



# COLORADO

Water Quality  
Control Commission

Department of Public Health & Environment

## NOTICE OF PUBLIC RULEMAKING HEARING BEFORE THE COLORADO WATER QUALITY CONTROL COMMISSION

### SUBJECT:

For consideration of the adoption of revisions to the Colorado Primary Drinking Water Regulations, Regulation #11 (5 CCR 1002-11) to address an incorporation by reference issue. Revisions to Regulation #11 proposed by the Water Quality Control Division, along with a proposed Statement of Basis, Specific Statutory Authority and Purpose, are attached to this notice as Exhibit 1.

In these attachments, proposed new language is shown with double-underlining and proposed deletions are shown with ~~strikeouts~~. Any alternative proposals related to the subject of this hearing will also be considered.

During the commission’s consideration of whether to approve this notice of rulemaking, the commission determined that there is not a likelihood of significant controversy during the rulemaking process. Therefore, the commission has chosen to pursue an alternative rulemaking process consistent with section 24-4-103(4)(a) C.R.S.; and section 21.3(C)(5) of the Procedural Rules. It is the goal of the commission to complete this rulemaking without oral testimony.

### SCHEDULE OF IMPORTANT DATES

Proponent’s initial comments due	10/17/2018 5 pm	Additional information below.
Responsive comments due	10/31/2018 5 pm	Additional information below.
<b>Rulemaking Deliberations</b>	11/13/2018 9:45 am	Fremont Room Summit County Community and Senior Center 83 Nancy’s Place Frisco, Colorado 80443

### HEARING SUBMITTALS:

For this hearing, the commission will receive all submittals electronically. Submittals must be provided as PDF documents, except for raw data exhibits which may be provided as Excel workbooks. Sumbittals may be emailed to [cdphe.wqcc@state.co.us](mailto:cdphe.wqcc@state.co.us), provided via an FTP site, CD or flash drive, or otherwise conveyed to the commission office so as to be received no later than the specified date.

PARTY STATUS:

Pursuant to section 21.3(D) of the commission's Procedural Rules, there shall be no party status for this rulemaking proceeding.

WRITTEN COMMENTS:

The commission encourages input from interested members of the public. Written comments should be emailed to [cdphe.wgcc@state.co.us](mailto:cdphe.wgcc@state.co.us) by 10/31/18.

SPECIFIC STATUTORY AUTHORITY:

The provisions of sections 25-1.5-202; 25-8-202(1)(n); and 25-8-401 C.R.S. provide the specific statutory authority for consideration of the regulatory amendments proposed by this notice. Should the commission adopt the regulatory language as proposed in this notice or alternative amendments, it will also adopt, in compliance with section 24-4-103(4) C.R.S., an appropriate Statement of Basis, Specific Statutory Authority, and Purpose.

Dated this 28<sup>th</sup> day of September, 2018 at Denver, Colorado.

WATER QUALITY CONTROL COMMISSION



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Trisha Oeth, Administrator

**EXHIBIT 1**  
**WATER QUALITY CONTROL DIVISION**

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Water Quality Control Commission

REGULATION NO. 11 - COLORADO PRIMARY DRINKING WATER REGULATIONS

5 CCR 1002-11

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**11.2(6) Materials Incorporated by Reference**

(a) Date of Incorporation

- (i) Throughout these regulations, requirements promulgated by the U.S. Environmental Protection Agency have been adopted and incorporated by reference. The federal references cited herein include only those versions that were in effect as of April 9, 2018, and not later amendments to the incorporated material.
- (ii) All other materials incorporated by reference in the *Colorado Primary Drinking Water Regulations* include only those versions cited and not later amendments to incorporated material.

(b) Location of Materials Incorporated by Reference

(i) The requirements promulgated by the U.S. Environmental Protection Agency incorporated by reference are available at no cost in the online edition of the Code of Federal Regulations (CFR) hosted by the United States Government Printing Office, online at [www.govinfo.gov](http://www.govinfo.gov).

(ii) All other materials incorporated by reference ~~The incorporated material~~ may be examined at any state publications depository library, the Laboratory Services Division of the Department, or the Department at:

Colorado Department of Public Health and Environment  
Water Quality Control Division  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530  
(303) 692-3500

- (c) If the material incorporated by reference refers to other sections of the referenced document that conflict with current language of the *Colorado Primary Drinking Water Regulations*, the current language of the *Colorado Primary Drinking Water Regulations* takes precedence.

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**11.59 STATEMENT OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE: November 13, 2018 Decision; Effective Date December 30, 2018**

The following section was affected by this rulemaking hearing: 11.2(6) – Materials Incorporated by Reference. The provisions of the Colorado Revised Statutes (CRS), section 25-1.5-202, provide specific statutory authority for adoption of these regulatory amendments. The Commission also adopted, in compliance with section 24-4-103(4), CRS, the following statement of basis and purpose.

**BASIS AND PURPOSE**

The Commission made changes to section 11.2(6) (Materials Incorporated by Reference) in order to comply with section 24-4-103 (12.5) (a)(IV), C.R.S. of the Colorado Administrative Procedure Act, which requires a statement explaining where copies of the federal code incorporated by reference are available from the agency of the United States originally issuing the code.

Regulation 11 incorporates by reference requirements promulgated by the U.S. Environmental Protection Agency in the Code of Federal Regulations. Therefore to comply with §24-4-103 (12.5)(a)(IV), C.R.S., the Commission added an entirely new paragraph in section 11.2(6)(b), providing that: “The requirements promulgated by the U.S. Environmental Protection Agency incorporated by reference are available at no cost in the online edition of Code of Federal Regulations (CFR) hosted by the United States Government Printing Office, online at [www.govinfo.gov](http://www.govinfo.gov).” The Commission also made related changes to the original paragraph in 11.2(6)(b) for purposes of clarifying where to find the other materials incorporated by reference.