

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.]

37.45 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; JUNE 13-14, 2022 RULEMAKING; FINAL ACTION AUGUST 8, 2022; EFFECTIVE DATE SEPTEMBER 30, 2022

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

A. Temporary Modifications

Pursuant to the requirements in the Basic Standards (at 31.7(3)), the commission reviewed the status of all temporary modifications to determine whether the temporary modifications should be modified, eliminated, or extended.

1. Temporary Modifications for Standards Other than Arsenic

Where evidence indicated the requirements to qualify for a temporary modification were not met, temporary modifications were deleted. Temporary modifications were deleted from the following segments:

Lower Colorado River: 4e (COLCLC04e; copper; expires 6/30/2023) and 4f (COLCLC04f; copper; expires 6/30/2023)

2. Temporary Modifications for Arsenic

To remain consistent with the commission's decisions regarding arsenic in section 37.41, all existing temporary modifications for arsenic of "As(ch)=hybrid" (expiration date of 12/31/24) were retained. The division submitted a plan to resolve uncertainty in the 2019 Temporary Modifications rulemaking. The division plans to propose revised standards for arsenic as soon as possible following updated toxicological information from EPA's Integrated Risk Information System (IRIS) and completion of ongoing studies to better understand arsenic conditions in Colorado. Furthermore, per the conditions of the revised and extended temporary modification at 37.6(2)(c) (effective 6/30/2020 and expires 12/31/2024), and based on the widespread need to make progress to understand sources of arsenic and set forth processes for lowering arsenic in discharges, additional permit Terms and Conditions (T&Cs) are being implemented for facilities benefitting from the "current condition" temporary modification. These T&Cs may include requirements for additional monitoring, source identification, and characterization of source control and treatment options for reducing arsenic concentrations in effluent. The commission recognizes the need to resolve the uncertainty in the arsenic standards and ensure that human health is adequately protected.
