

**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

**WATER QUALITY CONTROL COMMISSION**

**5 CCR 1002-94**

**REGULATION #94**

**COLORADO'S MONITORING AND EVALUATION LIST**

ADOPTED: March 17, 2004  
EFFECTIVE: May 3, 2004  
ADOPTED: March 14, 2006  
EFFECTIVE: April 30, 2006  
ADOPTED: March 11, 2008  
EFFECTIVE: April 30, 2008



**DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**  
**WATER QUALITY CONTROL COMMISSION**

**5 CCR 1002-94**

**REGULATION #94**

**COLORADO'S MONITORING AND EVALUATION LIST**

**94.1 Authority**

These regulations are promulgated pursuant to section 25-8-101 et seq C.R.S. as amended, and in particular, 25-8-202 (1) (a), (b), (i), (2) and (6); 25-8-203 and 25-8-204.

**94.2 Purpose**

This regulation establishes Colorado's Monitoring and Evaluation List. This list identifies water bodies where there is reason to suspect water quality problems, but there is also uncertainty regarding one or more factors, such as the representative nature of the data. Water bodies that are impaired, but it is unclear whether the cause of impairment is attributable to pollutants as opposed to pollution, are also placed on the Monitoring and Evaluation List.

**94.3 Water Bodies Identified for Monitoring and Evaluation**

<b>WBID</b>	<b>Segment Description</b>	<b>Portion</b>	<b>Parameter</b>
<b>COAR</b>	<b>Arkansas River Basin</b>		
COARFO02a	Fountain Creek, Monument Creek to Hwy 47	all	Se
COARFO03	Tributaries to Fountain Creek on USFS or AFA lands, Monument Creek to Arkansas River	Fourmile Creek, on USFS Land	sediment
COARFO03	Tributaries to Fountain Creek on USFS or AFA lands, Monument Creek to Arkansas River	Bear Creek on USFS Land	sediment
COARFO03	Tributaries to Fountain Creek on USFS or AFA lands, Monument Creek to Arkansas River	Cheyenne Creek, on USFS Land	sediment
COARLA05b	Trinidad Reservoir, Long Canyon Reservoir, and Lake Dorothy	Trinidad Lake	D.O. (temperature)
COARLA07	Purgatoire River, I-25 to Arkansas River	all	sediment

WBID	Segment Description	Portion	Parameter
COARLA09c	Rule Creek, Muddy Creek, Caddoa Creek, Clay Creek, Cat Creek...	Rule Creek	Zn
COARMA04a	Wildhorse Creek	all	NO <sub>2</sub>
COARMA06	St Charles River from CF&I diversion canal to the Arkansas River	all	U
COARMA07	Greenhorn Creek, including all tributaries, from source to Greenhorn Highline Diversion Dam; Graneros Creek; North Muddy Creek	Below Greenhorn Creek trailhead	Cu, Zn
COARMA09	Greenhorn Creek, including tributaries, from Greenhorn Highline Diversion Dam to the St. Charles River	all	Se
COARMA14	Cucharas River from the Walsenburg public water supply to the outlet of Cucharas Reservoir	all	<i>E.coli</i>
COARUA05	All tributaries to the Arkansas river including wetlands, lakes and reservoirs from the source to Browns Creek	Turquoise Lake	D.O.
COARUA13	Tributaries of Arkansas River on USFS Land, Browns Creek to Pueblo Reservoir	E. Beaver Creek on USFS Land, below Penrose-Rosemont Reservoir, Middle Beaver Creek	sediment
COARUA14b	Tributaries to the Arkansas River, from Pueblo Reservoir to Colorado Canal headgate	Teller Reservoir	Aquatic Life Use (Hg FCA)
COARUA20	Fourmile Creek and tributaries, Cripple Creek to Arkansas River	North Fork Wilson Creek below Independence Mine	As, Cu

WBID	Segment Description	Portion	Parameter
COARUA27	Mainstem of Eightmile Creek, including all tributaries, wetlands, lakes and reservoirs, from the source to the mouth of Phantom Canyon; Brush Hollow Reservoir	Brush Hollow Reservoir	pH
<b>COGU</b>	<b>Gunnison River Basin</b>		
COGULG02	Gunnison River, Uncompaghre River to Colorado River	all	sediment
COGULG04b	All lakes and reservoirs tributary to the Gunnison River and not on national forest lands from the outlet of Crystal Reservoir to the Colorado River	Jatz Bottomlands	Se
COGULG07	Surface, Ward, Tongue, Youngs, and Kiser Creeks not on USFS land	Tongue Creek, Ward Creek	Se
COGULG07	Surface, Ward, Tongue, Youngs, and Kiser Creeks not on USFS land	Surface Creek	Fe (Trec)
COGULG11a	Tributaries to the Smith Fork	Lunch Creek	sediment
COGUNF06a	Tributaries to the North Fork of the Gunnison not on USFS lands	Coal Gulch, Hawksnest Creek, Gribble Gulch	Fe(Trec)
COGUNF06b	Bear Creek, Reynolds Creek, Bell Creek, McDonald Creek, Cottonwood Creek, Love Gulch, Cow Creek, Dever Creek, German Creek, Miller Creek, Stevens Gulch, Big Gulch, Stingley Gulch and Alum Gulch not on national forest lands from the source to the North Fork of the Gunnison River	Cottonwood Creek	Fe(Trec)
COGUSM02	Tributaries to the San Miguel River from the source to Leopard Creek	Bilk Creek	Cd
COGUSM03a	San Miguel River from Bridal Veil and Ingram Creeks to Marshall Creek	all	Cd
COGUSM06a	Ingram Creek, source to San Miguel River	all	Cd, Mn

WBID	Segment Description	Portion	Parameter
COGUSM06b	Marshall Creek and tributaries from source to San Miguel River	all	Cd, Cu, Pb
COGUSM07a	Howard Fork and tribs	all	Fe(Trec)
COGUUG07	Slate River from Source to Coal Creek	Below Oh-Be-Joyful Creek	Cd
COGUUG16	Ohio Creek and tributaries source to Gunnison River	all	Zn(sculpin)
COGUUG17	Antelope Creek and tributaries source to Gunnison River	all	D.O.
COGUUG18	Tomichi Creek source to Gunnison River	all	<i>E. coli</i>
COGUUG29a	Lake Fork of the Gunnison River and tributaries from source to Blue Mesa Reservoir	Deadman Gulch	Cd, Cu, Mn, Zn
COGUUG31	Palmetto Gulch Creek and tributaries	all	Cu
COGUUG32	North Fork of Henson Creek and tributaries from source to Henson Creek	all	Pb, Zn(sculpin)
COGUUN03b	Ridgway Reservoir	Ridgway Reservoir	D.O. (temperature).
COGUUN04a	Uncompaghre River, HWY 90 to La Salle Road	all	sediment
COGUUN04b	Uncompaghre River, La Salle Road to Confluence Park	all	sediment
COGUUN04c	Uncompaghre River, Confluence Park to Gunnison River	all	sediment
COGUUN06a	Red Mountain Creek from source to East Fork Red Mountain Creek	all	Cu
COGUUN07	Gray Copper Gulch from source to Red Mountain Creek	all	Fe(Trec)

<b>WBID</b>	<b>Segment Description</b>	<b>Portion</b>	<b>Parameter</b>
COGUUN08	Mineral Creek, source to Uncompahgre River	all	Cd, Cu, Zn
COGUUN09	Canyon Creek, Imogene Creek, Sneffles Creek	all	Zn
COGUUN09	Canyon Creek, Imogene Creek, Sneffles Creek	Canyon Creek	Pb
COGUUN10	All tributaries to the Uncompahgre River from Dexter Creek to the South Canal	Alkali Creek	Se
COGUUN11	Coal, Dallas, Cow, Billy, Onion, Beaton, Beaver and Pleasant Valley Creeks	Billy Creek, Onion Creek	Se
COGUUN15b	Dry Creek from East and West Forks to Coalbank Canyon Creek	Dry Creek Watershed	sediment
<b>COLC</b>	<b>Lower Colorado River Basin</b>		
COLCLC01	Colorado River, Roaring Fork River to Parachute Creek	all	sediment
COLCLC02	Colorado River, Parachute Creek to Gunnison River	all	sediment
COLCLC04a	Tributaries to Colorado River, Roaring Fork to Parachute Creek Exc. specific segments	S. Canyon Creek	Fe (Trec)
COLCLC04a	Tributaries to Colorado River, Roaring Fork to Parachute Creek Exc. specific segments	Alkali Creek	<i>E.coli</i> , Cu, Fe(Trec), Pb, Zn
COLCLC04b	South Canyon Hot Springs	all	D.O., Se
COLCLC09a	Rifle Creek, including tributaries from source to County Road 251	West Rifle Creek	Fe(Trec)
COLCLC10	Rifle Creek, including tributaries from County Road 251 to Colorado River	all	<i>E.coli</i>

WBID	Segment Description	Portion	Parameter
COLCLC11h	Parachute Creek from West and East Forks to the confluence with Colorado River	all	Fe(Trec)
COLCLC13b	Tributaries to Colorado River, Roaring Fork to Parachute Creek Exc. specific segments	Indian Wash	D.O., <i>E.coli</i> , Fe(Trec)
COLCLC14b	Roan Creek, including tributaries from Clear Creek to the confluence with the Colorado River	all	<i>E.coli</i> , Fe(Trec)
COLCLC15	Plateau Creek, including tributaries from source to Colorado River	all	Fe(Trec), Se
COLCLC19	Lakes and reservoirs tributary to the Colorado River from Parachute Creek to the Utah border	Maggio Pond, Peters Ponds 1, 2, 3, & 4	Se
COLCLY02	Yampa River, Lay Creek to Green River	all	sediment
COLCLY03c	Milk Creek and tributaries from CR 15 to the Yampa	Stinking Gulch	Cu, Fe(Trec), Se, Zn
COLCLY03e	Good Spring Creek above Wilson Reservoir	Wilson Creek	Se
COLCLY07	Little Bear Creek, including all tributaries from source to Dry Creek	all	Cu, Zn
COLCLY16	Little Snake River, Powder Wash to Yampa	all	sediment
COLCLY17a	Tributaries to the Little Snake River	all	<i>E.coli</i> , Fe(Trec)
COLCLY18	Slater Creek, including tributaries from source to Little Snake Creek	all	Se
COLCLY22b	Vermillion Creek from Hwy 318 to Green River	all	<i>E.coli</i> , Fe(Trec)

<b>WBID</b>	<b>Segment Description</b>	<b>Portion</b>	<b>Parameter</b>
COLCWH07	Mainstem of the White River from a point above the confluence with Miller Creek to a point immediately above the confluence with Piceance Creek	White River, blw Meeker	Cu
COLCWH09a	Tributaries to the White River from North and South Forks to Peceance Creek not within the boundary of National Forest lands except segments 9b and 10b.	Strawberry Creek	Cu, Zn
COLCWH10b	Mainstem of Big Beaver Creek, Miller Creek, and North Elk Creek, including tributaries, from their boundaries with the National Forest Lands to their confluences with the White River. Mainstem of Coal Creek, including all tributaries from the source to the confluence with the White River	Coal Creek	Se
COLCWH11	Rio Blanco Reservoir	Rio Blanco Reservoir	pH
COLCWH16	All tributaries to Piceance Creek, including all wetlands, lakes and reservoirs, from the source to the confluence with the White River	Ryan Gulch	<i>E.coli</i>
COLCWH22	Tributaries to White River, Douglas Creek to Colorado/Utah border	Soldier Creek	sediment
COLCWH23	Mainstem of East Douglas Creek and West Douglas Creek including all tributaries from their sources to the confluence	East Douglas Creek	Fe(Trec)
<b>CORG</b>	<b>Rio Grande River Basin</b>		
CORGAL02	Alamosa River, from source to confluence with Alum Creek	all	pH, Fe(Trec)
CORGAL03b	Alamosa River, from Wightman Fork to Fern Creek	Above Jasper Creek	Se
CORGAL11	La Jara Creek from source to Hot Creek	La Jara Reservoir	pH, Cu, Se, Zn

<b>WBID</b>	<b>Segment Description</b>	<b>Portion</b>	<b>Parameter</b>
CORGAL14	Conejos River including tributaries, wetlands, lakes, and reservoirs from source to Fox Creek	Platoro Reservoir	pH
CORGAL20	Rio Grande, tribs within the Rio Grande Forest	all	pH, Cu,Cd Fe(Trec), Mn, Zn
CORGCB02	La Garita Creek, source to 38 Rd, Carnero Creek, source to 42 Rd	La Garita Creek	Fe(Trec)
CORGCB05	San Luis Creek, from Piney Creek to San Luis Lake	Lower San Luis Creek	D.O.
CORGCB08	Kerber Creek, source to abv Cocomongo Mill Site, Squirrel Creek from source to abv Bear Creek. Brewery Creek from source to Elkhorn Gulch	Squirrel Creek	Cd, Cu, Zn, Fe(Trec)
CORGRG02	Rio Grande River, source to Willow Creek	S Clear Creek	Fe(Trec)
CORGRG04	Rio Grande River, Willow Creek to Alamosa County line	abv Willow Creek to Wagon Wheel Gap	pH
CORGRG05	All tributaries to the Rio Grande River, abv Willow Creek to Del Norte	Nelson Creek	Cd, Cu, Pb, Mn, Zn, pH
CORGRG07	West Willow Creek , East Willow Creek, Willow Creek and tributaries	West Willow Creek below Nelson Creek to East Willow Creek, Willow Creek	Cd, Cu, Pb, Zn,
CORGRG13	Rio Grande River, Conejos County Road G to Colorado/New Mexico border	all	sediment
CORGRG27	Smith Reservoir	Smith Reservoir	pH
<b>COSJ</b>	<b>San Juan River Basin</b>		
COSJLP08a	Tributaries to McElmo Creek	all	Fe(Trec)
COSJPI06a	Tributaries to the Piedra River	Stollsteimer Creek above Southern Ute Boundary	sediment

<b>WBID</b>	<b>Segment Description</b>	<b>Portion</b>	<b>Parameter</b>
COSJSJ03	Little Navajo River, including tributaries from the San Juan-Chama diversion to the San Juan River	all	<i>E.coli</i>
COSJSJ08	Navajo Reservoir	Navajo Reservoir	Aquatic Life Use (Hg FCA)
<b>COSP</b>	<b>South Platte River Basin</b>		
COSPBE01c	Bear Creek Reservoir and Soda Lakes	Bear Creek Reservoir	D.O.
COSPBO08	All tributaries to South Boulder Creek, including all lakes, reservoirs and wetlands from South Boulder Road to the confluence with Boulder Creek and all tributaries to Coal Creek, including all lakes, reservoirs and wetlands from Highway 93 to the confluence with Boulder Creek	Rock Creek	<i>E. coli</i> , Fe (Trec), Se
COSPBO09	Boulder Creek, S. Boulder Creek to Coal Creek	all	Aquatic Life
COSPBO10	Boulder Creek, Coal Creek to St. Vrain Creek	all	Aquatic Life
COSPBT02	Big Thompson River and tribs, RMNP to Home Supply Canal diversion	all	Ag, Sulfide
COSPBT04b	Big Thompson River, Greeley-Loveland Canal diversion to CR11H	all	Se
COSPCH02	Cherry Creek Reservoir	all	D.O.
COSPCP10	Cache la Poudre River, Monroe Canal to Shields Street	below confluence with North Fork	Aquatic Life Use
COSPLS01	S. Platte River, Weld/Morgan Co. line to CO/NE line	all	Aquatic Life Use
COSPSV02	St. Vrain Creek, RMNP to Hygiene Rd.	below Button Rock Reservoir	sediment
COSPSV03	St. Vrain Creek, Hygiene Rd. to S. Platte River	all	Aquatic Life Use, <i>E. coli</i>

<b>WBID</b>	<b>Segment Description</b>	<b>Portion</b>	<b>Parameter</b>
COSPUS02a	Tributaries to S. Platte River, source to Tarryall Creek	Salt Creek d/s of N. Fork, on USFS Land	sediment, temperature
COSPUS02a	Tributaries to S. Platte River, source to Tarryall Creek	Twin Creek, on USFS Land	temperature
COSPUS03	Tributaries to S.Platte River, Tarryall Creek to N. Fk. S. Platte River	Pine Creek, on USFS Land	sediment
COSPUS03	Tributaries to S.Platte River, Tarryall Creek to N.Fk.S.Platte R	Sugar Creek, on USFS Land	sediment
COSPUS03	Tributaries to S.Platte River, Tarryall Creek to N.Fk.S.Platte R	Trail Creek, on USFS Land	sediment, temperature
COSPUS03	Tributaries to S.Platte River, Tarryall Creek to N.Fk.S.Platte R	Wigwam Creek, Flying G Ranch to S. Platte River	sediment
COSPUS03	Tributaries to S.Platte River, Tarryall Creek to N.Fk.S.Platte R	Spring Creek and tributaries, on USFS Land	sediment
COSPUS03	Tributaries to S.Platte River, Tarryall Creek to N.Fk.S.Platte R	Horse Creek, on USFS Land	sediment, temperature
COSPUS04	N. Fk. S. Platte River & Tributaries, source to S.Platte R	N Fk S Platte R, Buffalo Cr to S Platte R	sediment
COSPUS04	N. Fk. S. Platte River & Tributaries, source to S.Platte R	Buffalo Ck, Indian Ck to S Platte R	sediment
COSPUS04	N. Fk. S. Platte River & Tributaries, source to S. Platte R	Kenosha Creek	sediment
COSPUS05a	Geneva Creek above Scott Gomer Creek	all	Cd, Cu, Zn
COSPUS05b	Mainstem Geneva Creek, Scott Gomer Creek to N. Fork S. Platte River	all	sediment
COSPUS06a	S. Platte River, N. Fk. S. Platte River to Chatfield Reservoir	S Platte R, N Fk S Platte to Strontia Spg. Res	sediment

<b>WBID</b>	<b>Segment Description</b>	<b>Portion</b>	<b>Parameter</b>
COSPUS11b	Tributaries to W. Plum Creek, not on USFS Land	Spring Creek, Bear Creek	Aquatic Life Use
COSPUS17a	Washington Park Lakes, City Park Lake, Rocky Mountain Lake, Berkeley Lake	Berkeley Lake	As
<b>COUC</b>	<b>Upper Colorado River Basin</b>		
COUCBL03	Dillon Reservoir and tribs	Gold Run Gulch below Jessie Mine	Cd, Zn
COUCBL03	Dillon Reservoir and tribs	South Branch Swan Rive below Royal Tiger Mine	Zn
COUCBL18	All tributaries to the Blue River, including wetlands, from the outlet of Dillon Reservoir to the outlet of Green Mountain Reservoir	Slate Creek	<i>E.coli</i>
COUCBL20	Mainstem of Elliott Creek and Spruce Creek including all tributaries and wetlands from their sources to the confluence with the Blue River	Spruce Creek	Fe(Trec)
COUCEA10	All tributaries to the Eagle River from Lake Creek to the Colorado River	Eby Creek	Se
COUCNP01	Tribs to the N Platte & Encampment Rivers w/in Wilderness Areas	South Fork Big Creek	Cu, <i>E.coli</i>
COUCNP04	All tributaries to N. Platte River except segments 1, 5, 6, 7	Grizzly Creek, Little Grizzly Creek	Aquatic Life Use
COUCNP04	All tributaries to N. Platte River except segments 1, 5, 6, 7	Little Grizzly Creek	<i>E.coli</i> , Fe(Trec)
COUCNP04	All tributaries to N. Platte River except segments 1, 5, 6, 7	Snyder Creek, Parkview Creek Watershed	sediment
COUCNP04	All tributaries to N. Platte River except segments 1, 5, 6, 7	Lake John, North Delaney Lake	pH

WBID	Segment Description	Portion	Parameter
COUCNP04	All tributaries to N. Platte River except segments 1, 5, 6, 7	Lake Creek	pH, Fe(Trec)
COUCRF03a	Roaring Fork including all tributaries and wetlands from Hunter Creek to the Colorado River except segments 3b through 10	Capitol Creek	Se
COUCRF03b	Red Canyon Creek including all tributaries and wetlands from the source to the Roaring Fork except Landis Creek from source to Hopkins Ditch Diversion	Landis Creek	Fe(Trec)
COUCRF10	Thompson Creek including all tributaries and wetlands from the source to the Crystal River	Thompson Creek	Fe(Trec)
COUCUC02	Colorado River and tributaries, wetlands, lakes and reservoirs within Arapahoe National Recreation Area	Shadow Mountain Lake	D.O.
COUCUC06b	Mainstem of unnamed tributary from the headwaters to Willow Creek Reservoir Road	all	D.O.
COUCUC07a	Muddy Creek and tribs	all	temperature
COUCUC10	Mainstem of the Fraser River, including tributaries and wetlands from the source to the confluence with the Colorado River, except for tribs included in segment 9	From the Town of Fraser to the confluence with the Colorado River.	Cu
COUCYA02a	Yampa River, Bear River and Wheeler Creek to Elkhead Creek	all	temperature
COUCYA02b	Stagecoach Reservoir	all	D.O. (temperature)
COUCYA03	All tributaries to Yampa River except for specific listings, on USFS land	First Creek in Elkhead Watershed	sediment
COUCYA03	All tributaries to Yampa River except for specific listings, on USFS land	Bushy Creek, Morrison Creek Watershed	sediment

WBID	Segment Description	Portion	Parameter
COUCYA03	All tributaries to Yampa River except for specific listings, on USFS land	Little Morrison Creek	Zn
COUCYA04	Little White Snake Creek, source to Yampa River	all	D.O.
COUCYA08	Elk River including tributaries and wetlands from the source to Yampa River	Lost Dog Creek	Hg
COUCYA13b	Foidel Creek and tributaries, Fish Creek, Middle Creek and tributaries	Fish Creek	<i>E.coli</i>
COUCYA13d	Dry Creek including all tributaries and wetlands from the source to the Yampa River	Dry Creek below Routt County Road 53 (Sec. 22, T6N, R88W)	Pb
COUCYA18	Little Snake River including all tributaries and wetlands from forest boundary to Wyoming border	all	Cu
COUCYA19	all tributaries to Little Snake River on USFS lands in Routt County	Oliver Creek	sediment

**94.4 - 94.9      Reserved**

**94.10    STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; MARCH, 2004 RULEMAKING**

The provisions of C.R.S. 25-8-202(1)(a), (b) (i), (2) and (6); 25-8-203; 25-8-204; and 25-8-402; provide the specific statutory authority for adoption of these regulatory amendments. The Commission also adopted in compliance with 24-4-103(4) C.R.S. the following statement of basis and purpose.

**BASIS AND PURPOSE**

**A.      Introduction**

This regulation establishes Colorado's Monitoring and Evaluation List. This list was prepared as part of the effort to identify water bodies for which technology-based effluent limitations and other required controls are not stringent enough to implement water quality standards (those impaired waters requiring TMDLs). Regulation No. 93 is the list of impaired waters which require TMDLs. This regulation is the Monitoring and Evaluation List ("M&E List") that identifies water bodies where there is reason to suspect water quality problems, but there is also uncertainty regarding one or more listing factors, such as the representative nature of the available data. Water bodies that are impaired but it is unclear whether the cause of impairment is attributable to pollutants as opposed to pollution are also included on the M&E List.

## **B. List Development**

The statement of basis and purpose for Regulation No. 93 contains a description of how the lists were developed.

## **C. Prioritization and Scheduling**

The Division has committed to establishing a plan for monitoring and evaluating these water bodies prior to the list submission date for the subsequent listing cycle. Further, the Commission has committed to determining their appropriate status (as either impaired or fully supporting) within ten years of their placement on the M&E List.

## **D. Segment-Specific Issues**

1. Blue River segment 3: The Commission has included Gold Run Gulch below Jessie Mine (for cadmium and zinc) and the South Branch Swan River below Royal Tiger Mine (for zinc) on the Monitoring and Evaluation List. The Royal Tiger Mine and the Jessie Mine are both part of a CERCLA remediation effort, for which remedial project design is currently out to bid. Therefore, the Commission understands that the conditions in this area affecting water quality will be changing and that it is currently uncertain what uses or water quality can be supported in these waters in the future. The Commission does not intend by including these waters on the Monitoring and Evaluation List to conclude that any actions other than those CERCLA-related activities already underway are necessary or appropriate at this site. The status of those efforts will be reviewed during the next update of this list.
2. Segments proposed for the Section 303(d) List: In several specific instances, the Commission made a determination in this rulemaking hearing that segments proposed by the Division or others for inclusion on the Section 303(d) List should instead be included on the Monitoring and Evaluation List. This applies in particular to Bear Creek segment 1a and Middle South Platte segment 1 in the South Platte Basin and to four named tributaries in Blue River segments 6 and 8 in the Upper Colorado River Basin. In each of these instances, the rationale for the Commission's decision to include these waters on the Monitoring and Evaluation List is set forth in the Statement of Basis and Purpose adopted for Regulation No. 93 as a result of this rulemaking.

### **94.11 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; FEBRUARY 2006 RULEMAKING, EFFECTIVE APRIL 30, 2006**

The provisions of C.R.S. 25-8-202(1)(a), (b) (i), (2) and (6); 25-8-203; 25-8-204; and 25-8-402; provide the specific statutory authority for adoption of these regulatory amendments. The Commission also adopted in compliance with 24-4-103(4) C.R.S. the following statement of basis and purpose.

#### **BASIS AND PURPOSE**

##### **A. Introduction**

This regulation updates Colorado's Monitoring and Evaluation List to reflect additional water quality information available since the Regulation was promulgated in 2004.

##### **B. List Development**

The statement of basis and purpose for Regulation No. 93 contains a description of how the lists were developed.

##### **C. Prioritization and Scheduling**

The Division remains committed to establishing a plan for monitoring and evaluating these water bodies prior to the list submission date for the subsequent listing cycle. Further, the Commission has committed to determining their appropriate status (as either impaired or fully supporting) within ten years of their placement on the M&E List.

#### **D. Segment-Specific Issues**

In a number of instances, the Commission chose in this hearing to include on the Monitoring and Evaluation List waters that were initially proposed by the Division, or recommended by other rulemaking participants, for inclusion on the Section 303(d) List, Regulation #93. These waters include Bear Creek segment 1a, Upper Colorado River segment 07b (Muddy Creek), and Upper Yampa River segment 07b. In each instance, the Commission's rationale for these decisions is set forth in the statement of basis and purpose for Regulation #93.

#### **PARTIES TO THE RULEMAKING**

1. The City of Grand Junction
2. The Colorado Division of Wildlife
3. Evergreen Trout Unlimited and Colorado Trout Unlimited
4. The City of Colorado Springs
5. The City of Black Hawk
6. The Colorado River Water Conservation District
7. Friends of Bear Creek
8. Big Thompson Watershed Forum
9. The Bear Creek Watershed Association
10. The Northern Colorado Water Conservancy District
11. U.S. Environmental Protection Agency, Region 8
12. Evergreen Metropolitan District and West Jefferson County Metropolitan District
13. USDA Forest Service, Medicine Bow-Routt National Forests
14. Colorado Rock Products Association
15. City and County of Broomfield
16. Climax Molybdenum Company
17. The Metro Wastewater Reclamation District
18. Mount Carbon Metropolitan District

#### **94.12 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; FEBRUARY, 2008 RULEMAKING, EFFECTIVE DATE OF APRIL 30, 2008**

The provisions of C.R.S. 25-8-202(1)(a), (b) (i), (2) and (6); 25-8-203; 25-8-204; and 25-8-402; provide the specific statutory authority for adoption of these regulatory amendments. The Commission also adopted in compliance with 24-4-103(4) C.R.S. the following statement of basis and purpose.

#### **BASIS AND PURPOSE**

##### **A. Introduction**

This regulation updates Colorado's Monitoring and Evaluation List to reflect additional water quality information available since the Regulation was promulgated in 2006.

##### **B. List Development**

The statement of basis and purpose for Regulation No. 93 contains a description of how the lists were developed.

##### **C. Prioritization and Scheduling**

The Division remains committed to establishing a plan for monitoring and evaluating these water bodies prior to the list submission date for the subsequent listing cycle. Further, the Commission has committed to determining their appropriate status (as either impaired or fully supporting) within ten years of their placement on the M&E List.

**D. Segment Specific Issues**

1. Lower Dolores segment 3 (COGULD03): The Commission approved resegmentation of Lower Dolores segment 3 at the Regulation 35 Rulemaking Hearing in June 2006. The resegmentation was based on the Division's investigation identifying Salt Creek draining the Sinbad Valley. The Sinbad Valley is identified by the Colorado Geological Survey as a graben or a collapse feature that formed in response to salt migration and dissolution beneath the area. Based on this information the selenium and zinc standards for the new Salt Creek segment were set at ambient conditions. The Division proposed to delete this from the M&E List based on attainment of the new ambient standards. The Commission removed this segment from the M&E List.
2. Bear Creek segment 1a (COSPBE01a): This segment was removed from the M&E List based on assessment of annual fish surveys, water quality parameters and temperature data. It is noted that Bear Creek has seen significant improvement but still requires continued cooperative efforts by the Division, DOW, the Bear Creek Watershed Authority, Trout Unlimited and others to prevent future impairment or re-listing.
3. Blue River segment 3 (COUCBL03): The Commission has included Gold Run Gulch below Jessie Mine (for cadmium and zinc) and the South Branch Swan River below Royal Tiger Mine (for zinc) on the 2006 Monitoring and Evaluation List. The Royal Tiger Mine and the Jessie Mine are both part of a CERCLA remediation effort completed in 2007. Remediation results with respect to water quality are not yet available. In the past the Commission did not intend by including these waters on the Monitoring and Evaluation List to conclude that any actions other than those completed CERCLA-related activities are necessary or appropriate at this site. The status of those efforts will be reviewed during the next update of this list.
4. White River segment 16 (COLCWH16): The Commission has included Ryan Gulch on the Monitoring and Evaluation List for *E. coli*. Shell had argued that Ryan Gulch should not be included on the Monitoring and Evaluation List for *E. coli* due to the lack of more than a single sample and because "*the segment does not appear to support classification as recreation class 2.*" The Commission notes that placement of the water on the Monitoring and Evaluation List does not indicate a finding that Ryan Gulch is in non-attainment with the assigned Recreational Use, only that more data is needed to accurately assess the attainment status. Further, the Commission would note that alternate Recreation Use designations have more stringent *E. coli* standards than that assigned with the current Recreation Use designation.
5. Upper Yampa segment 13d, Dry Creek (COUCYA13d): The Division proposed listing this segment due to exceedances of the lead standard. Seneca provided evidence that the lead standard is attained within the upper portion of this segment. The Commission included the lower portions of the segment (below Routt County Road 53 (Sec. 22, T6N, R88W)), on the 2008 M&E List for dissolved lead.
6. Uncompahgre segment 3b, Ridgeway Reservoir (COGUUN03b): Listing methods for temperature in lakes were changed in the *Section 303(d) Listing Methodology – 2008 Listing Cycle* to reflect changes in the temperature standards in *Regulation No. 31*. In the *Listing Methodology* (p. 25) it states: "If the refuge is not adequate because of low dissolved oxygen, the lake or reservoir may be listed as impaired for dissolved oxygen rather than for temperature." The Division proposed a few segments for the M&E List that are listed for dissolved oxygen due to exceedances of temperature in the epilimnion where there was not adequate refugia in the lower levels of the lake or reservoir. Ridgeway Reservoir was one of those segments. The data showed that the temperature standard was exceeded in the epilimnion on 7/21/05. An adequate

refuge from high temperatures in the epilimnion was not present on that day due to inadequate dissolved oxygen in the lower portion of the lake. Due to confusion that this type of listing caused, the parameter notation in Regulation No. 94 was changed to indicate that the D.O. listing was due to exceedances of the temperature standard. The Commission added Ridgeway Reservoir; segment COGUUN03b, to the M&E List for "D.O. (temperature)".

7. Fountain Creek segment 2a (COARFO02a): Fountain Creek segment COARFO02a includes the mainstem from its confluence with Monument Creek to the State Highway 47 Bridge. This segment was assigned an ambient-based chronic selenium standard of 8.0 ug/L during the Arkansas River Basin RMH in 2007. The Aquatic Life Use-based acute standard was set at TVS. Two acute exceedances were found during the data assessment for this rulemaking hearing that could place this segment on the 303(d) List. Further investigation of these acute exceedances showed discrepancies in the USGS and the WQCD data. The Division, as well as Colorado Springs, believed that because of the inconsistent nature of this data it may not be representative, and together the parties will investigate the validity of these data. For this reason, the Commission placed this segment on the M&E as opposed to the 303(d) List until further study of selenium in this segment can take place.
8. Upper Colorado segment 2, Shadow Mountain Reservoir (COUCUC02): The Division originally proposed to include Shadow Mountain Reservoir on the 2008 303(d) List for dissolved oxygen. In their RPHS, Northern opposed the listing of Shadow Mountain for dissolved oxygen on the 303(d) List. They stated that the data was not representative because it was not spatially distributed, it did not have temporal variability, and it followed a temporary event, namely fall turn over following a historic drought. The Division disagreed regarding the representative nature of the sampling program but points out that there are questions about the validity of the September 2003 sample profile that was evaluated. For example, the Division believed that D.O. readings taken on September 16, 2003 may have been a calibration error. Moreover, that was the only reading that exceeded the standard during the entire period of record and thus may not have been representative. For these reasons the reservoir was placed on the M&E List as opposed to the 303(d) List until further evaluation can take place.
9. Upper Colorado segments 6 and 8, Camp Cr, Jones Gulch, Keystone Cr, and Mozart Creek (COUCBL06 and COUCBL08): During the 2004 rulemaking process, the four identified tributaries in these two segments were placed on the M&E List based upon measured pH levels during one spring one runoff season when pH levels are expected to be relatively low due to natural causes. Subsequent water quality monitoring conducted over a period of four years has found that these streams meet the pH standards and have 15<sup>th</sup> percentile values that are above the minimum 6.5 s.u. pH standard. Based upon these findings, the Commission removed segments COUCBL06 and COUCBL08 from the M&E List.
10. Upper Colorado segment 10 (COUCUC10): The Division proposed that segment COUCUC10 be placed on the M&E List for copper based on data from WQCD station 12193, located on the Fraser River at the Town of Fraser. Additional stations were assessed on this segment. The Districts questioned the data used in the assessment and upon reevaluation of data for five stations along the Fraser River, the Division revised its proposal to only list a portion of the segment on the M&E List. The WQCC placed the Fraser River from the Town of Fraser to the confluence with the Colorado River on the M&E List based on this data analysis. The Division will work with the Grand County Districts and the Grand County Water Information Network (GCWIN) to collect more data and look into copper issues on the Fraser River.

#### PARTIES TO THE RULEMAKING HEARING

1. The Metro Wastewater Reclamation District
2. Bear Creek Watershed Association
3. Keystone Resort
4. City of Colorado Springs and Colorado Springs Utilities

5. CAM-Colorado LLC and CAM Mining LLC
6. Colorado Division of Wildlife
7. Southeastern Colorado Water Conservancy District
8. Shell Frontier Oil and Gas, Inc.
9. The Grand County Water and Sanitation District #1, the Winter Park West Water and Sanitation District, the Fraser Sanitation District and the Winter Park Sanitation District
10. Trout Unlimited, Colorado Trout Unlimited, and the Evergreen Chapter of Trout Unlimited
11. Northern Colorado Water Conservancy District
12. Seneca Coal Company
13. Colorado River Water Conservation District
14. U.S. Environmental Protection Agency, Region 8
15. City of Black Hawk and Black Hawk/Central City Sanitation District
16. Cripple Creek & Victor Gold Mining Company
17. Town of Minturn
18. Homestake Mining Company of California
19. CBS Operations Inc