

DRAFT – November 7, 2025

**STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY, AND PURPOSE FOR
THE AMENDMENT OF THE
RULES AND REGULATIONS FOR THE MANAGEMENT AND CONTROL OF
DESIGNATED GROUND WATER
2 C.C.R. 410-1**

Re-amended __, 2025

I. STATEMENT OF BASIS AND PURPOSE

This matter concerns the Rules and Regulations for the Management and Control of Designated Ground Water (“Designated Basin Rules” or “Rules”) of the Colorado Ground Water Commission (“Commission”).

The purpose of amending the Rules is to ensure that they are effective, efficient, and essential. This rulemaking complies with the Governor’s Executive Order D 2012-002 (Regulatory Efficiency Reviews).

The rules to be added, and the basis for adding each rule, is provided below.

New Rule 8. Correction of Clerical Error

Reason for the Change:

- The current process for correcting clerical errors is unnecessarily cumbersome: the well owner or Commission Staff is required to file a motion to correct or modify the incorrect document with the Commission; the proposed correction must be published in accordance with Rule 7.12; and if any objections are received, then a Hearing Officer is required to hold a hearing to determine whether it is appropriate for the error to be corrected.
- The new rule would expedite the process by removing the publication requirement and allowing the Commission to consider objections without holding a hearing.

8.1 To provide a summary of the rule to correct clerical errors in permits and orders.

Reason for the Change:

- The new rule limits its application to the correction of clerical errors in permits and orders.
- To proceed with the correction of a clerical error, the new rule requires consent by parties of record to the original proceedings.

8.1.1. To define the types of permits that may be corrected.

Reason for the Change:

- The new rule clarifies which permits the Commission may correct. The rule is intended to apply to all types of permits issued by the Commission.

8.1.2. To define the Orders that may be corrected by the Commission.

Reason for the Change:

- The new rule clarifies which orders the Commission may correct. The rule is intended to apply to all types of orders issued by the Commission.

8.1.3. To provide the purpose of the rule.

Reason for the Change:

- This rule describes what types of errors constitute “clerical errors.”
- This rule limits the scope of the rule. The rule is not intended to bypass the process for changes of water rights and is instead limited to correcting clerical errors.

8.2 To advise that the correction of a clerical error may be initiated by the Commission or any party of record to the original proceedings.

Reason for the Change:

- To define who may request a correction of clerical errors. This rule allows any party of record to the original proceedings, including the original applicant, to file a Petition to correct Clerical Error.
- In addition, this rule allows Commission Staff to file a Petition. Commission Staff have previously identified clerical errors in permits and orders during the course of regular business, and this rule will expedite the correction process by allowing Commission Staff to initiate proceedings
- To further clarify that any correction must be consistent with the meaning of the language intended at the time of the permit’s approval, or at the time of the order’s issuance following a hearing. This is to ensure that corrections do not conflict with the intended meaning of a permit or order.

Rule 8.3. To provide a process for providing notice to all parties of record to the original proceeding.

Reason for the Change:

- This rule is intended to ensure that all parties of record to the original proceeding are given the opportunity to review the Petition and participate in correction proceedings..
- This rule requires direct notification of the parties of record to the original proceeding rather than publication within a newspaper, given that these individuals would more than likely be the only parties potentially interested in the correction.

Rule 8.3.1. To define who may file a response to the Petition.

Reason for the Change:

- This rule limits the parties that may file a response to the Petition. Any person that was not party to the original proceedings may not file a response to the Petition.
- The rule also provides the deadline for filing a response to a Petition. Given that this rule is intended to expedite the correction process, the response deadline is shorter than the amount of time to file objections for new appropriations or changes of water right.

Rule 8.3.2. To outline a party of record’s standing should they not file a response to a Petition within the time allotted.

Reason for Change:

- This rule limits the ability of parties of record, who do not file a timely response to a Petition, to participate in the proceedings to correct a clerical error. This rule is intended to further expedite the correction process.

Rule 8.3.3. To describe what actions the Commission may take should a Petition be submitted.

Reason for Change:

- This rule lists three actions the Commission may take when considering a Petition. The Commission may approve the Petition, deny the Petition, or delay consideration of the matter. In order to streamline Commission meetings, the rule does not allow the Commission to make changes to the Petition.

Rule 8.3.4 To describe the process when a Petition is contested by a party of record to the original proceeding.

Reason for change:

- Currently, if an application to correct a clerical error is published and a party of record objects to the application the application would be delegated to the Hearing Officer for a hearing. This rule instead directs the Commission to consider responses to a Petition and determine which action under Rule 8.3.3 is appropriate.

II. SPECIFIC STATUTORY AUTHORITY

A. Basis and Relevant Provisions of Statute and Rule

- The Commission is empowered under sections 37-90-107(1) through (8), C.R.S., to issue well permits to appropriate groundwater for beneficial use in a designated groundwater basin.
- The Commission is empowered under section 37-90-107(7), C.R.S., to allocate groundwater contained in the Dawson, Denver, Arapahoe, or Laramie-Fox Hills aquifers.
- The Commission is empowered under section 37-90-108, C.R.S., to issue final permits to use designated groundwater.
- The Commission is empowered under section 37-90-109, C.R.S., to establish priorities of claims for the appropriation of designated ground water.
- The Commission is empowered under section 37-90-111(1), C.R.S., to: (a) supervise and control the exercise and administration of all rights acquired to the use of designated groundwater; (b) establish a reasonable groundwater pumping level in an area having a common designated groundwater supply; (c) issue permits for the construction of replacement wells; (d) in exercising any of the powers or duties conferred by this section, to confer and consult with the board of directors of the ground water management district board before promulgating any orders or regulations which would affect the district in general; (e) order the total or partial discontinuance of any diversion within a groundwater basin to the extent the water being diverted is not necessary for application to a beneficial use; (f) in any area where a ground water management district has not been formed, to prescribe methods for measuring water levels and the amount of water withdrawn from wells; (g) to authorize

changes in water rights; and (h) to adopt rules necessary to carry out the provisions of the article.

- The Commission is empowered under section 37-90-111(4), C.R.S., in any area within a designated groundwater basin with has not been included within the boundaries of a ground water management district, the authority to exercise any power given by the article to the board of directors of a ground water management district.

B. Specific Statutory Authority Concerning Rule Making

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 Article 90 of Title 37, C.R.S., which include the authority and responsibilities of the Commission to supervise and control the exercise and administration of rights acquired to the use of designated groundwater. The proceedings were conducted pursuant to the Commission's Rules for Procedure for All Hearings Before the Colorado Ground Water Commission, 2 CCR 402-3.

The Commission announced its contemplated rule-making under section 24-4-103(2), C.R.S., and invited public comment and participation during the stakeholder process. The Commission provided notice of the proposed rule-making under section 24-4-103(3), C.R.S., and the proposed rules and a proposed statement of basis, specific statutory authority, and purpose were made available at least five days prior to the public hearing as required by section 24-4-103(4)(a), C.R.S.

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