

CHAPTER 236

HEALTH AND ENVIRONMENT

HOUSE BILL 23-1210

BY REPRESENTATIVE(S) Dickson, Amabile, Bacon, Bird, Boesenecker, Brown, deGruy Kennedy, Epps, Garcia, Herod, Jodeh, Joseph, Lindsay, Lindstedt, Mabrey, McCormick, Michaelson Jenet, Ortiz, Parenti, Ricks, Sharbini, Titone, Valdez, Vigil, Woodrow, McCluskie;
also SENATOR(S) Hansen and Priola, Bridges, Sullivan.

AN ACT

CONCERNING CARBON MANAGEMENT, AND, IN CONNECTION THEREWITH, ENSURING THAT CARBON MANAGEMENT PROJECTS ARE ELIGIBLE FOR GRANTS UNDER THE INDUSTRIAL AND MANUFACTURING OPERATIONS CLEAN AIR GRANT PROGRAM AND PROVIDING FOR THE CREATION OF A CARBON MANAGEMENT ROADMAP.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 24-38.5-116, **amend** (3)(b)(III) introductory portion; and **add** (3)(b)(VIII) as follows:

24-38.5-116. Industrial and manufacturing operations clean air grant program - creation - eligibility - fund created - gifts, grants, or donations - transfer - legislative declaration - definitions - reporting - repeal. (3) **Grant program.** (b) In administering the grant program, the office shall:

(III) Develop criteria for awarding money under the grant program, which criteria must include CONSIDERING STATEWIDE CARBON MANAGEMENT PRIORITIES INCLUDING COMMUNITY AND HEALTH PROTECTIONS AND REQUIRING PROJECT DATA REPORTING AS DETERMINED IN THE CARBON MANAGEMENT ROADMAP CREATED IN SECTION 24-38.5-122 AND giving priority for voluntary projects located in:

(VIII) (A) ENSURE THAT ALL TYPES OF CARBON MANAGEMENT PROJECTS, WITH THE EXCEPTION OF AGRICULTURAL, FORESTRY, AND ENHANCED OIL RECOVERY PROJECTS, ARE ELIGIBLE FOR MONEY UNDER THE GRANT PROGRAM.

(B) AS USED IN THIS SUBSECTION (3)(b)(VIII), "CARBON MANAGEMENT" HAS THE SAME MEANING AS SET FORTH IN SECTION 24-38.5-122 (1)(a), AND "ENHANCED OIL

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

RECOVERY" HAS THE SAME MEANING AS SET FORTH IN SECTION 24-38.5-122 (1)(b).

SECTION 2. In Colorado Revised Statutes, **add** 24-38.5-122 as follows:

24-38.5-122. Carbon management roadmap - creation - requirements - report - definitions - repeal. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CARBON MANAGEMENT" MEANS ANY OF THE FOLLOWING:

(I) CARBON DIOXIDE REMOVAL, WHICH MEANS THE REMOVAL OF CARBON DIOXIDE FROM THE ATMOSPHERE;

(II) CARBON CAPTURE, WHICH MEANS A PROCESS THAT CAPTURES CARBON DIOXIDE EMISSIONS BEFORE THEY ARE RELEASED INTO THE ATMOSPHERE AND DIVERTS THOSE EMISSIONS FOR USE OR STORAGE;

(III) CARBON SEQUESTRATION OR STORAGE, WHICH MEANS VERIFIABLY STORING CARBON DIOXIDE IN NON-ATMOSPHERIC LOCATIONS IN SUCH A MANNER THAT THE CARBON DIOXIDE WILL NOT ENTER THE ATMOSPHERE FOR AT LEAST ONE HUNDRED YEARS; AND

(IV) CARBON UTILIZATION, WHICH MEANS A PROCESS BY WHICH CAPTURED OR REMOVED CARBON IS USED WITHOUT BEING RELEASED INTO THE ATMOSPHERE.

(b) "ENHANCED OIL RECOVERY" MEANS ALL EXISTING AND POTENTIAL TECHNOLOGY TO RECOVER OIL BEYOND TRADITIONAL PRIMARY METHODS, INCLUDING THE USE OF CARBON DIOXIDE OR OTHER FLUIDS TO INCREASE THE ULTIMATE RECOVERY OF HYDROCARBON.

(c) "MONITORING AND REPORTING" MEANS THE MEASUREMENT AND REPORTING OF CARBON MANAGEMENT USING AN OBJECTIVE, PEER-REVIEWED, AND SCIENTIFICALLY SUPPORTED METHODOLOGY THAT TAKES INTO ACCOUNT BOTH REGIONALLY APPROPRIATE SAMPLING AND DATA COLLECTION METHODS TO QUANTIFY EMISSIONS AND REMOVALS ASSOCIATED WITH THE CARBON MANAGEMENT PROCESS AND THE DURABILITY OF THE CARBON MANAGEMENT PROCESS. "MONITORING AND REPORTING" DOES NOT MEAN USING MODEL-BASED OR STATISTICAL METHODS OF MEASUREMENT AND REPORTING.

(d) "OFFICE" MEANS THE COLORADO ENERGY OFFICE.

(e) "QUALIFIED ORGANIZATION" MEANS AN ORGANIZATION OR ORGANIZATIONS THAT DO NOT HAVE A CLEAR CONFLICT OF INTEREST, HAVE NOT ACTIVELY LOBBIED FOR OR AGAINST CARBON MANAGEMENT IN THE LAST FIVE YEARS, AND THAT HAVE THE FOLLOWING TYPES OF EXPERTISE:

(I) TECHNICAL AND RESEARCH EXPERTISE IN CARBON MANAGEMENT TECHNOLOGIES, INCLUDING BUT NOT LIMITED TO:

(A) AFFORESTATION, REFORESTATION, AND IMPROVED FOREST MANAGEMENT;

(B) INORGANIC AND ORGANIC SOIL CARBON SEQUESTRATION;

(C) BIOCHAR;

(D) BIO ENERGY WITH CARBON CAPTURE AND STORAGE;

(E) DIRECT AIR CAPTURE AND STORAGE;

(F) BIOMASS WITH CARBON REMOVAL AND STORAGE;

(G) ENHANCED WEATHERING;

(H) CARBON MINERALIZATION;

(I) DURABLE GEOLOGICAL CARBON SEQUESTRATION;

(J) VERIFIABLE INDUSTRIAL CARBON CAPTURE PROCESSES; AND

(K) DURABLE PROTEIN-BASED CARBON SEQUESTRATION;

(L) AGRICULTURE PRODUCTION CARBON CAPTURE AND REMOVAL;

(II) ECONOMIC AND MARKET DEVELOPMENT EXPERTISE IN ASSESSING THE MARKET RISKS AND OPPORTUNITIES FOR CARBON MANAGEMENT PRODUCTS AND APPLICATIONS; AND

(III) EXPERTISE IN CARBON AND GREENHOUSE GAS EMISSIONS ACCOUNTING AND VERIFICATION.

(f) "ROADMAP" MEANS THE CARBON MANAGEMENT ROADMAP FOR THE STATE OF COLORADO.

(2)(a) ON OR BEFORE JANUARY 1, 2024, THE OFFICE SHALL, IN COLLABORATION WITH THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT AND THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, CONTRACT WITH A QUALIFIED ORGANIZATION FOR THE DEVELOPMENT OF A CARBON MANAGEMENT ROADMAP FOR THE STATE OF COLORADO.

(b) ON OR BEFORE SEPTEMBER 1, 2024, THE QUALIFIED ORGANIZATION SHALL PRESENT THE ROADMAP TO THE OFFICE, THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT, AND THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT. THE OFFICE SHALL HOLD AT LEAST ONE PUBLIC HEARING TO SOLICIT FEEDBACK ON THE ROADMAP AND INVITE COMMENT ON THE ROADMAP'S ENVIRONMENTAL HEALTH IMPACTS, INCLUDING LIFE CYCLE EMISSIONS ANALYSES OF CARBON MANAGEMENT PROJECTS IDENTIFIED BY THE ROADMAP AND EFFECTS ON DISPROPORTIONATELY IMPACTED COMMUNITIES.

(c) ON OR BEFORE DECEMBER 1, 2024, THE OFFICE SHALL PRESENT THE FEEDBACK IT HAS COLLECTED ON THE ROADMAP TO THE QUALIFIED ORGANIZATION AND MAKE THE FEEDBACK AND THE ROADMAP AVAILABLE TO THE GENERAL ASSEMBLY.

(d) ON OR BEFORE FEBRUARY 28, 2025, THE QUALIFIED ORGANIZATION SHALL PRESENT AN UPDATED VERSION OF THE ROADMAP THAT CONSIDERS THE PUBLIC COMMENTS PROVIDED BY THE OFFICE.

(e) DURING THE 2025 LEGISLATIVE SESSION, THE OFFICE SHALL PRESENT THE ROADMAP TO THE HOUSE OF REPRESENTATIVES ENERGY AND ENVIRONMENT COMMITTEE AND THE SENATE TRANSPORTATION AND ENERGY COMMITTEE OR THEIR SUCCESSOR COMMITTEES.

(3) THE ROADMAP MUST IDENTIFY:

(a) THE CARBON MANAGEMENT, CLIMATE, AND ECONOMIC OPPORTUNITIES AVAILABLE IN COLORADO THAT BEST DRAW ON COLORADO'S NATURAL RESOURCES, INDUSTRY, TALENT, LABOR FORCE, AND ECONOMIC DEVELOPMENT CAPABILITIES. IN IDENTIFYING ECONOMIC OPPORTUNITIES, THE ROADMAP MUST SPECIFICALLY INCLUDE THE FOLLOWING ECONOMIC SECTORS:

(I) CONSTRUCTION;

(II) AGRICULTURE;

(III) FOREST MANAGEMENT;

(IV) MINE RECLAMATION;

(V) INDUSTRIAL MANUFACTURING;

(VI) CEMENT AND CONCRETE;

(VII) FOOD AND BEVERAGE;

(VIII) EXISTING OIL AND GAS INFRASTRUCTURE AND WORKFORCE; AND

(IX) ELECTRICITY GENERATION;

(b) THE NECESSARY INFRASTRUCTURE TO SUPPORT CARBON MANAGEMENT, SUCH AS:

(I) THE BEST RESERVOIRS FOR CARBON DIOXIDE STORAGE, AS MEASURED BY METRICS PROPOSED IN THE ROADMAP;

(II) EXISTING CARBON DIOXIDE PIPELINES AND HOW THOSE PIPELINES CAN BEST BE CONNECTED WITH PIPELINES NEEDED FOR INDUSTRIAL CARBON MANAGEMENT TO REDUCE RISK, INCLUDING RISK TO DISPROPORTIONATELY IMPACTED COMMUNITIES; AND

(III) INFRASTRUCTURE THAT ALLOWS ACCESS TO CLEAN ENERGY RESOURCES, AS THAT TERM IS DEFINED IN SECTION 40-2-125.5 (2)(b), FOR CARBON MANAGEMENT PROJECTS;

(c) (I) POLICIES AND INCENTIVES THAT WOULD:

(A) ATTRACT COMPANIES TO DEVELOP OR DEPLOY CARBON MANAGEMENT IN THE STATE;

(B) ENCOURAGE THE DEVELOPMENT OF NEW CARBON MANAGEMENT TECHNOLOGIES;

(C) SUPPORT THE EXPANSION OF CARBON MANAGEMENT COMPANIES IN THE STATE;

(D) CATALYZE PRIVATE INVESTMENT AND MARKET DEVELOPMENT IN CARBON MANAGEMENT BY APPLYING GAP FUNDING OR OTHER SUPPORT FOR CARBON MANAGEMENT PROJECTS INVOLVING PRIVATE SECTOR PROVIDERS AND BUYERS, BY IDENTIFYING RELEVANT PUBLIC, PRIVATE, AND NONPROFIT PROJECT FUNDING SOURCES, AND BY PRIORITIZING FUNDING FOR PROJECTS THAT ARE INELIGIBLE FOR FUNDING UNDER THE INDUSTRIAL AND MANUFACTURING OPERATIONS CLEAN AIR GRANT PROGRAM CREATED IN SECTION 24-38.5-116 (3)(a);

(E) REDUCE RISKS TO HEALTH, OPPORTUNITY, AND QUALITY OF LIFE, INCLUDING A FOCUS ON REDUCING RISK IN DISPROPORTIONATELY IMPACTED COMMUNITIES; AND

(F) FOSTER CARBON MANAGEMENT PROJECTS IN THE STATE.

(II) THE ROADMAP MUST RECOMMEND THE STATE AGENCY BEST POSITIONED TO CARRY OUT CARBON MANAGEMENT POLICIES, INCLUDING CARBON ACCOUNTING;

(d) THE STATE AGENCY BEST POSITIONED TO CARRY OUT A POTENTIAL POLICY REGIME OF CARBON MANAGEMENT, INCLUDING CARBON ACCOUNTING;

(e) RECOMMENDATIONS ON POTENTIAL PUBLIC INTEREST POLICIES INCLUDING:

(I) EXCLUDING OIL AND GAS EXTRACTION APPLICATIONS, SUCH AS ENHANCED OIL RECOVERY, FROM CARBON MANAGEMENT FUNDING;

(II) REQUIRING FAIR LABOR PRACTICES SUCH AS:

(A) PREVAILING WAGES WITH COMMENSURATE BENEFITS;

(B) APPRENTICESHIP UTILIZATION REQUIREMENTS;

(C) PROJECT LABOR AGREEMENTS;

(D) LOCAL HIRE AND TARGETED HIRE PROVISIONS; AND

(E) ORGANIZING RIGHTS; AND

(III) APPLYING STRICT ENVIRONMENTAL JUSTICE STANDARDS SO THAT:

(A) CARBON MANAGEMENT METHODS AND PROJECTS THAT POSE RISKS TO HEALTH, OPPORTUNITY, AND QUALITY OF LIFE IN COMMUNITIES, INCLUDING DISPROPORTIONATELY IMPACTED COMMUNITIES, ARE EXCLUDED FROM CARBON MANAGEMENT FUNDING;

(B) CARBON MANAGEMENT FUNDING IS NOT USED TO FUND COMPLIANCE MECHANISMS INVOLVING EXISTING FACILITIES OR FACILITIES THAT EITHER ARE NOT IN COMPLIANCE WITH AIR PERMITS OR HAVE A HISTORY OF PERMIT VIOLATIONS THAT IMPOSE HARMS AND RISKS ON COMMUNITIES WITHIN THE PREVIOUS FIVE YEARS;

(C) CARBON MANAGEMENT FUNDING IS NOT USED TO SUPPORT FOSSIL FUEL PROJECTS WITHOUT VERIFIED EMISSIONS AND POLLUTION REDUCTION POTENTIAL, FOSSIL FUEL PROJECTS WHICH ALLOW FOR INCREASED LIFETIME EMISSIONS, OR FOSSIL FUEL PROJECTS THAT INCREASE THE LIFETIME NEGATIVE ENVIRONMENTAL IMPACT OF A GIVEN FACILITY; AND

(D) REPRESENTATIVES OF ENVIRONMENTAL JUSTICE ADVOCACY GROUPS, LABOR ORGANIZATIONS, JUST TRANSITION GROUPS, PUBLIC HEALTH AGENCIES, AND TRIBAL COMMUNITIES ARE INVOLVED IN THE CREATION OF THE ROADMAP;

(f) CRITERIA FOR CARBON MANAGEMENT PROJECT SELECTION INCLUDING:

(I) PRIORITIZING:

(A) CERTAIN ECONOMIC SECTORS SUCH AS AGRICULTURE, CONSTRUCTION, MATERIALS MANUFACTURING, FOREST MANAGEMENT, FOOD AND BEVERAGE, RECLAIMED MINING, ENERGY, AND HEAVY INDUSTRY;

(B) SOCIAL AND ECONOMIC BENEFITS INCLUDING THE PROTECTION OF LABOR RIGHTS AND HIGH-QUALITY JOBS; AND

(C) GEOGRAPHIC DISTRIBUTION BY PROVIDING TECHNOLOGICAL SOLUTIONS AND SECTOR DIVERSIFICATION WITH THE EXPLICIT GOAL OF ENSURING THAT PROJECTS ARE DISTRIBUTED THROUGHOUT THE STATE;

(II) ASSESSING THE VERIFIABLE COUNTERFACTUAL REDUCTION IN ATMOSPHERIC CARBON OVER A PROJECT'S LIFE CYCLE AND PRIORITIZING PROJECTS THAT ARE PROJECTED TO HAVE THE GREATEST AND MOST DURABLE IMPACT, EITHER THROUGH THE REDUCTION OF GREENHOUSE GAS EMISSIONS TO MEET THE STATE'S GREENHOUSE GAS EMISSION REDUCTION GOALS, ATMOSPHERIC REMOVAL, OR RELIABLE CARBON STORAGE; AND

(III) ENSURING THAT PROJECT GOALS CAN BE VALIDATED BY RIGOROUS MONITORING AND REPORTING METHODS IN LINE WITH EMERGING INTERNATIONAL BEST PRACTICES AND STANDARDS; AND

(g) RECOMMENDATIONS, INCLUDING LEGISLATIVE RECOMMENDATIONS FOR THE GENERAL ASSEMBLY AND ADMINISTRATIVE RECOMMENDATIONS FOR STATE AGENCIES, ON ISSUES RELATED TO CARBON MANAGEMENT.

(4) IN CREATING THE ROADMAP, IN ADDITION TO SATISFYING THE REQUIREMENTS OF SUBSECTION (3) OF THIS SECTION, THE QUALIFIED ORGANIZATION SHALL GATHER:

(a) WHERE PRACTICABLE, PROJECT DATA ON THE AMOUNT OF CARBON, CARBON DIOXIDE, AND CO-POLLUTANTS CAPTURED, EMITTED, REMOVED, STORED, OR UTILIZED FOR THE PURPOSE OF:

(I) HELPING TO ASSESS THE MARKET POTENTIAL FOR PERFORMANCE-BASED FINANCIAL INCENTIVES IN THE FUTURE;

(II) ELEVATING THE CARBON MANAGEMENT POTENTIAL OF VARIOUS PROPOSALS AND TECHNOLOGIES; AND

(III) PROVIDING INPUT ON CARBON MANAGEMENT FOR THE GREENHOUSE GAS POLLUTION REDUCTION ROADMAP; AND

(b) OPERATIONAL DATA INCLUDING:

(I) QUANTITIES AND TYPES OF MATERIALS NEEDED FOR CARBON MANAGEMENT FACILITY CONSTRUCTION AND OPERATION;

(II) THE NUMBER AND TYPES OF JOBS THAT WILL BE CREATED RELATED TO CARBON MANAGEMENT AS WELL AS THE TIMELINE OF JOB CREATION;

(III) THE OPERATIONAL REQUIREMENTS FOR CARBON MANAGEMENT FACILITIES INCLUDING ENERGY INFRASTRUCTURE, PROJECTED ENERGY NEEDS, CONSTRUCTION COSTS, AND STAFFING; AND

(IV) THE OPPORTUNITIES FOR SKILL MATCHING AMONG EXISTING PROFESSIONS.

(5) IN CREATING THE ROADMAP, THE QUALIFIED ORGANIZATION MAY REFERENCE OR RELY ON WORK DONE BY STATE AGENCIES OR LOCAL GOVERNMENTS. THE OFFICE SHALL WORK WITH OTHER STATE AGENCIES AS APPROPRIATE IN ORDER TO ENSURE THAT THE ROADMAP FUNCTIONS IN CONCERT WITH OTHER STATE TARGETS, TEAMS, AND DOCUMENTS, INCLUDING THE GREENHOUSE GAS POLLUTION REDUCTION ROADMAP, GREENHOUSE GAS ACCOUNTING MEASURES, AND THE COLORADO CARBON CAPTURE AND GEOLOGICAL SEQUESTRATION TASK FORCE REPORT.

(6) (a) IN SOLICITING FEEDBACK ON THE ROADMAP PURSUANT TO SUBSECTION (2)(b) OF THIS SECTION, THE OFFICE SHALL CONDUCT MEETINGS WITH INTERESTED PERSONS THROUGHOUT THE STATE, INCLUDING:

(I) LABOR ORGANIZATIONS;

(II) ENVIRONMENTAL ADVOCACY GROUPS;

(III) INDUSTRIES OR PROFESSIONS RELATED TO CARBON MANAGEMENT;

(IV) STATEWIDE ASSOCIATIONS OF MECHANICAL, ELECTRICAL, AND PLUMBING CONTRACTORS;

(V) TRIBAL AND LOCAL GOVERNMENTS; AND

(VI) COMMUNITY LEADERS, INCLUDING COMMUNITY LEADERS FROM DISPROPORTIONATELY IMPACTED COMMUNITIES.

(b) THE OFFICE SHALL ALSO SOLICIT FEEDBACK FROM:

(I) THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT;

(II) THE DEPARTMENT OF TRANSPORTATION;

(III) THE DEPARTMENT OF NATURAL RESOURCES;

(IV) THE DEPARTMENT OF AGRICULTURE;

(V) THE STATE ARCHITECT;

(VI) THE GOVERNOR'S OFFICE;

(VII) THE ENVIRONMENTAL JUSTICE OMBUDSPERSON IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT APPOINTED PURSUANT TO SECTION 25-1-134(1) OR THE OMBUDSPERSON'S DESIGNEE;

(VIII) THE DIRECTOR OF THE JUST TRANSITION OFFICE CREATED IN SECTION 8-83-503 OR THE DIRECTOR'S DESIGNEE; AND

(IX) THE AIR POLLUTION AND CONTROL DIVISION.

(7) DURING THE 2026 AND 2027 LEGISLATIVE SESSIONS, THE OFFICE SHALL PRESENT TO THE HOUSE OF REPRESENTATIVES ENERGY AND ENVIRONMENT COMMITTEE AND THE SENATE TRANSPORTATION AND ENERGY COMMITTEE OR THEIR SUCCESSOR COMMITTEES:

(a) THE PROGRESS MADE IN IMPLEMENTING THE GOALS IDENTIFIED IN THE ROADMAP; AND

(b) ANY RECOMMENDATIONS, INCLUDING LEGISLATIVE RECOMMENDATIONS FOR THE GENERAL ASSEMBLY AND ADMINISTRATIVE RECOMMENDATIONS FOR STATE AGENCIES, NECESSARY TO BETTER IMPLEMENT THE GOALS IDENTIFIED IN THE ROADMAP.

(8) THIS SECTION AND THE ROADMAP CREATED PURSUANT TO THIS SECTION DO NOT PREVENT PUBLIC AND PRIVATE ACTORS FROM ADVANCING THEIR OWN PROJECTS UNDER EXISTING RULES AND REGULATIONS.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 22, 2023