



**COLORADO**

**Colorado Water  
Conservation Board**

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**TO:** Colorado Water Conservation Board Members

**FROM:** Kevin Reidy, Water Supply Planning Section

**DATE:** May 18, 2016

**AGENDA ITEM:** Agenda Item #17: Proposed Addition to the Guidelines to Review and Evaluate Water Conservation Plans – Water Efficiency and Land Use Element

Background: In 2015, an element was added to C.R.S. 37-60-126 (4) that requires covered entities to evaluate a land use and water conservation element in their state water efficiency plan. CWCB and DOLA were also tasked with creating training curriculum and carrying out trainings for land use and water planners.

The statute reads:

(4) A plan developed by a covered entity pursuant to subsection (2) of this section must, at a minimum, include a full evaluation of the following plan elements:

**(f) (I) Best management practices for water demand management, water efficiency, and water conservation that may be implemented through land use planning efforts.**

CWCB staff will incorporate the training curriculum lessons into water efficiency plan guidance documents in order to assist covered entities in complying with this requirement. In the meantime, CWCB staff is working directly with covered entities that submit plans to make them aware of this element and to fulfill this requirement.

Staff Recommendation: Adopt the amendment to the guidelines for water efficiency plans as written.

Attachment: Revised Guidelines for the Office to Review and Evaluate Water Conservation Plans-  
redline addition appears at bottom of page 6.



**GUIDELINES FOR THE OFFICE TO REVIEW AND EVALUATE  
WATER CONSERVATION PLANS**

1. **TITLE.** Guidelines concerning Water Conservation Plans prepared by covered entities (as defined in Section 4 of the guidelines) and submitted to the Office of Water Conservation and Drought Planning (“Office”) for review and approval as required in §37-60-126, C.R.S. (2009), shall be hereinafter referred to as the “Water Conservation Plan Guidelines.”
2. **PURPOSE OF GUIDELINES.** The Water Conservation Plan Guidelines as presented herein are to be used by the Colorado Water Conservation Board (“Board”) and the Office when reviewing and approving Water Conservation Plans submitted to the Office in accordance with §37-60-126(7). Water Conservation 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 are required to submit and adopt a Water Conservation Plan in accordance with §37-60-126; or
  - b) Planning entities that desire to have a Water Conservation Plan reviewed, approved and posted on the Board website by the Office.

In addition, these guidelines apply to any covered entity or planning entity that is seeking to gain approval from the Office of an updated Water Conservation Plan. These guidelines are intended to apply to any entity that submits a Water Conservation Plan to the Office for review and approval, including but not limited to, any municipality, agency, special district, or privately or publicly owned utility that seeks: to improve water use efficiency and wise water use, water transmission and distribution efficiency, and supply substitution; and to institute a long-term increase in the productive use of water supply in order to satisfy water supply needs without compromising desired water services.

3. **STATUTORY AUTHORITY.** The statutory authority for the Water Conservation Plan Guidelines is found at §37-60-126. Nothing in these rules 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:** 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. (2009).

**Board Office:** The Colorado Water Conservation Board’s Office is located at 1313 Sherman Street, 7<sup>th</sup> 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>.

**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., C.R.S. (2009). 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. §37-60-126(1)(b).

**Individual with the Authority to Commit Resources:** means 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.

**Leak Identification:** A systematic search for water loss in a delivery system or at an end user's location.

**Metering:** The measurement of water use with a meter to generate data on actual customer use, which is often used for billing purposes.

**Office:** means the Office of Water Conservation and Drought Planning created in section 37-60-124, C.R.S. (2009).

**Plan elements:** means those components of Water Conservation Plans that address water-saving measures and programs, implementation review, water-saving goals, and the actions a covered entity shall take to develop, implement, monitor, review and revise its Water Conservation Plan. §37-60-126(1)(e).

**Planning Entity:** means any 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 that has a total demand for such customers of less than two thousand acre-feet.

**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 of furnishing of water.

**Submitting Entity:** means each municipality, agency, utility, including any privately owned utility, or other publicly owned entity that has submitted a water conservation plan to the Office for 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.

**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** – Covered entities shall submit a Water Conservation Plan (“Plan”), or updates of a previously submitted and approved Water Conservation Plan, to the Office for review and approval, in accordance with §37-60-126. All planning entities with retail water deliveries of less than 2,000 acre-feet per year, may submit a Water Conservation Plan, or a revised or updated Water Conservation Plan, to the Office for review and approval. Plan submittals must include a Cover Letter that contains the name and contact information of the submitting entity seeking Office approval, a listing of the organizations and/or individuals including those hired or otherwise retained by the submitting entity that assisted in preparation of the Plan, the identification of retail water delivery by the submitting entity for each of the past five years (in acre-feet or million gallons), the population served by the retail water delivery, the dates and information related to the public review and comment process, 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 Water Conservation Plan. Additional information characterizing past water use by sector (e.g., residential, commercial, industrial) and source (e.g., groundwater vs. surface water, raw water, treated water, etc.) is preferred, but not required. A checklist of the information that is required in the submittal cover letter is provided in Table 1.

**5b. Timeframe for Review** – Upon receipt of the Plan submittal, the Office will, within 10 working days, acknowledge 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 1. 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 the completed Plan submittal Cover Letter from the submitting entity.

**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 minimum statutory requirements and meets the requirement of these guidelines, and the submitting entity may proceed with the implementation of the Water Conservation Plan as submitted. The Office will post the Plan on the CWCB web site and will provide copies of the approval notification to the CWCB Office of Water Supply and Finance and the Colorado Water Resources and Power Development Authority.
  - (b) **Conditional Approval** – means the submitting entity’s Plan has substantially met the minimum statutory requirements and substantially meets the requirement of these guidelines, and the submitting entity may proceed with the implementation of the Water Conservation 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 will need to resubmit relevant portions of the Water Conservation 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 website and will provide copies of the approval notification to the CWCB Office of Water Supply and Finance and the Colorado Water Resources and Power Development Authority. 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 has not met the minimum statutory requirements and/or is inconsistent with the guidelines, and the submitting entity should not proceed with the implementation of the Water Conservation 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.
- (2) In situations where a covered entity has received a loan surcharge from the Board or the Colorado Water Resources and Power Development Authority in association with an unforeseen emergency as determined by the Board or the Colorado Water Resources and Power Development Authority but had not submitted and adopted a Water Conservation Plan in compliance with §37-60-126, the Office will provide notification of the covered entity’s Water Conservation Plan approval to the appropriate organization, when and if such a plan has been reviewed and approved by the Office in accordance with these guidelines.

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

- (1) When a submitting entity contests the determination provided by the Office regarding its submitted Plan, that entity can submit a 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 and the requirements of the 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 on 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 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 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 whenever the Board determines that strict adherence to the guidelines is not the best interest of fairness, unless such waiver would violate applicable statutes.

## **6. PLAN CONTEST REQUIREMENTS**

**6a. Plan Adoption** – The manner in which the submitting entity develops, adopts, makes publicly available, and implements a Plan, established pursuant to subsection (2) of §37-60-126 shall be determined by the submitting entity in accordance with the guidelines.

**6b. Model Plan** – The Board will maintain a Model Water Conservation Plan (“Model Plan”) online that depicts a preferred format and delineates the preferred content for a Water Conservation Plan that would lead to meaningful (i.e., more effective) water conservation by covered entities and planning entities in the State and further explains the minimum requirements of the statute as listed in Section 6d.

**6c. Schedule for Plan Implementation** – The Plan shall include a schedule for its implementation

**6d. Plan Elements** – A Plan development by a submitting entity pursuant to subsection (2) of §37-60-126 must provide adequate information and narrative to indicate that the following Plan Elements were considered and included in the submitting entity's Water Conservation Plan, as appropriate:

- (a) The water-saving measures and programs to be used by the submitting entity for water conservation. In developing these measures and programs, each submitting entity shall, at a minimum, consider the following:
  - (I) Water-efficient fixtures and appliances, including toilets, urinals, showerheads, and faucets;
  - (II) Low water use landscapes, drought-resistant vegetation, removal of phreatophytes, and efficient irrigation;
  - (III) Water-efficient industrial and commercial water-using processes;
  - (IV) Water reuse systems;
  - (V) Distribution system leak identification and repair;
  - (VI) Dissemination of information regarding water use efficiency measures, including by public education, customer water use audits, and water-saving demonstrations;
  - (VII) Water rate structures and billing systems designed to encourage water use efficiency in a fiscally responsible manner (note that the Department of Local Affairs may provide a technical assistance to entities that are local governments to implement water billing systems that show customer water usage and that implement tiered billing systems);
  - (VIII) Regulatory measures designed to encourage water conservation;
  - (IX) Incentives to implement water conservation techniques, including rebates to customers to encourage the installation of water conservation measures;
- (b) A section stating the submitting entity's best judgment of the role of Water Conservation Plans in the submitting entity's water supply planning;
- (c) The steps the submitting entity used to develop, and will use to implement, monitor, review, and revise its Water Conservation Plan;
- (d) The time period, not to exceed seven years, after which the submitting entity will review and update its adopted plan; and
- (e) Either as a percentage or in acre-foot increments, an estimate of the amount of water that has been saved through a previously implemented conservation plan and an estimate of the amount of water that will be saved through conservation when the plan is implemented.
- (f) Best management practices for water demand management, water efficiency, and water conservation that may be implemented through land use planning efforts.**



**6e. Plan Public Review** – Each submitting entity shall follow that 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 shall publish a Draft Plan, give public notice of the Plan, make such a 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 shall be made in the public notice to the elements of a Water Conservation Plan that have already been implemented. The submittal to the Office shall include a description of the public review and comment process conducted, including a list of the public comments received, and the responses generated by the submitting entity, if appropriate.

## **7. PLAN UPDATING**

**7a. Plan Updates** – A submitting entity may at any time adopt changes to an approved Water Conservation Plan in accordance with these 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 shall 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.

## **8. REVISING AND UPDATING THE GUIDELINES**

**8a. Board Authority** – The Board has the authority to revise and update the guidelines at their discretion in response to new and changing needs of the State, and its citizens, or to improve upon the guidelines.

## **9. LOAN SURCHARGE**

**9a. Imposition of a Loan Surcharge** – In accordance with §37-60-126 (9a), neither the Board nor the Colorado Water Resources and Power Development Authority (“CWRPDA”) shall release loan proceeds to a covered entity unless such covered entity provides a copy of the water conservation plan adopted pursuant to the Water Conservation Act of 2004 (hereafter “Act”); except that the Board or the CWRPDA may release such loan proceeds if the Board or the CWRPDA determine that unforeseen emergency exists in relationship to the covered entity’s loan application, in which case the Board or the CWRPDA, as applicable, may impose a loan surcharge upon the covered entity that may be rebated or reduced if the covered entity submits and adopts a plan in compliance with the Act in a timely manner. Any imposed loan surcharge, and the terms and condition of such surcharge, will be negotiated with the covered entity during the development of the loan contract with the originator of the loan, either the Board or the CWRPDA, as appropriate.



## **10. APPLICATION OF GUIDELINES TO INTEGRATED SYSTEMS**

- It is the goal of the CWCB to promote, to the fullest extent possible, the efficient and productive use of water by covered entities and non-covered entities.
- Some water systems in Colorado are connected through contracts and service agreements, whereby one covered entity supplies water to other covered entities and non-covered entities.
- To promote water efficiency and best management practices, the CWCB recognizes that these systems may utilize a common water conservation plan.
- Therefore, the CWCB shall accept as fulfilling the requirements of these guidelines, a CWCB-approved water conservation plan, such as a water conservation master plan, a community water conservation plan, or a regional water conservation plan (hereafter “water conservation master plan”), that has been locally adopted, per the guidelines, by the covered entity responsible for administering the water conservation master plan.
- The water conservation master plan must identify the covered entities that will utilize the water conservation master plan to comply with the State’s requirement for a CWCB-approved water conservation plan.
- The covered entity responsible for administering the water conservation master plan shall submit all provisions in contracts, service agreements, and operating rules that define the responsibilities for compliance with these guidelines, with the water conservation master plan when submitted to the CWCB for approval.
- Under the water conservation master plan, the covered entity(ies) responsible for administering the water conservation master plan, must assume responsibility throughout the integrated system for compliance with the water conservation master plan, unless denoted differently and agreed upon by another covered entity.
- In order to ensure that the water conservation master plan accurately reflects the application of these guidelines throughout the integrated system, the covered entity responsible for administering the water conservation master plan must submit an updated plan to the CWCB for approval.

Table 1

Water Conservation Plan Submittal Cover Letter Checklist

Checklist Item	Description
1. Include name and contact information	Include Phone number, fax number, and address
2. List organizations and individuals assisting in plan development	Include those organizations and individuals that were hired, and/or other organizations and individuals that provided substantial support or technical assistance in preparation of the Plan.
3. Quantify retail water delivery	List retail water delivery for each of the past five years on an annual basis in acre-feet or million gallons per year. If the retail water deliver can be segregated by residential, commercial, industrial, and other uses that would be preferred but not required. Also, a listing of the water supply source(s) used by the entity (e.g., groundwater, surface water as raw water or treated water) would be preferred but not required.
4. Identify population served by retail water delivery	Provide an estimate of the population served by the entity's retail water delivery for each of the years where retail water delivery is reported and/or estimated.
5. Provide public review and comment information	Provide information, including dates of meetings and/or hearings related to the public involvement process, that was used to engage the public in the water conservation planning effort.
6. Include signature of individual with the authority to commit resources of the submitting entity	The cover letter must be signed by an individual that has the authority to commit the resources of the submitting entity
7. Include copy of the entity's Water Conservation Plan	