CWCB
Floodplain Rules and Regulations Workshop
July 9, 2021
Workshop Agenda – June 29th

- Welcome and Introductions
- History and Background for Rules and Regulations for Regulatory Floodplains in Colorado (Rules)
- Rulemaking Timeline
- Proposed Revisions to Rules
- Comments and Discussion on Proposed Revisions to Rules
- Wrap-Up
INTRODUCTIONS

- Colorado Water Conservation Board (CWCB) Staff
- Attorney General’s Office Staff
- Stakeholders:
  - Federal
  - Other State
  - Local
  - Others
History of Rules and Regulations

- Rules initially promulgated 1987
- Rules revised in 2005
  - Revisions focused on updating mapping activities
- Rules revised in 2010
  - Revisions focused on floodplain management policy enhancements
- Rules proposed for revision in 2021
Background for Rules and Regs

- Colorado statutes require state designation and approval of flood hazard information prior to local regulation.
- Flooding is considered an issue of statewide concern.
- Rules were developed to provide mapping standards and outline processes for designation.
- In the 2010 update, higher regulatory standards were introduced.
Proposed Rulemaking Timeline*

- **July 30** – File Notice of Rulemaking with Secretary of State and Department of Regulatory Agencies (DORA)
- **August 10** – Notice of Rulemaking published in Colorado Register
- **November 17-18** – Rulemaking Hearing at CWCB Board Meeting
- **November 19** – File final adopted rules with Secretary of State and DORA
- **December 25** – Rules published in Colorado Register
- **January 14, 2022** – Rules effective

* Subject to change
What are the main reasons for proposed revisions?
Updating Standards

- Numerous methodologies and mapping standards, technical references, and guidelines have changed significantly since the 2010 update.

- This update works to make the Rules more consistent with Federal Emergency Management Agency (FEMA) procedures.
Amend and Clarify Rule 4 - Definitions

- Significant updates to definitions
- Done for both clarification as well as standardization with FEMA
Update References to External Documents

- Previous Rules had numerous incorporations by reference spread throughout document.
- Proposed changes place all incorporations by reference in one location (Rule 17) for easier reference.
- This change will also make future Rules revisions less complex.
Revise Numerous Rules for Clarification

- Minor “housekeeping” updates throughout the Rules document
- Specific clarifications to the following rules:
  - Rule 5  Regulatory Floodplain
  - Rule 7.I.(2) Standards for Delineation of Regulatory Floodplain Information
  - Rule 8.D Standards for Regulatory Floodways
  - Rule 10.D Criteria for Determining Effects of Levees on Regulatory Floodplains
Revise Numerous Rules for Clarification

Specific clarifications to the following rules:

- Rule 12.D Effects of Flood Mitigation Measures and Stream Alteration Activities on Regulatory Floodplains
- Rule 12.J
- Rule 14 Introductory Paragraph – Designation and Approval of Changes to Regulatory Floodplains
- Rule 17 Incorporation by Reference
- Rule 20 Effective Date
Summary of Proposed Rules
Revisions
Summary Statement Rule #1

- **RULE 1**  TITLE

- **Intent:** Title of Rule Set

- **Modifications:** Addresses new revision. 2010 Rules are superseded by this revision.
RULE 2  AUTHORITY

Intent: State authority of CWCB to promulgate rules

Modifications: Statutory authorities were updated.
Summary Statement Rule #3

**RULE 3  PURPOSE AND SCOPE**

**Intent:** Statement of purpose and scope

**Modifications:** Minor clerical and grammatical revisions for clarification.
Summary Statement Rule #4

**RULE 4  DEFINITIONS**

**Intent:** Provide definitions for terms used later in document.

**Modifications:**

- Definitions added for Agricultural Structure, Colorado Water Conservation Board, Flood Hazard Information, Flood Insurance Study (FIS), Lowest Floor, Model-Backed Approximate Flood Elevation, Notice of Non-Compliance (NONC), Special Flood Hazard Area (SFHA), Substantial Damage/Substantially Damaged, Substantial Improvement/Substantially Improved
RULE 4  DEFINITIONS

**Intent:** Provide definitions for terms used later in document.

**Modifications:**

- Definitions clarified for 100-Year Floodplain, 500-Year Flood, 500-Year Floodplain, Approximate Floodplain Information, Conditional Letter of Map Revision (CLOMR), Detailed Floodplain Information, FEMA Risk Mapping Assessment and Planning (Risk MAP) Technical References Guidelines and Standards for Flood Risk Analysis and Mapping Activities (renamed), Flood Insurance Rate Map (FIRM), Letter of Map Revision (LOMR), Letter of Map Revision Based on Fill (LOMR-F), Levee or Levee System (renamed), Provisionally Accredited Levee (PAL), Regulatory Floodplain, Residual Risk

- Minor changes throughout the Definitions section
RULE 4  DEFINITIONS

Intent:  Provide definitions for terms used later in document.

Modifications:


Definitions were removed either because they did not appear anywhere else in the Rules document or because they were no longer relevant in the new update.
Summary Statement Rule #5

**RULE 5 STATE REGULATORY FLOODPLAIN**

**Intent:** Clarify definition of Regulatory Floodplain

**Modifications:**
- Clarifies that the Regulatory Floodplain is the 100-Year-Floodplain unless a community chooses to regulate to the 500-Year-Flood
- Clarifies that CWCB automatically designates 500-Year-Floodplain information when available
Summary Statement Rule #6

RULE 6  CRITICAL FACILITIES

Intent: Defines Critical Facilities and provides regulatory requirements for their Development and use. Regulatory Floodplain is the basis for these structures.

Modifications:
- Minor clerical, formatting, and grammatical revisions for clarification
- Moved requirements to incorporate by reference to Rule 17
Summary Statement Rule #7

**RULE 7** STANDARDS FOR DELINEATION OF REGULATORY FLOODPLAIN INFORMATION

**Intent:** Discuss technical criteria for Floodplain mapping

**Modifications:**
- Minor clerical and grammatical revisions for clarification
- Updates of external references
- Removal of listing of Floodplain report requirements – these are covered in external references and this section is redundant
- Clarified that reports submitted to CWCB must be in digital format
Summary Statement Rule #8

**RULE 8** STANDARDS FOR REGULATORY FLOODWAYS

**Intent:** Discuss the use of Floodways as regulatory tools

**Modifications:**
- Minor clerical and grammatical revisions for clarification
- Updates of external references
- Clarifies that Floodway regulations still apply to areas of Model-Backed Approximate Flood Elevations (Zone A) but not to Zone A without supporting documentation
RULE 9  CRITERIA FOR DETERMINING THE EFFECTS OF FLOOD CONTROL STRUCTURES ON REGULATORY FLOODPLAINS

Intent: To address technical and regulatory criteria that must be met in order for Flood attenuation effects of dams, irrigation facilities, and similar structures to be considered.

Modifications:
- Minor clerical, formatting, and grammatical revisions for clarification
Summary Statement Rule #10

**RULE 10** CRITERIA FOR DETERMINING EFFECTS OF LEVEES ON REGULATORY FLOODPLAINS

**Intent:** To address technical and regulatory criteria that must be met in order for effects of Levees to be considered.

** Modifications:**
- Minor clerical, formatting, and grammatical revisions for clarification
- Updates of external references
- Refers Levee requirements to external documents – this section is currently redundant
RULE 11  FLOODPLAIN MANAGEMENT REGULATIONS

Intent: Sets forth minimum Floodplain management standards statewide.

Modifications:
- Minor clerical, formatting, and grammatical revisions for clarification
- Updates of external references
- Clarification for regulations associated with non-residential structures to be in conformance with FEMA
Summary Statement Rule #12

RULE 12 EFFECTS OF FLOOD MITIGATION MEASURES AND STREAM ALTERATION ACTIVITIES ON REGULATORY FLOODPLAINS

Intent: Provide Floodplain regulation requirements for Stream Alteration Activities.

Modifications:
- Minor clerical and grammatical revisions for clarification
- Rule 12.D In process
- Clarification of the State’s position of when a Letter of Map Revision (LOMR) is required and clarification that this does not circumvent other (i.e. FEMA) requirements
Summary Statement Rule #13

RULE 13  PROCESS FOR DESIGNATION AND APPROVAL OF REGULATORY FLOODPLAINS

Intent: Outlines the process and procedure for CWCB consideration of a request for Designation and Approval of a Regulatory Floodplain

Modifications: Minor clerical and grammatical revisions for clarification
RULE 14 DESIGNATION AND APPROVAL OF CHANGES TO REGULATORY FLOODPLAINS

Intent: Outlines the process and procedure for CWCB consideration of a request for Designation and Approval of changes to a previously designated Regulatory Floodplain.

 Modifications:
- Minor clerical and grammatical revisions for clarification
- Clarification that undesignated information to a previously designated reach may be used under the following conditions:
  - Same or greater level of detail as previously designated information
  - It is more restrictive than the previously designated information
  - Community ultimately obtains designation and approval
SUMMARY STATEMENT RULE #15

RULE 15  VARIANCES

**Intent:** Outlines the process for a variance to these Rules to be issued in certain circumstances.

**Modifications:**
- Minor clerical and grammatical revisions for clarification
RULE 16 ENFORCEMENT OF FLOODPLAIN RULES AND REGULATIONS

**Intent:** Outlines the procedure to be followed by the State regarding alleged violations to these Rules.

**Modifications:**
- Minor clerical and grammatical revisions for clarification
Summary Statement Rule #17

Rule 17  DESIGNATION AND APPROVAL OF CHANGES TO REGULATORY FLOODPLAINS

Intent: Provides a listing of all external documents that are incorporated by reference to these Rules.

Modifications:
- Minor clerical and grammatical revisions for clarification
- Placement of all external documents to be incorporated by reference throughout the document listed here in one location for easy reference – previously these listings were throughout the document
Summary Statement Rule #18

**RULE 18  SEVERABILITY**

- **Intent:** If any portion of these Rules is found to be invalid, the remaining portion of the Rules shall remain in force and in effect.

- **Modifications:** None.
RULE 19  RECOMMENDED ACTIVITIES FOR REGULATORY FLOODPLAINS

**Intent:** Provides suggested activities for Communities to consider. Everything in this Rule is optional and not required.

**Modifications:**
- Minor clerical and grammatical revisions for clarification
RULE 20  EFFECTIVE DATE

Intent: Outlines the process and procedure for CWCB consideration of a request for Designation and Approval of changes to a previously designated Regulatory Floodplain.

Modifications:
- Minor clerical and grammatical revisions for clarification
- Update effective date for these rule revisions (to be filled in upon completion of rulemaking process) – see Timeline
- Reference to community ordinance updates removed – unlike 2010 update, this proposed update will not require local ordinance updates
STAKEHOLDER DISCUSSION