Adapting water policy tools to new issues: lessons from Colorado’s experience over time

Appendix 1. Instructions: characteristics of water laws and administrative rules

1. State: __________________________
2. This form applies to a _____ law or ______ rule (name of agency:____________________)
3. Name of law/rule:
4. Dates of first and last adoption/revision:
   first adopted: __________
   last revised: __________
   The date of initial adoption for laws will often be contained in the body of the law. That is, the law will refer back to its original adoption.
   The date of initial adoption for rules may be more difficult. States handle rules differently. Some states list the history of the rule, or sections of the rule, at the end of the rule or section. Thus, dates of adoption/revision are contained within the rule. Other states only list the last time the rule was revised. In that case, other sources of information will have to be used to determine date of first adoption – the state agency website may list dates, for instance.
5. Does this law constitute minor revisions of an existing law (minor revisions apply to name changes; spelling corrections; date changes [for instance, the date of elections]; length of time an action must take place within, such as filing a report or an appeal; or any other modest changes that do not affect the substance of the law):
   ___ yes
   ___ no
   If yes, do not code this law, only answer question 5.
6. Purpose of law/rule (in 25 words or less):
7. The law/rule addresses the following issue/s (check all that apply):
   ___ Water quality
   ___ Water allocation
   ___ Water storage


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Species or habitat protection
Watershed restoration or enhancement
Authority or powers of agency or district
Other: ________________________________

‘Issues’ are the main water-related topics of concern for this law.

8. Does the law/rule explicitly mention interstate rivers or interstate river compacts?
   ___ yes
   ___ no

9. The law/rule provides for the following types of programs (check all that apply):
   ___ regulations
   ___ permits
   ___ defines/recognizes/revises property rights in water (including who can hold a right and how they may transfer it)
   ___ enforcement of laws/rules
   ___ monitoring water rights/water quality
   ___ user fees
   ___ markets
   ___ subsidies or cost-sharing
   ___ grants and/or loans
   ___ information collection
   ___ planning
   ___ education
   ___ bonds
   ___ taxes
   ___ public works/infrastructure
   ___ elections

‘Programs’ refer to the types of tools or policy mechanisms that the law establishes in addressing the issue of concern.

- **Regulation** – specific language in the law/rule that requires specific actions or forbids specific action.
- **Permits** – specific language in the law/rule requires actors (citizens, organizations, companies, etc.) to obtain permission from the state first before proceeding with an action or activity. If the state approves of the action, the state issues a permit to the actor.
- **Property rights** – specific language in the law/rule that defines property rights in a thing, for instance, the law may state that all waste water belongs to the entity that created it.
- **Enforcement** – language discussing or providing for mechanisms for enforcing a rule, policy, law, or program.
- **Monitoring** – language discussing or providing for mechanisms for monitoring water rights or water quality.
- **User fees** – specific language within the law/rule that establishes a program whereby water users must pay for a water-related service, such as delivery or treatment.
- **Markets** – specific language in the law/rule that allows actors to lease, purchase, or sell a thing; may also define mechanisms encouraging exchanges.
• **Subsidies or cost-sharing** – specific language within the law/rule that establishes a program whereby the state pays the actor for engaging in an activity, such as fencing a stream to keep cattle away from it.

• **Grants and/or loans** – specific language within the law/rule that allows an actor to apply for assistance for a specific project, such as a low interest loan to purchase and install water saving technologies. Grants and/or loans may be very similar to subsidies or cost-sharing because both types of programs involve actors receiving financial support from the state. Use your best judgment to distinguish between the two programs.

• **Information collection** – specific language in the law/rule that requires the state agency to gather and store data or that requires actors to report data to the state.

• **Planning** – specific language within the law/rule that establishes a process requiring actors to anticipate events or changes in key indicators and to develop alternative means of addressing the changes; for instance, a law may establish a state water planning process that requires local actors to make an inventory their water supplies, identify possible new sources of supply, anticipate future uses and problems and develop alternative approaches for addressing future outcomes. In other words, the law/rule requires actors to identify future scenarios and how to address them.

• **Bonds** – language within the law or rule that establishes the authority to provide funding for water-related infrastructure or services through bonds.

• **Taxes** – language within the law/rule that establishes authority to provide funding for water related infrastructure or services through taxes.

• **Public works/infrastructure** – language in the law/rule that provides for the development or maintenance of public works or infrastructure.

• **Education** – specific language within the law/rule that established clearly identifiable education programs, such as holding fairs, sponsoring forums, developing curricula, etc.

10. Of the programs that are established, which one is primary (check only one):
   ___ regulations
   ___ permits
   ___ defines/recognizes/revises property rights in water (including who can hold a right and how they may transfer it)
   ___ enforcement of laws/rules
   ___ monitoring water rights/water quality
   ___ user fees
   ___ markets
   ___ subsidies or cost-sharing
   ___ grants and/or loans
   ___ information collection
   ___ planning
   ___ education
   ___ bonds
   ___ taxes
   ___ public works/infrastructure
   ___ elections
11. The law/rule creates:
   _____ enabling legislation (laws only) (enabling legislation allows citizens and local governments to create new local governments, such as water districts, or groundwater control areas; thus, if the law establishes a procedure for creating a government, it is an enabling law)
   _____ multi-stakeholder groups
   _____ power sharing among agencies and citizens
   _____ administrative districts/sub-districts of an existing agency
   _____ not applicable

- Instructions: this question attempts to measure ties between governments and citizens, this ranges from citizens being given the authority to create their own governments, to a public agency being further subdivided so that it is more responsive to a particular area/interest in a state.
- Answer 1: enabling legislation allows citizens and local governments to create new local governments, such as water districts, or groundwater control areas; thus, if the law establishes a procedure for creating a government, it is an enabling law.
- Answer 2: a multi-stakeholder group is typically some sort of advisory body consisting of citizens and/or interest groups that provides advice or input for elected/appointed officials; it is never a public agency.
- Answer 3: power sharing refers to a collaboration between an agency and citizens that is more than advisory in nature, the citizens participate in decision making.
- Answer 4: self-explanatory.
- Answer 5: many laws may not address the above issues, and, consequently, the question is not applicable.

12. The scope of law/rule:
   _____ statewide
   _____ region
   List region: ______________________
   _____ basin
   List basin: ______________________

13. The law/rule applies to:
   _____ agriculture/irrigation
   _____ industry
   _____ municipalities/counties
   _____ all sectors
   _____ other: __________________________________________________

Appendix 2. Hard cut off dates for each era based on the combined annual issue focus water allocation and authority or powers of an agency

We first examined the eras based on two major issues: ‘water allocation’ and ‘authority or powers of an agency’. In the 1930s and 1940s, these two issues appeared relatively sporadically, as a percentage of all issues, on the legislative agenda. By 1951, the two issues combined constituted nearly 100% of
issues addressed each year. Overall, between 1951 and 1965 the two issues made up for 88% of all issues addressed by the Colorado legislature. After 1965, ‘water allocation’ and ‘authority of powers of an agency’ were prominent but inconsistently addressed. The final era boundary identified within the dataset is 1984, when the two issues were not identified in any water law. After 1984 and through the end of the dataset in 2004, ‘water allocation’ and ‘authority of powers of an agency’ never regained a prominent position in the water laws passed by the state legislature (Figure 1).