



CONNECTING WATER TO LIFE

To: Upper Clear Creek Watershed Association
From: Jessica DiToro, PE, LRE Water
Date: July 31, 2023
Subject: UCCWA August Regulatory Update

Water Quality Control Commission (WQCC)

1. Recently Completed WQCC Activities

- **June 12, 2023**
 - **Clean Water Policy #8: 2027 10-Year Water Quality Roadmap – Informational Briefing**
 - **River Watch – Informational Briefing**
- **July 10, 2023**
 - No meeting

2. Upcoming WQCC Activities

- **August 14, 2023 (Tentatively Proposed Hybrid)**
 - **Regulation #11 Colorado Primary Drinking Water Regulations – [RMH](#)**
 - **Regulation #11 Colorado Primary Drinking Water Regulations: Lead and Copper Rule Revisions – [RMH](#)**
 - **Regulation #82 401 Certification Regulation – [Routine Review Information Hearing](#)**
 - **Cherry Creek Basin Watershed Authority Annual Report – [Informational Briefing](#)**
 - **Chatfield Watershed Authority Annual Report – [Informational Briefing](#)**
 - **Bear Creek Watershed Authority Annual Report – [Informational Briefing](#)**
- **September 11, 2023**
 - No meeting – WQCC Annual Planning Work Session
- **October 10, 2023 (Tentative Proposed Virtual)**
 - **Regulation #32 Classifications and Numeric Standards for Arkansas River Basin – [RMH](#)**
 - 1. Discharger Specific Variances for La Junta, Las Animas, Pueblo
 - **Regulation #36 Classifications and Numeric Standards for Rio Grande Basin – RMH**
 - **FY 2024 Intended Use Plans – Administrative Action Hearing**
 - **Integrated Report**
 - **Regulation #61 Colorado Discharge Permit System Regulations – Routine Review Information Hearing**
 - **Regulation #101 Water Quality Civil Penalty Inflation Adjustment Regulation – [Written Comments Only RMH](#)**
 - **Colorado Healthy Rivers Fund – Informational Briefing**
- **November 13, 2023 (Tentatively Proposed Hybrid)**
 - **Regulation #86 Graywater Control Regulation – [RMH](#)**

- **Regulations #32 Classifications and Numeric Standards for Arkansas River Basin** – Issues Formulation Hearing
- **Regulations #36: Classifications and Numeric Standards for Rio Grande Basin** – Issues Formulation Hearing
- **Regulation #33: Classifications and Numeric standards for Upper Colorado River Basin and North Platte River (Planning Region 12)** – Issues Formulation Hearing
- **Regulation #37: Classifications and Numeric standards for Lower Colorado River Basin** – Issues Formulation Hearing
- **Regulation #31: The Basic Standards and Methodologies for Surface Water** – Issues Scoping Hearing
- **Regulation #38: Classifications and Numeric standards for South Platte River Basin, Laramie River Basin, Republican River Basin, Smoky Hill River Basin** – Issues Scoping Hearing
- **Public Comment Informational Hearing and Town Hall** – Informational Briefing
- **December 4, 2023 (Tentatively Proposed Hybrid, in Grand Junction)**
 - **Total Maximum Daily Load Assessment for Colorado River tributaries in the Grand Valley (COLCLC13b)** – [Adjudicatory Hearing](#)
 - **Regulation #39 Colorado River Salinity Standards** – Triennial Review Information Hearing
 - **Colorado River Watch** – Informational Briefing
- **January 8, 2024**
 - No meeting
- **February 12, 2024 (Tentatively Proposed Virtual)**
 - **SB89-181 Briefings** – More information to come.
 - **Control Regulation #72 Cherry Creek Reservoir Control Regulation** – RMH

3. Environmental Justice Outreach Meetings

- For more information please click [here](#).
 - November 13, 2023 5:00PM-6:30PM – Hybrid

Water Quality Control Division (WQCD)

- 10-Year Water Quality Roadmap Meeting was held on June 7, 2023.
 - Meeting information and materials can be found [here](#)
 - The WQCD gave an update on TMDL prioritization and an update on the status of the Roadmap and the plan for the remaining 4.5 years.
 - The next [10-Year Water Quality Roadmap Meeting](#) will be held on August 17, 2023.
- TMDL Informational Webinar was held on June 29, 2023.

➤ The WQCD has requested data for the 2025 Regulation #93 RMH (i.e., The 303(d) List). The 2025 RMH will focus on stream segments found in Regulation 38, which includes Clear Creek segments. Data is due to the WQCD by September 1, 2023 and

needs to be submitted using the WQCD's data template. Please find more information [here](#).

Division of Reclamation, Mining, and Safety (DRMS)

1. Recently Completed DRMS Mined Land Reclamation Board (MLRB) Activities

- **June 21-22, 2023:**
 - [June Packet](#)
 - **Consent Agenda:** Gilpin County – Section 11, T3S, R73W, 6th P.M, Illegal, Gold, Gunnell Mine. Modification of the corrective action required from the March 18, 2022 Board Order for violation number MV-2022-004. Brock Bowles
- **July 19-20, 2023:**
 - [July Packet](#)
 - No items identified from July 2023 meeting to report.

2. Upcoming DRMS MLRB Meeting:

- **August 16-17, 2023**

3. Additional information:

- [Meeting Schedule](#)
- [“Current Meeting” Packet](#)
- [Meeting Minute Archives](#)
- [Meeting Packet Archives](#)

In the Colorado water quality world there are four types of hearings¹:

1. Water Quality Control Commission (WQCC) Rulemaking Hearing (RMH) Proceedings:
 - RMH proceedings are where formal WQCC rules (e.g., Regulations 31-38²) are approved³.
 - Currently upcoming/ongoing WQCC RMHs can be found at the following webpage: <https://cdphe.colorado.gov/wqcc-rulemaking-proceedings>
 - Recently completed WQCC RMHs can be found at the following webpage: <https://cdphe.colorado.gov/completed-wqcc-hearings>
 - If you would like older RMHs that are no longer available on the Recently Completed Webpage, call me. These take some effort to dig up.

2. Administrative Action Hearings (AAH):
 - AAHs are where documents that are not formal rules (i.e., WQCC policies⁴, 208 water quality management plans, nonpoint source management programs, etc.) are approved.
 - Ongoing and recently completed AAHs can be found at the following webpages: <https://cdphe.colorado.gov/wqcc-public-informational-hearings>
https://drive.google.com/drive/folders/1vWZlpzixW4Y0_CJ2adoFY2ldcoZ7Wwh3

3. Public Information Hearings (IH):
 - Public IHs are informal WQCC hearings that do not result in any formal action by the WQCC. Some examples of public IHs include issues scoping hearings⁵ (ISH) and issues formulation hearings⁵ (IFH).
 - With respect to Control Regulations (i.e., Regulations 71-74 and 81-86²), the WQCC will first hold an IH to receive staff input and public comment. Depending on the outcome of the IH, the WQCC will decide if a formal RMH is needed.
 - Upcoming and recently completed IHs can be found at the following webpages: <https://cdphe.colorado.gov/wqcc-public-informational-hearings>
https://drive.google.com/drive/folders/1vWZlpzixW4Y0_CJ2adoFY2ldcoZ7Wwh3

4. Adjudicatory Hearings:

¹ WQCC Hearings: <https://cdphe.colorado.gov/wqcc-hearings>

² WQCC Regulations: <https://cdphe.colorado.gov/water-quality-control-commission-regulations>

³ From Regulation 21, p. 3, a RMH may be conducted through written comments only: “The Commission may determine that receipt of only written comments on a published proposal, and any substantive written response(s) to such comments or issues raised in such comments, is sufficient public participation to establish an adequate record for Commission deliberation and decision-making. If the proponent of a proposal disagrees with any written comments submitted, the proponent shall submit a written response in accordance with the deadline established in the rulemaking proceeding notice. An opportunity shall be provided to other interested persons to submit written responses to comments in accordance with a deadline established in the rulemaking proceeding notice.”

⁴ WQCC Policies: <https://cdphe.colorado.gov/wqcc-policies>

⁵ “For surface water quality classifications and standards which are organized by river basin and for the Basic Standards and Methodologies for Surface Water, the Commission has established a three-step triennial review process. The Issues Scoping Hearing is the first step in the process. In short, the Issues Scoping Hearing provides an opportunity for early identification of potential issues that may need to be addressed in the next major rulemaking hearing for particular regulations, and for identification of any issues that may need to be addressed in rulemaking prior to that time. The second step in the triennial review process – the Issues Formulation Hearing – results in the identification of the specific issues to be addressed in the next major rulemaking hearing. The third step is the Rulemaking Hearing, where any revisions to the water quality classifications and standards are formally adopted. The timing of the three steps is as follows: (1) the Issues Scoping Hearing is held in October of Year 1; (2) the Issues Formulation Hearing is held in November of Year 2; and (3) the Rulemaking Hearing is held in June of Year 3. More complete descriptions of these three steps in the triennial review process for surface water quality classifications and standards are posted on the Commission’s web site, under the section entitled ‘Water Quality Standards’.” *Public Participation Handbook*, p. 4-5.

- Adjudicatory hearings are quasi-judicial proceedings by the WQCC or the Water Quality Control Division (WQCD) to review specific types of decisions by the WQCD with respect to individual regulated entities⁶. The procedures for these hearings are spelled out in WQCC Regulation 21⁷ (Procedural Rules).
- Ongoing and recently completed WQCC adjudicatory hearings can be found at the following webpage: <https://cdphe.colorado.gov/wqcc-adjudicatory-hearings>

Anyone can sign up to receive notice of any of the described upcoming hearings at the following WQCC webpage. The link below will send you to a google form where you can “pick your own adventure” and choose exactly what regulations, policies, etc. you would like to be notified about:

https://docs.google.com/forms/d/e/1FAIpQLSeKpmSyDnGrMZFPGBqHxMmWvKEzp-xktDqpoAD_q0jX4Qrtnw/viewform

For additional information on the above hearings, please reference the WQCC’s Public Participation Website and Public Participation Handbook (February 2017):

Website: <https://cdphe.colorado.gov/wqcc-public-participation>

Handbook:

https://drive.google.com/file/d/166i2sWZ8c-59MLp7kDHqOWTDbCo_TQGS/view

WQCC regulatory actions schedules are available on the WQCC’s website at the following locations:

1. The WQCC Long-Range Schedule – Usually covers the upcoming two to three years of hearings in detail, and is updated regularly. The Long-Range Schedule can be found at the following link⁸:
<https://drive.google.com/file/d/14UKyKRF4mIVdM8bmeJNuLXVuKUIA2RT2/view>⁹
2. The Index of WQCC Regulations and Policies – Usually covers the upcoming two to three years of Regulatory and Policy hearings. Also includes the date of last WQCC action. The Index of WQCC Regulations and Policies can be found at the following link¹⁰:
https://drive.google.com/file/d/11cxHB5ce76Dp34UYalWefvqqg9xq_wL1/view⁹

⁶ This is not to be confused with a permit adjudication which is an administrative hearing requested by a Colorado Discharge Permit Systems (CDPS) permittee or other stakeholder, to challenge the terms and conditions of an issued permit, challenge permit denials, or challenge other permitting actions. These hearings are held by the Office of Administrative Courts, not the WQCC.

⁷ Regulation 21: <https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=7100&fileName=5%20CCR%201002-21>

⁸ Please note that as of the date of this memorandum, the WQCC Long-Range Schedule was last updated in November 2020.

⁹ Main website for access: <https://cdphe.colorado.gov/wqcc-meetings>

¹⁰ Please note that as of the date of this memorandum, the Index of WQCC Regulations and Policies was last updated in December of 2021.