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Office of the Attorney General

July 8, 2022

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

RE: Corrections to Regulation Number 22, 5 CCR 1001-26 Tracking Number 2021-00595

Dear Ms. Maiolo:

On December 17, 2021, amendments to Regulation Number 22 were adopted by the Air Quality Control Commission. Pursuant to C.R.S. § 24-4-103(11)(d)(II), the amended regulation and the Attorney General's opinion were submitted to the Secretary of State under Tracking Number 2021-00595. Subsequently, Commission staff discovered a clerical error that should be corrected to conform the published version with that which was adopted by the Commission.

Specifically, the Motion adopted by the Commission states, in part:

- Motion: To adopt the proposed revisions to Regulation Numbers 7 & 22, the associated Statement of Basis and Purpose as presented in the Division's errata documents dated December 10, 14 and 17, 2021, and the Technical Support Document including the following modifications:
 - Regulation Number 22, Section IV.A.16, include modifications proposed by the Joint Industry Work Group in their rebuttal slides on Slide 99, and include the Statement of Basis and Purpose changes as discussed in deliberations and proposed by the Conservation Groups during their testimony presentation on Slide 9 concerning verification.

When completing the version submitted to the Secretary of State, Commission staff did not make conforming changes to the rule to address the modifications proposed by the Joint Industry Work Group in their rebuttal slides on Slide 99, restated below:

PART B Greenhouse Gas Emission Reduction Requirements

IV.C.1.b. A new to market owner or operator who on or after January 1, 2023, drills, fractures, or refractures any oil or natural gas well in Colorado must comply with Section IV.B.1. and must meet the new facility intensity targets in Sections IV.C.2. through IV.C.4. for all of its upstream segment operations through 2030, including preproduction and production emissions.

PART D STATEMENTS OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE

New Facility Intensity

The Commission also determined that it was necessary to set a "new facility intensity" target, to recognize that operators of new well production facilities must continue to improve their performance, and reduce GHG emissions associated with new production. The Commission relied upon studies of intensity at oil and gas operations to determine that a new facility GHG intensity should be approximately 78.5% of the majority operator greenhouse gas intensity target. These new facility targets are in addition to the majority operator/minority operator targets in Section IV.B. So, a majority operator who constructs a new well production facility in 2027 must meet: (1) the greenhouse gas intensity target in Section IV.B.3.a. for all its upstream segment operator targets in Section IV.B.); (2) the new facility intensity target in Section IV.C.3. for calendar year 2027 for the newly constructed well production facility; and (3) the new facility intensity target in Section IV.C.4. for calendar year 2028 for the newly constructed well production facility. A new to market operator must meet the new facility intensity for all its operations through 2030.

The version published in the Colorado Register does not reflect the changes directed by the Commission.

Pursuant to the Colorado Administrative Procedures Act, "[U]pon written request of any agency, the secretary of state shall correct typographical and other non-substantive errors appearing in the rules as filed by such agency that occur after final adoption of the rules by the agency during the preparation of such rules for publication in order to conform the published rules with the adopted rules." C.R.S. § 24-4-103(11)(d)(II). On behalf of the Air Quality Control Commission, I have reviewed this error and have determined that the correction set forth above is non-substantive and should be corrected to conform the published rule with the adopted rule, pursuant to the Administrative Procedures Act.

Sincerely,

FOR THE ATTORNEY GENERAL

<u>/s/ Thomas A. Roan</u> THOMAS A. ROAN First Assistant Attorney General Air Quality Unit Natural Resources and Environment 720-508-6268 720-508-6039 (FAX) Email: tom.roan@coag.gov