

BEFORE THE COLORADO WATER CONSERVATION BOARD

IN THE MATTER OF THE RULEMAKING HEARING TO REVISE RULES AND REGULATIONS FOR REGULATORY FLOODPLAINS IN COLORADO, 2 CCR 408-1

ORDER RE: PROCEDURES AND DEADLINES FOR PREHEARING SUBMISSIONS

Pursuant to the Notice of Proposed Rulemaking issued by the Colorado Water Conservation Board (“CWCB”) dated July 31, 2021 (published in the Colorado Register on August 10, 2021) (“NoPR”), the Hearing Officer hereby establishes the following deadlines and procedures for written submissions and designation of witnesses and sets the date of the prehearing conference.

For purposes of this and all future orders in this matter, “file” means the document must be received electronically by the Hearing Officer by the date and time specified herein via the email address included in the attached Certificate of Service.

I. Parties to Rulemaking Hearing

No entity filed an application for party status.

II. Prehearing Processes and Deadlines

Friday, October 22, 2021 at 5:00 p.m.: Staff Prehearing Statement Due

On or before 5:00 p.m. on October 22, 2021, Staff of the CWCB (“Staff”) shall file a prehearing statement. The prehearing statement shall identify all exhibits, engineering data, biological data, and reports or other information that Staff will rely upon at the hearing and shall contain:

- a) A statement of Staff’s position(s), which for Staff shall include the proposed revisions to the Rules, including any changes to the proposed revisions to the Rules that have occurred since the NoPR was published, as an exhibit, along with a proposed statement of basis and purpose.
- b) A witness list with a brief description of each witness’s testimony and a resume for each witness who will present testimony on technical issues.
- c) A statement of any open legal questions.
- d) A statement of the relief requested.
- e) The amount of time desired for Staff’s presentation at the hearing.
- f) An exhibit list and exhibits. Exhibits must be named by “Party

Name” as defined below and numbered in the order presented in the exhibit list. E.g., “CWCBStaff-1.” Each exhibit must be labeled separately and filed electronically as a separate file at the time of submission of the prehearing statement. All exhibits filed in this proceeding must be filed according to this process. The Party Name is defined as follows:

- i. CWCB Staff: CWCBStaff

All arguments Staff wishes to make regarding the rulemaking must be included in the prehearing statement. Prehearing statements are limited to ten (10) double-spaced pages in 12-point font, excluding the certificate of service and any exhibits.

Staff may call no more than three (3) witnesses.

Exhibits must be submitted as described above—i.e., appropriately labeled and separately submitted—at the time of filing the Prehearing Statement or they may be excluded at the Hearing Officer’s discretion.

Monday, October 25, 2021 at 2:00 p.m.: Prehearing Conference

A prehearing conference will be held on Monday, October 25, 2021, at 2:00 p.m. via Zoom or Google Meet. A link to the meeting will be provided in advance of the prehearing conference.

The prehearing conference will afford the Hearing Officer and Staff an opportunity to address such issues as desired time to present at the hearing and any other matter relevant to the hearing.

III. Party Status

While Staff is not a formal party to the rulemaking hearing, in fulfilling its role as staff to the CWCB, Staff may present evidence and testimony, provide background, summarize evidence and any matters settled before the hearing, make recommendations to the CWCB and perform other duties as requested by the CWCB. Staff shall comply with prehearing procedures, including all prehearing deadlines.

IV. Thursday, November 18, 2021 at 9:00 a.m.: Hearing

The hearing in this matter is set in conjunction with the CWCB's November 2021 meeting, and will begin at 9:00 a.m. on November 18, 2021. More specific participation information will be provided on the CWCB’s website at <https://cwcb.colorado.gov/>.

In addition to other matters related to the conduct of the hearing, the Hearing Officer will determine the final time allocation for Staff to present its case after consideration of, among other things, the prehearing statement and the number of witnesses. The Hearing Officer may limit testimony or presentation of evidence to

prevent repetitive, irrelevant, or unnecessary testimony.

Public Comment at the Hearing

Members of the public who are not parties to the hearing may attend the hearing to provide comment on the proposed revisions to the Rules. Such public comment will be limited to 5 minutes per person and will occur after Staff’s presentation. Staff will have an opportunity to respond to public comment.

The Hearing Officer will issue such additional orders as are necessary to provide for any additional prehearing processes and to establish the hearing process.

The following is a summary of the schedule as set forth in this order:

Deadline for Submission of Prehearing Statement	October 22, 2021, 5:00 p.m.
Prehearing Conference	October 25, 2021, 2:00 p.m.
Rulemaking Hearing	November 18, 2021, 9:00 a.m.

IT IS SO ORDERED.

Dated this 22nd day of September, 2021.

By the Hearing Officer:

/s/ Jen Mele
Jen Mele
First Assistant Attorney General
Colorado Attorney General’s Office
1300 Broadway, 7th Floor
Denver, CO 80203
720-508-6282
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Certificate of Service

IN THE MATTER OF THE RULEMAKING HEARING TO REVISE RULES AND REGULATIONS FOR REGULATORY FLOODPLAINS IN COLORADO, 2 CCR 408-1

I hereby certify that on September 22nd, 2021, a true and correct copy of the foregoing **ORDER RE: PROCEDURES AND DEADLINES FOR PREHEARING SUBMISSIONS** was served via email to the Parties referenced in the Parties Section below:

Hearing Officer

Jen Mele Senior Assistant Attorney General Natural Resources & Environment Section Office of the Colorado Attorney General 1300 Broadway, 7th Floor Denver, Colorado 80203 720-508-6282 jen.mele@coag.gov

<u>Copy To:</u> john.watson@coag.gov

Parties

<u>Staff of the Colorado Water Conservation Board</u> Kevin Houck Colorado Water Conservation Board 1313 Sherman Street, Room 718 Denver, CO 80203 303-866-3441 ext. 3219 kevin.houck@state.co.us	<u>Counsel for Staff of the Colorado Water Conservation Board</u> Allison Robinette Natural Resources & Environment Section Office of the Colorado Attorney General 1300 Broadway, 7th Floor Denver, CO 80203 720-508-6259 allison.robinette@coag.gov
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/s/ John Watson
John Watson