



COLORADO
Department of Public
Health & Environment

To: Water Quality Control Commission (WQCC)
Air Quality Control Commission (AQCC)
Solid and Hazardous Waste Commission (SHWC)
Water and Wastewater Facility Operators Certification Board (WWFOCB)
Regulated Facilities, Operators, and Partners

From: John Putnam, Director of Environmental Programs, CDPHE

Re: Requests for Pause on Environmental Regulatory and Policy Work

Date: March 25, 2020

The Colorado Department of Public Health and Environment received several letters requesting that the department pause its environmental regulation and policy activities to allow facilities and operators to focus on maintaining critical operations and compliance. The department appreciates all of the work that our regulated facilities, operators, and partners are doing to continue critical operations and protect public health and the environment. The department continues its work of permitting, monitoring, evaluating compliance, and handling requests for special flexibility.

The department has reviewed all of the upcoming regulatory and policy work pending before the environmental boards and commissions to assess how to respond to the requests. The department has evaluated the near-term and long-term public health and environmental impacts of recommending a board or commission delay currently scheduled activities as well as the value of assuring public health, environmental protection and safety at this time of individual and community stress. The department has also considered the ability to effectively participate by sector (energy and utilities, water and wastewater systems, petroleum and natural gas, public works, hazardous materials and local public health), by geographic area (consideration of whether a proceeding has a distinguishable impact to a community with an elevated COVID-19 response effort) and department capacity to successfully perform its duties in these proceedings.

The department has considered where we as a community are today as well as where we as a community may be in the coming months as it relates both to the ability to participate in proceedings, as well as the ability of the regulated community to implement any new requirements that may be adopted by the board or commission. The department has considered the disruption that community members have experienced with schools closing and adjustments to work arrangements and the impact that has on near term deadlines. The department also appreciates the burden of cascading impacts and increased workload to recover from a delay while keeping other activities on schedule.

Due to the complications of delaying all regulatory and policy work for several months, and the importance of assuring public health and environmental protection, at this time the

department intends that the majority of the scheduled regulatory and policy activities continue as planned with the exception of those identified below. The department plans to hold board and commission meetings and hearings remotely via Zoom technology, which allows stakeholders, commissioners, and department staff to continue to make progress on this work while complying with guidance on social distancing and large group gatherings. This technology has been working very well so far to allow for continued, equitable participation in board and commission proceedings. Indeed, we were able to have multiparty prehearing conferences for the Air Quality Control Commission Regulation 22 last week without requests for delay or continuance of the May 2020 hearing.

Based upon our evaluation, the department will recommend the following changes and postponements in response to the need for utilities to focus resources on Covid-19 related response and in recognition of the need to provide additional time for stakeholders that were impacted by school closures and other changes to work accommodations:

- The department will request at the WQCC's April 13 meeting that the WQCC consider a postponement of the Administrative Action Hearing to consider adoption of Policy 20-1, Policy for Interpreting the Narrative Water Quality Standards for Per- and Polyfluoroalkyl Substances (PFAS). The WQCC has waived the March 31, 2020, comment deadline pending the April 13 discussion. The department will recommend that the hearing be rescheduled to July.
- The WQCC extended the deadline for filing an appeal regarding the 401 certification for the Northern Integrated Supply Project from March 31, 2020 to April 15, 2020.
- The department will delay the Request for Hearing for Regulation 7, Natural Gas-fired Reciprocating Internal Combustion Engines from the AQCC's April 16 to June to allow oil and gas operators additional time to work with the Air Pollution Control Division.
- The department will delay the stakeholder process regarding Technologically Enhanced Naturally Occurring Radioactive Material from April 1 to May 4.

The department will continue to assess as the COVID-19 response evolves and will stay in close communication with stakeholders, facilities and operators, and the boards and commissions regarding the appropriate response as the circumstances change. Any additional changes will be posted on our website.

Cc: Garry Kaufman, Director, Air Pollution Control Division
Patrick Pfaltzgraff, Director, Water Quality Control Division
Jennifer Opila, Director, Hazardous Materials and Waste Management Division
Jeff Lawrence, Director, Division of Environmental Health and Sustainability
Trisha Oeth, Director, Environmental Boards and Commissions