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STATE OF COLORADO
DEPARTMENT OF LAW

Office of the Attorney General

November 29, 2017

Deanna Maiolo
Colorado Department of State
Administrative Rules Program Manager
1700 Broadway, Suite 200
Denver, CO 80290

RE: Non-substantive revisions to Tables in Regulations #32, #33, #34, #35, #36, #37 and #38 (5 CCR 1002-32 through 38)

Dear Ms. Maiolo:

On January 11, 2016, the Colorado Water Quality Control Commission adopted a new format for the tables in the above-referenced regulations. The new format became effective March 1, 2016.

The tables are generated from a database through a reporting system which imposes certain restrictions on the appearance of the tables. A couple of issues were recently discovered with the way information is displayed on the tables that is confusing and that I believe can be resolved by a couple of simple, non-substantive revisions to the tables. Two issues arise when limits, called standards, for one pollutant parameter are displayed on more than one row.

The first issue arises when standards intended for one parameter, such as dissolved cadmium, are sometimes displayed in the same row as standards for total recoverable cadmium. Since the reports are automatically generated through the reporting tool, it is not possible in the current format to "match" dissolved standards together on the same row.

This issue can be resolved by changing the format of the parameter names. In the current tables, the letter "(T)" is displayed in the cell containing the numeric standard for the total parameter, but is not included in the cell containing the name of the parameter (in this example, "iron"). This letter is a request to add "(T)" to the cell containing the **parameter name** in the rows intended for the total standards, and to remove it from the cell containing the numeric standard. For example, the standards for total iron would be represented at "Iron (T)" in the parameter column, and the (T) would be removed from the numeric value. Standards for dissolved iron would continue to be displayed as they

currently are, without a (T), because there is a footnote at the bottom of each table that states "All metals are dissolved unless otherwise noted." This change, which would be applied to all parameters in the "Metals" section of the table, would provide the greatest clarity for stakeholders.

The second issue arises when a lake or portion of a river, called a "segment" has a two dissolved standards for the same parameter. For example, many segments have both a Table Value Standard (TVS) and a Water Supply (WS) standard for dissolved manganese. As another example, some segments have two dissolved zinc standards (e.g. TVS and TVS(sc)). Instead of all information being presented on the same row, two rows are generated. This issue can be resolved by combining the two standards on the same line so both standards will be clearly presented on the same row ("TVS/WS").

Pursuant to the rulemaking provisions of the Colorado Administrative Procedures Act clerical errors may be corrected upon request by the agency. § 24-4-103(11)(d)(II), C.R.S.

I have reviewed these revisions and have determined that they are non-substantive corrections.

The corrections should become effective immediately in Regulations #32 (5 CCR 1002-32), #33 (5 CCR 1002), #36 (5 CCR 1002-36), #37 (5 CCR 1002-37) and #38 (5 CCR 1002-38).

Because substantive revisions were adopted by the Water Quality Control Commission on August 7, 2017 in Regulations #34 (5 CCR 1002-34) [TN 2017-00073] and #35 (5 CCR 1002-35) [TN 2017-00074], it would be most efficient for the administrative corrections in these regulations to become effective at the same time as the substantive revisions, on December 31, 2017.

Tables submitted for the administrative corrections in Regulations #34 and #35 include the adopted revisions that become effective in September and December respectively.

If you have any questions, please do not hesitate to contact me or the commission's operations manager, Nancy Horan, at 303-692-3463.

Sincerely,

FOR THE ATTORNEY GENERAL

A handwritten signature in black ink, reading "Jerry W. Goad". The signature is written in a cursive style with a large, looping initial "J".

JERRY W. GOAD

Senior Assistant Attorney General

Water Quality Unit

Natural Resources and Environment Section

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