

Water Quality Control Division Exhibit 1 - Amended Regulation #101 Redline

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 101 - WATER QUALITY CIVIL PENALTY INFLATION ADJUSTMENT REGULATION

5 CCR 1002-101

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

101.1 AUTHORITY

These regulations are promulgated pursuant to the Colorado Water Quality Control Act, sections 25-8-101 through 25-8-803, C.R.S. In particular, they are promulgated under sections 25-8-202 and 25-8-608(1), C.R.S.

101.2 PURPOSE

The purpose of ~~these~~ regulations is to annually adjust the amount of the maximum civil penalty applied to violations of the Colorado Water Quality Control Act, based on the percentage change in the United States Department of Labor's Bureau of Labor Statistics Consumer Price Index for Denver-Aurora-Lakewood for All Items and All Urban Consumer, or its successor index.

101.3 REGULATIONS

A. Beginning on January 1, 2023, the maximum civil penalty identified in 25-8-608(1), C.R.S., for a person who violates the Water Quality Control Act, a permit issued under the Act, a control regulation promulgated pursuant to the Act, or a final cease-and-desist order or clean-up order shall be not more than ~~\$61,427XX,XXX~~ per day per violation.

101.4 DEFINITIONS

The following definitions are applicable within the intent of these regulations:

- A. "Colorado Water Quality Control Act" or "Act" means the Colorado Water Quality Control Act as from time to time amended, section 25-8-101, C.R.S., 1973, et seq.
- B. "Commission" means the water quality control commission created by section 25-8-201, C.R.S.
- C. "Division" means the Colorado Department of Public Health and Environment, Water Quality Control Division.
- D. "Person" means an individual, corporation, partnership, association, state or political subdivision thereof, federal agency, state agency, municipality, commission, or interstate body.

101.5 – 101.9 RESERVED

101.11 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY, AND PURPOSE, ADOPTED OCTOBER 10, 2022: EFFECTIVE JANUARY 1, 2023

The provisions of Colorado Revised Statute Sections 25-8-608(1) provides the specific statutory authority for the Water Quality Civil Penalty Inflation Adjustment Regulation adopted by the Commission. The Commission has also adopted, in compliance with Colorado Revised Statute Section 24-4-103(4) C.R.S., the following Statement of Basis and Purpose.

BASIS AND PURPOSE

Section 25-8-608(1), C.R.S., directs that “the commission shall, by rule, annually adjust the amount of the maximum civil penalty based on the percentage change in the United States Department of Labor’s Bureau of Labor Statistics Consumer Price Index for Denver-Aurora-Lakewood for All Items and All Urban Consumers, or its successor index.” This revision to the regulation implements this statutory direction and provides for the new annually adjusted maximum civil penalty identified in 25-8-608(1) C.R.S., effective January 1, 2023.

The commission applied the first adjustment to the maximum civil penalty on January 1, 2022, which was based on the change between the July 2020 Consumer Price Index and the July 2021 Consumer Price Index and resulted in the maximum penalty amount of \$56,759 per day per violation.

The new maximum penalty is calculated by adjusting the previous maximum penalty by the percent change in the Consumer Price Index from July 2021 to July 2022. The July 2021 Consumer Price Index is 285.267. The July 2022 Consumer Price Index is 308.728XXX.XXX. This represents a 8.2XX.XXX% change.

The adjusted maximum penalty is therefore equal to the previous maximum penalty \$56,759 multiplied by $(1 + (\frac{308.728XXX.XXX}{285.267} - 285.267) / 285.267)$. This results in a 2022 adjusted maximum penalty of \$61,427.

PARTIES TO THE RULEMAKING HEARING

October 10, 2022

HEARING CHAIR: