

STATE OF COLORADO

Colorado Water Conservation Board Department of Natural Resources

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TO: Colorado Water Conservation Board Members

John W. Hickenlooper
Governor

FROM: Jamie Prochno, P.E., CFM
Watershed and Flood Protection Section

Mike King
DNR Executive Director

DATE: October 16, 2013

James Eklund
CWCB Director

SUBJECT: **October 21, 2013 Special Board Meeting
Agenda Item 15 – Rules and Regulations/Ordinance Adoption**

Staff Recommendation

Staff recommends that the Board to adopt the attached policy regarding implementation of floodplain management standards in Colorado.

Introduction and Discussion

The State of Colorado, through CWCB action in November 2010, adopted higher standards for floodplain management, which are outlined in the Rules and Regulations for Regulatory Floodplains in Colorado (Rules), effective January 14, 2011. The higher standards will meaningfully help communities reduce future risks to people and property caused by flooding. They are now the effective minimum floodplain standards for Colorado. Communities were given a three year transition period to adopt local regulations consistent with the Rules.

The CWCB is committed to working collaboratively with communities in updating their local regulations and ensuring that flood recovery and rebuilding activities are consistent with the higher standards. This action is one of several key elements in the overall flood recovery process. CWCB staff continues to provide guidance and outreach to communities on this topic.

Despite the ongoing flood rebuilding and repair, many communities continue to make adopting the Rules into local floodplain regulations a priority. Several communities have actively reached out to CWCB after the devastating floods requesting technical assistance for ordinance adoption, or indicating that adoption of the higher standards in their community is imminent. CWCB staff and communities recognize the importance and benefits of the higher standards for long-term resiliency and reduction of future flood losses. To date, 59 communities have updated their floodplain regulations. An additional 85 draft regulations have been reviewed by staff for near-term adoption. Additionally, the Town of Williamsburg has filed an application to join the National Flood Insurance Program (NFIP), and Saguache County has joined the NFIP.

The proposed policy will help increase success with guiding the flood recovery effort and maintaining the benefits of the higher floodplain standards. Staff recommends that recovery activities partially financed by state funds must be compliant with the adopted statewide standards.

DRAFT CWCB POLICY #21

Implementation of Higher Floodplain Management Standards

Effective: October 21, 2013

BACKGROUND

The devastating flooding events of September 2013 in Colorado have highlighted the on-going need for sound floodplain management practices and uniform standards for development in flood prone areas. While many communities in Colorado have incorporated higher floodplain management standards than the National Flood Insurance Program minimum standards into local regulations, there is clearly a need to fully implement statewide higher standards. The CWCB promulgated “Rules and Regulations for Floodplains in Colorado (Rules)” dated January 14, 2011 that include higher floodplain management standards, which will help communities to reduce the risks to people and property caused by flooding. The Rules are now the effective minimum floodplain standards for Colorado, and communities were given a three year transition period to adopt local regulations consistent with the Rules. The Rules apply statewide to all communities, State agencies, and Federal activities financed fully or partially by State funds.

AUTHORITY

This Policy is consistent with the CWCB’s broad authorities for floodplain management related to public health, safety, and welfare for the prevention of floods and flood damages therefrom, granted under 37-60-106(1)(c) through 37-60-106(1)(f), and 37-60-106(1)(k). In addition, the CWCB has funding authority for water and flood-related loans and grants, and has promulgated “Rules and Regulations for Regulatory Floodplains in Colorado”(2-CCR-408-1) for the purposes of providing uniform standards and flood damage reduction.

TECHNICAL ASSISTANCE AND FUNDING

The CWCB is committed to a collaborative approach for community resiliency and flood loss reduction. Staff provides technical assistance and helps to ensure that flood recovery and rebuilding activities are consistent with the higher floodplain management standards. Although many recovery projects such as irrigation facilities will not be directly impacted by the Rules, some flood-damaged facilities will need to be upgraded in order to be consistent with the higher standards. Although locally financed projects may be subject to the status of local ordinances, which were given three years to become compliant with these standards, the Rules require activities involving state jurisdiction or financing to be compliant as of January 2011.

Efforts to bring damaged facilities into compliance with current standards may be eligible for federal funding under the Public Assistance program, which requires all rebuilt structures to be compliant with enforceable federal, state, and local regulations. In addition, Section 406 of the Stafford allows for discretionary authority to fund further mitigation measures in conjunction with the repair or replacement of disaster-damaged facilities. CWCB staff coordinates with FEMA and will continue to help affected entities incorporate beneficial mitigation activities into permanent repair projects.

For those communities affected by the September 2013 flood disaster, the higher floodplain management standards will be one of several key elements in the flood recovery process, helping to reduce the potential for future flood losses and increasing Colorado’s resiliency to flood events.

POLICY

Recipients of state funding for the purposes of rebuilding infrastructure shall incorporate floodplain management standards, as appropriate, contained in the “Rules and Regulations for Floodplains in Colorado (Rules)” dated January 14, 2011 for activities financed using these state funds. CWCB staff shall work collaboratively with these recipients and other local, state, and federal partners to assist with this work. Adherence to these higher standards, in place by rule since January 2011, is essential to mitigating risk during future events.