



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 adoption of revisions to the Nutrients Management Control Regulation, Regulation #85 (5 CCR 1002-85) and revisions pertaining to lakes nutrient criteria in The Basic Standards and Methodologies for Surface Water, Regulation #31 (5 CCR 1002-31) along with revisions to the Classifications and Numeric Standards for:

- Arkansas River Basin, Regulation #32 (5 CCR 1002-32);
- Upper Colorado River Basin and North Platte River (Planning Region 12), 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 (5 CCR 1002-35);
- Rio Grande Basin, Regulation #36 (5 CCR 1002-36);
- 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).

Revisions 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 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

Proponent's prehearing statement due	8/3/2022 5:00 pm	Additional information below.
Party Status requests due	8/17/2022 5:00 pm	Additional information below.
Proponent's supplemental prehearing statement due	10/5/2022 5:00 pm	
Responsive prehearing statements due	12/21/2022 5:00 pm	Additional information below.
Rebuttal statements due	2/15/2023 5:00 pm	Additional information below.
Last date for submittal of motions	2/22/2023 by noon	Additional information below.





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Complete Outstanding Issues Index Form	3/1/2023	Additional information below.
Prehearing Conference (mandatory for parties)	3/7/2023 2:00 pm	Remote Via Zoom Additional Information below.
Negotiations cutoff	3/16/2023	N/A
Consolidated Proposal	3/30/2023	N/A
Rulemaking Hearing	4/10/2023 9:00 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.wgcc@state.co.us, provided via an FTP site, CD or flash drive, or otherwise conveyed to the commission office 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



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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. Following the deadline to request party status, a Zoom link to attend the prehearing conference will be provided to all those who request party status.

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 March 29, 2023.

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 26th day of September 2022 at Denver, Colorado.

WATER QUALITY CONTROL COMMISSION

Jeremy Neustifter, Administrator



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Please Note:

All exhibits to this Notice are available for review with the filing for Regulation #85, Tracking Number 2022-00592, included in this issue of the Colorado Register.