



# COLORADO

Water Quality  
Control Commission

Department of Public Health & Environment

## NOTICE OF WRITTEN-COMMENT-ONLY PUBLIC RULEMAKING HEARING BEFORE THE COLORADO WATER QUALITY CONTROL COMMISSION

### SUBJECT:

For consideration of the adoption of revisions to the Classifications and Numeric Standards for Arkansas River Basin, Regulation #32 (5 CCR 1002-32) and South Platte River Basin, Laramie River Basin, Republican River Basin, Smoky Hill River Basin, Regulation #38 (5 CCR 1002-38). These revisions address an unintentional deletion of a temporary modification of arsenic on a segment in Regulation #32, and the inadvertent adoption of a temporary modification of arsenic on a segment in Regulation #38.

Proposed new language is shown with double-underlining and proposed deletions are shown with strikeouts. Any alternative proposals related to the subject of this hearing will also be considered.

During the commission’s consideration of whether to approve this notice of rulemaking, the commission determined that there is not a likelihood of significant controversy during the rulemaking process. Therefore, the commission has chosen to pursue an alternative rulemaking process consistent with section 24-4-103(4)(a) C.R.S.; and section 21.3(C)(5) of the Procedural Rules. It is the goal of the commission to complete this rulemaking without oral testimony.

### SCHEDULE OF IMPORTANT DATES

Proponent’s Initial Comments Due	11/18/2020 5:00 pm	Additional Information Below
Responsive Comments Due	12/2/2020 5:00 pm	Additional Information Below
Rulemaking Deliberations	12/14/2020 9:00 am	Sabin Cleere Conference Room Department of Public Health and Environment 4300 Cherry Creek Drive South Denver, CO 80246  Or  <a href="#">Remote via Zoom</a>

### 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](mailto: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:

Pursuant to section 21.3.C.5 and Section 21.3.D. of the commission's Procedural Rules, there shall be no party status for this rulemaking proceeding.

WRITTEN COMMENTS:

The commission encourages input from interested members of the public. Written comments should be emailed to [cdphe.wqcc@state.co.us](mailto:cdphe.wqcc@state.co.us) by 5:00 pm on 12/2/2020.

SPECIFIC STATUTORY AUTHORITY:

The provisions of sections 25-1.5-202; 25-8-202(1)(n); and 25-8-401 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 4<sup>th</sup> day of September, 2020 at Denver, Colorado.

WATER QUALITY CONTROL COMMISSION

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

Trisha Oeth, Administrator

**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.]*

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**32.67 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; DECEMBER 14, 2020 RULEMAKING; FINAL ACTION DECEMBER 14, 2020; EFFECTIVE DATE FEBRUARY 14, 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**

The commission adopted a temporary modification for chronic arsenic on Upper Arkansas Segment 20b (COARUA20b), with an expiration date of 12/31/2024. An arsenic temporary modification was previously adopted on this segment in the 2013 Regulation No. 32 rulemaking hearing, but was inadvertently deleted during the 2018 Regulation No. 32 rulemaking hearing. The basis, requirements, and expectations for this temporary modification are described at 32.63(B).

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**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~~02/14/2021

## 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 <sup>2</sup>	=	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



## **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) *Reserved.*

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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.]*

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**38.103 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; DECEMBER 14, 2020 RULEMAKING; FINAL ACTION DECEMBER 14, 2020; EFFECTIVE DATE FEBRUARY 14, 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**

The commission deleted the temporary modification for chronic arsenic on Upper South Platte Segment 11b (COSPUS11b), which had an expiration date of 12/31/2024. An arsenic temporary modification was inadvertently adopted on this segment during the 2020 Regulation No. 38 rulemaking hearing; however, the temporary modification is more stringent than the underlying standard.

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**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~~02/14/2021

## 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 <sup>2</sup>	=	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

11b. All tributaries to the West Plum Creek system, including all wetlands, which are not on national forest lands, except for listings in Segments 9 and 12.							
COSPUS11B	Classifications	Physical and Biological			Metals (ug/L)		
Designation			DM	MWAT		acute	chronic
UP	Agriculture						
	Aq Life Warm 2	Temperature °C	WS-I	WS-I	Arsenic	340	---
	Water Supply		<b>acute</b>	<b>chronic</b>	Arsenic(T)	---	0.02-10 <sup>A</sup>
	Recreation E	D.O. (mg/L)	---	5.0	Cadmium	TVS	TVS
<b>Qualifiers:</b>		pH	6.5 - 9.0	---	Cadmium(T)	5.0	---
<b>Other:</b>		chlorophyll a (mg/m2)	---	150*	Chromium III	---	TVS
<del>Temporary Modification(s):</del>		E. Coli (per 100 mL)	---	126	Chromium III(T)	50	---
Arsenic(chronic) = hybrid		<b>Inorganic (mg/L)</b>			Chromium VI	TVS	TVS
Expiration Date of 12/31/2024			<b>acute</b>	<b>chronic</b>	Copper	TVS	TVS
*chlorophyll a (mg/m2)(chronic) = applies only above the facilities listed at 38.5(4).		Ammonia	TVS	TVS	Iron	---	WS
*Phosphorus(chronic) = applies only above the facilities listed at 38.5(4).		Boron	---	0.75	Iron(T)	---	1000
*Uranium(acute) = See 38.5(3) for details.		Chloride	---	250	Lead	TVS	TVS
*Uranium(chronic) = See 38.5(3) for details.		Chlorine	0.019	0.011	Lead(T)	50	---
		Cyanide	0.005	---	Manganese	TVS	TVS/WS
		Nitrate	10	---	Mercury(T)	---	0.01
		Nitrite	---	0.5	Molybdenum(T)	---	150
		Phosphorus	---	0.17*	Nickel	TVS	TVS
		Sulfate	---	WS	Nickel(T)	---	100
		Sulfide	---	0.002	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

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