Commission, the legislature, and in multiple agencies. The requirements in this bill would upend the ongoing work on the five AQCC rulemakings laid out in the Roadmap near term action plan, and would make it more difficult to achieve the goals of our Just Transition plan.

There are several items included in SB21-200 that the administration does support, including generating more funding for CDPHE to work on climate-related issues, establishing an environmental justice ombudsperson and advisory board, and facilitating more robust outreach to disproportionately impacted communities. Additional funding could also be utilized to bolster the current efforts at CDPHE and the AQCC to comprehensively track our statewide emissions, analyze progress towards our climate targets, and course correct through future legislative recommendations





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and/or rulemakings in the event planned actions do not achieve the reductions anticipated.

Over the past two years, this administration has partnered with the General Assembly, local governments, the private sector and a wide variety of stakeholders to advance one of the boldest and most comprehensive climate agendas in the nation. The Governor hopes to build on that progress rather than become mired in the rulemaking required under this bill. We secured utility commitments ensuring that over 99% of the state's electricity is on a path to reduce emissions by at least 80% by 2030, became the first state in a decade to adopt Zero Emission Vehicle standards, implemented historic oil and gas reform legislation, passed one of the nation's largest utility investments in transportation electrification, released the nation's first just transition plan, and adopted rules to phase out greenhouse gas super-pollutants (also known as HFCs). We also recently finalized the state's GHG Roadmap, which lays out clear, near term actions the administration will take in 2021 and 2022 to meet our climate targets. These near term actions include significant legislative priorities to expand public investment in electric vehicle infrastructure and incentives, reduce emissions from buildings and establish carbon reduction requirements for gas utilities, as well as five AQCC rulemakings covering emissions from transportation, oil and gas, industry and buildings. There is a lot of work ahead to be done to achieve our mutual goals, and we should focus on working together to achieve them rather than an approach that the administration considers distracting and counterproductive towards achieving our goals.

Administration Position:

This administration has consistently and clearly conveyed opposition to the AQCC establishing economy-wide or a series of sector-wide emissions caps that cover the economy and will not support the directives in SB21-200 that call for such rulemakings. We are open to further engaging on some of the above-mentioned topics, but as drafted we strongly oppose this legislation.

Thank you for your service to our state,

Will Toor, Executive Director

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