

<p>Before the Ground Water Commission, Colorado 1313 Sherman St., Rm 821, Denver, CO 80203</p>	<p>COMMISSION USE ONLY</p>	
<p>IN THE MATTER OF A PROPOSAL TO THE COLORADO GROUND WATER COMMISSION FOR RULEMAKING TO AMEND RULES 4.2.8, 5.3.9, 5.11.5, 5.11.6.B, 7.5, AND 7.11 OF THE RULES AND REGULATIONS FOR THE MANAGEMENT AND CONTROL OF DESIGNATED GROUND WATER</p>		
<p><b>NOTICE OF PUBLIC RULEMAKING HEARING</b></p>		

**I. NATURE OF PUBLIC RULEMAKING PROCEEDING**

This is a notice of a public rulemaking hearing before the Colorado Ground Water Commission (“Commission”) for consideration of amendments to Rules 4.2.8, 5.3.9, 5.11.5, 5.11.6.B, 7.5, and 7.11 of the Commission’s Rules and Regulations for the Management and Control of Designated Ground Water, 2 CCR 410-1 (“Designated Basin Rules”, or “Rules”).

The Commission’s Rules and any amendments thereto are promulgated pursuant to section 37-90-111(1)(h), C.R.S to carry out the provisions of the Colorado Groundwater Management Act in Article 90 of Title 37, including the authority and responsibilities of the Commission to supervise and control the exercise and administration of rights acquired to the use of designated ground water. The proceedings will be conducted pursuant to the Commission’s Rules for Procedure for All Hearings before the Colorado Ground Water Commission, 2 CCR 410-2 (“Procedural Rules”).

**II. DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED**

The purpose of amending the Rules is to ensure that they are effective, efficient, and essential. This rulemaking will address issues relevant to or raised by the subject matter of the Rules and the proposed amendments thereto.

Staff drafted proposed changes to the rules and presented them to the Commission. At its November 12, 2021, meeting the Commission authorized Staff and its Hearing Officer to proceed with the rulemaking process. Staff held a public (a.k.a. stakeholder) meeting January 6, 2020 and solicited written comments from interested parties to allow interested parties to provide input on the proposed changes. The formal rulemaking process is initiated by filing a notice of rulemaking hearing with the Secretary of State and publication in the Colorado Register.

This Notice of Rulemaking Hearing will be published in the Colorado Register on February 25, 2022.

Staff's proposed amendments to the rules and proposed Statement of Basis, Specific Statutory Authority, and Purpose for the proposed amendments (both dated February 3, 2022) and other documents related to the case are available at:

<https://dnrftp.state.co.us/#/DWR/Hearings/DB%20Rulemaking%204.2.8%205.3.3.4%20etc%2021GW30/>

The proposed amendments to the rules and proposed Statement of Basis, Specific Statutory Authority, and Purpose are also available upon request to the Commission's Staff (email contact: keith.vanderhorst@state.co.us). The Commission will consider any alternative proposals related to the proposed amendments but any rules, as finally adopted, shall be consistent with the subject matter as set forth in this notice as required by section 24-4-103(4)(c), C.R.S.

### III. SPECIFIC STATUTORY AUTHORITY

The statutory authority for promulgating the Commission's Rules and any amendments thereto is found at section 37-90-111(1)(h), C.R.S.

### IV. PARTY STATUS

Applications for party status will be accepted through March 18, 2022. Applications for party status should be submitted to the Commission's Hearing Officer, Jody Grantham, by email to [jody.grantham@state.co.us](mailto:jody.grantham@state.co.us). The applications will be reviewed in accordance with Rule 6.F of the Procedural Rules. Applications for party status shall set forth the name, U.S. mail address, telephone number and e-mail address of the person, persons or agency seeking party status. The application shall also indicate the interest of the person(s) or agency in the proposed rules and a description of the general nature of the evidence or information to be presented in the course of the proceedings. Party status will be determined by the Hearing Officer. Staff of the Commission is automatically a party to the rulemaking proceeding before the Commission pursuant to Rule 6.F.5 of the Procedural Rules.

### V. PREHEARING CONFERENCE

On March 23, 2022, at 10:00 a.m. a telephonic prehearing will be held. To participate in the prehearing conference please call 303-866-3581 ext. 7610. Pursuant to Rule 6.G.3 of the Procedural Rules each applicant for party status must submit a prehearing statement setting forth their disputed issues of fact, along with a preliminary list of witnesses and exhibits planned to be introduced at the formal hearing. Prehearing statements are due March 22, 2022.

### VI. RULEMAKING HEARING

Date, Time and Location

DATE: April 4 and 5, 2022

TIME: 9:00 a.m. (or as otherwise directed by the Hearing Officer)

LOCATION: The hearing will be held virtually, with access described as follows.

Join Zoom Meeting

<https://us02web.zoom.us/j/85424570300?pwd=TWJ5Tjk1YVZkazNVdUo3UGRORE8ydz09>

Meeting ID: 854 2457 0300

Passcode: H89B4R

One tap mobile

+13462487799,,85424570300#,,, \*362400# US (Houston)

+16699006833,,85424570300#,,, \*362400# US (San Jose)

Dial by your location

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 312 626 6799 US (Chicago)

+1 646 876 9923 US (New York)

+1 301 715 8592 US (Washington DC)

Meeting ID: 854 2457 0300

Passcode: 362400

Find your local number: <https://us02web.zoom.us/j/85424570300>

### Procedures

The Commission's Hearing Officer will conduct the rulemaking hearing. The Hearing Officer may ask questions of any person appearing before him.

Pursuant to Procedural Rule 6.G.3.d the Hearing Officer will consider any alternative proposals related to the proposed amendments.

The Hearing Officer may modify the proposed amendments to the Rules from those published in the Colorado Register.

After the conclusion of the rulemaking hearing, the Hearing Officer will transmit his initial decision to the Commission.

## VII. ADOPTION OF THE RULE

### Procedures

After receiving the Hearing Officer's initial decision, the Commission will consider the initial decision at one of its public meetings, at the date, time and place as noticed in the normal manner for its regular quarterly public meetings.

The Commission may, at its discretion, allow Staff, parties and interested persons to present oral or written summations of the facts and laws and opinions. The Commission may ask questions of any person appearing before them.

The Commission may accept or reject, in full or in part, the initial decision of the Hearing Officer, and may modify the proposed amendments to the Rules in adopting amendments to the rules.

Effective date

The amendments to the rules shall become effective 20 days after publication of the final amended rules, as adopted by the Commission, in the Colorado Register.

VIII. ADMINISTRATIVE RECORD

The Administrative Record, including the proposal, applications for party status, prehearing statements, and all other written materials to be considered by the Commission in this rulemaking, will be available for inspection on the Division of Water Resource's ftp site at:

<https://dnrftp.state.co.us/#/DWR/Hearings/DB%20Rulemaking%204.2.8%205.3.3.4%20etc%2021GW30/>

and the Commission's website at <http://water.state.co.us/cgwc/>.

DATED this 8th day of February, 2022



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Kevin Rein, P.E.  
Executive Director  
Colorado Ground Water Commission  
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Denver, CO 80203