

# STATE OF COLORADO

John W. Hickenlooper, Governor  
Larry Wolk, MD, MSPH  
Executive Director and Chief Medical Officer

## WATER QUALITY CONTROL COMMISSION

<http://www.colorado.gov/cdphe/wqcc>

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Colorado  
Department  
of Public Health  
and Environment

## NOTICE OF PUBLIC RULEMAKING PROCEEDING BEFORE THE COLORADO WATER QUALITY CONTROL COMMISSION

### SUBJECT:

For consideration of the adoption of revisions to Fountain Creek Segment 11 in the Classifications and Numeric Standards for Arkansas River Basin, Regulation #32 (5 CCR 1002-32).

The revisions to Regulation #32 proposed by the United States Air Force Academy, along with proposed Statement of Basis, Specific Statutory Authority, and Purpose language, are attached to this notice as Exhibit 1. In this attachment, 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)(6) of the Procedural Rules. Questions or comments regarding this process are welcome.

It is the goal of the Commission to complete this rulemaking without oral testimony.

### PARTY STATUS:

Pursuant to section 21.3(D) of the Commission's Procedural Rules, there shall be no party status for this rulemaking proceeding.

### WRITTEN COMMENTS AND REBUTTAL STATEMENTS:

Initial written comments and evidence with respect to the proposed amendments are due in the Commission Office by January 21, 2014. In addition, any written rebuttal statements must be received in the Commission Office by February 18, 2014.

Anyone providing written comments and evidence or rebuttal statements should provide an 16 copies to the Commission Office. Anyone for whom the expense of providing these copies presents an economic hardship should contact the Commission Office to make alternative arrangements. Those who wish to receive the written comments

and rebuttal statements from other members of the public should so indicate in a cover letter with their submission of written comments.

**RULEMAKING DELIBERATION SCHEDULE:**

DATE: Tuesday, March 11, 2014  
TIME: 11:30 a.m.  
PLACE: Florence Sabin Conference Room  
Department of Public Health and Environment  
4300 Cherry Creek Drive South  
Denver, Colorado

At this time and place, the Commission will conduct its deliberations, based on the written comments and evidence submitted.

**SPECIFIC STATUTORY AUTHORITY:**

The provisions of sections 25-8-202(1)(b); 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.

**NOTIFICATION OF POTENTIAL MATERIAL INJURY TO WATER RIGHTS:**

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 fully explain the basis for their claim in the written comments submitted. This explanation should identify and describe the water right(s), and explain how and to what degree the material injury will be incurred.

Dated this 5th day of November 2013 at Denver, Colorado.

WATER QUALITY CONTROL COMMISSION

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Trisha Oeth, Administrator

**EXHIBIT 1**  
**UNITED STATES AIR FORCE ACADEMY**

**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**

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**32.6 TABLES**

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**STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS**

REGION: 4 & 7  BASIN: FOUNTAIN CREEK	Desig	Classifications	NUMERIC STANDARDS						TEMPORARY MODIFICATIONS AND QUALIFIERS
			PHYSICAL and BIOLOGICAL	INORGANIC mg/l		METALS ug/l			
Stream Segment Description									
11. <u>AFA Non Potable Reservoir #1 and a</u> All lakes and reservoirs tributary to Fountain Creek which are not within the boundaries of National Forest or Air Force Academy lands, except AFA Non-Potable Reservoir #4, from a point immediately above the confluence with Monument Creek to the confluence with the Arkansas River, excluding lakes and reservoirs within the boundaries of the National Forest and other lakes on Air Force Academy lands and the specific listings in segments 7a and 7b.	<u>UP</u>	Aq Life Warm 2 Recreation E Water Supply Agriculture	T=TVS(WL) °C D.O. = 5.0 mg/l pH = 6.5-9.0 E.Coli=126/100ml Chla=20 ug/l (tot) <sup>B</sup>	NH <sub>3</sub> (ac/ch)=TVS CL <sub>2</sub> (ac)=0.019 CL <sub>2</sub> (ch)=0.011 CN=0.005	B=0.75 NO <sub>2</sub> =0.5 NO <sub>3</sub> =10 Cl=250 SO <sub>4</sub> =WS P=83 ug/l (tot) <sup>B</sup>	As(ac)=340 As(ch)=0.02- 10(Trec) <sup>A</sup> Cd(ac/ch)=TVS CrIII(ac)=50(Trec) CrIII(ch)=TVS CrVI(ac/ch)=TVS Cu(ac/ch)=TVS	Fe(ch)=WS(dis) Fe(ch)=1000(Trec) Pb(ac/ch)=TVS Mn(ac/ch)=TVS Mn(ch)=WS(dis) Hg(ch)=0.01(tot) Mo(ch)=160(Trec)	Ni(ac/ch)=TVS Se(ac/ch)=TVS Ag(ac/ch)=TVS Zn(ac/ch)=TVS	

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## **UNITED STATES AIR FORCE ACADEMY PROPOSED**

### **32.53 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; MARCH 11, 2014 RULEMAKING; FINAL ACTION MARCH 11, 2014; EFFECTIVE DATE APRIL 30, 2014**

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:**

At the request of the United States Air Force Academy (USAFA), the Water Quality Control Commission reconsidered the segment description in Fountain Creek segment 11 in order to clarify that AFA Non-Potable Reservoir #1 is part of segment 11, and evaluated the segment's antidegradation designation. The Commission revised the segment description and decided that this reservoir should be use protected pursuant to 31.8(2)(b) because it is aquatic life warm water class 2 and there is no data to conduct the review outlined in 31.8(2)(b)(iii).