



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 revisions to section 61.15 of the Colorado Discharge Permit System Regulations, Regulation #61 (5 CCR 1002-61). Revisions to Regulation #61 proposed by the Water Quality Control Division, along with a proposed Statement of Basis, Specific Statutory Authority and Purpose, are attached to this notice as Exhibit 1.

In these attachments, 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.

SCHEDULE OF IMPORTANT DATES

Party status requests due	01/04/2017 5 pm	Additional information below.
Proponent's prehearing statement due	01/11/2017 5 pm	Additional information below.
Responsive prehearing statement due	02/01/2017 5 pm	Additional information below.
Last date for submittal of motions	02/09/2017 5 pm	Additional information below.
Notify commission office if participating in prehearing conference by phone	02/10/2017 5 pm	Send email to cdphe.wqcc@state.co.us with participant(s) name(s).
Prehearing conference (mandatory for parties)	02/13/2017 9 am	Florence Sabin Conference Room Department of Public Health and Environment 4300 Cherry Creek Drive South Denver, CO 80246
Rebuttal statements due	02/22/2017 5 pm	Additional information below.
Rulemaking Hearing	03/13/2017 9:15 am	Florence Sabin Conference Room Department of Public Health and Environment 4300 Cherry Creek Drive South Denver, CO 80246

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 can call 1-857-216-6700 and enter the conference code 425132.

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 February 22, 2017.

SPECIFIC STATUTORY AUTHORITY:

The provisions of sections 25-8-202(1)(d) and (2), 25-8-401, 25-8-501 and 25-8-502, 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 13th day of December, 2016 at Denver, Colorado.

WATER QUALITY CONTROL COMMISSION

Trisha Oeth, Administrator

EXHIBIT 1
WATER QUALITY CONTROL DIVISION

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 61 - COLORADO DISCHARGE PERMIT SYSTEM

5 CCR 1002-61

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61.15 PERMIT FEES - GENERAL PROVISIONS

- (a) Permit fees shall be paid in accordance with the schedule set forth in section 25-8-502~~(1)(b)~~, C.R.S.
- (b) As provided in 25-8-502(1~~4~~~~(b)~~~~(H)~~), the Division may establish an interim fee in any case where the facility to be permitted does not fit into the existing categories and subcategories. The interim fee shall be consistent and equitable with the fee schedule contained in the law and regulations. The interim fee shall apply until the date of adjournment sine die of the next regular session of the General Assembly following the imposition of the interim fee.
- (c) The annual permit fee or interim fee must be paid within the thirty (30) days of receipt of the Division's billing statement. All fees assessed shall be made payable to the Department of Public Health and Environment - Water Quality Control Division. All fees collected by the Division for the following sectors shall be credited to the appropriate sector funds:
 - (i) Water Quality Certification Sector Fund as provided in 25-8-502(1.2)(a)
 - (ii) Commerce and Industry Sector Fund as provided in 25-8-502(1.5)(a)(I)
 - (iii) Construction Sector Fund as provided in 25-8-502(1.5)(a)(II)
 - (iv) Pesticides Sector Fund as provided in 25-8-502(1.5)(a)(III)
 - (v) Municipal Separate Storm Sewer System Sector Fund as provided in 25-8-502(1.5)(a)(IV)
 - (vi) Public and Private Utilities Sector Fund as provided in 25-8-502(1.5)(a)(V)

The annual fee is to be used to support the expenses of the clean water program activities of the Division.

It is the intent of the General Assembly as stated in section 25-8-502(1.5)(c) C.R.S. as amended that a portion of the expenses of the discharge permit system be funded from the general fund, reflecting the benefit derived by the general public.

- (d) Failure of the applicant or permittee to pay the annual or interim fee as required by section 25-8-502~~(1)(b)~~ C.R.S. is a violation of the permit and shall result in the suspension of said permit and initiation of enforcement action by the Division, which could include revocation of the permit. Reinstatement of such revoked permit will require payment of the delinquent fee and any

penalties levied but will not require a permit application or review pursuant to 5 CCR 1002-61, 61.4 or 1002-61, 61.5 et seq. Enforcement action pertaining to delinquent permit fees shall be taken in accordance with 25-8-601 C.R.S. et seq. and section 61.8 of the discharge permit regulations.

- (e) The annual permit fee shall be applicable to all permittees of record as of July 1, 1983 and new permittees thereafter. Fees assessed under the Water Quality Control Act prior to the 1983 amendments are applicable to prior fiscal years up to June 3, 1983, regardless of the date upon which a permit action was taken by the Division.

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61.71 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY, AND PURPOSE – MARCH 13, 2017 RULEMAKING HEARING; EFFECTIVE DATE APRIL 30, 2017

The provisions of 25-8-202(1)(d) and (2), 25-8-401, 25-8-501, and 25-8-502, C.R.S., provide the specific statutory authority for the amendments to this regulation adopted by the Water Quality Control Commission (commission). The commission has also adopted, in compliance with 24-4-103(4) C.R.S., the following statement of basis and purpose.

BASIS AND PURPOSE

In October 2016, the commission amended section 61.15(e) to reflect recent changes in the Colorado Water Quality Control Act regarding fee sectors. Following this change, Colorado Legislative Legal Services noted concern that the change did not limit the language to the sectors addressed. Therefore, the commission modified 61.15(c) again in order to address this concern. In addition, the commission updated several statutory references.