



# 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 Upper Gunnison Segment 13 of the Classifications and Numeric Standards for Gunnison and Lower Dolores River Basins, Regulation #35 (5 CCR 1002-35).

The revisions to Regulation #35 proposed by Mount Crested Butte Water and Sanitation District, 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 RESPONSIVE COMMENTS:

Initial written comments and evidence with respect to the proposed amendments are due by **October 29, 2014**. In addition, any written responsive comments must be received by **November 24, 2014**.

Anyone providing written comments and evidence or responsive comments should deliver

1) an electronic copy to [cdphe.wqcc@state.co.us](mailto:cdphe.wqcc@state.co.us) AND

2) 16 paper copies to the commission office or department mail room by the due date.

Anyone for whom the expense of providing paper copies presents an economic hardship should contact the commission office to make alternative arrangements. All written comments will be available to the public on the commission's web site.

HEARING SCHEDULE:

DATE: Monday, December 8, 2014  
TIME: 11:45 a.m.  
PLACE: Florence Sabin Conference Room  
Department of Public Health and Environment  
4300 Cherry Creek Drive South  
Denver, CO 80246

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)(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.

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 so indicate in the party status request submitted. In order for this potential to be considered fully by the Commission and the other agencies listed in the statute, persons must fully explain the basis for their claim in their prehearing statement which is due in the Commission Office on the date specified above. 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 15<sup>th</sup> day of September 2014 at Denver, Colorado.

WATER QUALITY CONTROL COMMISSION

---

Trisha Oeth, Administrator

**EXHIBIT 1**  
**MOUNT CRESTED BUTTE WATER & SANITATION DISTRICT**

**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**  
**WATER QUALITY CONTROL COMMISSION**

5 CCR 1002-35

**REGULATION NO. 35**  
**CLASSIFICATIONS AND NUMERIC STANDARDS**  
**FOR**  
**GUNNISON AND LOWER DOLORES RIVER BASINS**

....

**35.6 TABLES**

....

REGION: 10	. . .	TEMPORARY MODIFICATIONS AND QUALIFIERS
<b>BASIN: UPPER GUNNISON RIVER BASIN</b>		
Stream Segment Description	. . .	<u>Temporary Modifications:</u>  <u>As(ch)=hybrid</u> <u>Expiration date of 12/31/21</u>
13. Mainstem of Woods Creek from the source to the confluence with Washington Gulch.		

....

**MOUNT CRESTED BUTTE WATER & SANITATION DISTRICT**  
**PROPOSED**

**35.40 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY, AND PURPOSE:**  
**DECEMBER 8, 2014 RULEMAKING; EFFECTIVE DATE JUNE 30, 2015**

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**

To remain consistent with the Commission's decisions regarding arsenic at 35.36, an arsenic temporary modification was added to Upper Gunnison segment 13a, which had an existing chronic arsenic standard of 0.02 ug/l and a permitted discharger with a predicted water quality-based effluent limit compliance problem.