



COLORADO

Water Quality
Control Commission

Department of Public Health & Environment

NOTICE OF PUBLIC RULEMAKING HEARING BEFORE THE COLORADO WATER QUALITY CONTROL COMMISSION

SUBJECT:

For consideration of the adoption of new temporary modifications and revisions to current temporary modifications of water quality standards expiring on or before December 31, 2022, and new site specific standards that allow for the deletion of current temporary modifications expiring on or before December 31, 2022, for multiple segments in the Classifications and Numeric Standards for:

- Arkansas River Basin, Regulation #32 (5 CCR 1002-32);
- Upper Colorado River Basin and North Platte River, Regulation #33 (5 CCR 1002-33);
- San Juan River and Dolores River Basins, Regulation #34 (5 CCR 1002-34);
- Gunnison and Lower Dolores River Basins, Regulation #35 (5CCR 1002-35);
- Lower Colorado River Basin, Regulation #37 (5 CCR 1002-37); and
- South Platte River Basin, Laramie River Basin, Republican River Basin, Smoky Hill River Basin, Regulation #38 (5 CCR 1002-38).

The commission will also consider in the scope of this hearing tiered standards in the Classifications and Numeric Standards for Rio Grande Basin, Regulation #36 (5 CCR 1002-36), as proposed by Rio Grande Silver, Inc. The commission may also consider modifications to or deletion of temporary modifications on any segment where no change is proposed, depending on the information provided in the hearing. If any party believes that a modification or deletion may be appropriate, the party should address the basis for those concerns in its prehearing statement.

Proposed regulatory revisions and associated Statements of Basis, Specific Statutory Authority and Purpose have been submitted by the following:

- Exhibit 1 - Regulation #32, Water Quality Control Division (division);
- Exhibit 2 - Regulation #33, division;
- Exhibit 3 - Regulation #34, division;
- Exhibit 4 - Regulation #35, division;
- Exhibit 5 - Regulation #37, division;
- Exhibit 6 - Regulation #38, division;
- Exhibit 7 - Regulation #36, Rio Grande Silver, Inc.; and
- Exhibit 8 - Regulation #37, Tri-State Generation and Transmission Association, Inc.

In these attachments, proposed new language is shown with double-underlining and proposed deletions are shown with ~~strikeouts~~. Any alternative proposals related to proposed new temporary modifications or current temporary modifications identified in Exhibits 1 through 9, with expiration dates on or before December 31, 2022, will also be considered.

SCHEDULE OF IMPORTANT DATES

Proponent's prehearing statement due	9/16/2020 5pm	Additional information below.
Party status requests due	9/30/2020 5pm	Additional information below.
Responsive prehearing statements due	10/14/2020 5pm	Additional information below.
Rebuttal statements due	11/18/2020 5pm	Additional information below.
Last date for submittal of motions	11/20/2020 5pm	Additional information below.
Notify commission office if participating in prehearing conference by phone	11/20/2020 by noon	Send email to cdphe.wqcc@state.co.us with participant(s) name(s)
Prehearing Conference (mandatory for parties)	12/1/2020 9 am	C1A Department of Public Health and Environment 4300 Cherry Creek Drive South Denver, CO 80246 Or Remote via Zoom
Cutoff of negotiations	12/2/2020 5pm	N/A
Division's consolidated proposals	12/9/2020	N/A
Rulemaking Hearing	12/14/2020 9 am	Sabin Cleere Conference Room Department of Public Health and Environment 4300 Cherry Creek Drive South Denver, CO 80246 Or Remote via Zoom

HEARING SUBMITTALS:

For this hearing, the commission will receive all submittals electronically. Submittals must be provided as PDF documents, except for raw data exhibits which may be provided as Excel workbooks. Submittals may be emailed to cdphe.wqcc@state.co.us, provided via an FTP site, CD or flash drive, or otherwise conveyed to the commission office so as to be received no later than the specified date.

PARTY STATUS:

Party status requests must be in writing and must provide:

- the organization's name,
- one contact person,
- a mailing address,
- a phone number, and
- email addresses of all individuals associated with the party who wish to be notified when new submittals are available on the commission's website for review.

In accordance with section 25-8-104(2)(d), C.R.S., any person who believes that the actions proposed in this notice have the potential to cause material injury to his or her water rights is requested to so indicate, along with an explanation of the alleged harm, in their party status request.

PREHEARING AND REBUTTAL STATEMENTS:

Each party must submit a prehearing statement: parties that have proposed revisions attached as exhibits to the notice must submit a proponent's prehearing statement. All other parties must submit a responsive prehearing statement. Proponents may also submit responsive prehearing statements when there are multiple proposals attached to the notice.

Each prehearing and rebuttal statement must be provided as a separate PDF document from any accompanying written testimony or exhibits.

Following the rebuttal statement due date, no other written materials will be accepted from parties except for good cause shown.

Oral testimony at the hearing should primarily summarize written material previously submitted. The hearing will emphasize commission questioning of parties and other interested persons about their written prehearing submittals. Introduction of written material at the hearing by those with party status will not be permitted unless authorized by the commission.

PREHEARING CONFERENCE:

Attendance at the prehearing conference is mandatory for all persons requesting party status. Parties needing to participate by telephone are encouraged to notify the commission office prior to the prehearing conference. The remote information for the prehearing conference is listed above and here:

Zoom Link: https://us02web.zoom.us/meeting/register/tZcvde2hqjIjHdSjxOtjMDPmn9Hm_gmxJffj

Following the cut-off date for motions, no motions will be accepted, except for good cause shown.

PUBLIC PARTICIPATION ENCOURAGED:

The commission encourages input from non-parties, either orally at the hearing or in writing prior to the hearing. Written submissions should be emailed to cdphe.wqcc@state.co.us by December 2, 2020.

SPECIFIC STATUTORY AUTHORITY:

The provisions of sections 25-8-202(1)(a), (b), and (2); 25-8-203; 25-8-204; and 25-8-402, C.R.S., provide the specific statutory authority for consideration of the regulatory amendments proposed by this notice. Should the commission adopt the regulatory language as proposed in this notice or alternative amendments, it will also adopt, in compliance with section 24-4-103(4) C.R.S., an appropriate Statement of Basis, Specific Statutory Authority, and Purpose.

Dated this 10th day of August, 2020 in Denver, Colorado.

WATER QUALITY CONTROL COMMISSION

A handwritten signature in dark ink, appearing to read "Trisha Oeth", written over a horizontal line.

Trisha Oeth, Administrator

EXHIBIT 1
WATER QUALITY CONTROL DIVISION

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 32 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR ARKANSAS RIVER BASIN

5 CCR 1002-32

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

32.65 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; DECEMBER 14, 2020 RULEMAKING; FINAL ACTION JANUARY 11, 2021; EFFECTIVE DATE JUNE 30, 2021

The provisions of C.R.S. 25-8-202(1)(a), (b) and (2); 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

Pursuant to the requirements in the Basic Standards (at 31.7(3)), the commission reviewed the status of temporary modifications scheduled to expire before December 31, 2022 to determine whether the temporary modification should be modified, eliminated, or extended.

The commission took no action on the temporary modifications set to expire on or before the effective date of this hearing, allowing the following temporary modifications to expire and be deleted from Appendix 32-1:

Middle Arkansas Segment 2 (COARMA02): acute and chronic temperature (expires 7/1/2021)

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

5 CCR 1002-32

**REGULATION NO. 32
CLASSIFICATIONS AND NUMERIC STANDARDS
FOR
ARKANSAS RIVER BASIN**

**APPENDIX 32-1
Stream Classifications and Water Quality Standards Tables**

Effective 06/30/~~2020~~2021

Abbreviations and Acroynms

Aq	=	Aquatic
°C	=	degrees Celsius
CL	=	cold lake temperature tier
CLL	=	cold large lake temperature tier
CS-I	=	cold stream temperature tier one
CS-II	=	cold stream temperature tier two
D.O.	=	dissolved oxygen
DM	=	daily maximum temperature
DUWS	=	direct use water supply
E. coli	=	<i>Escherichia coli</i>
EQ	=	existing quality
mg/L	=	milligrams per liter
mg/m ²	=	milligrams per square meter
mL	=	milliliter
MWAT	=	maximum weekly average temperature
OW	=	outstanding waters
SSE	=	site-specific equation
T	=	total recoverable
t	=	total
tr	=	trout
TVS	=	table value standard
µg/L	=	micrograms per liter
UP	=	use-protected
WS	=	water supply
WS-I	=	warm stream temperature tier one
WS-II	=	warm stream temperature tier two
WS-III	=	warm stream temperature tier three
WL	=	warm lake temperature tier

REGULATION #32 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS Middle Arkansas River Basin

2. Mainstem of the Arkansas River from the outlet of Pueblo Reservoir to a point immediately above the confluence with Wildhorse/Dry Creek Arroyo.							
COARMA02	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture Aq Life Cold 1 Recreation E Water Supply		DM	MWAT		acute	chronic
Reviewable		Temperature °C	CS-II	CS-II	Arsenic	340	---
Qualifiers:			acute	chronic	Arsenic(T)	---	0.02
		D.O. (mg/L)	---	6.0	Cadmium	TVS	TVS
		D.O. (spawning)	---	7.0	Cadmium(T)	5.0	---
Other:		pH	6.5 - 9.0	---	Chromium III	---	TVS
Temporary Modification(s):		chlorophyll a (mg/m ²)	---	---	Chromium III(T)	50	---
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Chromium VI	TVS	TVS
Expiration Date of 12/31/2024					Copper	TVS	TVS
temperature(ac/ch) = current conditions		Inorganic (mg/L)			Iron	---	WS
Expiration Date of 7/1/2024			acute	chronic	Iron(T)	---	1000
*Uranium(acute) = See 32.5(3) for details.		Ammonia	TVS	TVS	Lead	TVS	TVS
*Uranium(chronic) = See 32.5(3) for details.		Boron	---	0.75	Lead(T)	50	---
		Chloride	---	250	Manganese	TVS	TVS/WS
		Chlorine	0.019	0.011	Mercury(T)	---	0.01
		Cyanide	0.005	---	Molybdenum(T)	---	150
		Nitrate	10	---	Nickel	TVS	TVS
		Nitrite	0.05	---	Nickel(T)	---	100
		Phosphorus	---	---	Selenium	TVS	TVS
		Sulfate	---	WS	Silver	TVS	TVS(tr)
		Sulfide	---	0.002	Uranium	varies*	varies*
					Zinc	TVS	TVS

All metals are dissolved unless otherwise noted.
 T = total recoverable
 t = total
 tr = trout

D.O. = dissolved oxygen
 DM = daily maximum
 MWAT = maximum weekly average temperature
 See 32.6 for further details on applied standards.

EXHIBIT 2
WATER QUALITY CONTROL DIVISION

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 33 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR UPPER COLORADO RIVER BASIN AND NORTH PLATTE RIVER (PLANNING REGION 12)

5 CCR 1002-33

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

33.65 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; DECEMBER 14, 2020 RULEMAKING; FINAL ACTION JANUARY 11, 2021; EFFECTIVE DATE JUNE 30, 2021

The provisions of C.R.S. 25-8-202(1)(a), (b) and (2); 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

Pursuant to the requirements in the Basic Standards (at 31.7(3)), the commission reviewed the status of temporary modifications scheduled to expire before December 31, 2022 to determine whether the temporary modification should be modified, eliminated, or extended.

For the temporary modifications set to expire after the effective date of this hearing, the commission reviewed progress toward resolving the uncertainty in the underlying standard and/or the extent to which conditions are a result of natural or anthropogenic conditions, and evaluated whether the temporary modifications were still justified.

The commission took no action on the following temporary modifications:

Yampa River Segment 2b (COUCYA02b): temporary modification of the chronic temperature standard (expires 12/31/2024). As requested by the commission in 2019 at 33.62(I), the City of Steamboat Springs provided an update on its work to resolve the uncertainty in the chronic temperature standard. Steamboat continues to make progress on resolving the uncertainty and eliminating the need for the temporary modification and determining the extent to which the existing quality is the result of natural or irreversible human-induced conditions. The commission made no change to the expiration date, as the original time allotment was deemed adequate to resolve the uncertainty.

The operative value of the temporary modification is the narrative "current conditions". In future reviews of this temporary modification, the commission will use the following values to compare to the most recent five years of representative data to determine if effluent quality is maintained and ensure that the existing uses are protected. These values are for use by the commission in future reviews of the temporary modification and are not intended to direct implementation of "current condition" temporary modifications in permits:

- 1) 7/1 – 9/30, effluent MWAT = XX°C, (based on data for July, August, and September from 2017 - 2019).
- 2) 11/1 – 11/30, effluent MWAT = XX°C, (based on data for November from 2017 - 2019).

Data to characterize the status quo of the waterbody are being collected, but adequate data are not available at this time. It is the commission's expectation that as more data become available to characterize instream waterbody temperature conditions, representative numeric values to

represent instream status quo will be determined as soon as possible for the commission's use in future reviews of this temporary modification.

Yampa River segments 13e, 13g, 13i, 13j (COUCYA13e, COUCYA13g, COUCYA13i, COUCYA13j): temporary modifications of the chronic selenium standard (expire 12/31/2022). Peabody Sage Creek Mining Company, Seneca Coal Company, and Twentymile Coal, LLC (Peabody) provided an update to the commission on progress being made on its selenium study and its plan to develop a proposal for site-specific selenium standards in the December 2021 temporary modifications rulemaking hearing. Peabody provided data that demonstrated instream nonattainment of the underlying standard and demonstrated or predicted water quality-based effluent limit compliance problems.

Peabody's plan to resolve uncertainty includes extensive data collection to develop site-specific selenium standards. In previous hearings, the commission has found there was uncertainty regarding the water quality standards necessary to protect current and/or future uses, and uncertainty about the extent to which existing quality is the result of natural or irreversible human-induced conditions. Therefore, to resolve the uncertainty regarding reversibility, the commission expects that any future proposal by Peabody will adequately characterize the extent to which existing conditions are human-induced and include an evaluation of the feasibility of reversing anthropogenic impacts.

Because Peabody intends to propose site-specific standards at the December 2021 temporary modifications rulemaking hearing, the commission did not adopt numeric operative values to determine if the status quo is being maintained during the temporary modification. The commission does not intend that these temporary modifications will be extended. However, if Peabody's proposal is delayed, representative numeric values to characterize instream and effluent status quo to facilitate future evaluations of status quo preservation and ensure existing use protection will be adopted at the next temporary modifications hearing.

The commission deleted temporary modifications on the following segments:

Yampa River segments 13b, 13d, 13h (COUCYA13b, COUCYA13d, COUCYA13h): temporary modifications of the chronic selenium standard (expire 12/31/2022). The commission deleted the temporary modifications on segments 13b and 13d because instream selenium data show that the underlying chronic selenium standard is being attained. The commission also deleted the temporary modification on Segment 13h due to a lack of evidence of a demonstrated or predicted water quality-based effluent limit compliance problem on Segment 13h or upstream in Segment 13d.

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

5 CCR 1002-33

**REGULATION NO. 33
CLASSIFICATIONS AND NUMERIC STANDARDS
FOR
UPPER COLORADO RIVER BASIN AND
NORTH PLATTE RIVER (PLANNING REGION 12)**

**APPENDIX 33-1
Stream Classifications and Water Quality Standards Tables**

Effective 06/30/~~2020~~2021

Abbreviations and Acroynms

Aq	=	Aquatic
°C	=	degrees Celsius
CL	=	cold lake temperature tier
CLL	=	cold large lake temperature tier
CS-I	=	cold stream temperature tier one
CS-II	=	cold stream temperature tier two
D.O.	=	dissolved oxygen
DM	=	daily maximum temperature
DUWS	=	direct use water supply
E. coli	=	<i>Escherichia coli</i>
EQ	=	existing quality
mg/L	=	milligrams per liter
mg/m ²	=	milligrams per square meter
mL	=	milliliter
MWAT	=	maximum weekly average temperature
OW	=	outstanding waters
sc	=	sculpin
SSE	=	site-specific equation
T	=	total recoverable
t	=	total
tr	=	trout
TVS	=	table value standard
µg/L	=	micrograms per liter
UP	=	use-protected
WS	=	water supply
WS-I	=	warm stream temperature tier one
WS-II	=	warm stream temperature tier two
WS-III	=	warm stream temperature tier three
WL	=	warm lake temperature tier

REGULATION #33 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS Yampa River Basin

2b. Mainstem of the Yampa River from a point immediately above the confluence with Oak Creek to a point immediately below the confluence with Elkhead Creek.							
COUCYA02B	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture	DM	MWAT		acute	chronic	
Reviewable	Aq Life Cold 1 Recreation E Water Supply	Temperature °C	varies*	varies*	Arsenic	340	---
			acute	chronic	Arsenic(T)	---	0.02
		D.O. (mg/L)	---	6.0	Cadmium	TVS	TVS
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium(T)	5.0	---
Other:		pH	6.5 - 9.0	---	Chromium III	---	TVS
Temporary Modification(s):		chlorophyll a (mg/m ²)	---	---	Chromium III(T)	50	---
Arsenic(chronic) = hybrid	7/1 - 9/30	E. Coli (per 100 mL)	---	126	Chromium VI	TVS	TVS
temperature(MWAT) = current conditions*			Inorganic (mg/L)		Copper	TVS	TVS
temperature(MWAT) = current conditions*	11/1 - 11/30		acute	chronic	Iron	---	WS
Expiration Date of 12/31/2024		Ammonia	TVS	TVS	Iron(T)	---	1000
*TempMod: Temperature = Adopted 6/10/2019		Boron	---	0.75	Lead	TVS	TVS
*Uranium(acute) = See 33.5(3) for details.		Chloride	---	250	Lead(T)	50	---
*Uranium(chronic) = See 33.5(3) for details.		Chlorine	0.019	0.011	Manganese	TVS	TVS/WS
*Temperature = See 33.6(4) for temperature standards.		Cyanide	0.005	---	Mercury(T)	---	0.01
		Nitrate	10	---	Molybdenum(T)	---	150
		Nitrite	0.05	---	Nickel	TVS	TVS
		Phosphorus	---	---	Nickel(T)	---	100
		Sulfate	---	WS	Selenium	TVS	TVS
		Sulfide	---	0.002	Silver	TVS	TVS(tr)
					Uranium	varies*	varies*
					Zinc	TVS	TVS/TVS(sc)

13b. Mainstem of Foidel Creek, including all tributaries and wetlands, from the source to the confluence with Middle Creek. Mainstem of Fish Creek, including all tributaries and wetlands, from County Road 27 (40.355559, -107.105131) to the confluence with Trout Creek, except for specific listings in Segment 13g. Mainstem of Middle Creek, including all tributaries and wetlands, from County Road 27 (40.339183, -107.025533) to the confluence with Trout Creek.							
COUCYA13B	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture	DM	MWAT		acute	chronic	
Reviewable	Aq Life Warm 1 Recreation E	Temperature °C	varies*	varies*	Arsenic	340	---
			acute	chronic	Arsenic(T)	---	7.6
		D.O. (mg/L)	---	6.0	Cadmium	TVS	TVS
Qualifiers:		D.O. (spawning)	---	7.0	Chromium III	TVS	TVS
Other:		pH	6.5 - 9.0	---	Chromium III(T)	---	100
Temporary Modification(s):		chlorophyll a (mg/m ²)	---	150	Chromium VI	TVS	TVS
Selenium(chronic) = current conditions*		E. Coli (per 100 mL)	---	126	Copper	TVS	TVS
Expiration Date of 12/31/2022			Inorganic (mg/L)		Iron(T)	---	1000
Iron(T)(chronic) = See section 33.6(4) for standards and assessment locations for Foidel Creek and Middle Creek.			acute	chronic	Iron(T)	---	varies
*Uranium(acute) = See 33.5(3) for details.		Ammonia	TVS	TVS	Lead	TVS	TVS
*Uranium(chronic) = See 33.5(3) for details.		Boron	---	0.75	Manganese	TVS	TVS
*Temperature = See 33.6(4) for temperature standards.		Chloride	---	---	Mercury(T)	---	0.01
*TempMod: Selenium = applies to Foidel Creek and Middle Creek.		Chlorine	0.019	0.011	Molybdenum(T)	---	150
		Cyanide	0.005	---	Nickel	TVS	TVS
		Nitrate	100	---	Selenium	TVS	TVS
		Nitrite	0.05	---	Silver	TVS	TVS
		Phosphorus	---	0.11	Uranium	varies*	varies*
		Sulfate	---	---	Zinc	TVS	TVS
		Sulfide	---	0.002			

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 33.6 for further details on applied standards.

REGULATION #33 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS Yampa River Basin

13d. Mainstem of Dry Creek, including all tributaries and wetlands, from the source to above the confluence with Temple Gulch.									
COUCYA13D	Classifications	Physical and Biological			Metals (ug/L)				
Designation	Agriculture UP Aq Life Warm 2 Recreation E	DM	MWAT	acute chronic					
Qualifiers:	D.O. (mg/L)	acute	chronic	Temperature °C	WS-II	WS-II			
Other:	pH	6.5 - 9.0	---	Arsenic	340	---			
Temporary Modification(s): Iron(chronic) = current condition 3/1 - 4/30 Expiration Date of 6/30/2023 Selenium(chronic) = current conditions Expiration Date of 12/31/2022 *Iron(T)(chronic) = See section 33.6(4) for standards and assessment locations. *Uranium(acute) = See 33.5(3) for details. *Uranium(chronic) = See 33.5(3) for details.	chlorophyll a (mg/m ²)	---	150	Arsenic(T)	---	100			
	E. Coli (per 100 mL)	---	126	Cadmium	TVS	TVS			
	Inorganic (mg/L)			Chromium III	TVS	TVS			
	acute	chronic	Chromium III(T)	---	100	Chromium VI	TVS	TVS	
	Ammonia	TVS	TVS	Copper	TVS	TVS	Iron(T)	---	varies*
	Boron	---	0.75	Lead	TVS	TVS	Manganese	TVS	TVS
	Chloride	---	---	Mercury(T)	---	0.01	Molybdenum(T)	---	150
	Chlorine	0.019	0.011	Nickel	TVS	TVS	Selenium	TVS	TVS
	Cyanide	0.005	---	Nitrate	100	---	Silver	TVS	TVS
	Nitrate	100	---	Nitrite	0.05	---	Uranium	varies*	varies*
	Nitrite	0.05	---	Phosphorus	---	0.17	Zinc	TVS	TVS
	Sulfate	---	---	Sulfide	---	0.002			
13e. Mainstem of Sage Creek, including all tributaries and wetlands, from the source to the confluence with the Yampa River.									
COUCYA13E	Classifications	Physical and Biological			Metals (ug/L)				
Designation	Agriculture UP Aq Life Warm 2 Water Supply Recreation N	DM	MWAT	acute chronic					
Qualifiers:	D.O. (mg/L)	acute	chronic	Temperature °C	WS-II	WS-II			
Other:	pH	6.5 - 9.0	---	Arsenic	340	---			
Temporary Modification(s): Selenium(chronic) = current conditions* Expiration Date of 12/31/2022 *Iron(T)(chronic) = See section 33.6(4) for standards and assessment locations for Sage Creek. *Uranium(acute) = See 33.5(3) for details. *Uranium(chronic) = See 33.5(3) for details. *TempMod: Selenium = Adopted 6/9/2014	chlorophyll a (mg/m ²)	---	---	Arsenic(T)	---	0.02-10 ^A			
	E. Coli (per 100 mL)	---	630	Cadmium	TVS	TVS			
	Inorganic (mg/L)			Cadmium(T)	5.0	---			
	acute	chronic	Chromium III	---	TVS	Chromium III(T)	50	---	
	Ammonia	TVS	TVS	Chromium VI	TVS	TVS	Copper	TVS	TVS
	Boron	---	0.75	Copper	TVS	TVS	Iron	---	WS
	Chloride	---	250	Iron(T)	---	1000	Iron(T)	---	varies*
	Chlorine	0.019	0.011	Lead	TVS	TVS	Lead	TVS	TVS
	Cyanide	0.005	---	Lead(T)	50	---	Manganese	TVS	TVSWS
	Nitrate	10	---	Mercury(T)	---	0.01	Molybdenum(T)	---	150
	Nitrite	0.05	---	Nickel	TVS	TVS	Nickel	TVS	TVS
	Phosphorus	---	0.17	Nickel(T)	---	100	Selenium	TVS	TVS
	Sulfate	---	WS	Selenium	TVS	TVS	Silver	TVS	TVS
	Sulfide	---	0.002	Uranium	varies*	varies*	Uranium	varies*	varies*
				Zinc	TVS	TVS			

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 33.6 for further details on applied standards.

REGULATION #33 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS Yampa River Basin

13g. All tributaries to Fish Creek from the confluence with Cow Camp Creek (40.398773, -107.016467) to the confluence with Trout Creek.						
COUCYA13G	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic	
Reviewable	Aq Life Warm 1 Recreation E	WS-II	WS-II	Arsenic	340	---
Qualifiers:		acute	chronic	Arsenic(T)	---	7.6
Other:	D.O. (mg/L)	---	5.0	Cadmium	TVS	TVS
Temporary Modification(s): Selenium(chronic) = current conditions* Expiration Date of 12/31/2022	pH	6.5 - 9.0	---	Chromium III	TVS	TVS
*Uranium(acute) = See 33.5(3) for details. *Uranium(chronic) = See 33.5(3) for details. <u>*TempMod: Selenium = Adopted 6/9/2014</u>	chlorophyll a (mg/m ²)	---	150	Chromium III(T)	---	100
	E. Coli (per 100 mL)	---	126	Chromium VI	TVS	TVS
	Inorganic (mg/L)			Copper	TVS	TVS
	acute	chronic	Iron(T)	---	1000	
	Ammonia	TVS	TVS	Lead	TVS	TVS
	Boron	---	0.75	Manganese	TVS	TVS
	Chloride	---	---	Mercury(T)	---	0.01
	Chlorine	0.019	0.011	Molybdenum(T)	---	150
	Cyanide	0.005	---	Nickel	TVS	TVS
	Nitrate	100	---	Selenium	TVS	TVS
	Nitrite	0.05	---	Silver	TVS	TVS
	Phosphorus	---	0.17	Uranium	varies*	varies*
	Sulfate	---	---	Zinc	TVS	TVS
	Sulfide	---	0.002			
13h. Mainstem of Dry Creek (near Hayden), including all tributaries and wetlands, from above the confluence with Temple Gulch to the confluence with the Yampa River.						
COUCYA13H	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture	DM	MWAT	acute	chronic	
UP	Aq Life Warm 2 Recreation E	WS-II	WS-II	Arsenic	340	---
Qualifiers:		acute	chronic	Arsenic(T)	---	7.6
Other:	D.O. (mg/L)	---	5.0	Cadmium	TVS	TVS
Temporary Modification(s): Selenium(chronic) = current conditions Expiration Date of 12/31/2022	pH	6.5 - 9.0	---	Chromium III	TVS	TVS
*Uranium(acute) = See 33.5(3) for details. *Uranium(chronic) = See 33.5(3) for details.	chlorophyll a (mg/m ²)	---	150	Chromium III(T)	---	100
	E. Coli (per 100 mL)	---	126	Chromium VI	TVS	TVS
	Inorganic (mg/L)			Copper	TVS	TVS
	acute	chronic	Iron(T)	---	1000	
	Ammonia	TVS	TVS	Lead	TVS	TVS
	Boron	---	0.75	Manganese	TVS	TVS
	Chloride	---	---	Mercury(T)	---	0.01
	Chlorine	0.019	0.011	Molybdenum(T)	---	150
	Cyanide	0.005	---	Nickel	TVS	TVS
	Nitrate	100	---	Selenium	TVS	TVS
	Nitrite	0.05	---	Silver	TVS	TVS
	Phosphorus	---	0.17	Uranium	varies*	varies*
	Sulfate	---	---	Zinc	TVS	TVS
	Sulfide	---	0.002			

All metals are dissolved unless otherwise noted.
 T = total recoverable
 t = total
 tr = trout
 sc = sculpin

D.O. = dissolved oxygen
 DM = daily maximum
 MWAT = maximum weekly average temperature
 See 33.6 for further details on applied standards.

REGULATION #33 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS Yampa River Basin

13i. Mainstem of Grassy Creek, including all tributaries and wetlands, from the source to immediately above the confluence with Scotchmans Gulch.						
COUCYA13I	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture UP Aq Life Warm 2 Recreation N	DM	MWAT		acute	chronic
Qualifiers:		acute	chronic			
Other: Temporary Modification(s): Iron(chronic) = current conditions* Expiration Date of 6/30/2023 Selenium(chronic) = current conditions* Expiration Date of 12/31/2022 *Uranium(acute) = See 33.5(3) for details. *Uranium(chronic) = See 33.5(3) for details. *TempMod: Iron = applies to Grassy Creek. *TempMod: Selenium = Adopted 6/9/2014	D.O. (mg/L) --- 5.0 pH 6.5 - 9.0 --- chlorophyll a (mg/m ²) --- --- E. Coli (per 100 mL) --- 630 Inorganic (mg/L) Ammonia TVS TVS Boron --- 0.75 Chloride --- --- Chlorine 0.019 0.011 Cyanide 0.005 --- Nitrate 100 --- Nitrite 0.05 --- Phosphorus --- 0.17 Sulfate --- --- Sulfide --- 0.002	Arsenic 340 --- Arsenic(T) --- 100 Cadmium TVS TVS Chromium III TVS TVS Chromium III(T) --- 100 Chromium VI TVS TVS Copper TVS TVS Iron(T) --- 1000 Lead TVS TVS Manganese TVS TVS Mercury(T) --- 0.01 Molybdenum(T) --- 150 Nickel TVS TVS Selenium TVS TVS Silver TVS TVS Uranium varies* varies* Zinc TVS TVS				
13j. Mainstem of Grassy Creek (near Hayden), including all tributaries and wetlands, from above the confluence with Scotchmans Gulch to the confluence with the Yampa River.						
COUCYA13J	Classifications	Physical and Biological			Metals (ug/L)	
Designation	Agriculture UP Aq Life Warm 2 Recreation N	DM	MWAT		acute	chronic
Qualifiers:		acute	chronic			
Other: Temporary Modification(s): Selenium(chronic) = current conditions* Expiration Date of 12/31/2022 *Uranium(acute) = See 33.5(3) for details. *Uranium(chronic) = See 33.5(3) for details. *TempMod: Selenium = Adopted 12/11/2017	D.O. (mg/L) --- 5.0 pH 6.5 - 9.0 --- chlorophyll a (mg/m ²) --- --- E. Coli (per 100 mL) --- 630 Inorganic (mg/L) Ammonia TVS TVS Boron --- 0.75 Chloride --- --- Chlorine 0.019 0.011 Cyanide 0.005 --- Nitrate 100 --- Nitrite 0.05 --- Phosphorus --- 0.17 Sulfate --- --- Sulfide --- 0.002	Arsenic 340 --- Arsenic(T) --- 100 Cadmium TVS TVS Chromium III TVS TVS Chromium III(T) --- 100 Chromium VI TVS TVS Copper TVS TVS Iron(T) --- 1000 Lead TVS TVS Manganese TVS TVS Mercury(T) --- 0.01 Molybdenum(T) --- 150 Nickel TVS TVS Selenium TVS TVS Silver TVS TVS Uranium varies* varies* Zinc TVS TVS				

All metals are dissolved unless otherwise noted.
 T = total recoverable
 t = total
 tr = trout
 sc = sculpin

D.O. = dissolved oxygen
 DM = daily maximum
 MWAT = maximum weekly average temperature
 See 33.6 for further details on applied standards.

EXHIBIT 3
WATER QUALITY CONTROL DIVISION

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 34 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR SAN JUAN RIVER AND DOLORES RIVER BASINS

5 CCR 1002-34

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

34.52 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; DECEMBER 14, 2020 RULEMAKING; FINAL ACTION JANUARY 11, 2021; EFFECTIVE DATE JUNE 30, 2021

The provisions of C.R.S. 25-8-202(1)(a), (b) and (2); 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

Pursuant to the requirements in the Basic Standards (at 31.7(3)), the commission reviewed the status of temporary modifications scheduled to expire before December 31, 2022 to determine whether the temporary modification should be modified, eliminated, or extended.

For the temporary modifications set to expire after the effective date of this hearing, the commission reviewed progress toward resolving the uncertainty in the underlying standard and/or the extent to which conditions are a result of natural or anthropogenic conditions, and evaluated whether the temporary modifications were still justified.

The commission took no action on the following temporary modifications:

Animas River segments 3b and 4a (COSJAF03b and COSJAF04a): temporary modifications of the acute and chronic copper standards (expire 12/31/2022). The Town of Silverton provided an update regarding progress being made in implementing the plan to resolve uncertainty and demonstrating the ongoing justification for the temporary modifications.

There continues to be demonstrated instream nonattainment, predicted compliance issues, and remaining uncertainty regarding the appropriate underlying standards to protect the uses and the extent to which instream and effluent conditions are reversible. The update provided by the Town of Silverton included details regarding the scheduled investigations and actions to resolve the uncertainty pertaining to the reversibility of copper concentrations in their effluent by 12/31/2022. This work includes improvements to the collection systems to reduce inflow and infiltration, as well as improvements to the wastewater treatment facility.

The operative value of the temporary modification is the narrative "current conditions." In future reviews of this temporary modification, the commission will use the following values to compare to the most recent five years of representative data to determine if effluent and waterbody quality is maintained and ensure that the existing uses are protected. These values are for use by the

commission in future reviews of the temporary modification and are not intended to direct implementation of "current condition" temporary modifications in permits:

- 1) effluent (potentially dissolved copper = XX µg/L, based on the maximum 30-day average of data from X/XX/XXXX - X/XX/XXXX)
- 2) instream (dissolved copper = XX and XX µg/L, based on the 85th and 95th percentiles, respectively, of data from X/XX/XXXX - X/XX/XXXX at site XXX)

The commission took no action on the temporary modifications set to expire on or before the effective date of this hearing, allowing the following temporary modifications to expire and be deleted from Appendix 34-1:

La Plata Segment 9 (COSJLP09): acute and chronic ammonia (expires 6/30/2021)

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

5 CCR 1002-34

**REGULATION NO. 34
CLASSIFICATIONS AND NUMERIC STANDARDS
FOR
SAN JUAN RIVER AND DOLORES RIVER BASINS**

**APPENDIX 34-1
Stream Classifications and Water Quality Standards Tables**

Effective 06/30/~~2020~~2021

Abbreviations and Acroynms

Aq	=	Aquatic
°C	=	degrees Celsius
CL	=	cold lake temperature tier
CLL	=	cold large lake temperature tier
CS-I	=	cold stream temperature tier one
CS-II	=	cold stream temperature tier two
D.O.	=	dissolved oxygen
DM	=	daily maximum temperature
DUWS	=	direct use water supply
E. coli	=	<i>Escherichia coli</i>
EQ	=	existing quality
mg/L	=	milligrams per liter
mg/m ²	=	milligrams per square meter
mL	=	milliliter
MWAT	=	maximum weekly average temperature
OW	=	outstanding waters
sc	=	sculpin
SSE	=	site-specific equation
T	=	total recoverable
t	=	total
tr	=	trout
TVS	=	table value standard
µg/L	=	micrograms per liter
UP	=	use-protected
WS	=	water supply
WS-I	=	warm stream temperature tier one
WS-II	=	warm stream temperature tier two
WS-III	=	warm stream temperature tier three
WL	=	warm lake temperature tier

REGULATION #34 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Animas and Florida River Basins

3b. Mainstem of the Animas River, including wetlands, from a point immediately above the confluence with Cement Creek to a point immediately above the confluence with Mineral Creek.							
COSJAF03B	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Recreation E 5/15 - 9/10	DM	MWAT	acute	chronic		
UP	Recreation N 9/11 - 5/14					Aluminum --- ---	
Qualifiers:		acute	chronic			Arsenic --- ---	
Other:						Beryllium --- ---	
Temporary Modification(s):		D.O. (mg/L) --- 3.0				Cadmium --- ---	
Copper(ac/ch) = current condition*		pH 6.0-9.0 ---				Chromium III --- ---	
Expiration Date of 12/31/2022		chlorophyll a (mg/m ²) --- 150*				Chromium VI --- ---	
*The concentration of dissolved aluminum, cadmium, copper, iron, lead, manganese, and zinc that is directed toward maintaining and achieving water quality standards established for segments 4a and 4b. *chlorophyll a (mg/m ²)(chronic) = applies only above the facilities listed at 34.5(5). *TempMod: Copper = Adopted 9/10/2012		E. Coli (per 100 mL) 5/15 - 9/10 --- 126				Copper --- ---	
		E. Coli (per 100 mL) 9/11 - 5/14 --- 630				Iron --- ---	
		Inorganic (mg/L)					Lead --- ---
		acute	chronic			Manganese --- ---	
		Ammonia --- ---				Mercury --- ---	
		Boron --- ---				Molybdenum(T) --- ---	
		Chloride --- ---				Nickel --- ---	
		Chlorine --- ---				Selenium --- ---	
		Cyanide --- ---				Silver --- ---	
		Nitrate --- ---				Uranium --- ---	
		Nitrite --- ---				Zinc --- ---	
		Phosphorus --- ---					
		Sulfate --- ---					
		Sulfide --- ---					
4a. Mainstem of the Animas River, including wetlands, from a point immediately above the confluence with Mineral Creek to a point immediately above the confluence with Deer Park Creek.							
COSJAF04A	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture	DM	MWAT	acute	chronic		
UP	Aq Life Cold 2* Recreation E	Temperature °C CS-I CS-I				Aluminum varies* varies*	
Qualifiers:		acute	chronic			Arsenic 340 ---	
Other:						Arsenic(T) --- 100	
Temporary Modification(s):		D.O. (mg/L) --- 6.0				Beryllium --- ---	
Copper(ac/ch) = current condition*		D.O. (spawning) --- 7.0				Cadmium TVS TVS	
Expiration Date of 12/31/2022		pH varies* ---				Chromium III TVS TVS	
*Classification: Aquatic life indicator goal: Brook Trout *Aluminum(acute) = Standards are listed on Table 1. *Aluminum(chronic) = Standards are listed on Table 1. *Iron(chronic) = Standards are listed on Table 1. *Zinc(acute) = Standards are listed on Table 1. *Zinc(chronic) = Standards are listed on Table 1. *pH(acute) = Standards are listed on Table 1. *TempMod: Copper = Adopted 6/12/2017		chlorophyll a (mg/m ²) --- ---				Chromium III(T) --- 100	
		E. Coli (per 100 mL) --- 126				Chromium VI TVS TVS	
		Inorganic (mg/L)					Copper TVS TVS
		acute	chronic			Iron --- varies*	
		Ammonia TVS TVS				Lead TVS TVS	
		Boron --- 0.75				Manganese TVS TVS	
		Chloride --- ---				Mercury --- 0.01(t)	
		Chlorine 0.019 0.011				Molybdenum(T) --- 150	
		Cyanide 0.005 ---				Nickel TVS TVS	
		Nitrate 100 ---				Selenium TVS TVS	
		Nitrite --- ---				Silver TVS TVS(tr)	
		Phosphorus --- ---				Uranium --- ---	
		Sulfate --- ---				Zinc varies* varies*	
		Sulfide --- 0.002					

All metals are dissolved unless otherwise noted.
 T = total recoverable
 t = total
 tr=trout
 sc=sculpin

D.O. = dissolved oxygen
 DM = daily maximum
 MWAT = maximum weekly average temperature
 See 34.6 for further details on applied standards.

REGULATION #34 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS
La Plata River, Mancos River, McElmo Creek and San Juan River in Montezuma County and Dolores County

9. Unnamed tributary to Ritter Draw (confluence at 37.4059, -108.5325).						
COSJLP09	Classifications	Physical and Biological			Metals (ug/L)	
Designation		DM	MWAT		acute	chronic
UP	Agriculture					
	Aq Life Warm 2	WS-III	WS-III	Temperature °C	---	---
	Recreation E	acute	chronic			
Qualifiers:				D.O. (mg/L)	---	5.0
Other:				pH	6.5 - 9.0	---
Temporary Modification(s):				chlorophyll a (mg/m ²)	---	150*
Ammonia(ac/ch) = current conditions*				E. Coli (per 100 mL)	---	126
Expiration Date of 6/30/2024				Inorganic (mg/L)		
		acute	chronic			
				Ammonia	TVS	TVS
				Boron	---	0.75
				Chloride	---	250
				Chlorine	0.019	0.011
				Cyanide	0.005	---
				Nitrate	100	---
				Nitrite	0.05	---
				Phosphorus	---	0.17*
				Sulfate	---	250
				Sulfide	---	0.002
				Aluminum	---	---
				Arsenic	340	---
				Arsenic(T)	---	100
				Beryllium	---	---
				Cadmium	TVS	TVS
				Chromium III	TVS	TVS
				Chromium III(T)	---	100
				Chromium VI	TVS	TVS
				Copper	TVS	TVS
				Iron(T)	---	1000
				Lead	TVS	TVS
				Manganese	TVS	TVS
				Mercury	---	0.01(t)
				Molybdenum(T)	---	150
				Nickel	TVS	TVS
				Selenium	TVS	TVS
				Silver	TVS	TVS
				Uranium	---	---
				Zinc	TVS	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr=trout
sc=sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 34.6 for further details on applied standards.

EXHIBIT 4
WATER QUALITY CONTROL DIVISION

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 35 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR GUNNISON AND LOWER DOLORES RIVER BASINS

5 CCR 1002-35

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

35.49 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; DECEMBER 14, 2020 RULEMAKING; FINAL ACTION JANUARY 11, 2021; EFFECTIVE DATE JUNE 30, 2021

The provisions of C.R.S. 25-8-202(1)(a), (b) and (2); 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

Pursuant to the requirements in the Basic Standards (at 31.7(3)), the commission reviewed the status of temporary modifications scheduled to expire before December 31, 2022 to determine whether the temporary modification should be modified, eliminated, or extended.

For the temporary modifications set to expire after the effective date of this hearing, the commission reviewed progress toward resolving the uncertainty in the underlying standard and/or the extent to which conditions are a result of natural or anthropogenic conditions, and evaluated whether the temporary modifications were still justified.

The commission took no action on the following temporary modifications:

Upper Gunnison Segment 12 (COGUUG12): temporary modifications of the acute and chronic cadmium standards, acute and chronic copper standards, and chronic zinc standard (expire 12/31/2022). Mt. Emmons Mining Company (MEMC) provided an update regarding progress being made in implementing the plan to resolve uncertainty and demonstrating the ongoing justification for the temporary modifications.

There continues to be demonstrated instream nonattainment and compliance issues, and MEMC continues to make progress on resolving the uncertainty underlying the temporary modifications and determining the extent to which the existing quality is the result of natural or irreversible human-induced conditions. The update provided by MEMC included details regarding its investigations and activities, which have included source identification, site and source characterization, source reclamation, water and material management, and evaluation of treatment strategies.

The operative values of the cadmium and zinc temporary modifications are numeric, but the operative value of the copper temporary modification is the narrative "current condition." In future reviews of the copper temporary modification, the commission will use the following values to compare to the most recent five years of representative data to determine if effluent and waterbody quality is maintained and ensure that the existing uses are protected. These values are for use by the commission in future reviews of the temporary modification and are not intended to direct implementation of "current condition" temporary modifications in permits:

- 1) effluent (potentially dissolved copper = XX µg/L, based on the maximum 30-day average of data from X/XX/XXXX - X/XX/XXXX)
- 2) instream (dissolved copper = XX and XX µg/L, based on the 85th and 95th percentiles, respectively, of data from X/XX/XXXX - X/XX/XXXX at site XXX)

Upper Gunnison Segment 21 (COGUUG21): temporary modification of the chronic uranium standard (expires 12/31/2022). Homestake Mining Company provided an update regarding progress being made in implementing the plan to resolve uncertainty and demonstrating the ongoing justification for the temporary modification.

There continues to be demonstrated instream nonattainment and compliance issues, and Homestake continues to make progress on resolving the uncertainty underlying the temporary modification and determining the lowest practical level of uranium that can be achieved. The update provided by Homestake included details regarding its investigations and activities, which have included evaluations of source load reduction, passive treatment options, and water infiltration management, as well as water quality sampling instream and in downstream domestic wells.

The operative value of the temporary modification is the narrative "current condition." In future reviews of this temporary modification, the commission will use the following values to compare to the most recent five years of representative data to determine if effluent and waterbody quality is maintained and ensure that the existing uses are protected. These values are for use by the commission in future reviews of the temporary modification and are not intended to direct implementation of "current condition" temporary modifications in permits:

- 1) effluent (potentially dissolved uranium = XX µg/L, based on the maximum 30-day average of data from X/XX/XXXX - X/XX/XXXX)
- 2) instream (total recoverable uranium = XX µg/L, based on the 50th percentile of data from X/XX/XXXX - X/XX/XXXX at site XXX)

The commission deleted the temporary modifications on the following segments:

Lower Gunnison Segment 2 (COGULG02): temporary modification of the chronic selenium standard (expires 12/31/2022). The commission deleted this temporary modification because instream selenium data show that the underlying chronic selenium standard is being attained.

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

5 CCR 1002-35

**REGULATION NO. 35
CLASSIFICATIONS AND NUMERIC STANDARDS
FOR
GUNNISON AND LOWER DOLORES RIVER BASINS**

**APPENDIX 35-1
Stream Classifications and Water Quality Standards Tables**

Effective 06/30/~~2020~~2021

Abbreviations and Acroynms

Aq	=	Aquatic
°C	=	degrees Celsius
CL	=	cold lake temperature tier
CLL	=	cold large lake temperature tier
CS-I	=	cold stream temperature tier one
CS-II	=	cold stream temperature tier two
D.O.	=	dissolved oxygen
DM	=	daily maximum temperature
DUWS	=	direct use water supply
E. coli	=	<i>Escherichia coli</i>
EQ	=	existing quality
mg/L	=	milligrams per liter
mg/m ²	=	milligrams per square meter
mL	=	milliliter
MWAT	=	maximum weekly average temperature
OW	=	outstanding waters
sc	=	sculpin
SSE	=	site-specific equation
T	=	total recoverable
t	=	total
tr	=	trout
TVS	=	table value standard
µg/L	=	micrograms per liter
UP	=	use-protected
WS	=	water supply
WS-I	=	warm stream temperature tier one
WS-II	=	warm stream temperature tier two
WS-III	=	warm stream temperature tier three
WL	=	warm lake temperature tier

REGULATION #35 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Upper Gunnison River Basin

12. Mainstem of Coal Creek, including all tributaries and wetlands from a point immediately above the Keystone Mine discharge (38.867117, -107.023627) to the confluence with the Slate River, with the exception of Wildcat Creek.							
COGUUG12	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture		DM	MWAT		acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---	---
	Recreation E		acute	chronic	Arsenic	340	---
	Water Supply	D.O. (mg/L)	---	6.0	Arsenic(T)	---	0.02
Qualifiers:		D.O. (spawning)	---	7.0	Beryllium	---	---
Other:		pH	6.5 - 9.0	---	Cadmium	TVS	TVS
Temporary Modification(s):		chlorophyll a (mg/m ²)	---	150	Cadmium(T)	5.0	---
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Chromium III	---	TVS
Expiration Date of 12/31/2024		Inorganic (mg/L)			Chromium III(T)	50	---
Cadmium(ac/ch) = 3.5/2.79*	4/1 - 6/30		acute	chronic	Chromium VI	TVS	TVS
Copper(ac/ch) = current condition*	4/1 - 6/30	Ammonia	TVS	TVS	Copper	TVS	TVS
Zinc(chronic) = 576*	4/1 - 6/30	Boron	---	0.75	Iron	---	WS
Expiration Date of 12/31/2022		Chloride	---	250	Iron(T)	---	1000
*TempMod: Cadmium(4/1 - 6/30) = Coal Creek, Adopted 6/12/2017(ac) and 6/12/2006(ch).		Chlorine	0.019	0.011	Lead	TVS	TVS
*TempMod: Copper(4/1 - 6/30) = Coal Creek, Adopted 6/12/2017(ac) and 9/10/2012(ch).		Cyanide	0.005	---	Lead(T)	50	---
*TempMod: Zinc(4/1 - 6/30) = Coal Creek, Adopted 7/9/2001.		Nitrate	10	---	Manganese	TVS	TVS/191
		Nitrite	0.05	---	Mercury	---	0.01(t)
		Phosphorus	---	0.11	Molybdenum(T)	---	150
		Sulfate	---	WS	Nickel	TVS	TVS
		Sulfide	---	0.002	Nickel(T)	---	100
					Selenium	TVS	TVS
					Silver	TVS	TVS(tr)
					Uranium	---	---
					Zinc	TVS	TVS
21. Mainstem of Marshall Creek, including all tributaries and wetlands, from the source to the confluence with Tomichi Creek, except for specific listings in Segment 20.							
COGUUG21	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture		DM	MWAT		acute	chronic
Reviewable	Aq Life Cold 1	Temperature °C	CS-I	CS-I	Aluminum	---	---
	Recreation U		acute	chronic	Arsenic	340	---
	Water Supply	D.O. (mg/L)	---	6.0	Arsenic(T)	---	0.02
Qualifiers:		D.O. (spawning)	---	7.0	Beryllium	---	---
Other:		pH	6.5 - 9.0	---	Cadmium	TVS	TVS
Temporary Modification(s):		chlorophyll a (mg/m ²)	---	150	Cadmium(T)	5.0	---
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Chromium III	---	TVS
Expiration Date of 12/31/2024		Inorganic (mg/L)			Chromium III(T)	50	---
Uranium(chronic) = current condition*			acute	chronic	Chromium VI	TVS	TVS
Expiration Date of 12/31/2022		Ammonia	TVS	TVS	Copper	TVS	TVS
*TempMod: Uranium = Mainstem of Marshall Creek from the confluence with Indian Creek to the confluence with Tomichi Creek, Adopted 6/12/2017.		Boron	---	0.75	Iron	---	WS
		Chloride	---	250	Iron(T)	---	1000
		Chlorine	0.019	0.011	Lead	TVS	TVS
		Cyanide	0.005	---	Lead(T)	50	---
		Nitrate	10	---	Manganese	TVS	TVS/WS
		Nitrite	0.05	---	Mercury	---	0.01(t)
		Phosphorus	---	0.11	Molybdenum(T)	---	150
		Sulfate	---	WS	Nickel	TVS	TVS
		Sulfide	---	0.002	Nickel(T)	---	100
					Selenium	TVS	TVS
					Silver	TVS	TVS(tr)
					Uranium	---	---
					Uranium(T)	---	16.8-30 ^A
					Zinc	TVS	TVS

All metals are dissolved unless otherwise noted.
 T = total recoverable
 t = total
 tr = trout
 sc = sculpin

D.O. = dissolved oxygen
 DM = daily maximum
 MWAT = maximum weekly average temperature
 See 35.6 for further details on applied standards.

REGULATION #35 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Lower Gunnison Basin

2. Mainstem of the Gunnison River from Highway 65 (38.772574, -108.002634) to the confluence with the Colorado River.							
COGULG02	Classifications	Physical and Biological			Metals (ug/L)		
Designation			DM	MWAT			
Reviewable			WS-II	WS-II			
			acute	chronic			
					acute	chronic	
	Agriculture	Temperature °C	WS-II	WS-II	Aluminum	---	---
	Aq Life Warm 1				Arsenic	340	---
	Recreation E	D.O. (mg/L)	---	5.0	Arsenic(T)	---	0.02
	Water Supply	pH	6.5 - 9.0	---	Beryllium	---	---
Qualifiers:		chlorophyll a (mg/m ²)	---	---	Cadmium	TVS	TVS
Other:		E. Coli (per 100 mL)	---	126	Cadmium(T)	5.0	---
Temporary Modification(s):		Inorganic (mg/L)			Chromium III	---	TVS
Arsenic(chronic) = hybrid					Chromium III(T)	50	---
Expiration Date of 12/31/2024					Chromium VI	TVS	TVS
Selenium(chronic) = current conditions		Ammonia	TVS	TVS	Copper	TVS	TVS
Expiration Date of 12/31/2022		Boron	---	0.75	Iron	---	WS
		Chloride	---	250	Iron(T)	---	1000
		Chlorine	0.019	0.011	Lead	TVS	TVS
		Cyanide	0.005	---	Lead(T)	50	---
		Nitrate	10	---	Manganese	TVS	TVSWS
		Nitrite	0.05	---	Mercury	---	0.01(t)
		Phosphorus	---	---	Molybdenum(T)	---	150
		Sulfate	---	480	Nickel	TVS	TVS
		Sulfide	---	0.002	Nickel(T)	---	100
					Selenium	TVS	TVS
					Silver	TVS	TVS
					Uranium	---	---
					Zinc	TVS	TVS

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 35.6 for further details on applied standards.

EXHIBIT 5
WATER QUALITY CONTROL DIVISION

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 37 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR LOWER COLORADO RIVER BASIN

5 CCR 1002-37

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

37.43 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; DECEMBER 14, 2020 RULEMAKING; FINAL ACTION JANUARY 11, 2021; EFFECTIVE DATE JUNE 30, 2021

The provisions of C.R.S. 25-8-202(1)(a), (b) and (2); 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

Pursuant to the requirements in the Basic Standards (at 31.7(3)), the commission reviewed the status of temporary modifications scheduled to expire before December 31, 2022 to determine whether the temporary modification should be modified, eliminated, or extended.

The commission took no action on the temporary modifications set to expire on or before the effective date of this hearing, allowing the following temporary modifications to expire and be deleted from Appendix 37-1:

Lower Colorado Segment 4e (COLCLC04e): acute and chronic copper (expires 6/30/2021)

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

5 CCR 1002-37

**REGULATION NO. 37
CLASSIFICATIONS AND NUMERIC STANDARDS
FOR
LOWER COLORADO RIVER BASIN**

**APPENDIX 37-1
Stream Classifications and Water Quality Standards Tables**

Effective 06/30/~~2020~~2021

Abbreviations and Acroynms

Aq	=	Aquatic
°C	=	degrees Celsius
CL	=	cold lake temperature tier
CLL	=	cold large lake temperature tier
CS-I	=	cold stream temperature tier one
CS-II	=	cold stream temperature tier two
D.O.	=	dissolved oxygen
DM	=	daily maximum temperature
DUWS	=	direct use water supply
E. coli	=	<i>Escherichia coli</i>
mg/L	=	milligrams per liter
mg/m ²	=	milligrams per square meter
mL	=	milliliter
MWAT	=	maximum weekly average temperature
OW	=	outstanding waters
sc	=	sculpin
SSE	=	site-specific equation
T	=	total recoverable
t	=	total
tr	=	trout
TVS	=	table value standard
µg/L	=	micrograms per liter
UP	=	use-protected
WS	=	water supply
WS-I	=	warm stream temperature tier one
WS-II	=	warm stream temperature tier two
WS-III	=	warm stream temperature tier three
WL	=	warm lake temperature tier

REGULATION #37 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Lower Colorado River

4e. Mainstem of Dry Creek, including all tributaries and wetlands, from the source to immediately above the Last Chance Ditch.							
COLCLC04E	Classifications	Physical and Biological			Metals (ug/L)		
Designation			DM	MWAT			
UP	Agriculture		CS-II	CS-II			
	Aq Life Cold 2				acute	chronic	
	Recreation N						
Qualifiers:		D.O. (mg/L)	---	5.0	Arsenic	340	---
Other:		pH	6.5 - 9.0	---	Arsenic(T)	---	100
Temporary Modification(s):		chlorophyll a (mg/m ²)	---	---	Cadmium	TVS	TVS
Copper(ac/ch) = current conditions		E. Coli (per 100 mL)	---	630	Chromium III	TVS	TVS
Expiration Date of 6/30/2024		Inorganic (mg/L)			Chromium III(T)	---	100
*Phosphorus(chronic) = applies only above the facilities listed at 37.5(4).					Chromium VI	TVS	TVS
*Iron(T)(chronic) = 3500(T) ug/L on unnamed tributary and 5900(T) ug/L on Dry Creek, see section 37.6(4)(c) for iron assessment locations.					Copper	TVS	TVS
Uranium(acute) = See 37.5(3) for details.					Iron(T)	---	varies
*Uranium(chronic) = See 37.5(3) for details.					Lead	TVS	TVS
		Ammonia	TVS	TVS	Manganese	TVS	TVS
		Boron	---	0.75	Mercury(T)	---	0.01
		Chloride	---	---	Molybdenum(T)	---	150
		Chlorine	0.019	0.011	Nickel	TVS	TVS
		Cyanide	0.005	---	Selenium	TVS	TVS
		Nitrate	100	---	Silver	TVS	TVS
		Nitrite	0.05	---	Uranium	varies*	varies*
		Phosphorus	---	0.11*	Zinc	TVS	TVS
		Sulfate	---	---			
		Sulfide	---	0.002			

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 37.6 for further details on applied standards.

EXHIBIT 6
WATER QUALITY CONTROL DIVISION

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 38 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR SOUTH PLATTE RIVER BASIN, LARAMIE RIVER BASIN, REPUBLICAN RIVER BASIN, SMOKY HILL RIVER BASIN

5 CCR 1002-38

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

38.102 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; DECEMBER 14, 2020 RULEMAKING; FINAL ACTION JANUARY 11, 2021; EFFECTIVE DATE JUNE 30, 2021

The provisions of C.R.S. 25-8-202(1)(a), (b) and (2); 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

Pursuant to the requirements in the Basic Standards (at 31.7(3)), the commission reviewed the status of temporary modifications scheduled to expire before December 31, 2022 to determine whether the temporary modification should be modified, eliminated, or extended.

For the temporary modifications set to expire after the effective date of this hearing, the commission reviewed progress toward resolving the uncertainty in the underlying standard and/or the extent to which conditions are a result of natural or anthropogenic conditions, and evaluated whether the temporary modifications were still justified.

The commission took no action on the following temporary modification:

Upper South Platte Segment 15 (COSPUS15): temporary modification of the acute and chronic temperature standards (expires 12/31/2021). Metro Wastewater Reclamation District continues to make progress to resolve the uncertainty in the temperature standards and is working to develop a proposal for a discharger specific variance. This temporary modification was extended by one year (to 12/31/2021) during the June 2020 Regulation No. 38 rulemaking hearing; as part of that hearing, Metro provided an update regarding progress being made in implementing the plan to resolve uncertainty and demonstrating the ongoing justification for the temporary modifications, including demonstrated instream nonattainment and predicted compliance issues. The commission made no change to the expiration date, as the original time allotment was deemed adequate to resolve the uncertainty.

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

5 CCR 1002-38

**REGULATION NO. 38
CLASSIFICATIONS AND NUMERIC STANDARDS
FOR
SOUTH PLATTE RIVER BASIN, LARAMIE RIVER BASIN
REPUBLICAN RIVER BASIN, SMOKY HILL RIVER BASIN**

**APPENDIX 38-1
Stream Classifications and Water Quality Standards Tables**

Effective ~~12/31/2020~~06/30/2021

Abbreviations and Acroynms

Aq	=	Aquatic
°C	=	degrees Celsius
CL	=	cold lake temperature tier
CLL	=	cold large lake temperature tier
CS-I	=	cold stream temperature tier one
CS-II	=	cold stream temperature tier two
D.O.	=	dissolved oxygen
DM	=	daily maximum temperature
DUWS	=	direct use water supply
E. coli	=	<i>Escherichia coli</i>
EQ	=	existing quality
mg/L	=	milligrams per liter
mg/m ²	=	milligrams per square meter
mL	=	milliliter
MWAT	=	maximum weekly average temperature
OW	=	outstanding waters
SSE	=	site-specific equation
T	=	total recoverable
t	=	total
tr	=	trout
TVS	=	table value standard
µg/L	=	micrograms per liter
UP	=	use-protected
WS	=	water supply
WS-I	=	warm stream temperature tier one
WS-II	=	warm stream temperature tier two
WS-III	=	warm stream temperature tier three
WL	=	warm lake temperature tier

REGULATION #38 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Upper South Platte River Basin

15. Mainstem of the South Platte River from the Burlington Ditch diversion in Denver, Colorado, to a point immediately below the confluence with Big Dry Creek.							
COSPUS15	Classifications	Physical and Biological			Metals (ug/L)		
Designation			DM	MWAT			
					acute	chronic	
UP	Agriculture	Temperature °C	WS-I	WS-I	Arsenic	340	---
	Aq Life Warm 1				Arsenic(T)	---	0.02
	Recreation E		acute	chronic	Cadmium	TVS	TVS
	Water Supply	D.O. (mg/L)	varies*	varies*	Cadmium(T)	5.0	---
Qualifiers:		pH	6.0-9.0*	---	Chromium III	---	TVS
Other:		pH	6.5 - 9.0	---	Chromium III(T)	50	---
Temporary Modification(s):		chlorophyll a (mg/m ²)	---	---	Chromium VI	TVS	TVS
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Copper	---	TVS*
Expiration Date of 12/31/2024		Inorganic (mg/L)			Copper	TVS*	---
temperature(DM/MWAT) = current condition*			acute	chronic	Iron	---	WS
Expiration Date of 12/31/2021		Ammonia	TVS*	TVS*	Iron(T)	---	1000
Discharger Specific Variance(s):		Boron	---	0.75	Lead	TVS	TVS
Selenium(acute) = TVS: no limit		Chloride	---	250	Lead(T)	50	---
Selenium(chronic) = TVS: 24 µg/L		Chlorine	0.019	0.011	Manganese	TVS	TVS/400
Expiration Date of 12/31/2023		Cyanide	0.005	---	Mercury(T)	---	0.01
*Ammonia(acute) = See section 38.6(4) for site-specific standards.		Nitrate	10	---	Molybdenum(T)	---	150
*Ammonia(chronic) = See section 38.6(4) for site-specific standards.		Nitrite	1.0	---	Nickel	TVS	TVS
*Copper(acute) = Copper BLM-based FMB		Phosphorus	---	---	Nickel(T)	---	100
Cu FMB(ac)=26.4 ug/l		Sulfate	---	WS	Selenium	TVS	TVS
Downstream of the Metro Hite WWTF outfall.		Sulfide	---	0.002	Silver	TVS	TVS
Copper(chronic) = Copper BLM-based FMB					Uranium	varies	varies*
Cu FMB(ch)= 18.0 ug/l					Zinc	TVS	TVS
Downstream of the Metro Hite WWTF outfall.							
*Uranium(acute) = See 38.5(3) for details.							
*Uranium(chronic) = See 38.5(3) for details.							
*D.O. (mg/L)(acute) = See section 38.6(4) for site-specific standards.							
*D.O. (mg/L)(chronic) = See section 38.6(4) for site-specific standards.							
*pH(acute) = 6.0 - 9.0 from 64th Ave. downstream 2 miles							
*TempMod: temperature = Adopted 6/8/2009							
*Variance: Selenium = see 38.6(6) for details.							

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 38.6 for further details on applied standards.

EXHIBIT 7
RIO GRANDE SILVER, INC.

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 36 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR RIO GRANDE BASIN

5 CCR 1002-36

36.6 TABLES

(4) Additional Site-Specific Criteria

...

(b) Site-specific standards and assessment locations for Rio Grande Segment 4a:

Standards effective through 12/31/20~~21~~23

Low flow (August 1-March 31):

Cadmium(chronic)=0.50 µg/L

Manganese(chronic)=WS

Zinc(acute/chronic)=257 / 164 µg/L

High flow (April 1-July 31):

Cadmium(chronic)=0.42 µg/L

Manganese(chronic)=WS

Zinc(acute/chronic)=115 / 88 µg/L

Tier 1 standards effective 1/1/20~~22~~24 through 12/31/20~~23~~25

Low flow (August 1-March 31):

Cadmium(chronic)=0.49 µg/L

Manganese(chronic)=81 µg/L

Zinc(acute/chronic)=253 / 162 µg/L

High flow (April 1-July 31):

Cadmium(chronic)=0.42 µg/L

Manganese(chronic)=WS

Zinc(acute/chronic)=115 / 88 µg/L

Tier 2 standards effective from 1/1/20~~24~~26

Low flow (August 1-March 31):

Cadmium(chronic)=TVS

Manganese(chronic)=WS

Zinc(acute/chronic)=142 / 64 µg/L

High flow (April 1-July 31):

Cadmium(chronic)=TVS

Manganese(chronic)=WS

Zinc(acute/chronic)=51 µg/L / TVS

Assessment Locations: For assessing the standards on Segment 4a, data from the following three locations will be combined:

- Station RG-4: Rio Grande downstream of Highway 149 bridge near Wason Ranch (37.821943, -106.889589)
- Station RG-8: Rio Grande upstream of Highway 149 bridge near La Garita Ranch Drive (37.777672, -106.836631)
- Station RG-9: Rio Grande downstream of 4 UR/Goose Creek Road bridge (37.765798, -106.830305)

- (c) Site-specific standards and assessment locations for Rio Grande Segment 7:

Standards effective through 12/31/20~~21~~23

West Willow

Low flow (August 1-March 31):

Cadmium(acute/chronic)=32.6 / 27.4 µg/L
Copper(acute/chronic)=TVS / TVS
Lead(acute/chronic)=108 / 102 µg/L
Manganese(acute/chronic)=3,320 / 2,425 µg/L
Zinc(acute/chronic)=11,960 / 9,360 µg/L

High flow (April 1-July 31):

Cadmium(acute/chronic)=22.5 / 15.5 µg/L
Copper(acute/chronic)=34.3 / 28.0 µg/L
Lead(acute/chronic)=TVS / 23.5 µg/L
Manganese(acute/chronic)=TVS / TVS
Zinc(acute/chronic)=4,001 / 3,765 µg/L

Windy Gulch

Low flow (August 1-March 31):

Cadmium(acute/chronic)=13.3 / 13.3 µg/L
Copper(acute/chronic)=TVS / TVS
Lead(acute/chronic)=TVS / TVS
Manganese(acute/chronic)=TVS / TVS
Zinc(acute/chronic)=3,584 / 3,492 µg/L

High flow (April 1-July 31):

Cadmium(acute/chronic)=7.1 / 5.9 µg/L
Copper(acute/chronic)=TVS / TVS
Lead(acute/chronic)=TVS / 1.68 µg/L
Manganese(acute/chronic)=TVS / TVS
Zinc(acute/chronic)=1,940 / 1,558 µg/L

Willow Creek

Low flow (August 1-March 31):

Cadmium(acute/chronic)=20.9 / 16.9 µg/L
Copper(acute/chronic)=TVS / TVS
Lead(acute/chronic)=TVS / 24.4 µg/L
Manganese(acute/chronic)=TVS / TVS
Zinc(acute/chronic)=5,861 / 5,427 µg/L

High flow (April 1-July 31):

Cadmium(acute/chronic)=10.9 / 8.5 µg/L
Copper(acute/chronic)=11.2 / 8.2 µg/L
Lead(acute/chronic)=TVS / 14.2 µg/L
Manganese(acute/chronic)=TVS / TVS
Zinc(acute/chronic)=2,667 / 1,873 µg/L

Tier 1 standards effective 1/1/20~~22~~24 through 12/31/20~~23~~25

West Willow

Low flow (August 1-March 31):

Cadmium(acute/chronic)=32.6 / 27.4 µg/L
Copper(acute/chronic)=TVS / TVS
Lead(acute/chronic)=108 / 102 µg/L
Manganese(acute/chronic)=3,320 / 2,425 µg/L
Zinc(acute/chronic)=11,960 / 9,360 µg/L

High flow (April 1-July 31):

Cadmium(acute/chronic)=22.5 / 15.5 µg/L
Copper(acute/chronic)=34.3 / 28.0 µg/L
Lead(acute/chronic)=TVS / 23.5 µg/L
Manganese(acute/chronic)=TVS / TVS
Zinc(acute/chronic)=4,001 / 3,765 µg/L

Windy Gulch

Low flow (August 1-March 31):

Cadmium(acute/chronic)=13.3 / 13.3 µg/L
Copper(acute/chronic)=TVS / TVS
Lead(acute/chronic)=TVS / TVS
Manganese(acute/chronic)=TVS / TVS
Zinc(acute/chronic)=3,584 / 3,492 µg/L

High flow (April 1-July 31):

Cadmium(acute/chronic)=7.1 / 5.9 µg/L
Copper(acute/chronic)=TVS / TVS
Lead(acute/chronic)=TVS / 1.68 µg/L
Manganese(acute/chronic)=TVS / TVS
Zinc(acute/chronic)=1,940 / 1,558 µg/L

Willow Creek

Low flow (August 1-March 31):

Cadmium(acute/chronic)=14.4 / 11.6 µg/L
Copper(acute/chronic)=TVS / TVS
Lead(acute/chronic)=TVS / 17.0 µg/L
Manganese(acute/chronic)=TVS / TVS

High flow (April 1-July 31):

Cadmium(acute/chronic)=9.5 / 7.4 µg/L
Copper(acute/chronic)=TVS / TVS
Lead(acute/chronic)=TVS / 12.5 µg/L
Manganese(acute/chronic)=TVS / TVS

Zinc(acute/chronic)=4,041 / 3,743 µg/L

Zinc(acute/chronic)=2,324 / 1,635 µg/L

Tier 2 standards effective from 1/1/2024~~26~~

West Willow

Low flow (August 1-March 31):

Cadmium(acute/chronic)=19.1 / 13.0 µg/L
Copper(acute/chronic)=TVS / TVS
Lead(acute/chronic)=68.2 / 61.2 µg/L
Manganese(acute/chronic)=TVS / TVS
Zinc(acute/chronic)=6,055 / 3,011 µg/L

High flow (April 1-July 31):

Cadmium(acute/chronic)=14.9 / 7.7 µg/L
Copper(acute/chronic)=27.0 / 20.5 µg/L
Lead(acute/chronic)=TVS / 9.5 µg/L
Manganese(acute/chronic)=TVS / TVS
Zinc(acute/chronic)=2,498 / 2,254 µg/L

Windy Gulch

Low flow (August 1-March 31):

Cadmium(acute/chronic)=13.3 / 13.3 µg/L
Copper(acute/chronic)=TVS / TVS
Lead(acute/chronic)=TVS / TVS
Manganese(acute/chronic)=TVS / TVS
Zinc(acute/chronic)=3,584 / 3,492 µg/L

High flow (April 1-July 31):

Cadmium(acute/chronic)=7.1 / 5.9 µg/L
Copper(acute/chronic)=TVS / TVS
Lead(acute/chronic)=TVS / 1.68 µg/L
Manganese(acute/chronic)=TVS / TVS
Zinc(acute/chronic)=1,940 / 1,558 µg/L

Willow Creek

Low flow (August 1-March 31):

Cadmium(acute/chronic)=14.9 / 11.1 µg/L
Copper(acute/chronic)=TVS / TVS
Lead(acute/chronic)=TVS / 7.7 µg/L
Manganese(acute/chronic)=TVS / TVS
Zinc(acute/chronic)=3,521 / 3,106 µg/L

High flow (April 1-July 31):

Cadmium(acute/chronic)=6.3 / 4.0 µg/L
Copper(acute/chronic)=TVS / TVS
Lead(acute/chronic)=TVS / 6.0 µg/L
Manganese(acute/chronic)=TVS / TVS
Zinc(acute/chronic)=1,758 / 974 µg/L

Assessment Locations:

West Willow

- Station WW-A (WW-1): West Willow just above East Willow Confluence (37.864431, -106.925529)

Windy Gulch

- Station WNG-A: Windy Gulch at mouth (37.856498, -106.928140)

Willow Creek

- Station W-C (a/k/a W-Flume and 8105D, designations differ among agencies): Willow Creek at Flume above Creede (37.855873, -106.927282)

36.46 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; DECEMBER 14, 2020 RULEMAKING; FINAL ACTION FEBRUARY 8, 2021; EFFECTIVE DATE JUNE 30, 2021.

The provisions of C.R.S. 25-8-202(1)(a), (b) and (2); 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

Other/Site-Specific Revisions

Rio Grande segments 4a and 7 (CORGRG04a and CORGRG07): The Commission delayed the effective dates of the Tier 1 and Tier 2 feasibility-based standards on Segments 4a and 7 by two years.

In the 2018 Rio Grande Basin Hearing, the Commission adopted ambient-based site-specific standards for multiple metals on Segments 4a and 7. See Section 36.6(4)(b)-(c). The Commission also revised the existing tiered feasibility-based standards based on improvements in water quality tied to future reopening of the Bulldog Mine. The ambient-based standards were to be effective until 12/31/2021, or until Tier 1 feasibility standards became effective. Tier 1 standards were to be effective for two years (anticipated 2022-2023), and then Tier 2 would become effective (anticipated 1/1/2024).

Rio Grande Silver, Inc. (RGS) provided an update in this hearing on the status of the Bulldog Mine operations and tiered standards. Based on the water quality data, and projected timing of reopening of the Bulldog Mine, RGS proposed to delay the effective date of the tiered feasibility-based standards by two years. Reopening the mine is still not economically viable. RGS also presented information to support collection of additional data at assessment locations, by local non-profit groups, CDPHE, or by RGS.

The Commission adopted this proposal. The ambient-based site-specific standards adopted in 2018 will continue to apply on Segments 4a and 7 until 12/31/2023. The Tier 1 feasibility-based standards would be effective from 1/1/2024 to 12/31/2025, and the Tier 2 standards would be effective starting 1/1/2026. No changes were made to the underlying ambient or feasibility-based standards, as they continue to represent the ambient quality, and feasibility-based quality upon reopening the mine, respectively.

The Commission will reevaluate these standards at the 2023 Rio Grande Basin rulemaking hearing.

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

5 CCR 1002-36

**REGULATION NO. 36
CLASSIFICATIONS AND NUMERIC STANDARDS
FOR
RIO GRANDE BASIN**

**APPENDIX 36-1
Stream Classifications and Water Quality Standards Tables**

Effective 06/30/2021

REGULATION #36 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS Rio Grande Basin

4a. Mainstem of the Rio Grande from a point immediately above the confluence with Willow Creek to a point immediately above the confluence with the South Fork Rio Grande.							
CORGRG04A	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture	DM	MWAT	acute	chronic		
Reviewable	Aq Life Cold 1	Temperature °C	CS-II	CS-II	Arsenic	340	---
	Recreation E		acute	chronic	Arsenic(T)	---	0.02
	Water Supply	D.O. (mg/L)	---	6.0	Cadmium	TVS	varies*
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium(T)	5.0	---
Other:		pH	6.5 - 9.0	---	Chromium III	---	TVS
Temporary Modification(s):		chlorophyll a (mg/m2)	---	---	Chromium III(T)	50	---
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	126	Chromium VI	TVS	TVS
Expiration Date of 12/31/2024					Copper	TVS	TVS
					Iron	---	WS
					Iron(T)	---	1000
					Lead	TVS	TVS
*Cadmium(chronic) = See 36.6(4) for site-specific standards and assessment locations.					Lead(T)	50	---
Manganese(chronic) = See 36.6(4) for site-specific standards and assessment locations.					Manganese	TVS	varies
*Uranium(acute) = See 36.5(3) for details.					Mercury(T)	---	0.01
*Uranium(chronic) = See 36.5(3) for details.					Molybdenum(T)	---	150
*Zinc(acute) = See 36.6(4) for site-specific standards and assessment locations.					Nickel	TVS	TVS
*Zinc(chronic) = See 36.6(4) for site-specific standards and assessment locations.					Nickel(T)	---	100
					Selenium	TVS	TVS
					Silver	TVS	TVS(tr)
					Uranium	varies*	varies*
					Zinc	varies*	varies*

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 36.6 for details on TVS, TVS(tr), WS, temperature standards.

REGULATION #36 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS Rio Grande Basin

7. Mainstem of West Willow Creek from the Park Regent Mine dump (37.890445, -106.936868) to the confluence with East Willow Creek. Mainstem of Willow Creek, including all tributaries, from the confluence of East and West Willow Creeks to the confluence with the Rio Grande.							
CORGRG07	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture		DM	MWAT		acute	chronic
UP	Aq Life Cold 2	Temperature °C	CS-II	CS-II	Arsenic	340	---
	Recreation E		acute	chronic	Arsenic(T)	---	100
Qualifiers:		D.O. (mg/L)	---	6.0	Cadmium	varies*	varies*
Other:		D.O. (spawning)	---	7.0	Chromium III	TVS	TVS
		pH	6.5 - 9.0	---	Chromium III(T)	---	100
		chlorophyll a (mg/m2)	---	150*	Chromium VI	TVS	TVS
		E. Coli (per 100 mL)	---	126	Copper	varies*	varies*
					Iron(T)	---	1000
		Inorganic (mg/L)			Lead	varies*	varies*
			acute	chronic	Manganese	varies*	varies*
		Ammonia	TVS	TVS	Mercury(T)	---	0.01
		Boron	---	0.75	Molybdenum(T)	---	150
		Chloride	---	---	Nickel	TVS	TVS
		Chlorine	0.019	0.011	Selenium	TVS	TVS
		Cyanide	0.005	---	Silver	TVS	TVS
		Nitrate	100	---	Uranium	varies*	varies*
		Nitrite	10	---	Zinc	varies*	varies*
		Phosphorus	---	0.11*			
		Sulfate	---	---			
		Sulfide	---	0.002			

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 36.6 for details on TVS, TVS(tr), WS, temperature standards.

STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS – FOOTNOTES

- (A) Whenever a range of standards is listed and referenced to this footnote, the first number in the range is a strictly health-based value, based on the Commission's established methodology for human health-based standards. The second number in the range is a maximum contaminant level, established under the federal Safe Drinking Water Act that has been determined to be an acceptable level of this chemical in public water supplies, taking treatability and laboratory detection limits into account. Control requirements, such as discharge permit effluent limitations, shall be established using the first number in the range as the ambient water quality target, provided that no effluent limitation shall require an "end-of-pipe" discharge level more restrictive than the second number in the range. Water bodies will be considered in attainment of this standard, and not included on the Section 303(d) List, so long as the existing ambient quality does not exceed the second number in the range.
- (B) *Reserved.*
- (C) For certain site-specific temperature standards, the temperature excursions listed in Table I - Footnote 5(c) of 31.16 do not apply. Assessment of ambient-based temperature standards should be conducted in a way that represents similar conditions to those under which the criteria were developed (i.e., air, low flow, and warming event excursions should not apply). Similarly, where site-specific adjustments to the winter shoulder season have been adopted, the winter shoulder season excursion does not apply.

EXHIBIT 8
TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 37 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR LOWER COLORADO RIVER BASIN

5 CCR 1002-37

37.43 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; DECEMBER 14, 2020 RULEMAKING; FINAL ACTION FEBRUARY 8, 2021; EFFECTIVE DATE JUNE 30, 2021.

The provisions of C.R.S. 25-8-202(1)(a) and (b); 25-8-203; 25-8-204; and 25-8-402 C.R.S., 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

Lower Colorado River Segment 4e (COLCLC04e) and Segment 4f (COLCLC04f): The Commission extended the “current conditions” temporary modification for acute and chronic copper on Segment 4e, and adopted a new temporary modification for acute and chronic copper on Segment 4f. The expiration date for both temporary modifications was set at 12/31/2024.

The Commission extended the copper temporary modification on Segment 4e in the 2019 Basin Hearing based on the need to collect additional data. Because Tri-State Rifle Station’s discharge is intermittent and Dry Creek and its tributaries are ephemeral, flowing only in response to precipitation or discharge events, it has been challenging to develop a database containing a sufficient number of samples. In the 2019 hearing, the Commission established the operative values for “current condition” in the effluent and in Segment 4e as follows: maximum 30-day average potentially dissolved copper effluent concentration at 277 µg/L, and dissolved copper instream concentrations at site DC-1 of 117 µg/L (85th percentile) and 143 µg/L (95th percentile), based on data from 11/2015-4/2019. Data collection continues to be challenging, and more time is needed to resolve the uncertainty regarding the appropriate copper standards for Segment 4e. Tri-State demonstrated there continues to be compliance and attainment issues, and that it continues to maintain “current condition” as required by the temporary modification. Therefore, the Commission extended the Segment 4e “current condition” temporary modification until 12/31/2024.

The Commission adopted a new temporary modification on downstream Segment 4f. In the December 2017 Temporary Modifications Rulemaking, the Commission stated that “[b]ased on the evidence presented by Tri-State and in accordance with Section 31.3 of the Basic Standards and Methodologies for Surface Waters, the commission found that given the current discharge and environmental conditions, the ambient-based standards adopted in Segment 4e will not jeopardize downstream waters and that water quality classifications and standards of downstream waters will be attained and maintained.” See Section 37.38. However, earlier this year, a draft permit published by the Division for the Rifle Station applied the Segment 4f standards in developing water quality-based effluent limitations. This new application of Segment 4f standards in Tri-State’s draft discharge permit has resulted in the need for a temporary modification and demonstrates a water quality-based effluent limitation compliance problem. Tri-State also demonstrated there are predicted attainment issues instream. Tri-State supported its proposal with a Plan to Resolve Uncertainty (PTRU), which detailed Tri-State’s plan to resolve uncertainty with the copper standards on both Segments 4e and 4f.

The Commission adopted the Segment 4f temporary modification with the operative value of “current condition.” While there is sufficient data to represent the maximum 30-day average potentially dissolved copper effluent concentration (277 µg/L, 11/2015-4/2019), there is not yet sufficient data to characterize the 85th and 95th percentiles instream in Segment 4f. Data collection had not continued in the downstream portion of Dry Creek due to the fact that much of the surrounding land is privately owned, and the Commission’s previous determinations that Segment 4e and the Rifle Station did not impact Segment 4f. The Commission anticipates that Tri-State will select a monitoring location in Segment 4f, as allowed pursuant to the private land ownership, and develop the necessary data to establish the operative values for “current condition” instream, so that evaluation of maintenance of status quo can be completed in the future.

The Commission anticipates Tri-State resolve the copper standards on Segments 4e and 4f in the June 2024 Basin Hearing.

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

5 CCR 1002-37

**REGULATION NO. 37
CLASSIFICATIONS AND NUMERIC STANDARDS
FOR
LOWER COLORADO RIVER BASIN**

**APPENDIX 37-1
Stream Classifications and Water Quality Standards Tables**

Effective 06/30/2021

Abbreviations and Acroynms

Aq	=	Aquatic
°C	=	degrees Celsius
CL	=	cold lake temperature tier
CLL	=	cold large lake temperature tier
CS-I	=	cold stream temperature tier one
CS-II	=	cold stream temperature tier two
D.O.	=	dissolved oxygen
DM	=	daily maximum temperature
DUWS	=	direct use water supply
E. coli	=	<i>Escherichia coli</i>
mg/L	=	milligrams per liter
mg/m ²	=	milligrams per square meter
mL	=	milliliter
MWAT	=	maximum weekly average temperature
OW	=	outstanding waters
sc	=	sculpin
SSE	=	site-specific equation
T	=	total recoverable
t	=	total
tr	=	trout
TVS	=	table value standard
µg/L	=	micrograms per liter
UP	=	use-protected
WS	=	water supply
WS-I	=	warm stream temperature tier one
WS-II	=	warm stream temperature tier two
WS-III	=	warm stream temperature tier three
WL	=	warm lake temperature tier

REGULATION #37 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Lower Colorado River

4e. Mainstem of Dry Creek, including all tributaries and wetlands, from the source to immediately above the Last Chance Ditch.							
COLCLC04E	Classifications	Physical and Biological			Metals (ug/L)		
Designation			DM	MWAT			
					acute	chronic	
UP	Agriculture Aq Life Cold 2 Recreation N	Temperature °C	CS-II	CS-II	Arsenic	340	---
			acute	chronic	Arsenic(T)	---	100
Qualifiers:		D.O. (mg/L)	---	5.0	Cadmium	TVS	TVS
Other:		pH	6.5 - 9.0	---	Chromium III	TVS	TVS
Temporary Modification(s):		chlorophyll a (mg/m2)	---	---	Chromium III(T)	---	100
Copper(ac/ch) = current conditions		E. Coli (per 100 mL)	---	630	Chromium VI	TVS	TVS
Expiration Date of <u>6/30/2024-12/31/2024</u>		Inorganic (mg/L)			Copper	TVS	TVS
			acute	chronic	Iron(T)	---	varies*
*Phosphorus(chronic) = applies only above the facilities listed at 37.5(4).		Ammonia	TVS	TVS	Lead	TVS	TVS
*Iron(T)(chronic) = 3500(T) ug/L on unnamed tributary and 5900(T) ug/L on Dry Creek, see section 37.6(4)(c) for iron assessment locations.		Boron	---	0.75	Manganese	TVS	TVS
*Uranium(acute) = See 37.5(3) for details.		Chloride	---	---	Mercury(T)	---	0.01
*Uranium(chronic) = See 37.5(3) for details.		Chlorine	0.019	0.011	Molybdenum(T)	---	150
		Cyanide	0.005	---	Nickel	TVS	TVS
		Nitrate	100	---	Selenium	TVS	TVS
		Nitrite	0.05	---	Silver	TVS	TVS
		Phosphorus	---	0.11*	Uranium	varies*	varies*
		Sulfate	---	---	Zinc	TVS	TVS
		Sulfide	---	0.002			

All metals are dissolved unless otherwise noted.
T = total recoverable
t = total
tr = trout
sc = sculpin

D.O. = dissolved oxygen
DM = daily maximum
MWAT = maximum weekly average temperature
See 37.6 for further details on applied standards.

REGULATION #37 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

Lower Colorado River

4f. Mainstem of Dry Creek including all tributaries and wetlands from a point immediately above the Last Chance Ditch to the confluence with the Colorado River.							
COLCLC04F	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture		DM	MWAT		acute	chronic
Reviewable	Aq Life Cold 1 Recreation N	Temperature °C	CS-II	CS-II	Arsenic	340	---
Qualifiers:			acute	chronic	Arsenic(T)	---	7.6
Other: <u>Temporary Modification(s):</u> <u>Copper(ac/ch) = current conditions</u> <u>Expiration Date of 12/31/2024</u> *Phosphorus(chronic) = applies only above the facilities listed at 37.5(4). *Uranium(acute) = See 37.5(3) for details. *Uranium(chronic) = See 37.5(3) for details.	D.O. (mg/L)	---	6.0	Cadmium	TVS	TVS	
	pH	6.5 - 9.0	---	Chromium III	TVS	TVS	
	chlorophyll a (mg/m2)	---	---	Chromium III(T)	---	100	
	E. Coli (per 100 mL)	---	630	Chromium VI	TVS	TVS	
	Inorganic (mg/L)			Copper	TVS	TVS	
		acute	chronic	Iron(T)	---	1000	
	Ammonia	TVS	TVS	Lead	TVS	TVS	
	Boron	---	0.75	Manganese	TVS	TVS	
	Chloride	---	---	Mercury(T)	---	0.01	
	Chlorine	0.019	0.011	Molybdenum(T)	---	150	
	Cyanide	0.005	---	Nickel	TVS	TVS	
	Nitrate	100	---	Selenium	TVS	TVS	
	Nitrite	0.05	---	Silver	TVS	TVS	
	Phosphorus	---	0.11*	Uranium	varies*	varies*	
	Sulfate	---	---	Zinc	TVS	TVS	
	Sulfide	---	0.002				

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 T = total recoverable
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- (B) Assessment of adequate refuge shall rely on the Cold Large Lake table value temperature criterion and applicable dissolved oxygen standard rather than the site-specific temperature standard.