

# STATE OF COLORADO

---

## Colorado Water Conservation Board Department of Natural Resources

1313 Sherman Street, Room 721  
Denver, Colorado 80203  
Phone: (303) 866-3441  
Fax: (303) 866-4474  
www.cwcb.state.co.us



---

John W. Hickenlooper  
Governor

Mike King  
DNR Executive Director

Jennifer L. Gimbel  
CWCB Director

TO: Colorado Water Conservation Board Members

FROM: Taryn Hutchins-Cabibi, Drought/Climate Specialist  
Veva Deheza, Section Chief  
Office of Water Conservation & Drought Planning

DATE: May 6, 2011

SUBJECT: **Agenda Item #22, May 17-18, 2011 Board Meeting  
Proposed Revisions to the Guidelines for the Office to Review and Evaluate  
Drought Mitigation Plans**

---

### Staff Recommendation

This is the first reading of the proposed changes to the Guidelines for the Office to Review and Evaluate Drought Mitigation Plans. The CWCB's process for adopting these Guidelines in the past, dictate that the Guidelines are presented to the Board twice prior to approval. The Board may approve the Guidelines upon their second presentation. Feedback from this meeting, as well as a 30 day public comment period, will be integrated into the Guidelines and presented to the Board again at the July 2011 CWCB Board meeting.

### Background

The Guidelines for the Office to Review and Evaluate Drought Mitigation Plans were last adopted in May 2005. Since that time, the Office of Water Conservation & Drought Planning (OWCDP) has developed extensive resources to assist in the development of drought mitigation and response plans. These resources reflect the latest knowledge on drought planning and have been vetted with numerous entities and stakeholders representing geographically diverse water users throughout Colorado. The Municipal Drought Planning Guidance document, developed as part of the 2010 Colorado Drought Mitigation and Response Plan, creates a clear and concise how-to-guide for drought planning that previously did not exist in Colorado.

Consequently, the proposed changes to the Guidelines ensure that the tools and resources available for the entities to develop drought mitigation & response plans coincide with the Guidelines that will be used to review the plans once submitted to the CWCB for approval.

The Guidelines, as presented today, reflect feedback and comments provided by the CWCB's Municipal Drought Planning Advisory Committee. This committee was formed to assist in the

development of the Municipal Drought Planning Guidance document and Sample Drought Plan. The OWCDP also plans to hold a 30-day public comment period to encourage broader stakeholder involvement.

**Supporting Documentation**

Please refer to the Municipal Drought Management Plan Guidance Document which can be accessed through the CWCB website at

<http://cwcb.state.co.us/technical-resources/drought-planning-toolbox/Documents/DroughtPlanningResources/MunicipalDroughtMgmtPlanGuidanceDocFull.pdf>

**GUIDELINES ~~GUIDELINES~~ FOR THE OFFICE TO REVIEW AND EVALUATE  
DROUGHT MITIGATION PLANS SUBMITTED BY COVERED ENTITIES AND  
OTHER STATE OR LOCAL GOVERNMENTAL ENTITIES**

1. **TITLE.** ~~Guidelines~~Guidelines concerning Drought Mitigation Plans prepared by covered entities (as defined in Section 4 of the ~~guidelines~~Guidelines) and other State and Local governmental entities, and submitted to the Office of Water Conservation and Drought Planning ("Office") for review and approval as required in §37-60-126.5 C.R.S., shall be hereinafter referred to as the "Drought Mitigation Plan ~~Guidelines~~Guidelines."

2. **PURPOSE OF ~~GUIDELINES~~GUIDELINES.** Drought is a natural and frequent hazard that impacts some portion of the state of Colorado nine out of every ten years. Consequently, the importance of drought mitigation cannot be understated. Drought mitigations plans ensure that Colorado communities are properly prepared to deal with and respond to drought in a timely and sufficient manner to reduce economic, social and environmental impacts. The Drought Mitigation Plan ~~Guidelines~~Guidelines as presented herein are to be used by the Board and the Office when reviewing and approving Drought Mitigation Plans submitted to the Office in accordance with §37-60-126.5 (4) C.R.S. Drought Mitigation Plans may be submitted to the Office for review and approval by a "submitting entity" that consists of one of the following:

- a) Covered entities that ~~desire having request to have~~ a Drought Mitigation Plan reviewed, approved and posted on the Board website by the Office; or
- b) Other state or local governmental entities that ~~desire request~~ to have a Drought Mitigation Plan reviewed, approved and posted on the Board website by the Office.

These ~~G~~guidelinesGuidelines are intended to apply to any entity that submits ~~(i.e., a submitting entity)~~ a Drought Mitigation Plan to the Office for review and approval, including but not limited to, any municipality, agency, special district, or privately or publicly owned utility or other state or local governmental entity that seeks: to plan and implement actions and programs to be used prior to and during periods of unusual water scarcity to reduce the occurrence and severity of water supply shortages; and to manage water supply and water demand appropriately.

3. **STATUTORY AUTHORITY.** The statutory authority for the Drought Mitigation Plan ~~Guidelines~~Guidelines is found ~~at-in~~ §37-60-126.5, C.R.S. While the statute gives authority to review Drought Mitigation Plans, nothing in the statute shall be construed as mandating that entities must have an approved drought mitigation plan on file with the state. Nothing in these ~~rules~~Guidelines shall be construed as authorizing the Board to deprive the people of the state of Colorado of the beneficial use of those waters available by law and interstate compact.

**4. DEFINITIONS**

**Acre Foot (AF):** The amount of water it would take to cover an acre of land to a depth of 1 foot, approximately 325,851 gallons.

**Board:** Means the Colorado Water Conservation Board as defined in §§37-60-101, 103 and 104, C.R.S.

**Board Office:** The Colorado Water Conservation Board's office is located at 1313 Sherman Street, 7th Floor, Denver, CO 80203. The phone number is (303) 866-3441. The facsimile number is (303) 866-4474. The Board's website is <http://www.cwcb.state.co.us>.

~~5/6/2011~~5/6/2011~~3/7/2011~~

## Adopted By The CWCB May 25, 2005

**Colorado Water Conservation Board (CWCB):** A division of the Colorado Department of Natural Resources, the CWCB was created in 1937 for the purpose of aiding in the protection and development of waters of the state. The Board's authority and role is defined in § 37-60-101, et seq., CRS. The Mission Statement of the CWCB is to conserve, develop, protect, and manage Colorado's water for present and future generations.

**Covered Entity:** means each municipality, agency, utility, including any privately owned utility, or other publicly owned entity with a legal obligation to supply, distribute, or otherwise provide water at retail to domestic, commercial, industrial, or public facility customers, and that has a total demand for such customers of two thousand acre-feet or more.

**Drought Mitigation:** Drought mitigation refers to actions taken in advance of a drought that reduce potential drought-related impacts when the event occurs. Measures taken in advance of a disaster aimed at decreasing or eliminating its impact on society and environment (U.N. 1992, 4). Those actions and programs that are used prior to and during periods of unusual water scarcity to reduce the occurrence and severity of water supply shortages, and manage water supply and water demand appropriately.

**Drought Response:** Actions that will be carried out during a drought as various drought trigger points are reached. Response strategies can include anything from short-term emergency aid to government assistance programs and media relations.

**Individual with the Authority to Commit Resources:** Any individual within the submitting entity that has the authority to commit the organization's resources for the development and implementation of a water conservation plan. Examples include the City or County Manager, Mayor, Executive Director of a Special District, City Councilperson, etc.

**Office:** means the Office of Water Conservation and Drought Planning created in section §37-60-124.

**Plan Elements:** means those components of Drought Mitigation Plans that address actions and programs that may be undertaken by a submitting entity to develop, implement, monitor, review, and revise its Drought Mitigation Plan.

**Public Facility:** means any facility operated by an instrument of government for the benefit of the public, including, but not limited to, a government building, park or other recreational facility, school, college, university, or other educational institution, highway, hospital, or stadium.

**Retail Water Delivery:** means all water sales, except wholesale water sales, made by the covered or planning entity except wholesale water sales through installments, credit sales, or the exchange of property, as well as, the sale thereof for money; every such transaction for a consideration, conditional or otherwise, constituting a sale; and/or the sale or furnishing of water.

**Submitting Entity:** means any covered entity or state or local governmental entity that submits a Drought Mitigation Plan for Office review and approval.

**Water Conservation:** means water use efficiency, wise water use, water transmission and distribution system efficiency, and supply substitution. The objective of water conservation is a long-term increase in the productive use of water supply in order to satisfy water supply needs without compromising desired water services.

5/6/2011 5/6/2011 3/7/2011

**Water Reuse:** Use of reclaimed water for a beneficial use constitutes water reuse. Direct water reuse includes treating wastewater and piping it directly into a water system without intervening dilution in natural water bodies. Indirect reuse includes an intermediate step between the generation of reclaimed water and reuse, which may be through discharge, retention, and mixing with another water supply.

**Water-Saving Measures and Programs:** includes any device, fixture, practice, hardware, or equipment that reduces water demands and a program that uses a combination of measures and incentives that provides for an increase in the productive use of a local water supply.

## 5. PLAN SUBMITTAL, REVIEW, AND APPROVAL PROCEDURE

**5a. Plan Submittal** – Submitting entities may submit a Drought Mitigation Plan (“Plan”), or updates of a previously submitted and approved Drought Mitigation Plan, to the Office for review and approval, in accordance with §37-60-126.5. Plan submittals must include a Cover Letter that contains the name and contact information of the submitting entity seeking Office approval, the signature of an individual with the authority to commit the resources of the submitting entity seeking approval, and a copy of the submitting entity’s Drought Mitigation Plan. A checklist of the information that is required ~~for plan approval in the submittal cover letter~~ is provided ~~in Table 4~~ In the CWCB’s Municipal Drought Management Plan Guidance Document.

**5b. Timeframe for Review** – Upon receipt of the Plan submittal, the Office will within 10 working days, acknowledge of receipt of the Plan via a letter provided to the submitting entity. ~~In such a letter, the Office will also inform the entity of any deficiencies in the Plan submittal Cover Letter, as required by Section 5a and summarized in Table 4. If the Office identifies any deficiencies, they will need to be addressed in writing by the submitting entity before the Office can proceed with the plan review and approval process.~~ Once all Plan submittal ~~Cover Letter~~ information has been received by the Office as specified in Section 5a, the Office will initiate Plan review and comment and return a written notice of approval, conditional approval, or non-approval within 90 days of receipt of submittal of the completed Plan ~~submittal Cover Letter~~ from the submitting entity. The Office will identify any deficiencies within the plan and work with the entities to address these concerns through an iterative process until approval is achieved or such time when the entities no longer seeks approval.

### **5c. Approval Process** –

(1) Upon completion of the review of the submitted Plan, the Office will provide a written notification to the submitting entity of the determination of the Office, as follows:

(a) **Approval** – means that the submitting entity’s Plan has met the requirements of these ~~guidelines~~ Guidelines, and the submitting entity ~~may-is encouraged to~~ proceed with the implementation of the Drought Mitigation Plan as submitted. The Office will post the Plan on the CWCB web site.

(b) ~~Conditional Approval~~ – means that the submitting entity’s Plan has substantially met the requirements of the guidelines, and the submitting entity may proceed with the implementation of the Drought Mitigation Plan as submitted, subject to certain required modifications or conditions set forth by the Office and provided in its written notification. ~~The Office will specify in its written notification a schedule for when the submitting entity~~

5/6/2011 5/6/2011 3/7/2011

~~will need to resubmit relevant portions of the Drought Mitigation Plan to the Office. Once the relevant Plan components have been resubmitted and reviewed and approved by the Office, the Office will post the plan on the CWCB web site. Re-submittal of the Plan must occur within 180 days of the date when the Office's Conditional Approval letter was sent, not received, or the Plan will need to be resubmitted for review and approval by the Office.~~

(c) **Disapproval with Modifications** – means that the submitting entity's Plan is inconsistent with the ~~guidelines~~Guidelines, and the submitting entity should not proceed with the implementation of the Drought Mitigation Plan until the stated deficiencies are corrected as delineated in the Office's written notification and the submitting entity resubmits all or those relevant portions of the Plan to the Office for subsequent review. The submitting entity has 180 days from the date the Office's written notification was sent to complete any re-submittal of those relevant portions of the Plan to the Office for subsequent review or will be required to re-initiate the Plan submittal process in accordance with these ~~guidelines~~Guidelines.

**5d. Procedural ~~Guidelines~~Guidelines for Contesting Plan Disapproval by the Office –**

(1) Whenever a submitting entity contests the determination provided by the Office regarding its submitted Plan, that entity can submit a written request for a Contested Plan Review to the Board.

(2) In submitting a request for a Contested Plan Review, a submitting entity may raise only those issues relevant to the statutory determinations required by §37-60-126.5 C.R.S. and the requirements of the ~~guidelines~~Guidelines in full.

(3) To request a Contested Plan Review, a submitting entity must comply with the provisions of 5d. The Office must receive the request for a Contested Plan Review within 180 days of the date of the written notification letter sent by the Office to the submitting entity, pursuant to 5c, or if the 180<sup>th</sup> day falls on a weekend or holiday, on the first business day thereafter. The date of the written notification letter is the date the letter was sent, not the date it was received.

(4) A request for a Contested Plan Review shall be made in writing and contain the following information:

- (a) Identification of the person(s) requesting the review;
- (b) Identification of the plan and submitting entity at issue; and,
- (c) The contested facts and a general description of the data upon which the person(s) will rely to the extent known at that time.

(5) The Board will review the Contested Plan Review facts and arguments and make a ruling to agree or disagree with the contested issue(s). The Board, at its discretion may request the entity requesting the Contested Plan Review to appear before the Board to clarify concerns and understand the facts. The public will be given a chance to comment on the Contested Plan Review prior to the Board making its ruling, if the Board determines that such comments will support and enhance the decision-making process.

(6) The Board will provide to the submitting entity in writing the results of its review within 90 days of receipt of the request for a Contested Plan Review. The Board will also provide specific guidance in how any plan discrepancies or deficiencies need to be addressed such that the submitting entity can receive Office approval for its plan.

(7) The ~~guidelines~~Guidelines of 5d are intended to assure that information is received by the Board to understand and review the contested case in a timely manner. Where these ~~guidelines~~Guidelines do not address a procedure or issue, the Board shall determine the procedures to be followed on a case-by-case basis. The Board may waive the requirements of the ~~guidelines~~Guidelines whenever the Board determines that strict adherence to the ~~guidelines~~Guidelines is not in the best interest of fairness, unless such waiver would violate applicable statutes.

## 6. PLAN CONTENT REQUIREMENTS

A. **Municipal Drought Management Plan Guidance Document** – CWCB strongly encourages the use of the Municipal Drought Management Plan Guidance Document available online. This document clearly outlines the elements of a drought mitigation and response plan necessary to obtain CWCB approval of a submitted plan.

B. **Model Plan** – The Board will maintain a Sample Drought Mitigation Plan (“Model Plan”) online that depicts a preferred format and delineates the preferred content for a Drought Mitigation Plan that would lead to meaningful (i.e., more effective) drought planning by entities in the State and further elaborates on the necessary items noted in the Municipal Drought Management Plan Guidance Document.

~~A.C.~~ **6ba. Plan Adoption** - The manner in which the submitting entity develops, adopts, makes publicly available, and implements a Plan shall be determined by the submitting entity in accordance with the ~~guidelines~~Guidelines.

~~B.D.~~ **6b. Schedule for Plan Implementation** – ~~The Plan shall include a schedule for its implementation.~~

~~C.E.~~ **6ec. Plan Elements** - A Plan developed by a submitting entity pursuant to subsection (2) of §37-60-126.5, C.R.S. must provide adequate information and narrative to indicate that the following Plan Elements, which are composed of various actions and programs, were considered and included, as appropriate, in the submitting entity’s Drought Mitigation Plan:

- 1) *Stakeholders and Plan Objectives and Principles* – Focuses on the preliminary steps necessary to initiate the development of a drought management plan. This includes developing a planning team, securing stakeholder involvement, and developing plan objectives and operating principles.
- 2) *Historical Drought and Impact Assessment* – Evaluation of the severity of historic droughts and corresponding effects on a provider’s water supply system and service area demands. This step also includes the identification of specific drought-related impacts and an evaluation of historic drought mitigation measures and response strategies. This information is useful for the screening and selection of future drought mitigation and response strategies in Step 4.
- 3) *Drought Vulnerability Assessment* – Review of water supply reliability planning efforts. Information from water supply reliability planning may be useful in identifying drought trigger mechanisms and response targets in Step 5. This step also includes the identification of potential drought impacts and perceived



severity of impacts. This information is useful when identifying drought mitigation and response strategies in Step 4.

- 4) *Drought Mitigation and Response Strategies* – Selection of a combination of mitigation and response strategies. Drought mitigation is to be implemented prior to a drought to avoid and/or reduce potential future drought impacts. Drought response strategies will be further refined in Step 6 in accordance with individual drought stages (severity). This step also includes guidance for the development of a public education and awareness strategy.
  - 5) *Drought Stages, Trigger Points, and Response Targets* – Identification of drought stages and corresponding drought trigger points and response targets. These may be specific criteria adhered to during a drought or simply Guidelines that a provider can incorporate into the drought monitoring and response efforts.
  - 6) *Staged Drought Response Program* – Development of the specific drought response measures for each drought stage using the response strategies developed in Step 4. These response measures should describe the actions necessary for water providers and customers need to take to reduce water demand and enhance water supplies during each individual drought stage. This step may also include the development of a public drought education campaign plan.
  - 7) *Implementation and Monitoring* – Implementation of the drought management plan, which includes an action plan for: mitigation; monitoring of drought indicators; drought declaration protocol; implementation and enforcement of the staged drought response program; revenue planning; and monitoring of the drought response effort.
  - 8) *Plan Review and Updates* – Establish formal processes to review, approve, and update the drought management plan. This may include a public review process, review and approval by the local government (e.g., city council/board), adoption of necessary policy, and a plan for future updates.
- 
- ~~(a) Establish a drought task force that combines the various organizational entities and stakeholders that may influence preparation and implementation of a Plan into a communicating unit for purposes of preparing and implementing the Plan.~~
  - ~~(b) Perform a vulnerability assessment of the water supply system regarding seniority of water rights, reliability of infrastructure, availability of alternative supplies, and flexibility of water demand to identify key resource needs, and to support development of relevant policy, emergency response, and public education and awareness needs.~~
  - ~~(c) Assess, and revise or create, policy related to those key areas that impact effective drought mitigation, including establishing: drought response principals, objectives and priorities; authorities for declaring drought; triggers for drought-related actions; ordinances for drought measures; lines of internal and external communications~~



~~protocols and content; and means for monitoring for drought and/or water supply scarcity.~~

~~(d) Develop a list of emergency response needs and associated actions and programs including, but not limited to: declarations of drought; emergency water supply programs and methods; extending boat ramps and docks; managing new taps; and identifying funding partners and sources for assistance.~~

~~(e) Maintain an ongoing public education and awareness program related to water supply, water conservation and drought preparedness.~~

~~(f) Link drought mitigation with water supply and water conservation planning.~~

~~D-F. 6de. Plan Public Review~~ - Each submitting entity may follow the entity's rules, codes, or ordinances to make the Draft Plan available for public review and comment. If there are no rules, codes, or ordinances governing the submitting entity's public planning process, then each entity may publish a Draft Plan, give public notice of the Plan, make such Plan publicly available, and solicit comments from the public for a period of not less than sixty days after the date on which the Draft Plan is made publicly available. Reference may be made in the public notice to the elements of a Drought Mitigation Plan that have already been implemented. The submittal to the Office shall include a description of the public review and comment process if conducted, including a list of the public comments received, if any, and how the comments were addressed. the responses generated by the submitting entity, if available. Copies of the public notice should also be included in the submittal.

## 7. PLAN UPDATING

**7a – Plan Updates** – A submitting entity may at any time adopt changes to an approved Drought Mitigation Plan in accordance with these ~~guidelines~~Guidelines after notifying and receiving written or verbal concurrence from the Office. If the proposed changes are major, as determined by the Office, the submitting entity ~~may desire to~~should give public notice of the changes, make the changes available in draft form, and provide the public an opportunity to comment on such changes before adopting them in accordance with these ~~guidelines~~Guidelines.

## 8 – REVISING AND UPDATING THE ~~GUIDELINES~~GUIDELINES

**8a – Board Authority** – The Board has the authority to revise and update the ~~guidelines~~Guidelines at their discretion in response to new and changing needs of the State, and its citizens, or to improve upon the ~~guidelines~~Guidelines. The most recent version of the Guidelines will be posted on the CWCB website.

## 9 – PRIORITIZATION OF THE DISTRIBUTION OF MONEYS

**9a – ~~Guidelines~~Guidelines for Financial Assistance to Covered Entities and Other State and Local Governmental Entities** –

§The board is hereby authorized to expend revenues from the water efficiency grant program cash fund and to recommend the appropriation and expenditure of such revenues as is necessary from the unobligated balance of the five-percent share of the operational account of the severance tax trust fund designated for use by the board for the purpose of assisting covered entities and other

5/6/2011~~5/6/2011~~3/7/2011

**Adopted By The CWCB May 25, 2005**

state or local governmental entities to develop drought mitigation plans identified as sufficient by the office. 37-60-126.5 (3) CRS gives the Board the authority to appropriate and expend revenues from the unobligated balance of the five percent share of the operational account of the Severance Tax Trust Fund designated for use by the Board for the purpose of assisting covered entities and other State and local governmental entities to develop drought mitigation plans consistent with §37-60-126.5 CRS. Board guidelines associated with prioritizing the distribution of such moneys will be developed in advance of such moneys being available from the Severance Tax Trust Fund for assisting covered entities and other State and local governmental entities.

**Table 1**

**~~Drought Mitigation Plan Submittal Cover Letter Checklist~~**

<b>Checklist Item</b>	<b>Description</b>
1. <del>Include Name and Contact Information</del>	<del>Include phone number, fax number, and address</del>
2. <del>Include Signature of Individual with the Authority to Commit Resources of the Submitting Entity</del>	<del>The cover letter must be signed by an individual that has the authority to commit the resources of the submitting entity</del>
3. <del>Include Copy of the Entity's Drought Mitigation Plan</del>	