



# 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 new discharger-specific variances (DSV) for multiple segments in the Classifications and Numeric Standards for:

- Upper Colorado River Basin and North Platte River, Regulation #33 (5 CCR 1002-33); and
- San Juan River and Dolores River Basins, Regulation #34 (5 CCR 1002-34);

The commission will also consider in the scope of this hearing any updates regarding progress and data related to the selenium DSV on segment COARLA01A in Regulation #32 (5 CCR 1002-32). The commission may consider modifications to or deletion of the DSVs depending on the information provided. If any party believes that a modification or deletion may be appropriate, the party should address the basis for those concerns in its responsive prehearing statement.

Proposed regulatory revisions and associated Statements of Basis, Specific Statutory Authority and Purpose have been submitted by the following:

- Exhibit 1 - Regulation #33, Water Quality Control Division (division);
- Exhibit 2 - Regulation #34, division; and
- Exhibit 3 - Regulation #32, City of Pueblo.

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 the hearing will also be considered.

### SCHEDULE OF IMPORTANT DATES

Proponent's prehearing statement due	9/16/2020 5pm	Additional information below.
Party status requests due	9/30/2020 5pm	Additional information below.
Responsive prehearing statements due	10/14/2020 5pm	Additional information below.
Rebuttal statements due	11/18/2020 5pm	Additional information below.
Last date for submittal of motions	11/20/2020 5pm	Additional information below.
Notify commission office if participating in	11/20/2020 by noon	Send email to <a href="mailto:cdphe.wqcc@state.co.us">cdphe.wqcc@state.co.us</a> with participant(s) name(s)

prehearing conference by phone		
<b>Prehearing Conference</b> (mandatory for parties)	12/1/2020 10:30 am	C1A Department of Public Health and Environment 4300 Cherry Creek Drive South Denver, CO 80246  Or <a href="#">Remote via Zoom</a>
Cutoff of negotiations	12/2/2020 5pm	N/A
Division's consolidated proposals	12/9/2020	N/A
<b>Rulemaking Hearing</b>	12/14/2020 9 am	Sabin Cleere Conference Room Department of Public Health and Environment 4300 Cherry Creek Drive South Denver, CO 80246  Or <a href="#">Remote via Zoom</a>

#### 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](mailto:cdphe.wgcc@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 are encouraged to notify the commission office prior to the prehearing conference. The remote information for the prehearing conference is listed above and here:

Zoom Link: [https://us02web.zoom.us/meeting/register/tZcvde2hqjIjHdSjxOtjMDPmn9Hm\\_gmxJffj](https://us02web.zoom.us/meeting/register/tZcvde2hqjIjHdSjxOtjMDPmn9Hm_gmxJffj)

Following the cut-off date for motions, no motions will be accepted, except for good cause shown.

PUBLIC PARTICIPATION ENCOURAGED:

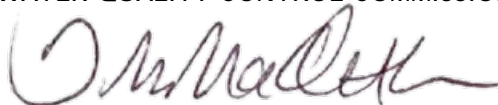
The commission encourages input from non-parties, either orally at the hearing or in writing prior to the hearing. Written submissions should be emailed to [cdphe.wgcc@state.co.us](mailto:cdphe.wgcc@state.co.us) by December 2, 2020.

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 10th day of August, 2020 in Denver, Colorado.

WATER QUALITY CONTROL COMMISSION



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Trisha Oeth, Administrator

**EXHIBIT 1**  
**WATER QUALITY CONTROL DIVISION**

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 33 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR UPPER COLORADO RIVER BASIN AND NORTH PLATTE RIVER (PLANNING REGION 12)

5 CCR 1002-33

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**33.6 TABLES**

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(6) Discharger Specific Variances

- (a) A Discharger Specific Variance (DSV) establishes a temporary water quality standard that represents the highest degree of protection of a classified use that is feasible within 20 years and is granted by the commission pursuant to criteria contained in Regulation 31.7(4).
- (i) In every case, the variance to the standard shall be temporary and must be re-examined not less than once every three years.
- (ii) For DSVs that are longer than five years in duration, the commission will submit the results of its re-evaluation to EPA within 30 days of the date the commission completes its re-evaluation. Pursuant to 40 CFR 131.14(b)(1)(v)-(vi), the DSV will no longer be the applicable water quality standard for purposes of the Clean Water Act if the commission does not conduct a re-evaluation consistent with the specified frequency or if the commission does not submit the results within 30 days of completion of the re-evaluation process.
- (b) The first number of the DSV is the underlying standard previously adopted by the commission for the segment and represents the long-term goal for the waterbody. The first number will be used for assessing attainment for the waterbody and for the development of effluent limitations. The second number or narrative condition is the commission's determination of the effluent concentration with the highest degree of protection of the classified use that is feasible for the discharger. Control requirements, such as discharge permit effluent limitations, shall be established using the first number as the ambient water quality target, provided that no effluent limitation shall require an "end-of-pipe" discharge level more restrictive than the second number or narrative condition during the term of the DSV for the named discharger.
- (c) Yampa River Segment 7 (COUCYA07)
- Discharger Specific Variance, Town of Oak Creek (CO0041106): Adopted 12/14/2020.
- TIN (acute) = TVS:37 lbs/day; (chronic) = TVS:23 lbs/day; Expiration date: 6/30/2026.

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**33.66 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; DECEMBER 14, 2020 RULEMAKING; FINAL ACTION JANUARY 11, 2020 EFFECTIVE DATE JUNE 30, 2021**

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. Adoption and Re-examination of Discharger-Specific Variances**

In 2010, the commission adopted the discharger specific variance (DSV) provisions at Regulation 31.7(4), which allow a temporary water quality standard to be adopted in cases where water quality-based effluent limits (WQBELs) are not feasible to achieve. A DSV is a hybrid standard that maintains the long-term water quality goal of fully protecting all designated uses, while temporarily authorizing an alternative effluent limit (AEL) to be developed for a specific pollutant and specific point source discharge where compliance with the WQBEL is not feasible.

Pursuant to 40 CFR 131.14(b)(1)(v)-(vi), the commission must re-evaluate every DSV with a duration longer than five years and provide EPA notice of the results within 30 days of the completion of the reevaluation process. If the commission does not complete this action, the federal regulation states that the DSV will no longer be the applicable water quality standard for purposes of the Clean Water Act. This reevaluation is consistent with commission Regulation 31.7(4), which requires that the commission reexamine all DSVs not less than once every three years.

**B. Yampa River Segment 7**

The commission adopted a DSV for Yampa River Segment 7 (COUCYA07) for total inorganic nitrogen (TIN) that represents the highest degree of protection of the classified use that is economically feasible for the Town of Oak Creek. For TIN, effluent limits for the Town of Oak Creek shall not be more restrictive than an acute (1-day) load-based limit of 37 lbs/day prior to the expiration of the DSV on 6/30/2026. At the town's design capacity of 0.25 million gallons per day (MGD), this would result in a TIN concentration of 17.8 mg/L.

Currently, there is significant seasonal variability in influent flows to the wastewater treatment plant that is believed to be due to groundwater inflow and residential sump pump contributions to the Town of Oak Creek's collection system. During the term of this variance, the Town of Oak Creek will be taking steps to reduce groundwater inflow, which will reduce influent volume. Since this groundwater in the vicinity of the Town of Oak Creek is expected to have very low concentrations of TIN, this additional groundwater may be effectively diluting TIN concentrations in the effluent. Therefore, reducing infiltration may result in an increase in effluent TIN concentrations. If the actions taken to improve TIN treatment are effective, there will be a measurable reduction in TIN loading from the plant, independent of change in the volume of groundwater inflow. For this reason, the commission determined that a load-based limit, rather than a concentration-based limit, would be the most effective way to measure progress in TIN reduction.

A comprehensive alternatives analysis demonstrated that compliance with the TIN WQBEL would cause substantial and widespread adverse social and economic impacts in the area where the discharge is located. Treatment that would allow the Town of Oak Creek to meet the TIN WQBELs, such as replacing the lagoon with a mechanical plant, would result in user fees that exceed the community's ability to pay. The commission determined that any alternative that would result in user fees exceeding 1.5% of median household income for the Town of Oak Creek's residents was economically infeasible at this time, due to the current economic conditions in the Town of Oak Creek, including a high level of debt-per capita and a local median household income that is significantly lower than the State's average.

The commission adopted a DSV with an alternative effluent limit that is based upon the best feasible alternative identified for the Town of Oak Creek. This alternative includes modification of the operation of the plant to recycle a portion of the treated effluent from the moving bed bioreactor (MBBR) unit back to the anaerobic cell, where conditions favor denitrification. The five year term of this DSV provides time for the Town of Oak Creek to run a pilot to evaluate the effectiveness of this approach. If recycling the effluent results in reductions in TIN concentrations, the recycle should be continued and optimized through the term of the variance. If no improvement is observed within the first two years, the remaining three years of this DSV should be used to pilot other operational changes to optimize TIN removal as described in (Exhibit XX).

At the re-evaluation of this DSV at the 2024 Upper Colorado Basin rulemaking hearing, the commission will review the Town of Oak Creek's progress implementing the pollutant minimization plan and determine whether the requirements of the DSV continue to be the highest attainable condition. The requirements of the DSV will be reviewed during the re-evaluation rulemaking hearing, and will either remain as the AEL identified at the time of the adoption of the variance or be modified to reflect the highest attainable condition. Because there is significant uncertainty in the final effluent quality that will be achieved, the Town of Oak Creek will collect additional data to characterize the effectiveness of treatment and may request a hearing for the commission to modify the DSV before it is re-evaluated or expires. If it remains infeasible for the Town of Oak Creek to achieve TIN WQBELs at the end of the variance, a subsequent DSV may be appropriate.

The commission ensures that the discharge will not contribute to any lowering of the currently attained ambient water quality through its rule at 31.9(5), which requires initial effluent limits to be developed and implemented at the time of permitting that at a minimum represent the level currently achieved.

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

**5 CCR 1002-33**

**REGULATION NO. 33  
CLASSIFICATIONS AND NUMERIC STANDARDS  
FOR  
UPPER COLORADO RIVER BASIN AND  
NORTH PLATTE RIVER (PLANNING REGION 12)**

**APPENDIX 33-1  
Stream Classifications and Water Quality Standards Tables**

Effective 06/30/~~2020~~2021

All metals are dissolved unless otherwise noted.  
T = total recoverable  
t = total  
tr = trout  
sc = sculpin

D.O. = dissolved oxygen  
DM = daily maximum  
MWAT = maximum weekly average temperature  
See 33.6 for further details on applied standards.

## Abbreviations and Acroynms

Aq	=	Aquatic
°C	=	degrees Celsius
CL	=	cold lake temperature tier
CLL	=	cold large lake temperature tier
CS-I	=	cold stream temperature tier one
CS-II	=	cold stream temperature tier two
D.O.	=	dissolved oxygen
DM	=	daily maximum temperature
DUWS	=	direct use water supply
E. coli	=	<i>Escherichia coli</i>
EQ	=	existing quality
mg/L	=	milligrams per liter
mg/m <sup>2</sup>	=	milligrams per square meter
mL	=	milliliter
MWAT	=	maximum weekly average temperature
OW	=	outstanding waters
sc	=	sculpin
SSE	=	site-specific equation
T	=	total recoverable
t	=	total
tr	=	trout
TVS	=	table value standard
µg/L	=	micrograms per liter
UP	=	use-protected
WS	=	water supply
WS-I	=	warm stream temperature tier one
WS-II	=	warm stream temperature tier two
WS-III	=	warm stream temperature tier three
WL	=	warm lake temperature tier

All metals are dissolved unless otherwise noted.

T = total recoverable

t = total

tr = trout

sc = sculpin

D.O. = dissolved oxygen

DM = daily maximum

MWAT = maximum weekly average temperature

See 33.6 for further details on applied standards.



# REGULATION #33 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS Yampa River Basin

7. Mainstem of Oak Creek, including all tributaries and wetlands, from a point 0.25 mile below County Road 27 (40.279241, -106.965405) to the confluence with the Yampa River.							
COUCYA07	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture		DM	MWAT			
Reviewable	Aq Life Cold 1	Temperature °C	CS-II	CS-II	Arsenic	acute	chronic
	Recreation P		acute	chronic	Arsenic(T)	---	0.02
	Water Supply	D.O. (mg/L)	---	6.0	Cadmium	TVS	TVS
Qualifiers:		D.O. (spawning)	---	7.0	Cadmium(T)	5.0	---
Other:		pH	6.5 - 9.0	---	Chromium III	---	TVS
Temporary Modification(s):		chlorophyll a (mg/m2)	---	150*	Chromium III(T)	50	---
Arsenic(chronic) = hybrid		E. Coli (per 100 mL)	---	205	Chromium VI	TVS	TVS
Expiration Date of 12/31/2024					Copper	TVS	TVS
*chlorophyll a (mg/m2)(chronic) = applies only above the facilities listed at 33.5(4).		<b>Inorganic (mg/L)</b>					
*Phosphorus(chronic) = applies only above the facilities listed at 33.5(4).			acute	chronic	Iron	---	WS
<u>Discharger Specific Variance(s):</u>		Ammonia	TVS	TVS	Iron(T)	---	1000
<u>Nitrate (acute) = See Section 33.6(c) for details on variance for the Town of Oak Creek.</u>		Boron	---	0.75	Lead	TVS	TVS
<u>Expiration Date of 6/30/2026.</u>		Chloride	---	250	Lead(T)	50	---
*Uranium(acute) = See 33.5(3) for details.		Chlorine	0.019	0.011	Manganese	TVS	TVS/WS
*Uranium(chronic) = See 33.5(3) for details.		Cyanide	0.005	---	Mercury(T)	---	0.01
		Nitrate	10	---	Molybdenum(T)	---	150
		Nitrite	0.05	---	Nickel	TVS	TVS
		Phosphorus	---	0.11*	Nickel(T)	---	100
		Sulfate	---	WS	Selenium	TVS	TVS
		Sulfide	---	0.002	Silver	TVS	TVS(tr)
					Uranium	varies*	varies*
					Zinc	TVS	TVS

All metals are dissolved unless otherwise noted.  
T = total recoverable  
t = total  
tr = trout  
sc = sculpin

D.O. = dissolved oxygen  
DM = daily maximum  
MWAT = maximum weekly average temperature  
See 33.6 for further details on applied standards.

**EXHIBIT 2**  
**WATER QUALITY CONTROL DIVISION**

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 34 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR SAN JUAN RIVER  
AND DOLORES RIVER BASINS

5 CCR 1002-34

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**34.6 TABLES**

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(4) Discharger Specific Variances

(a) A Discharger Specific Variance (DSV) establishes a temporary water quality standard that represents the highest degree of protection of a classified use that is feasible within 20 years and is granted by the commission pursuant to criteria contained in Regulation 31.7(4).

(i) In every case, the variance to the standard shall be temporary and must be re-examined not less than once every three years.

(ii) For DSVs that are longer than five years in duration, the commission will submit the results of its re-evaluation to EPA within 30 days of the date the commission completes its re-evaluation. Pursuant to 40 CFR 131.14(b)(1)(v)-(vi), the DSV will no longer be the applicable water quality standard for purposes of the Clean Water Act if the commission does not conduct a re-evaluation consistent with the specified frequency or if the commission does not submit the results within 30 days of completion of the re-evaluation process.

(b) The first number of the DSV is the underlying standard previously adopted by the commission for the segment and represents the long-term goal for the waterbody. The first number will be used for assessing attainment for the waterbody and for the development of effluent limitations. The second number or narrative condition is the commission's determination of the effluent concentration with the highest degree of protection of the classified use that is feasible for the discharger. Control requirements, such as discharge permit effluent limitations, shall be established using the first number as the ambient water quality target, provided that no effluent limitation shall require an "end-of-pipe" discharge level more restrictive than the second number or narrative condition during the term of the DSV for the named discharger.

(ca) Animas and Florida River Segment 13c

Discharger Specific Variance, Durango West Metro Dist. #2 (COG589115): The first number is the underlying standard previously adopted by the Commission for the segment and represents the long-term goal for the waterbody. The first number will be used for assessing attainment for the waterbody and for the development of effluent limitations. The second number is the Commission's determination of the effluent concentration with the highest degree of protection of the classified use that is feasible for

Durango West Metro District. Control requirements, such as discharge permit effluent limitations, shall be established using the first number as the ambient water quality target, provided that no effluent limitation shall require an “end-of-pipe” discharge level more restrictive than the second number during the term of the DSV for the named dischargers.

(d) La Plata Segment 7a (COSJLP07a)

Discharger Specific Variance, Vista Verde Village, LLC (CO0037702): Adopted 12/14/2020.

May – October: Ammonia (acute) = TVS:8 mg/L; (chronic) = TVS:8 mg/L;  
November – April: Ammonia (acute) = TVS:12 mg/L; (chronic) = TVS:12 mg/L; Expiration  
date: 6/30/2031.

(e) La Plata Segment 10 (COSJLP10)

Discharger Specific Variance, Town of Dove Creek (COG589079): Adopted 12/14/2020.

May – October: Ammonia (acute) = TVS:8 mg/L; (chronic) = TVS:8 mg/L;  
November – April: Ammonia (acute) = TVS:12 mg/L; (chronic) = TVS:12 mg/L; Expiration  
date: 6/30/2031.

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**34.53 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; ECEMBER 14, 2020 RULEMAKING; FINAL ACTION JANUARY 11, 2020 EFFECTIVE DATE JUNE 30, 2021**

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. La Plata Segment 7a**

The commission adopted a discharger specific variance (DSV) for La Plata Segment 7a (COSJLP07a) for ammonia that represents the highest degree of protection of the classified use that is economically feasible for Vista Verde Village Mobile Home Park (Vista Verde). For ammonia, effluent limits for Vista Verde shall not be more restrictive than 12 mg/L from November through April and 8 mg/L from May through October prior to the expiration of the DSV on 6/30/2031. The seasonal change in limits is intended to address changes in treatment performance due to temperature. Since aerated lagoons have long detention times (greater than 30 days) and do not provide the opportunity to control for daily variation, the alternative effluent limits shall apply to both the acute and chronic WQBELs.

A comprehensive alternatives analysis (Exhibit XX) demonstrated that compliance with the ammonia WQBELs would cause substantial and widespread adverse social and economic impacts in the area where the discharge is located. Alternatives that would achieve compliance, such as replacing the lagoon with a mechanical plant or consolidation with the nearest city, would result in costs that the entity would not be able to pay while still operating a viable business. The commission determined that closing the mobile home park would result in the loss of affordable housing to the typically low-income residents of Vista Verde.

The commission adopted a DSV with an alternative effluent limit that is based upon the expected ammonia effluent quality that will be achieved through feasible improvements to the lagoon. There is some uncertainty in the final effluent quality that will be achieved. Vista Verde will collect additional data to characterize the effectiveness of the improvements, which the commission will review upon re-evaluation of the AEL at future hearings. Since the basis for this DSV is economic feasibility, at future re-evaluations of the DSV, the commission will review whether economic conditions have changed in a way that would make additional reductions in ammonia feasible.

The commission expects that Vista Verde will submit a progress report for the commission's review of the DSV and the AEL at a rulemaking hearing no later than December 2023. The requirements of the DSV will be reviewed during the re-evaluation rulemaking hearing, and will either remain as the AEL identified at the time of the adoption of the variance or be modified to reflect the highest attainable condition.

The commission ensures that the discharge will not contribute to any lowering of the currently attained ambient water quality through its rule at 31.9(5), which requires initial effluent limits to be developed and implemented at the time of permitting that at a minimum represent the level currently achieved.

**La Plata Segment 10**

The commission adopted a DSV for La Plata Segment 10 (COSJLP10) for ammonia that represents the highest degree of protection of the classified use that is economically feasible for the Town of Dove Creek. For ammonia, effluent limits for the Town of Dove Creek shall not be more restrictive than 12 mg/L from November through April and 8 mg/L from May through October prior to the expiration of the DSV on 6/30/2031. The seasonal change in limits is intended to address changes in treatment performance due to temperature. Since aerated lagoons have long detention times (greater than 30 days) and do not

provide the opportunity to control for daily variation, the alternative effluent limits shall apply to both the acute and chronic WQBELs.

A comprehensive alternatives analysis demonstrated that compliance with the ammonia WQBELs would cause substantial and widespread adverse social and economic impacts in the area where the discharge is located. Treatment that would allow the Town of Dove Creek to meet the ammonia WQBELs, such as replacing the lagoon with a mechanical plant, would result in user fees that exceed the community's ability to pay. The commission determined that any alternative that would result in user fees exceeding 1.5% of median household income for the Town of Dove Creek's residents was economically infeasible at this time, due to the current economic conditions in the Town of Dove Creek, including a high level of debt-per capita and a local median household income that is significantly lower than the State's average.

The commission adopted a DSV with an alternative effluent limit that is based upon the expected ammonia effluent quality that will be achieved through feasible improvements to the lagoon. There is some uncertainty in the final effluent quality that will be achieved. Dove Creek will collect additional data to characterize the effectiveness of the improvements, which the commission will review upon re-evaluation of the AEL at future hearings. Since the basis for this DSV is economic feasibility, at future re-evaluations of the DSV, the commission will review whether economic conditions have changed in a way that would make additional reductions in ammonia feasible.

The commission expects that Dove Creek will submit a progress report for the commission's review of the DSV and the AEL at a rulemaking hearing no later than December 2023. The requirements of the DSV will be reviewed during the re-evaluation rulemaking hearing, and will either remain as the AEL identified at the time of the adoption of the variance or be modified to reflect the highest attainable condition.

The commission ensures that the discharge will not contribute to any lowering of the currently attained ambient water quality through its rule at 31.9(5), which requires initial effluent limits to be developed and implemented at the time of permitting that at a minimum represent the level currently achieved.

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

**5 CCR 1002-34**

**REGULATION NO. 34  
CLASSIFICATIONS AND NUMERIC STANDARDS  
FOR  
SAN JUAN RIVER AND DOLORES RIVER BASINS**

**APPENDIX 34-1  
Stream Classifications and Water Quality Standards Tables**

Effective 06/30/~~2020~~2021

All metals are dissolved unless otherwise noted.  
T = total recoverable  
t = total  
tr=trout  
sc=sculpin

D.O. = dissolved oxygen  
DM = daily maximum  
MWAT = maximum weekly average temperature  
See 34.6 for further details on applied standards.

## Abbreviations and Acroynms

Aq	=	Aquatic
°C	=	degrees Celsius
CL	=	cold lake temperature tier
CLL	=	cold large lake temperature tier
CS-I	=	cold stream temperature tier one
CS-II	=	cold stream temperature tier two
D.O.	=	dissolved oxygen
DM	=	daily maximum temperature
DUWS	=	direct use water supply
E. coli	=	<i>Escherichia coli</i>
EQ	=	existing quality
mg/L	=	milligrams per liter
mg/m <sup>2</sup>	=	milligrams per square meter
mL	=	milliliter
MWAT	=	maximum weekly average temperature
OW	=	outstanding waters
sc	=	sculpin
SSE	=	site-specific equation
T	=	total recoverable
t	=	total
tr	=	trout
TVS	=	table value standard
µg/L	=	micrograms per liter
UP	=	use-protected
WS	=	water supply
WS-I	=	warm stream temperature tier one
WS-II	=	warm stream temperature tier two
WS-III	=	warm stream temperature tier three
WL	=	warm lake temperature tier

All metals are dissolved unless otherwise noted.

T = total recoverable

t = total

tr=trout

sc=sculpin

D.O. = dissolved oxygen

DM = daily maximum

MWAT = maximum weekly average temperature

See 34.6 for further details on applied standards.

**REGULATION #34 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS**  
**La Plata River, Mancos River, McElmo Creek and San Juan River in Montezuma County and Dolores County**

7a. Mainstem of McElmo Creek from the source to the confluence with Alkali Canyon. Mainstem of Yellow Jacket Creek, including all tributaries and wetlands, from the source to the confluence with McElmo Creek.

COSJLP07A	Classifications	Physical and Biological		Metals (ug/L)			
		DM	MWAT	acute	chronic		
Designation	Agriculture						
Reviewable	Aq Life Warm 1	Temperature °C	WS-II	WS-II	Aluminum	---	---
	Recreation E		acute	chronic	Arsenic	340	---
Qualifiers:		D.O. (mg/L)	---	5.0	Arsenic(T)	---	7.6
Other:		pH	6.5 - 9.0	---	Beryllium	---	---
<del>Temporary Modification(s):</del>		chlorophyll a (mg/m2)	---	150*	Cadmium	TVS	TVS
<del>Ammonia(ac/ch) = current conditions*</del>		E. Coli (per 100 mL)	---	126	Chromium III	TVS	TVS
<del>Expiration Date of 6/30/2024.</del>		<b>Inorganic (mg/L)</b>			Chromium III(T)	---	100
			acute	chronic	Chromium VI	TVS	TVS
<del>Discharger Specific Variance(s):</del>		Ammonia	TVS	TVS	Copper	TVS	TVS
<del>Ammonia (acute/chronic) = See Section 34.6(d) for details on variance for Vista Verde Village Mobile Home Park.</del>		Boron	---	0.75	Iron(T)	---	2200
<del>Expiration Date of 6/30/2031.</del>		Chloride	---	---	Lead	TVS	TVS
*chlorophyll a (mg/m2)(chronic) = applies only above the facilities listed at 34.5(5).		Chlorine	0.019	0.011	Manganese	TVS	TVS
*Phosphorus(chronic) = applies only above the facilities listed at 34.5(5).		Cyanide	0.005	---	Mercury	---	0.01(t)
*TempMod: Ammonia = Adopted 8/14/2006		Nitrate	100	---	Molybdenum(T)	---	150
		Nitrite	0.05	---	Nickel	TVS	TVS
		Phosphorus	---	0.17*	Selenium	TVS	TVS
		Sulfate	---	---	Silver	TVS	TVS
		Sulfide	---	0.002	Uranium	---	---
					Zinc	TVS	TVS

10. All tributaries to the San Juan River in Montezuma Dolores and San Miguel Counties, including all wetlands, except for the specific listings in Segments 2 through 8c and Segments 10b and 11.

COSJLP10	Classifications	Physical and Biological		Metals (ug/L)			
		DM	MWAT	acute	chronic		
Designation	Agriculture						
UP	Aq Life Warm 2	Temperature °C	WS-III	WS-III	Aluminum	---	---
	Recreation E		acute	chronic	Arsenic	340	---
Qualifiers:		D.O. (mg/L)	---	5.0	Arsenic(T)	---	7.6
Other:		pH	6.5 - 9.0	---	Beryllium	---	---
<del>Discharger Specific Variance(s):</del>		chlorophyll a (mg/m2)	---	150*	Beryllium(T)	---	100
<del>Ammonia (acute/chronic) = See Section 34.6(e) for details on variance for the Town of Dove Creek.</del>		E. Coli (per 100 mL)	---	126	Cadmium	TVS	TVS
<del>Expiration Date of 6/30/2031.</del>		<b>Inorganic (mg/L)</b>			Chromium III	TVS	TVS
			acute	chronic	Chromium III(T)	---	100
*chlorophyll a (mg/m2)(chronic) = applies only above the facilities listed at 34.5(5).		Ammonia	TVS	TVS	Chromium VI	TVS	TVS
*Phosphorus(chronic) = applies only above the facilities listed at 34.5(5).		Boron	---	0.75	Copper	TVS	TVS
		Chloride	---	---	Iron(T)	---	1000
		Chlorine	0.019	0.011	Lead	TVS	TVS
		Cyanide	0.005	---	Manganese	TVS	TVS
		Nitrate	100	---	Mercury	---	0.01(t)
		Nitrite	---	---	Molybdenum(T)	---	150
		Phosphorus	---	0.17*	Nickel	TVS	TVS
		Sulfate	---	---	Selenium	TVS	TVS
		Sulfide	---	0.002	Silver	TVS	TVS
					Uranium	---	---
					Zinc	TVS	TVS

All metals are dissolved unless otherwise noted.  
T = total recoverable  
t = total  
tr=trout  
sc=sculpin

D.O. = dissolved oxygen  
DM = daily maximum  
MWAT = maximum weekly average temperature  
See 34.6 for further details on applied standards.



**EXHIBIT 3**  
**CITY OF PUEBLO**

**DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

**Water Quality Control Commission**

**REGULATION NO. 32 - CLASSIFICATIONS AND NUMERIC STANDARDS FOR ARKANSAS RIVER BASIN**

**5 CCR 1002-32**

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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**32.66 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE; DECEMBER 14, 2020 RULEMAKING; FINAL ACTION February 8, 2021; EFFECTIVE DATE JUNE 30, 2021**

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**

**Other/Site Specific Revisions**

Lower Arkansas Segment 1a (COARLA01a): The Commission reviewed the discharger specific variance (DSV) for acute and chronic selenium, and chronic sulfate, adopted in the June 2018 Arkansas Basin Hearing for the City of Pueblo's James R. Dilorio Water Reclamation Facility. See Section 32.6(6)(c). The Commission reviewed Pueblo's progress toward achieving the narrative alternate limits (AELs) for selenium and sulfate, and determined that the narrative AELs continue to represent the highest attainable water quality that is feasible for Pueblo to achieve. Therefore, the Commission determined that the selenium and sulfate DSV is still appropriate and does not require revision at this time.

**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**

**APPENDIX 32-1  
Stream Classifications and Water Quality Standards Tables**

Effective 06/30/2021

# REGULATION #32 STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS

## Lower Arkansas River Basin

1a. Mainstem of the Arkansas River from a point immediately above the confluence with Fountain Creek to immediately above the Colorado Canal headgate near Avondale.							
COARLA01A	Classifications	Physical and Biological			Metals (ug/L)		
Designation	Agriculture	DM	MWAT	acute	chronic		
UP	Aq Life Warm 2	varies*	varies*	Arsenic	340	---	
	Recreation E	<b>acute</b>	<b>chronic</b>	Arsenic(T)	---	0.02-10 <sup>A</sup>	
	Water Supply	D.O. (mg/L)	---	5.0	Cadmium	TVS	TVS
	<b>Qualifiers:</b>	pH	6.5 - 9.0	---	Cadmium(T)	5.0	---
<b>Other:</b>  Discharger Specific Variance(s): Selenium(acute) = 19.1 µg/L: narrative Selenium(chronic) = 14.1 µg/L: narrative Sulfate(chronic) = 329 mg/L: narrative Expiration Date of 12/31/2028  *Uranium(acute) = See 32.5(3) for details. *Uranium(chronic) = See 32.5(3) for details. *Temperature = DM=WS-II and MWAT=WS-II from 1/1-11/30 DM= 21.5 and MWAT=20.7 from 12/1-12/31 *Variance: Selenium = see 32.6(6)(c) for details on variance for City of Pueblo. *Variance: Sulfate = see 32.6(6)(c) for details on variance for City of Pueblo.		<b>Inorganic (mg/L)</b>		Chromium III	---	TVS	
			<b>acute</b>	<b>chronic</b>	Chromium III(T)	50	---
		Ammonia	TVS	TVS	Chromium VI	TVS	TVS
		Boron	---	0.75	Copper	TVS	TVS
		Chloride	---	250	Iron	---	WS
		Chlorine	0.019	0.011	Iron(T)	---	2800
		Cyanide	0.005	---	Lead	TVS	TVS
		Nitrate	10	---	Lead(T)	50	---
		Nitrite	0.5	---	Manganese	TVS	TVS/WS
		Phosphorus	---	---	Mercury(T)	---	0.01
		Sulfate	---	329	Molybdenum(T)	---	150
		Sulfide	---	0.002	Nickel	TVS	TVS
					Nickel(T)	---	100
					Selenium	19.1	14.1
					Silver	TVS	TVS
					Uranium	varies*	varies*
					Zinc	TVS	TVS

## **STREAM CLASSIFICATIONS and WATER QUALITY STANDARDS – FOOTNOTES**

- (A) Whenever a range of standards is listed and referenced to this footnote, the first number in the range is a strictly health-based value, based on the Commission's established methodology for human health-based standards. The second number in the range is a maximum contaminant level, established under the federal Safe Drinking Water Act that has been determined to be an acceptable level of this chemical in public water supplies, taking treatability and laboratory detection limits into account. Control requirements, such as discharge permit effluent limitations, shall be established using the first number in the range as the ambient water quality target, provided that no effluent limitation shall require an "end-of-pipe" discharge level more restrictive than the second number in the range. Water bodies will be considered in attainment of this standard, and not included on the Section 303(d) List, so long as the existing ambient quality does not exceed the second number in the range.
- (B) *Reserved.*
- (C) *Reserved.*