

COLORADO

Wetland Definition

Water quality regulations (5 Colorado Regulations 1002-31.5) define wetlands as “those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.” This is the definition applied by the Corps. For purposes of the regulations, Colorado provides additional definitions for “constructed” wetlands, “created” wetlands, and “tributary” wetlands.

Wetland Water Quality Standards

The Water Quality Control Division implements water quality standards for wetlands and other waters. It also operates a Section 401 program. In Colorado, stream segments are classified according to use and those classifications identify the uses that are to be protected on a given stream segment. Numerical standards for specific pollutants are then adopted which are designed to protect the designated uses.

Designated Uses

Designated uses are the same as those applied to all waters in the state. No specification of designated uses specifically for wetlands has occurred.

Narrative and/or Numeric Criteria

Colorado Regulations, provide, in part: Standards for Surface Waters in Wetlands:

“(A) Tributary wetlands to which the interim classifications referenced in section 31.13(1)(e)(iv) apply, shall be subject to the following interim standard:

(1) Until such time as the Commission adopts site-specific standards for the tributary wetland, water quality in the wetland shall be maintained for each parameter at whichever of the following levels is less restrictive:

(a) ambient quality, or

(b) that quality which meets the numeric standards (except for numeric standards for pH, dissolved oxygen, and any standard established for the protection of a domestic water supply use) of the tributaries of the surface water segment to which the wetland is most directly hydrologically connected. Where the applicable numeric standard is based on section 31.16, table III, of this regulation, the numeric standard applicable to the wetland may be implemented taking into account the water effect ratio of the pollutant.

(2) Ambient quality shall be determined in accordance with section 31.7(1)(b)(ii) and shall take into account the location, sampling date, and quality of all available data.

Ambient quality shall be determined as of the time the first regulatory action is undertaken which requires the identification of water quality standards for wetlands. If available information is not adequate to otherwise determine or estimate ambient quality, the interim standard set forth in section 31.7(1)(b)(iv)(A)(1)(b) shall apply.

(B) Wetlands for which the Commission has adopted a site-specific "wetlands" classification described in section 31.13(1)(e)(v), shall be subject to numeric standards and designations adopted by the Commission. The Commission shall adopt any numeric standards and designations determined to be appropriate in view of the functions and values to be protected for the wetlands in question.

(C) Created wetlands, shall be subject only to the narrative standards set forth in section 31.11, unless the Commission has adopted the wetlands classification and appropriate numeric standards. All created wetlands will have a use-protected designation unless determined otherwise as a result of a site-specific hearing.

(D) Compensatory wetlands shall be subject to the standards of the segment in which they are located, unless the Commission adopts a wetlands classification and appropriate numeric standards.

(E) All other wetlands which are state waters shall be subject only to the narrative standards set forth in section 31.11, unless the Commission has adopted the wetlands classification and appropriate numeric....” (Note, Section 31.11 provides, in part, “regulatory, narrative standards are also applied to any pollutant of concern, even where there is no numeric standard for that pollutant. These standards can be paraphrased as waters of the state shall be "free from harmful substances in harmful amounts." However, wetlands are exempted from some of the surface water standards applied to other waters. See 31.11, Basic Standards Applicable to Surface Waters of the State.

Antidegradation Policy

The antidegradation policy is consistent with policies applied to all other waters in the state. Colorado regulations broadly provide:

“1) Except where authorized by permits, BMPs, 401 certifications, or plans of operation approved by the Division or other applicable agencies, state surface waters shall be free from substances attributable to human-caused point source or nonpoint source discharge in amounts, concentrations or combinations which:

(a) for all surface waters except wetlands;

(i) can settle to form bottom deposits detrimental to the beneficial uses. Depositions are stream bottom buildup of materials which include but are not limited to anaerobic sludges, mine slurry or tailings, silt, or mud; or (ii) form floating debris, scum, or other surface materials sufficient to harm existing beneficial uses; or

- (iii) produce color, odor, or other conditions in such a degree as to create a nuisance or harm existing beneficial uses or impart any undesirable taste to significant edible aquatic species or to the water; or
 - (iv) are harmful to the beneficial uses or toxic to humans, animals, plants, or aquatic life; or
 - (v) produce a predominance of undesirable aquatic life; or
 - (vi) cause a film on the surface or produce a deposit on shorelines; and
- (b) for surface waters in wetlands;
- (i) produce color, odor, changes in pH, or other conditions in such a degree as to create a nuisance or harm water quality dependent functions or impart any undesirable taste to significant edible aquatic species of the wetland; or
 - (ii) are toxic to humans, animals, plants, or aquatic life of the wetland.”