



# 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 promulgating a new regulation, Regulation #102: Water Quality Control Division Cash Fees (5 CCR 1002-102), for setting fees for drinking water fees assessed on public water systems and commerce and industry sector permitting fees.

The regulation as proposed by the Water Quality Control Division, along with proposed Statement of Basis, Specific Statutory Authority and Purpose are attached to this notice as Exhibit 1. Any alternative proposals related to the subject of this hearing will also be considered.

### SCHEDULE OF IMPORTANT DATES

Proponent’s prehearing statement due	2/14/2024	Additional information below
Party status requests due	3/6/2024	Additional information below
Responsive prehearing statements due	3/27/2024	Additional information below
Rebuttal statements due	4/24/2024	Additional information below
Last date for submittal of motions	4/26/2024 by noon	Additional information below
<b>Prehearing Conference</b> (mandatory for parties)	5/1/2024 2:00 pm	<a href="#">Remote Via Zoom</a> Additional information below
Cutoff of negotiations	5/3/2024	N/A
Division’s consolidated proposal	5/8/2024	N/A
<b>Rulemaking Hearing</b>	5/13/2024 9:00 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.wqcc@state.co.us](mailto:cdphe.wqcc@state.co.us), provided via an FTP site, 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.** The Zoom link to attend the prehearing conference is provided above.

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

PUBLIC PARTICIPATION ENCOURAGED:

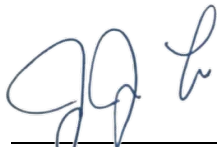
The commission encourages input from non-parties, either orally at the hearing or in writing prior to the hearing. Written submissions should be emailed to [cdphe.wqcc@state.co.us](mailto:cdphe.wqcc@state.co.us) by May 1, 2024.

SPECIFIC STATUTORY AUTHORITY:

Section 25-8-210, C.R.S. provides the specific statutory authority for consideration of the regulatory provisions proposed by this notice. Should the commission adopt the regulatory language as proposed in this notice or an alternative proposal, 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 4<sup>th</sup> day of December 2023 at Denver, Colorado.

WATER QUALITY CONTROL COMMISSION

  
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Jojo La, Administrator



## DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

### Water Quality Control Commission

## REGULATION NO. 102 - WATER QUALITY CONTROL DIVISION CASH FEES

### 5 CCR 1002-102

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

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#### 102.1 AUTHORITY

These regulations are promulgated pursuant to the Colorado Water Quality Control Act, section 25-8-205, C.R.S., and section 25-8-210, C.R.S.

#### 102.2 PURPOSE

The purpose of this regulation is to set fees associated with the drinking water cash fund and the commerce and industry cash fund. The drinking water cash fees cover a portion of the Division's direct and indirect costs associated with implementing the federal "Safe Drinking Water Act," 42 U.S.C., sec 300f et seq. and Section 25-1-114.1, Part 2 of Article 1.5, C.R.S. The commerce and industry cash fees cover a portion of the Division's direct and indirect costs associated with implementing the "Clean Water Act," 33 U.S.C. sec 1251 et seq. and the "Water Quality Control Act" (C.R.S. Title 25, Art. 8) for the commerce and industry sector.

#### 102.3 DEFINITIONS

- (1) "Colorado Water Quality Control Act" or "Act" means the Colorado Water Quality Control Act as from time to time amended, section 25-8-101, C.R.S., 1973, et seq.
- (2) "Commission" means the water quality control commission created by section 25-8-201, C.R.S.
- (3) "Division" means the Colorado Department of Public Health and Environment, Water Quality Control Division.

#### 102.4 DRINKING WATER CASH FEES

##### (1) INTRODUCTION

The cash fees generated from this section shall be used to implement the Division's drinking water program. These fees cover a portion of the Division's direct and indirect costs associated with administering the federal "Safe Drinking Water Act", 42 U.S.C. sec. 300f et seq. and section 25-1-114.1, C.R.S. and C.R.S. Title 25, Art. 1.5, Pt. 2. All fees shall be credited to the drinking water cash fund per section 25-1.5-209(2)(a), C.R.S.

##### (2) DRINKING WATER ANNUAL CASH FEE SCHEDULE

The following 102.4(2) Table A contains the drinking water cash fee schedule. The Division may assess an annual fee upon public water systems, and all such fees shall be in accordance with 102.4 Table A.

<b>102.4(2) TABLE A DRINKING WATER CASH ANNUAL FEE SCHEDULE</b>		
Facility Categories and Subcategories for Drinking Water Fees		Annual Fees
<b>(a) Category 01 Community surface water systems</b>		
Subcategory 1	Population from 25 - 250	\$85
Subcategory 2	Population from 251 - 500	\$113
Subcategory 3	Population from 501 - 1,000	\$350
Subcategory 4	Population from 1,001 - 3,300	\$525
Subcategory 5	Population from 3,301 - 10,000	\$977
Subcategory 6	Population from 10,001 - 30,000	\$2,091
Subcategory 7	Population from 30,001 - 100,000	\$5,582
Subcategory 8	Population from 100,001 - 200,000	\$10,475
Subcategory 9	Population from 200,001 - 500,000	\$17,459
Subcategory 10	Population greater than 500,000	\$24,442
<b>(b) Category 02 Community groundwater systems</b>		
Subcategory 1	Population from 25 - 250	\$85
Subcategory 2	Population from 251 - 500	\$113
Subcategory 3	Population from 501 - 1,000	\$249
Subcategory 4	Population from 1,001 - 3,300	\$350
Subcategory 5	Population from 3,301 - 10,000	\$768
Subcategory 6	Population from 10,001 - 30,000	\$1,746
Subcategory 7	Population greater than 30,001	\$5,029
<b>(c) Category 03 Community-purchased surface water or groundwater systems</b>		
Subcategory 1	Population from 25 - 250	\$85
Subcategory 2	Population from 251 - 500	\$113
Subcategory 3	Population from 501 - 1,000	\$175
Subcategory 4	Population from 1,001 - 3,300	\$283
Subcategory 5	Population from 3,301 - 10,000	\$554
Subcategory 6	Population from 10,001 - 30,000	\$977
Subcategory 7	Population greater than 30,001	\$2,791
<b>(d) Category 04 Nontransient, noncommunity surface water systems</b>		
Subcategory 1	Population from 25 - 250	\$85
Subcategory 2	Population from 251 - 500	\$113
Subcategory 3	Population from 501 - 1,000	\$316
Subcategory 4	Population from 1,001 - 3,300	\$452
Subcategory 5	Population from 3,301 - 10,000	\$701
Subcategory 6	Population from 10,001 - 30,000	\$1,887

<b>102.4(2) TABLE A DRINKING WATER CASH ANNUAL FEE SCHEDULE</b>		
Facility Categories and Subcategories for Drinking Water Fees		Annual Fees
Subcategory 7	Population greater than 30,001	\$4,450
(e) Category 05 Nontransient, noncommunity groundwater systems		
Subcategory 1	Population from 25 - 250	\$85
Subcategory 2	Population from 251 - 500	\$113
Subcategory 3	Population from 501 - 1,000	\$175
Subcategory 4	Population from 1,001 - 3,300	\$277
Subcategory 5	Population from 3,301 - 10,000	\$559
Subcategory 6	Population from 10,001 - 30,000	\$1,537
Subcategory 7	Population greater than 30,001	\$4,125
(f) Category 06 Nontransient, noncommunity-purchased surface water or groundwater systems		
Subcategory 1	Population from 25 - 250	\$85
Subcategory 2	Population from 251 - 500	\$113
Subcategory 3	Population from 501 - 1,000	\$141
Subcategory 4	Population from 1,001 - 3,300	\$209
Subcategory 5	Population from 3,301 - 10,000	\$367
Subcategory 6	Population from 10,001 - 30,000	\$910
Subcategory 7	Population greater than 30,001	\$2,237
(g) Category 07 Transient, noncommunity surface water systems		
Subcategory 1	Population from 25 - 250	\$85
Subcategory 2	Population from 251 - 500	\$113
Subcategory 3	Population from 501 - 1,000	\$277
Subcategory 4	Population from 1,001 - 3,300	\$350
Subcategory 5	Population from 3,301 - 10,000	\$627
Subcategory 6	Population from 10,001 - 30,000	\$701
Subcategory 7	Population greater than 30,001	\$4,475
(h) Category 08 Transient, noncommunity groundwater systems		
Subcategory 1	Population from 25 - 250	\$85
Subcategory 2	Population from 251 - 500	\$113
Subcategory 3	Population from 501 - 1,000	\$141
Subcategory 4	Population from 1,001 - 3,300	\$209
Subcategory 5	Population from 3,301 - 10,000	\$559
Subcategory 6	Population from 10,001 - 30,000	\$605
Subcategory 7	Population greater than 30,001	\$3,356
(i) Category 09 Transient, noncommunity-purchased surface water or groundwater systems		

102.4(2) TABLE A DRINKING WATER CASH ANNUAL FEE SCHEDULE		
Facility Categories and Subcategories for Drinking Water Fees		Annual Fees
Subcategory 1	Population from 25 - 250	\$85
Subcategory 2	Population from 251 - 500	\$113
Subcategory 3	Population from 501 - 1,000	\$124
Subcategory 4	Population from 1,001 - 3,300	\$141
Subcategory 5	Population from 3,301 - 10,000	\$350
Subcategory 6	Population from 10,001 - 30,000	\$492
Subcategory 7	Population greater than 30,001	\$1,684

## 102.5 COMMERCE AND INDUSTRY SECTOR CASH FEES

### (1) INTRODUCTION

The cash fees generated from this section shall be used to implement clean water program activities associated with the commerce and industry sector. These fees cover a portion of the Division's direct and indirect costs associated with administering the federal "Clean Water Act," 33 U.S.C. sec. 1251 et seq. and "Water Quality Control Act" (C.R.S. Title 25, Art. 8) for the commerce and industry sector. All fees shall be credited to the clean water cash fund per section 25-8-210(4), C.R.S.

### (2) COMMERCE AND INDUSTRY CASH FEE SCHEDULE

This section includes the clean water annual cash fee schedules for the commerce and industry fee payor type. The Division may assess an annual fee upon commerce and industry fee payors, and all such fees shall be in accordance with 102.5(2) Table A. The commerce and industry fee payor type includes activities associated with mining, hydrocarbon refining, sugar processing, industrial stormwater, utilities not included in the private and public utilities sector, manufacturing activities, commercial activities, and all other industrial activities.

102.5(2) Table A Commerce and Industry Annual Cash Fee Schedule		
Fee Subcategory	Description	Annual Fee
Category 1 Sand and gravel and placer mining individual permit		
I-A	Pit dewatering only	\$910
I-B	Pit dewatering or wash-water discharge	\$1,037
I-C	Mercury use with discharge impact	\$1,164
I-D	Storm water discharge only	\$791
Category 2 Coal mining individual permit		
II-A	Sedimentation ponds, surface runoff only	\$1,783
II-B	Mine water, preparation plant discharge	\$2,401
Category 3 Hard rock mining individual permit		

<b>102.5(2) Table A Commerce and Industry Annual Cash Fee Schedule</b>		
Fee Subcategory	Description	Annual Fee
III-A	Mine dewatering from 0 up to 49,999 gallons per day	\$2,074
III-B	Mine dewatering from 50,000 up to 999,999 gallons per day	\$3,912
III-C	Mine dewatering, 1,000,000 gallons per day or more	\$5,968
III-D	Mine dewatering and milling with no discharge	\$5,968
III-E	Mine dewatering and milling with discharge	\$17,975
III-F	No discharge	\$2,074
III-G	Milling with discharge from 0 up to 49,999 gallons per day	\$6,095
III-H	Milling with discharge, 50,000 gallons per day or more	\$12,153
<b>Category 4 Oil Shale</b>		
IV-A	Sedimentation ponds, surface runoff only	\$3,621
IV-B	Mine water from 0 up to 49,999 gallons per day	\$3,912
IV-C	Mine water from 50,000 up to 999,999 gallons per day	\$4,858
IV-D	Mine water from 1,000,000 gallons per day or more	\$4,730
IV-E	Mine water and process water discharge	\$17,975
IV-F	No discharge	\$3,329
<b>Category 5 General Permits</b>		
V-A	Sand and gravel with process discharge and storm water	\$492
V-B	Sand and gravel without process discharge - storm water only	\$137
V-C	Placer mining	\$946
V-D	Coal mining	\$1,419
V-E	Industrial - single municipal industrial - storm water only	\$337
V-F	Active mineral mines less than ten acres - storm water only	\$227
V-G	Active mineral mines - ten acres or more - storm water only	\$683
V-H	Inactive mineral mines - storm water only	\$137
V-I	Department of transportation - sand and gravel storm-water permit	\$7,933
V-J	Coal degasification - process water from 0 up to 49,999 gallons per day	\$3,912
V-K	Coal degasification - process water from 50,000 up to 99,999 gallons per day	\$5,968
V-L	Coal degasification - process water, 100,000 gallons per day or more	\$17,975
V-M	Minimal discharge of industrial or commercial waste waters -	\$712



<b>102.5(2) Table A Commerce and Industry Annual Cash Fee Schedule</b>		
Fee Subcategory	Description	Annual Fee
	general permit	
Category 6 Power plants		
VI-A	Cooling water only, no discharge	\$2,074
VI-B	Process water from 0 up to 49,999 gallons per day	\$3,912
VI-C	Process water from 50,000 up to 999,999 gallons per day	\$5,968
VI-D	Process water from 1,000,000 up to 4,999,999 gallons per day	\$17,975
VI-E	Process water, 5,000,000 gallons per day or more	\$17,975
Category 7 Sugar Processing		
VII-A	Cooling water only, no discharge	\$2,201
VII-B	Process water from 0 up to 49,999 gallons per day	\$2,693
VII-C	Process water from 50,000 up to 999,999 gallons per day	\$6,731
VII-D	Process water from 1,000,000 up to 4,999,999 gallons per day	\$17,975
VII-E	Process water, 5,000,000 gallons per day or more	\$17,975
Category 8 Petroleum refining		
VIII-A	Cooling water only, no discharge	\$2,074
VIII-B	Process water from 0 up to 49,999 gallons per day	\$4,658
VIII-C	Process water from 50,000 up to 999,999 gallons per day	\$5,977
VIII-D	Process water from 1,000,000 up to 4,999,999 gallons per day	\$17,975
VIII-E	Process water, 5,000,000 gallons per day or more	\$17,975
Category 9 Fish Hatcheries		
IX	Fish hatcheries	\$1,492
Category 10 Manufacturing and other industry:		
X-A	Cooling water only	\$2,074
X-B	Process water from 0 up to 49,999 gallons per day	\$3,912
X-C	Process water from 50,000 up to 999,999 gallons per day	\$5,968
X-D	Process water from 1,000,000 up to 4,999,999 gallons per day	\$17,975
X-E	Process water from 5,000,000 up to 19,999,999 gallons per day	\$22,086
X-F	Process water, 20,000,000 gallons per day or more	\$35,950
X-G	No discharge	\$2,693
X-H	Amusement and recreation services	\$2,693

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<b>102.5(2) Table A Commerce and Industry Annual Cash Fee Schedule</b>		
Fee Subcategory	Description	Annual Fee
Category 11 Individual industrial storm-water permits:		
XI-A	Individual industrial - less than ten acres	\$537
XI-B	Individual industrial - ten acres or more	\$683
XI-C	Individual industrial - storm water only - international airports	\$11,316

**(3) CLEAN WATER CASH FEES FOR REGULATORY REQUIREMENTS**

This section includes the clean water cash fee schedules for the following regulatory requirements: permit application and permit modification.

**(a) Permit Application Fee**

The Division may assess an annual permit fee and a nonrefundable permit application fee for new permits that must equal fifty percent of the annual permit fee in Section 102.5(2).

**(b) Permit Modification Fee**

The Division may assess a fee for an amendment or modification to permits. For minor amendments, the fee must be in an amount equal to twenty-five percent of the annual permit fee in Section 102.5(2) for the permit being amended, not to exceed two thousand eight hundred ten dollars. For major amendments, the fee must be in an amount equal to fifty-five percent of the annual permit fee in Section 102.5(2) for the permit being amended, not to exceed five thousand nine hundred fifty dollars.

**102.6 RESERVED**

**102.7 RESERVED**

**102.8 RESERVED**

**102.9 RESERVED**

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**102.29 RESERVED**

**102.30 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY, AND PURPOSE, ADOPTED  
MONTH DAY, YEAR: EFFECTIVE MONTH DAY, YEAR**

The provisions of Colorado Revised Statutes section 25-8-210 provides the specific statutory authority for setting fees by regulation. In compliance with Colorado Revised Statutes Section 24-4-103(4), the Commission has adopted the following Statement of Basis and Purpose.

**BASIS AND PURPOSE**

Section 25-8-210, C.R.S., directs the Commission that "on or before October 31, 2025, the Commission shall establish the following fees by rule:

- (1) Drinking water fees assessed on public water systems pursuant to section 25-1.5-209 (1), as that section existed prior to its repeal on July 1, 2026.
- (2) Commerce and industry sector permitting fees assessed pursuant to section 25-8-502 (1.1)(b), as that section existed prior to its repeal on July 1, 2026."

The Commission and Division have fulfilled the requirements of Section 25-8-210(1)(c)(II), C.R.S., as all permit holders and public water systems have been notified of the fee setting by rule stakeholder process. In addition, the Division's stakeholder process for this effort is well documented on its website. In addition, the fee increases for this rulemaking will not be phased in over time.

The Commission has determined that the fees for the drinking water cash fund and the clean water cash fund's commerce and industry fee payor type should be established in the rule as soon as practicable. Both funds generate significantly less than the revenue required to sustain the staffing and support necessary to provide the required services. These services are necessary to administer the Safe Drinking Water Act and Clean Water Act in Colorado. The legislature establishes the spending authority for these funds. The spending authority reflects the cost to operate the Division and increases through time to account for inflation in the cost of drinking water and clean water staff support and maintenance of the Division's general and administrative services for staff and the public. The Commission found that fee

increases are necessary as a component of the funding needed to maintain existing Division services for the drinking water program and commerce and industry fee payors. In addition, the Commission understands that the projected revenue for other Division cash funds is sufficient for state fiscal year 24-25 and that those funds do not require an increase during this rulemaking.

The drinking water fee increase resulted in fee increases ranging from \$10 to \$2,812 per year, or a 13 percent increase. The commerce and industry fee increase resulted in fee increases ranging from \$16 to \$4,136 per year, or a 13 percent increase. The Commission understands that these fee increases are not the total amount needed for the Division to maintain existing services and that the Division is exploring options to fill the gap so that the Division can maintain existing services. In addition, the Commission and Division understand that fee payors would like to have advance notice of fee increases for budget planning purposes and will strive to provide timely information that helps fee payors with budget planning.

The Commission recognizes that the Division has conducted outreach to obtain stakeholder input regarding the total funding for the Division, including federal money, money from the General Fund, and all cash fees, and that those efforts are ongoing per Section 25-8-210(2)(a). In addition, the Commission anticipates that the May 2025 fee-setting rulemaking will revisit decisions made as part of this rulemaking and will be more expansive to cover all of the Division's cash fees and meet the requirements outlined in Section 25-8-210, C.R.S.