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DEPARTMENT OF LAW**

**Natural Resources and  
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RE: Non-substantive revisions to Table in Regulation #93

Dear Ms. Maiolo:

On January 8, 2018, the Colorado Water Quality Control Commission adopted revisions to Regulation #93. The new regulation will become effective March 2, 2018. Shortly after the commission reviewed and approved the final regulation at the commission meeting on January 8th, the Colorado Water Quality Control Division realized that additional information was included in table 93.3 within the regulation that was not intended to be included. The division is requesting that this additional information be removed.

For the first time, Table 93.3 within in Regulation #93 was generated directly from the division's assessment tracking database. This database tracks the attainment status of all water bodies in Colorado using reporting categories 1 thru 5, as defined by EPA in the Guidance for 2006 Assessment, Listing and Reporting Requirements Pursuant to Sections 303(d), 305(b) and 314 of the federal Clean Water Act.

EPA reporting categories are as follows:

- 1) Category 1 water bodies are supporting all designated uses.
- 2) Category 2 water bodies are attaining all assessed designated uses, but not all uses are assessed.
- 3) Category 3 (a, b) water bodies have insufficient data to make support determination.
- 4) Category 4 water bodies are not supporting designated uses but a TMDL is not required.
- 5) Category 5 water bodies are not attaining designated uses.

Table 93.3 in Regulation #93 represents the 303(d) List of Impaired Waters and the Monitoring and Evaluation List. This list should only include water bodies that are in categories 3b and 5. When the draft final action documents were initially submitted to the commission after the hearing, only categories 3b and 5 were included in table 93.3. However, after a few minor revisions were incorporated into the table, the table submitted to the commission for final review also included some water bodies/analyte combinations in reporting categories 1 and 4. This error was an oversight and was generated because the reporting functions of the new database had not yet been standardized.

In order to correct this error in table 93.3, water bodies in categories 1 and 4 should be removed from the table. This correction is non-substantive and follows the intent of the regulation to list only impaired water bodies or those water bodies that require monitoring and evaluation (categories 3a and 5).

Pursuant to the rulemaking provisions of the Colorado Administrative Procedures Act clerical errors may be corrected upon request by the agency. § 24-4-103(11)(d)(II), C.R.S.

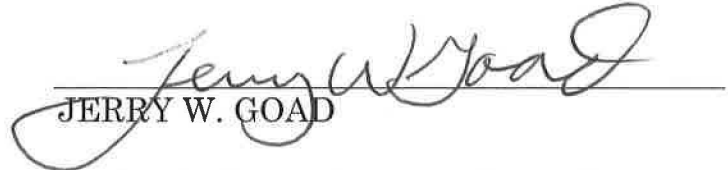
I have reviewed these revisions and have determined that they are non-substantive corrections. The corrections should become effective immediately in Regulations #93.

Because substantive revisions were adopted by the Water Quality Control Commission on January 8, 2018 in Regulation #93, it would be most efficient for the administrative corrections in these regulations to become effective at the same time as the substantive revisions, on March 2nd, 2018. Tables submitted for the administrative corrections in Regulation #93 include the adopted revisions that become effective in March.

If you have any questions, please do not hesitate to contact me or the commission's operations manager, Nancy Horan, at 303-692-3463.

Sincerely,

FOR THE ATTORNEY GENERAL



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cc: Nancy Horan, WQCC