



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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SEP 28 2011

Ref: 8EPR-EP

Peter Butler, Chair
Water Quality Control Commission
4300 Cherry Creek Drive South
Denver, CO 80222-1530

Subject: EPA Action on Three Sets of Revisions to Water
Quality Standards

Dear Mr. Butler:

The purpose of this letter is to notify you of the status of the U.S. Environmental Protection Agency Region 8 (EPA) review of three sets of revisions to water quality standards (WQS) adopted by the Colorado Water Quality Control Commission (Commission). The revisions were received by the Agency on February 24, 2010, July 26, 2010, and January 26, 2011.

The Region commends the excellent work of the Water Quality Control Division (WQCD) to develop WQS proposals and review WQS proposals submitted by third parties. Most of the WQS changes addressed in this letter were adopted to modify previously-adopted temporary modifications. For example, the expiration dates for 138 temporary modifications were extended, often to accommodate adjustments to the basin review schedule. In addition, 37 temporary modifications were deleted in cases where the Commission concluded, based on WQCD recommendations, that there was no compelling reason to retain the temporary modifications. Finally, for several segments site-specific changes to use classifications and/or numeric standards were adopted.

CLEAN WATER ACT REVIEW REQUIREMENTS

Clean Water Act (CWA) § 303(c)(2) requires States and authorized Indian Tribes to submit new and revised water quality standards to EPA for review. EPA is required to review and approve or disapprove the revised standards pursuant to CWA § 303(c)(3). The Region's goal has been, and will continue to be, to work closely and collaboratively with States and authorized Tribes throughout the standards revision process so that submitted revisions can be approved by EPA.

TODAY'S ACTION

I am pleased to inform you that today the Region is approving the WQS revisions, except that EPA is taking no action on:

- extension of the Bear Creek Reservoir temporary modifications,
- extension of the effective date for the Grand Lake numeric clarity standard, and
- adoption of the new Lower Colorado Segment 4e use protected designation.

A description of the revisions received by EPA on February 24, 2010, July 26, 2010, and January 26, 2011, along with a rationale for EPA's action, is presented in Enclosures 1, 2, and 3, respectively.

CONCLUSION

The Region commends both the Commission and the Water Quality Control Division for their tireless efforts to consider site-specific data and circumstances as a basis for reviewing and revising water quality standards for Colorado waters. We are pleased to be approving the WQS revisions addressed by today's action letter. If you have any questions concerning this letter, the most knowledgeable person on my staff is David Moon and he can be reached at 303-312-6833.

Sincerely,



Carol L. Campbell
Assistant Regional Administrator
Office of Ecosystems Protection
and Remediation

Enclosures (3)

ENCLOSURE 1
REVISIONS TO COLORADO WATER QUALITY STANDARDS
RECEIVED FEBRUARY 24, 2010

This enclosure presents a summary of the water quality standards revisions adopted by the Water Quality Control Commission (Commission) and a rationale for EPA's approval action. The following regulations were amended:

- Classifications and Numeric Standards for Arkansas River Basin (Regulation #32)
- Classifications and Numeric Standards for Upper Colorado River Basin and North Platte River (Regulation #33)
- Classifications and Numeric Standards for San Juan River and Dolores River Basins (Regulation #34)
- Classifications and Numeric Standards for Gunnison and Lower Dolores River Basins (Regulation #35)
- Classifications and Numeric Standards for Rio Grande River Basin (Regulation #36)
- Classifications and Numeric Standards for Lower Colorado River Basin (Regulation #37)
- Classifications and Numeric Standards for South Platte River Basin, Laramie River Basin, Republican River Basin, Smoky Hill River Basin (Regulation #38)

The revisions were adopted on February 8, 2010 with an effective date of June 30, 2010. The submission letter included an Opinion of the Colorado Attorney General certifying that the standards were duly adopted pursuant to State law. Receipt of the revised standards on February 24, 2010 initiated EPA's review pursuant to § 303(c) of the Clean Water Act (CWA or the Act). These revisions were adopted following the annual temporary modification review process and public hearing that is required by Section 31.7(3)(e) of the *Basic Standards and Methodologies for Surface Waters* (Regulation #31). All revisions were to delete, modify or extend previously-adopted temporary modifications. There were no revisions that resulted in adoption of new temporary modifications or revised underlying standards.

It is important to note that EPA approval of water quality standards is considered a federal action which may be subject to the Section 7(a)(2) consultation requirements of the Endangered Species Act (ESA). Section 7(a)(2) of the ESA states that "each federal agency...shall...insure that any action authorized, funded or carried out by such agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined to be critical..."

EPA has initiated consultation under ESA Section 7(a)(2) with the U.S. Fish and Wildlife Service regarding our approval of certain new or revised water quality standards. EPA also has a CWA obligation, as a separate matter, to complete its water quality standards approval action. Therefore, in approving these water quality standards revisions today, EPA is completing its CWA § 303(c) responsibilities. However, because ESA consultation on EPA's approval of these standards is ongoing, EPA's approval is made subject to the outcome of the ESA consultation process. Should the consultation process with the U.S. Fish and Wildlife Service identify

information regarding impacts on listed species or designated critical habitat that supports amending EPA's approval, EPA will, as appropriate, revisit and amend its approval decision for those new or revised water quality standards. Many of the WQS revisions addressed in today's letter are for waters where listed species do not occur and that are not designated critical habitat. EPA plans to investigate this matter further during the consultation process.

The water quality standards approvals in today's letter apply only to water bodies in the State of Colorado, and do not apply to waters that are within Indian country, as defined in 18 U.S.C. Section 1151. "Indian country" also includes any land held in trust by the United States for an Indian tribe and any other areas defined as "Indian country" within the meaning of 18 U.S.C. 1151. Today's letter is not intended as an action to approve or disapprove water quality standards applying to waters within Indian Country. EPA, or authorized Indian Tribes, as appropriate, will retain responsibilities for water quality standards for waters within Indian country.

The segment-by-segment changes for each regulation are listed in Table 1. Generally, three types of revisions were adopted:

- 1) deletion of temporary modifications,
- 2) modification/clarification of temporary modifications, and
- 3) extension of temporary modifications.

For each type of revision, a summary of the adopted revisions and the basis for EPA approval is discussed below. For all revisions, EPA's review addressed the supporting information submitted to the WQCC by the parties to the rulemaking, including the proponents pre-hearing statements and rebuttal statements.

DELETED TEMPORARY MODIFICATIONS

Temporary modifications were deleted from various segments in all seven basin-specific water quality standards regulations.

Regulation #32

- Middle Arkansas segments 2 (ammonia) and 14 (ammonia)

Regulation #33

- Yampa Segment 13d (ammonia)

Regulation #34

- La Plata segments 3a (iron), 5a (ammonia) and 8a (ammonia)

Regulation #35

- Uncompahgre segments 4a (ammonia), 4b (ammonia) and 4c (selenium)
- Lower Gunnison segments 2 (ammonia) and 4b (selenium)

Regulation #36

- Rio Grande Segment 12 (ammonia)
- Alamosa/La Jara Segment 18 (ammonia)
- Closed Basin/San Juan segments 13b (ammonia) and 14 (ammonia)

Regulation #37

- White River Segment 21 (ammonia)

Regulation #38

- Upper South Platte segments 14 (ammonia), 16c (ammonia) and 16g (ammonia)
- Cherry Creek Segment 3 (ammonia)
- Bear Creek Segment 4a (ammonia)
- Clear Creek Segment 15 (ammonia)
- Big Thompson segments 6 (ammonia) and 10 (ammonia)
- Cache La Poudre segments 11 (ammonia) and 13b (ammonia)

Rationale for EPA Approval

Regarding these deleted temporary modifications, the Region's approval action today is based on our conclusion that the Commission's action allows the underlying standards previously approved by EPA to go into effect, thereby better ensuring protection of the assigned use classifications as required by the EPA regulation at 40 CFR § 131.11. Accordingly, the revisions are approved.

MODIFIED/CLARIFIED TEMPORARY MODIFICATIONS

Temporary modifications were modified or clarified in several basin-specific water quality standards regulations.

Regulation #34

- For La Plata Segment 7a, "type (iii)" was added to the temporary modification for ammonia to indicate that the temporary modification is authorized by Section 31.7(3)(a)(iii) of the *Basic Standards and Methodologies for Surface Waters*. In addition, because this segment has an Aquatic Life Warm 1 use classification, the ambiguous narrative "TVS old", which could mean various numeric requirements in a range from 0.06 mg/L to 1.0 mg/L, was replaced with "0.06 mg/L" to clarify the interim numeric requirement that applies while the temporary modification is in effect.

Regulation #35

- For Lower Gunnison Segment 4a, "type (i)" was added to the temporary modification for ammonia to indicate that the temporary modification is authorized by Section 31.7(3)(a)(i) of the Basic Standards regulation. In addition, the ambiguous narrative "TVS old" was replaced with "0.02 mg/L" to clarify the interim water quality requirement that applies while the temporary modification is in effect.

Rationale for EPA Approval

These revisions clarify temporary modifications adopted previously. The temporary modifications recognize uncertainty about the segment-specific numeric standard and provide time to resolve the uncertainty. The temporary modifications were adopted pursuant to Colorado's general policy (Regulation #31, Section 31.7(3)).¹ EPA's regulation at 40 CFR Section 131.13 recognizes that such water quality standards general policies may be adopted at State discretion, while also specifying that they are subject to EPA review and approval. Colorado's policy has been approved by EPA on multiple occasions, and most recently on August 4, 2011. The Region has reviewed these segment-specific clarifications to temporary modifications and finds them to be consistent with Colorado's approved general policy. Accordingly, the revisions are approved.

EXTENDED TEMPORARY MODIFICATIONS

Temporary modification expiration dates were extended in several basin-specific water quality standards regulations.

Regulation #32

- For Fountain Creek segments 2a and 6, the expiration dates for the temporary modifications for copper were revised from 12/31/10 to 12/31/12 to provide time to resolve significant uncertainty regarding the long-term underlying standards. Entities discharging copper to these segments are pursuing development of site-specific numeric standards for copper.

Regulation #34 and #35

- Expiration dates were revised from 12/31/11 to 12/31/12 for various segments in both of these basins to be consistent with the decision to postpone the basinwide review of Regulation #34 and Regulation #35 from 2011 to 2012.

¹ Section 31.7(3) authorizes temporary modifications if an existing permitted discharge has a demonstrated or predicted water quality-based effluent limit compliance problem, and one of two situations is shown to exist: (1) significant uncertainty regarding the water quality standard necessary to protect current and/or future uses, or (2) significant uncertainty regarding the extent to which existing quality is the result of natural or irreversible human-induced conditions. Section 31.7(3) requires that adequate supporting information must be submitted, including a justification for the interim narrative or numeric value, any data describing effluent and ambient quality, a plan for eliminating the need for the temporary modification, and a justification for the proposed expiration date. Temporary modification expiration dates are determined by the Commission based on relevant factors, including how soon resolving the issues that necessitated adoption of the temporary modification is deemed feasible. Pursuant to 31.7(3)(e), the Commission must hold an annual rulemaking hearing to review temporary modifications that will expire within approximately two years. Pursuant to such hearings, the Commission may delete, modify, or make no changes to each temporary modification. Compliance schedules requiring actions intended to eliminate the uncertainty regarding the appropriate underlying standard may be included in the permit pursuant to 31.14(15)(b).

Regulation #38

- For St. Vrain Segment 6 and Big Thompson Segment 4b, the expiration dates for the modifications for selenium were extended five years - from 12/31/10 to 12/31/15 - to provide additional time to resolve significant uncertainty regarding the long-term underlying standard. Progress toward resolving the issues will be reviewed in December of 2013 and 2014 as part of the annual review of temporary modifications.
- For Middle South Platte (MSP) Segment 1a, based on a proposal submitted by Metro Wastewater Reclamation District (Metro), the expiration date for the temporary modification for ammonia was revised from 12/31/11 to 12/31/14 to be consistent with the temporary modification expiration date previously established for Upper South Platte (USP) Segment 15 (which is immediately upstream of MSP Segment 1a). The basis for the revision is that the influence of Metro's discharge to USP Segment 15 extends into MSP Segment 1a, and so a temporary modification is appropriate for both segments. Progress toward resolving the issues will be reviewed in December of 2012 and 2013 as part of the annual review of temporary modifications.

Rationale for EPA Approval

These revisions were adopted to extend the expiration dates of temporary modifications adopted previously. The temporary modifications recognize uncertainty about the segment-specific numeric standard and provide time to resolve the uncertainty. The temporary modifications were adopted pursuant to Colorado's general policy (Regulation #31, Section 31.7(3)). EPA's regulation at 40 CFR Section 131.13 recognizes that such water quality standards general policies may be adopted at State discretion, while also specifying that they are subject to EPA review and approval. Colorado's policy has been approved by EPA on multiple occasions, and most recently on August 4, 2011. The Region has reviewed these adjustments to the expiration dates and finds them to be consistent with Colorado's approved general policy. Accordingly, the revisions are approved. EPA notes that: (1) regardless of expiration dates, all temporary modifications are subject to the triennial review requirement at 40 CFR Section 131.20(a), and (2) Colorado's approach to water quality standards review is consistent with the triennial review requirement because it includes public hearings more than once every three years.

Table 1 – Revisions to Temporary Modifications

Regulation #32

Segment	Parameter	Type	Adopted Change
Middle Arkansas			
2	Ammonia	(i)	Deleted
14	Ammonia	(i)	Deleted
Fountain Creek			
2a	Copper	(iii)	Expiration extended from 12/31/10 to 12/31/12
6	Copper	(iii)	Expiration extended from 12/31/10 to 12/31/12

Regulation #33

Segment	Parameter	Type	Adopted Change
Yampa			
13d	Ammonia	(i)	Deleted

Regulation #34

Segment	Parameter	Type	Adopted Change
San Juan			
11a	Iron	none	Expiration extended from 12/31/11 to 12/31/12
Animas and Florida			
2	All Metals	none	Expiration extended from 12/31/11 to 12/31/12
3a	Cadmium	none	Expiration extended from 12/31/11 to 12/31/12
	Manganese		
	Zinc		
3b	All Metals	none	Expiration extended from 12/31/11 to 12/31/12
3c	Copper	none	Expiration extended from 12/31/11 to 12/31/12
	Zinc		
4a	Aluminum	none	Expiration extended from 12/31/11 to 12/31/12
	Iron		
	Zinc		
	Copper		
	Cadmium		
	pH		
4b	Zinc	none	Expiration extended from 12/31/11 to 12/31/12
7	All Metals	none	Expiration extended from 12/31/11 to 12/31/12
8	All Metals	none	Expiration extended from 12/31/11 to 12/31/12
9	Aluminum	none	Expiration extended from 12/31/11 to 12/31/12
	Copper		
	Iron		
	Zinc		
La Plata			
3a	Iron	none	Deleted
5a	Ammonia	none	Deleted
7a	Ammonia	(iii)	Clarified & extended from 12/31/11 to 12/31/12

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8a	Ammonia	none	Deleted
	Iron		Expiration extended from 12/31/11 to 12/31/12

Regulation #35

Segment	Parameter	Type	Adopted Change
Upper Gunnison			
8	Cadmium	none	Expiration extended from 12/31/11 to 12/31/12
12	Cadmium	none	Expiration extended from 12/31/11 to 12/31/12
	Zinc		
16	Zinc	none	Expiration extended from 12/31/11 to 12/31/12
No. Fork Gunnison			
3	Selenium	none	Expiration extended from 12/31/11 to 12/31/12
5	Selenium	none	Expiration extended from 12/31/11 to 12/31/12
6b	Iron	none	Expiration extended from 12/31/11 to 12/31/12
	Selenium		
Uncompahgre			
3a	Cadmium	none	Expiration extended from 12/31/11 to 12/31/12
	Iron		
4a	Ammonia	none	Deleted
4b	Ammonia	none	Deleted
	Selenium		Expiration extended from 12/31/11 to 12/31/12
4c	Selenium	none	Deleted
12	Selenium	none	Expiration extended from 12/31/11 to 12/31/12
Lower Gunnison			
2	Ammonia	none	Deleted
	Selenium		Expiration extended from 12/31/11 to 12/31/12
4a	Ammonia	(i)	Clarified that interim standard is 0.02 mg/L
	Selenium	none	Expiration extended from 12/31/11 to 12/31/12
4b	Selenium	none	Deleted
7	Iron	none	Expiration extended from 12/31/11 to 12/31/12
	Selenium		
San Miguel			
2	Cadmium	none	Expiration extended from 12/31/11 to 12/31/12
3b	Cadmium	none	Expiration extended from 12/31/11 to 12/31/12
	Zinc		
4b	Temperature	none	Expiration extended from 12/31/11 to 12/31/12

Regulation #36

Segment	Parameter	Type	Adopted Change
Rio Grande			
12	Ammonia	(i)	Deleted
Alamosa/La Jara			
18	Ammonia	(i)	Deleted
Closed Basin/San Juan			
13b	Ammonia	(iii)	Deleted
14	Ammonia	(i)	Deleted

Regulation #37

Segment	Parameter	Type	Adopted Change
White River			
21	Ammonia	(i)	Deleted

Regulation #38

Segment	Parameter	Type	Adopted Change
Upper South Platte			
14	Ammonia	(i)	Deleted
16c	Ammonia	(i)	Deleted
16g	Ammonia	(i)	Deleted
Cherry Creek			
3	Ammonia	(i)	Deleted
Bear Creek			
4a	Ammonia	(i)	Deleted
Clear Creek			
15	Ammonia	(i)	Deleted
St. Vrain			
6	Selenium	(iii)	Expiration extended from 12/31/10 to 12/31/15
Middle South Platte			
1a	Ammonia	(i)	Expiration extended from 12/31/11 to 12/31/14
Big Thompson			
4b	Selenium	(iii)	Expiration extended from 12/31/10 to 12/31/15
6	Ammonia	(i)	Deleted
10	Ammonia	(i)	Deleted
Cache La Poudre			
11	Ammonia	(i)	Deleted
13b	Ammonia	(i)	Deleted

ENCLOSURE 2
REVISIONS TO COLORADO WATER QUALITY STANDARDS
RECEIVED JULY 26, 2010

This enclosure presents a summary of the water quality standards revisions adopted by the Water Quality Control Commission (Commission) and a rationale for EPA's action. The following regulations were amended:

- Classifications and Numeric Standards for Arkansas River Basin (Regulation #32)
- Classifications and Numeric Standards for Upper Colorado River Basin and North Platte River (Regulation #33)
- Classifications and Numeric Standards for Rio Grande River Basin (Regulation #36)
- Classifications and Numeric Standards for South Platte River Basin, Laramie River Basin, Republican River Basin, Smoky Hill River Basin (Regulation #38)

The revisions were adopted on July 12, 2010 with an effective date of November 30, 2010. The submission letter included an Opinion of the Colorado Attorney General certifying that the standards were duly adopted pursuant to State law. Receipt of the revised standards on July 26, 2010 initiated EPA's review pursuant to § 303(c) of the Clean Water Act (CWA or the Act).

The revisions were adopted to: 1) extend previously-adopted temporary modifications in Regulations #32, #36, and #38 (see Table 2), and 2) extend the effective date for the Grand Lake numeric clarity standard (Regulation #33).

It is important to note that EPA approval of water quality standards is considered a federal action which may be subject to the Section 7(a)(2) consultation requirements of the Endangered Species Act (ESA). Section 7(a)(2) of the ESA states that "each federal agency...shall...insure that any action authorized, funded or carried out by such agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined to be critical..."

EPA has initiated consultation under ESA Section 7(a)(2) with the U.S. Fish and Wildlife Service regarding our approval of certain new or revised water quality standards. EPA also has a Clean Water Act obligation, as a separate matter, to complete its water quality standards approval action. Therefore, in approving these water quality standards revisions today, EPA is completing its CWA § 303(c) responsibilities. However, because ESA consultation on EPA's approval of these standards is ongoing, EPA's approval is made subject to the outcome of the ESA consultation process. Should the consultation process with the U.S. Fish and Wildlife Service identify information regarding impacts on listed species or designated critical habitat that supports amending EPA's approval, EPA will, as appropriate, revisit and amend its approval decision for those new or revised water quality standards. Many of the WQS revisions addressed in today's letter are for waters where listed species do not occur and that are not designated critical habitat. EPA plans to investigate this matter further during the consultation process.

The water quality standards approvals in today's letter apply only to water bodies in the State of Colorado, and do not apply to waters that are within Indian country, as defined in 18 U.S.C. Section 1151. "Indian country" also includes any land held in trust by the United States for an Indian tribe and any other areas defined as "Indian country" within the meaning of 18 U.S.C. 1151. Today's letter is not intended as an action to approve or disapprove water quality standards applying to waters within Indian Country. EPA, or authorized Indian Tribes, as appropriate, will retain responsibilities for water quality standards for waters within Indian country.

For all revisions, EPA's review addressed the supporting information submitted to the WQCC by the parties to the rulemaking, including the proponents pre-hearing statements and rebuttal statements.

EXTENDED TEMPORARY MODIFICATIONS

Regulation #32

The expiration date of temporary modifications was extended from 12/31/2012 to 12/31/2013 for the following segments:

Upper Arkansas	2b, 2c, 3, 8a, 8b, 12a
Middle Arkansas	4b, 5, 6, 9 (selenium only), 10, 12, 14, 18a
Fountain Creek	1a
Lower Arkansas	1a (selenium and sulfate only), 1b (selenium only), 1c, 4, 5a, 6, 7 (selenium only), 9a, 9b, 9c, 11

Regulation #36

The expiration date of temporary modifications was extended from 12/31/2012 to 12/31/2013 for the following segments:

Rio Grande	4
Alamosa	3b

Regulation #38

The expiration date of temporary modifications was extended from 12/31/2014 to 12/31/2015 for the following segments:

Upper South Platte	10a (copper only), 14 (copper and temperature only), 15 (copper and temperature only), 16a (selenium and copper), 16g
Clear Creek	2a, 2c, 9a, 11, 13b, 14a, 14b, 15
Boulder Creek	8, 9 (copper only)
St. Vrain	2b
Middle South Platte	1a (selenium only), 4 (selenium only)
Big Thompson	2, 5 (selenium only), 9 (selenium only)

Cache La Poudre 11 (selenium only), 12 (selenium only), 13b (selenium only)
Lower South Platte 1 (selenium only)

Rationale for EPA Approval

These revisions were adopted to extend the expiration dates of temporary modifications adopted previously. In each case, the temporary modifications were extended to be consistent with the Commission decisions to: (1) delay, by one year, the rotating basin review process and (2) conduct an issue-specific rulemaking to adopt table value standards for nutrients. In Statement of Basis and Purpose language, the Commission emphasized its intent and expectation that the issues necessitating adoption of these temporary modifications should be resolved as soon as possible and in a manner that takes full advantage of the annual temporary modification review process. The temporary modifications recognize uncertainty about the segment-specific numeric standard and provide time to resolve the uncertainty. The temporary modifications were adopted pursuant to Colorado's general policy (Regulation #31, Section 31.7(3)).² EPA's regulation at 40 CFR Section 131.13 recognizes that such water quality standards general policies may be adopted at State discretion, while also specifying that they are subject to EPA review and approval. Colorado's policy has been approved by EPA on multiple occasions, and most recently on August 4, 2011. The Region has reviewed these adjustments to the expiration dates and finds them to be consistent with Colorado's approved general policy. Accordingly, the revisions are approved. EPA notes that: (1) regardless of expiration dates, all temporary modifications are subject to the triennial review requirement at 40 CFR Section 131.20(a), and (2) Colorado's approach to water quality standards review is consistent with the triennial review requirement because it includes public hearings more than once every three years.

BEAR CREEK RESERVOIR TEMPORARY MODIFICATIONS

The expiration dates for the chlorophyll and total phosphorus temporary modifications assigned to Bear Creek Reservoir (Bear Creek Segment 1c) were extended from 12/31/2014 to 12/31/2015. Because EPA disapproved these temporary modifications by letter dated June 17, 2011, today the Region is taking no action on the decision to extend the expiration dates.

² Section 31.7(3) authorizes temporary modifications if an existing permitted discharge has a demonstrated or predicted water quality-based effluent limit compliance problem, and one of two situations is shown to exist: (1) significant uncertainty regarding the water quality standard necessary to protect current and/or future uses, or (2) significant uncertainty regarding the extent to which existing quality is the result of natural or irreversible human-induced conditions. Section 31.7(3) requires that adequate supporting information must be submitted, including a justification for the interim narrative or numeric value, any data describing effluent and ambient quality, a plan for eliminating the need for the temporary modification, and a justification for the proposed expiration date. Temporary modification expiration dates are determined by the Commission based on relevant factors, including how soon resolving the issues that necessitated adoption of the temporary modification is deemed feasible. Pursuant to 31.7(3)(e), the Commission must hold an annual rulemaking hearing to review temporary modifications that will expire within approximately two years. Pursuant to such hearings, the Commission may delete, modify, or make no changes to each temporary modification. Compliance schedules requiring actions intended to eliminate the uncertainty regarding the appropriate underlying standard may be included in the permit pursuant to 31.14(15)(b).

GRAND LAKE NUMERIC CLARITY STANDARD

The effective date for the numeric clarity standard assigned to Grand Lake (Upper Colorado Segment 12) was extended from January 1, 2014 to January 1, 2015. The clarity standard was originally adopted on August 28, 2008 with a January 1, 2014 effective date. In its December 23, 2008 letter, EPA took no action on the new clarity standard. Because (1) EPA did not act on the clarity standard when it was first adopted in 2008, (2) the standard will not become effective under State law until January 1, 2015, and (3) the Commission may decide to revise the clarity standard during the basinwide WQS rulemaking hearing scheduled for June of 2014, today the Region is taking no action on the decision to extend until January 1, 2015 the effective date of the Grand Lake numeric clarity standard.

Table 2 – Revisions to Temporary Modifications**Regulation #32**

Segment	Parameter	Type	Adopted Change
Upper Arkansas			
2b	Cadmium	(i)	Expiration extended from 12/31/12 to 12/31/13
	Zinc		
2c	Cadmium	(i)	Expiration extended from 12/31/12 to 12/31/13
	Zinc		
3	Cadmium	(iii)	Expiration extended from 12/31/12 to 12/31/13
8a	Cadmium	(i)	Expiration extended from 12/31/12 to 12/31/13
8b	Cadmium	(i)	Expiration extended from 12/31/12 to 12/31/13
	Lead		
	Zinc		
12a	Zinc	(i)	Expiration extended from 12/31/12 to 12/31/13
Middle Arkansas			
4b	Selenium	(iii)	Expiration extended from 12/31/12 to 12/31/13
5	Selenium	(iii)	Expiration extended from 12/31/12 to 12/31/13
6	Selenium	(iii)	Expiration extended from 12/31/12 to 12/31/13
9	Selenium	(iii)	Expiration extended from 12/31/12 to 12/31/13
10	Selenium	(iii)	Expiration extended from 12/31/12 to 12/31/13
12	Selenium	(iii)	Expiration extended from 12/31/12 to 12/31/13
14	Selenium	(iii)	Expiration extended from 12/31/12 to 12/31/13
18a	Selenium	(iii)	Expiration extended from 12/31/12 to 12/31/13
1a	Selenium	(iii)	Expiration extended from 12/31/12 to 12/31/13
Lower Arkansas			
1a	Selenium	(i)	Expiration extended from 12/31/12 to 12/31/13
	Sulfate		
1b	Selenium	(iii)	Expiration extended from 12/31/12 to 12/31/13
1c	Selenium	(iii)	Expiration extended from 12/31/12 to 12/31/13
4	Selenium	(iii)	Expiration extended from 12/31/12 to 12/31/13
5a	Selenium	(iii)	Expiration extended from 12/31/12 to 12/31/13
6	Selenium	(iii)	Expiration extended from 12/31/12 to 12/31/13
7	Selenium	(iii)	Expiration extended from 12/31/12 to 12/31/13
9a	Selenium	(iii)	Expiration extended from 12/31/12 to 12/31/13
9b	Selenium	(iii)	Expiration extended from 12/31/12 to 12/31/13
9c	Selenium	(iii)	Expiration extended from 12/31/12 to 12/31/13
11	Selenium	(iii)	Expiration extended from 12/31/12 to 12/31/13

Regulation #36

Segment	Parameter	Type	Adopted Change
Rio Grande			
4	Arsenic	(iii)	Expiration extended from 12/31/12 to 12/31/13
	Cadmium		
	Copper		
	Lead		
	Zinc		
Alamosa			
3b	Selenium	(iii)	Expiration extended from 12/31/12 to 12/31/13

Regulation #38

Segment	Parameter	Type	Adopted Change
Upper South Platte			
10a	Copper	(iii)	Expiration extended from 12/31/14 to 12/31/15
14	Copper	(iii)	Expiration extended from 12/31/14 to 12/31/15
	Temperature		
15	Copper	(iii)	Expiration extended from 12/31/14 to 12/31/15
	Temperature		
16a	Selenium	(iii)	Expiration extended from 12/31/14 to 12/31/15
	Copper		
16g	Copper	(iii)	Expiration extended from 12/31/14 to 12/31/15
	Temperature		
Bear Creek			
1c	Chlorophyll	(iii)	Expiration extended from 12/31/14 to 12/31/15
	Total phosphorus		
Clear Creek			
2a	Zinc	(i)	Expiration extended from 12/31/14 to 12/31/15
	Cadmium	(iii)	Expiration extended from 12/31/14 to 12/31/15
2c	Cadmium	(iii)	Expiration extended from 12/31/14 to 12/31/15
9a	Copper	(iii)	Expiration extended from 12/31/14 to 12/31/15
11	Cadmium	(iii)	Expiration extended from 12/31/14 to 12/31/15
13b	Cadmium	(iii)	Expiration extended from 12/31/14 to 12/31/15
	Manganese		
	Zinc		
	Iron		
	temperature		
14a	Copper	(iii)	Expiration extended from 12/31/14 to 12/31/15
	Temperature		
14b	Copper	(iii)	Expiration extended from 12/31/14 to 12/31/15
	temperature		
15	Copper	(iii)	Expiration extended from 12/31/14 to 12/31/15
Boulder Creek			
8	Selenium	(iii)	Expiration extended from 12/31/14 to 12/31/15
9	Copper	(iii)	Expiration extended from 12/31/14 to 12/31/15
St Vrain			
2b	Copper	(iii)	Expiration extended from 12/31/14 to 12/31/15

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Middle South Platte			
1a	Selenium	(iii)	Expiration extended from 12/31/14 to 12/31/15
4	pH	(iii)	Expiration extended from 12/31/14 to 12/31/15
Big Thompson			
2	Wapiti Only: D.O. E. coli NH3 NO3 B Cd Cu Pb Hg Ni Se Ag Zn	(iii)	Expiration extended from 12/31/14 to 12/31/15
	Copper	(iii)	Expiration extended from 12/31/14 to 12/31/15
5	Selenium	(iii)	Expiration extended from 12/31/14 to 12/31/15
9	Selenium	(iii)	Expiration extended from 12/31/14 to 12/31/15
Cache La Poudre			
11	Selenium	(iii)	Expiration extended from 12/31/14 to 12/31/15
12	Selenium	(iii)	Expiration extended from 12/31/14 to 12/31/15
13b	Selenium	(iii)	Expiration extended from 12/31/14 to 12/31/15
Lower South Platte			
1	Selenium	(iii)	Expiration extended from 12/31/14 to 12/31/15

ENCLOSURE 3
REVISIONS TO COLORADO WATER QUALITY STANDARDS
RECEIVED JANUARY 26, 2011

This enclosure presents a summary of the water quality standards revisions adopted by the Water Quality Control Commission (Commission) and a rationale for EPA's approval action. The following regulations were amended:

- Classifications and Numeric Standards for Arkansas River Basin (Regulation #32)
- Classifications and Numeric Standards for Upper Colorado River Basin and North Platte River (Regulation #33)
- Classifications and Numeric Standards for Gunnison and Lower Dolores River Basins (Regulation #35)
- Classifications and Numeric Standards for Lower Colorado River Basin (Regulation #37)
- Classifications and Numeric Standards for South Platte River Basin, Laramie River Basin, Republican River Basin, Smoky Hill River Basin (Regulation #38)

The revisions were adopted on January 10, 2011 with an effective date of June 30, 2011. The submission letter included an Opinion of the Colorado Attorney General certifying that the standards were duly adopted pursuant to State law. Receipt of the revised standards on January 26, 2011 initiated EPA's review pursuant to § 303(c) of the Clean Water Act (CWA or the Act). These revisions were adopted following the annual review process and public hearing for temporary modifications that expire within two years required by Section 31.7(3)(e) of the *Basic Standards and Methodologies for Surface Waters* (Regulation #31).

It is important to note that EPA approval of water quality standards is considered a federal action which may be subject to the Section 7(a)(2) consultation requirements of the Endangered Species Act (ESA). Section 7(a)(2) of the ESA states that "each federal agency...shall...insure that any action authorized, funded or carried out by such agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined to be critical..."

EPA has initiated consultation under ESA Section 7(a)(2) with the U.S. Fish and Wildlife Service regarding our approval of certain new or revised water quality standards. EPA also has a Clean Water Act obligation, as a separate matter, to complete its water quality standards approval action. Therefore, in approving these water quality standards revisions today, EPA is completing its CWA § 303(c) responsibilities. However, because ESA consultation on EPA's approval of these standards is ongoing, EPA's approval is made subject to the outcome of the ESA consultation process. Should the consultation process with the U.S. Fish and Wildlife Service identify information regarding impacts on listed species or designated critical habitat that supports amending EPA's approval, EPA will, as appropriate, revisit and amend its approval decision for those new or revised water quality standards. Many of the WQS revisions addressed in today's letter are for waters where listed species do not occur and that are not designated critical habitat. EPA plans to investigate this matter further during the consultation process.

The water quality standards approvals in today's letter apply only to water bodies in the State of Colorado, and do not apply to waters that are within Indian country, as defined in 18 U.S.C. Section 1151. "Indian country" also includes any land held in trust by the United States for an Indian tribe and any other areas defined as "Indian country" within the meaning of 18U.S.C. 1151. Today's letter is not intended as an action to approve or disapprove water quality standards applying to waters within Indian Country. EPA, or authorized Indian Tribes, as appropriate, will retain responsibilities for water quality standards for waters within Indian country.

For all revisions, EPA's review addressed the supporting information submitted to the WQCC by the parties to the rulemaking, including the proponents pre-hearing statements and rebuttal statements.

REVISIONS TO TEMPORARY MODIFICATIONS

The segment-by-segment changes for each regulation are listed in Table 3. Generally, three types of revisions were adopted:

- 1) deletion of temporary modifications,
- 2) modification/clarification of temporary modifications, and
- 3) extension of temporary modifications.

For each type of revision, a summary of the adopted revisions and the basis for EPA approval is discussed below.

Deleted Temporary Modifications

Regulation #32

- Middle Arkansas Segment 9 (ammonia)
- Lower Arkansas Segment 1a (ammonia)

Regulation #33

- Yampa segments 13d (iron) and 13e (iron)

Regulation #35

- San Miguel Segment 4b (temperature)
- Lower Dolores Segment 2 (ammonia)

Regulation #37

- Lower Yampa Segment 2 (ammonia)
- Lower Colorado segments 2a (ammonia) and 4e (temperature)

Regulation #38

- Big Dry segments 1 (ammonia) and 3 (ammonia)

Regarding these deleted temporary modifications, the Region's approval today is based on our conclusion that the Commission's action allows the underlying standards previously approved by EPA to go into effect, thereby better ensuring protection of the assigned use classifications as required by the EPA regulation at 40 CFR § 131.11. Accordingly, the revisions are approved.

Modified/Clarified Temporary Modifications

In Regulation #35, the Lower Gunnison Segment 4a temporary modification for total ammonia was corrected from 0.02 mg/L to 0.06 mg/L. This revision corrects a previous error. An interim standard of 0.02 mg/L would be correct for segments with a cold water aquatic life classification. For this segment, which has a Warm 2 classification, 0.02 mg/L was incorrect and so the Commission replaced it with the 0.06 mg/L value.

This revision clarifies a temporary modification that was adopted previously. The temporary modification recognizes uncertainty about the segment-specific numeric standard and provides time to resolve the uncertainty. The temporary modification was adopted pursuant to Colorado's general policy (Regulation #31, Section 31.7(3)).³ EPA's regulation at 40 CFR Section 131.13 recognizes that such water quality standards general policies may be adopted at State discretion, while also specifying that they are subject to EPA review and approval. Colorado's policy has been approved by EPA on multiple occasions, and most recently on August 4, 2011. The Region has reviewed the segment-specific clarification to this temporary modification and finds it to be consistent with Colorado's approved general policy. Accordingly, the revision is approved.

Extended Temporary Modifications

Regulation #32

- For Middle Arkansas Segment 4c, the temporary modification for total ammonia was extended from 12/31/2011 to 12/31/2013 to allow Paint Brush Hills Metropolitan District additional time for resolution of uncertainty about whether resegmentation and/or a site-specific ammonia standard is appropriate.

Regulation #33

- For Yampa Segment 13e (Grassy Creek), the Commission determined that insufficient

³ Section 31.7(3) authorizes temporary modifications if an existing permitted discharge has a demonstrated or predicted water quality-based effluent limit compliance problem, and one of two situations is shown to exist: (1) significant uncertainty regarding the water quality standard necessary to protect current and/or future uses, or (2) significant uncertainty regarding the extent to which existing quality is the result of natural or irreversible human-induced conditions. Section 31.7(3) requires that adequate supporting information must be submitted, including a justification for the interim narrative or numeric value, any data describing effluent and ambient quality, a plan for eliminating the need for the temporary modification, and a justification for the proposed expiration date. Temporary modification expiration dates are determined by the Commission based on relevant factors, including how soon resolving the issues that necessitated adoption of the temporary modification is deemed feasible. Pursuant to 31.7(3)(e), the Commission must hold an annual rulemaking hearing to review temporary modifications that will expire within approximately two years. Pursuant to such hearings, the Commission may delete, modify, or make no changes to each temporary modification. Compliance schedules requiring actions intended to eliminate the uncertainty regarding the appropriate underlying standard may be included in the permit pursuant to 31.14(15)(b).

evidence was presented by Seneca Coal Company to support the proposed site-specific total recoverable iron standard. However, the Commission extended the temporary modification from 5/31/2011 to 12/31/2012 to provide time for development of a plan to eliminate the need for a temporary modification.

Regulation #37

- For Lower Colorado Segment 4e, the Commission determined that insufficient evidence was presented by Tri-State Generation and Transmission Company to support removal of most numeric standards for protection of the Aquatic Life Cold Class 2 use classification. However, the Commission extended the temporary modifications for copper and iron from 5/31/2011 to 12/31/2012 to provide time to resolve uncertainty about the appropriate numeric standards.

These revisions were adopted to extend the expiration dates of temporary modifications adopted previously. The temporary modifications recognize uncertainty about the segment-specific numeric standard and provide time to resolve the uncertainty. The temporary modifications were adopted pursuant to Colorado's general policy (Regulation #31, Section 31.7(3)). EPA's regulation at 40 CFR Section 131.13 recognizes that such water quality standards general policies may be adopted at State discretion, while also specifying that they are subject to EPA review and approval. Colorado's policy has been approved by EPA on multiple occasions, and most recently on August 4, 2011. The Region has reviewed these adjustments to the expiration dates and finds them to be consistent with Colorado's approved general policy. Accordingly, the revisions are approved. EPA notes that: (1) regardless of expiration dates, all temporary modifications are subject to the triennial review requirement at 40 CFR Section 131.20(a), and (2) Colorado's approach to water quality standards review is consistent with the triennial review requirement because it includes public hearings more than once every three years.

REGULATION #33 – REVISIONS TO THE TOTAL RECOVERABLE IRON NUMERIC STANDARDS FOR YAMPA SEGMENTS 13D AND 13E

Ambient-based total recoverable iron numeric standards were adopted pursuant to Section 31.7(1)(b)(ii) of the *Basic Standards and Methodologies for Surface Waters*. Note that Section 31.7(1)(b)(ii) was previously approved by EPA. Generally, 31.7(1)(b)(ii) authorizes adoption of ambient-based numeric standards based on water quality conditions that are wholly the result of natural or irreversible anthropogenic causes.

EPA's water quality standards regulation (40 CFR § 131) authorizes removal of a designated use where "naturally occurring pollutant concentrations prevent the attainment of the use." See 40 CFR § 131.10(g)(1). Further, the feasibility of remedying man-induced pollution is specifically addressed in 40 CFR § 131.10(g)(3), which authorizes removal of a designated use where "human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place." The Region approved Section 31.7(1)(b)(ii) of the Basic Standards regulation because in situations where: (1) "naturally occurring pollutant concentrations" or "human caused conditions" may be a basis for removing the designated use under 40 CFR § 131.10(g), and/or

(2) there is credible evidence that these same factors are limiting the attainable water quality condition, establishing ambient-based standards protects the highest attainable water quality condition and the highest attainable aquatic life use.

For Yampa River Segment 13d (Dry Creek), the Commission deleted the previous 1,000 µg/L numeric standard for total recoverable iron and replaced it with a 1,110 µg/L ambient-based numeric standard based on data characterizing pre-mining water quality conditions. The adopted standard was based on a proposal and evidence provided by the Seneca Coal Company. The Commission determined that the 1,110 µg/L standard is consistent with 31.7(1)(b)(ii) of the Basic Standards regulation, which authorizes adoption of site-specific numeric standards based on water quality conditions that are wholly the result of natural or irreversible anthropogenic causes. Section 33.6(4) was added to Regulation #33 to record the monitoring locations to be used for purposes of assessing attainment.

For Yampa River Segment 13e (Sage Creek), the Commission deleted the previous 1,000 µg/L numeric standard for total recoverable iron and replaced it with a 1,250 µg/L ambient-based numeric standard for the upper portion of Sage Creek, based on data characterizing pre-mining water quality conditions. The 1,000 µg/L numeric standard is still applicable to the lower portion of Sage Creek. The adopted standard was based on a proposal and evidence provided by the Seneca Coal Company. The Commission determined that the 1,250 µg/L standard is consistent with 31.7(1)(b)(ii) of the Basic Standards regulation, which authorizes adoption of site-specific numeric standards based on water quality conditions that are wholly the result of natural or irreversible anthropogenic causes. Section 33.6(4) was added to Regulation #33 to record the monitoring locations to be used for purposes of assessing attainment.

In addition to being consistent with Colorado's approved general policy on the adoption of ambient-based standards (Section 31.7(1)(b)(ii) of the Basic Standards regulation), the Region has concluded that adoption of the ambient-based numeric standards is appropriate for the protection of the Aquatic Life Warm 2 use classification for Yampa River segments 13d and 13e. See 40 CFR § 131.11. Accordingly, the revisions are approved.

REGULATION #35 – SAN MIGUEL SEGMENT 4B REVISIONS

Based on a proposal submitted by Tri-State Generation and Transmission Association, the aquatic life use classification for San Miguel River Segment 4b was changed from Cold 2 to Warm 1. The change in use classification was supported by a report - "Aquatic Ecological Effects of the Nucla Station Discharge, San Miguel River - Final Report" that evaluated fish and macroinvertebrate population data, fish condition factor, physical habitat, flow and stream temperature information. The Commission also considered historic studies⁴ and pre-hearing and rebuttal comments submitted during the rulemaking process. Segment 4b is a transitional

⁴ The recent study that supported the 2011 water quality standards revisions focused on existing and attainable aquatic life use where as historic studies also evaluated the exiting and attainable instream temperature due to the CC Ditch Diversion. Additional data were presented in "San Miguel River Segments 4 and 5 Boundary Aquatic Biological Studies - Revised April 2006" and were used to support re-segmentation of the San Miguel River. The Region concurred that the re-segmentation was consistent with 40 CFR § 131.10(g)(4) and accordingly approved the revision in its October 30, 2006 action letter.

waterbody that supports a wide variety of warm and eurythermal species and seasonally supports a few cold water species. The Commission determined that the dominance of warm water fish and macroinvertebrates, the lack of evidence that cold water fish are reproducing in the segment, and ambient instream temperatures supported the cold to warm change in use classification. The change in use classification also resulted in the adoption of warm water numeric standards for parameters such as cadmium and dissolved oxygen.

In addition to the change in use classification, the Commission adopted site-specific temperature numeric standards based on a conclusion that existing thermal conditions are protective of the Aquatic Life Warm 1 use classification. For March - October, the site-specific daily maximum (DM) temperature is 30.9° C and the maximum weekly average temperature (MWAT) limit is 23.3° C. For November - February, the site-specific DM temperature limit is 13.0° C and the MWAT limit is 9.0° C. For summer months, the site-specific DM limit is slightly less stringent than the table value standard that would typically apply given the existing fish community (i.e., WS Tier II) where as the site-specific MWAT limit is more stringent than the WS Tier II standard⁵. For winter months, the site-specific numeric standards are more stringent than table value standards.

The Region has concluded that the change in use classification is consistent with 40 CFR § 131.10. In addition, the changes in numeric standards are appropriate for the protection of the Aquatic Life Warm 1 use classification. See 40 CFR § 131.11. Accordingly, the revisions are approved.

REGULATION #37 – LOWER COLORADO SEGMENTS 4E AND 4F REVISIONS

Based on a proposal submitted by Tri-State Generation and Transmission Association, Lower Colorado River Segment 4e (Dry Creek) was split into two segments: Segment 4e from the source to the Last Chance Ditch, and Segment 4f from the Last Chance Ditch to the confluence with the Colorado River. This change was made to reflect differences in the physical habitat and aquatic life use in the upper and lower portions of the creek. The re-segmentation action was supported by the report: “Use-Attainability Analysis for Dry Creek and an Unnamed Tributary near Rifle, Garfield County, Colorado.” The Commission also considered pre-hearing and rebuttal comments submitted during the rulemaking process.

For Segment 4e, although no change to the use classification was made, the Commission adopted corrections to the agriculture-based numeric standards for boron and arsenic.

For Segment 4f, the aquatic life use classification was upgraded from Cold 2 to Cold 1. This upgrade to the use classification necessitated adoption of the fish consumption-based numeric standard for arsenic. The Commission also corrected the agriculture-based numeric standard for boron.

The Region has concluded that the change in use classification is consistent with 40 CFR § 131.10. In addition, the changes in numeric standards are appropriate for the protection of the

⁵ Warm water stream Tier II table value standards for temperature are as follows: March – Nov = 27.5(ch), 28.6 (ac); Dec-Feb = 13.8(ch), 14.3(ac).

assigned use classifications. See 40 CFR § 131.11. Accordingly, the revisions are approved. EPA is approving the corrections to the agriculture-based numeric standards for boron and arsenic without condition (i.e., the approval is not subject to ESA consultation).

REGULATION #37 –LOWER COLORADO SEGMENT 4E (USE PROTECTED ANTIDEGRADATION DESIGNATION)

EPA is taking no action today on the Commission action to assign a Use Protected designation to Lower Colorado Segment 4e (Dry Creek from the source to the Last Chance Ditch). This revision was proposed by Tri-State Generation and Transmission Association. This site-specific change is based on Section 31.8(2)(b)(i)(C) of the *Basic Standards and Methodologies for Surface Waters*, which was revised by the Commission in August of 2010. EPA Region 8 has not yet acted on the 2010 revisions to Section 31.8(2)(b)(i)(C) of the Basic Standards rule.

Table 3 – Revisions to Temporary Modifications**Regulation #32**

Segment	Parameter	Type	Adopted Change
Middle Arkansas			
4c	Ammonia	(iii)	Expiration extended from 12/31/11 to 12/31/13
9	Ammonia	(i)	Deleted
Lower Arkansas			
1a	Ammonia	(i)	Deleted

Regulation #33

Segment	Parameter	Type	Adopted Change
Yampa			
13d	Iron	(iii)	Deleted
13e (Sage Creek)	Iron	(iii)	Deleted
13e (Grassy Creek)	Iron	(iii)	Expiration extended from 5/31/11 to 12/31/12

Regulation #35

Segment	Parameter	Type	Adopted Change
San Miguel			
4b	Temperature	(iii)	Deleted
Lower Gunnison			
4a	Ammonia	(i)	Corrected interim std from 0.02 to 0.06 mg/L
Lower Dolores			
2	Ammonia	(i)	Deleted

Regulation #37

Segment	Parameter	Type	Adopted Change
Lower Yampa			
2	Ammonia	(i)	Deleted
Lower Colorado			
2a	Ammonia	(i)	Deleted
4e	Temperature	(iii)	Deleted
	Copper	(iii)	Expiration extended from 5/31/11 to 12/31/12
	Iron	(iii)	Expiration extended from 5/31/11 to 12/31/12

Regulation #38

Segment	Parameter	Type	Adopted Change
Big Dry			
1	Ammonia	(i)	Deleted
3	Ammonia	(i)	Deleted