



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Kevin Houck, P.E., CFM, Chief
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Watershed & Flood Protection Section

DATE: November 3, 2021

AGENDA ITEM: Agenda Item 18. November 17-18, 2021 Board Meeting
Rulemaking Hearing to Revise Rules Concerning Colorado's
Rules and Regulations for Regulatory Floodplains in Colorado,
2 CCR408-1

Background:

The Rules and Regulations for Regulatory Floodplains in Colorado (Rules) were initially promulgated in 1987, and were updated in 2005 and 2010. The Rules provide technical standards for floodplain designation and approval by the State and also provide required State higher standards above minimum requirements in the National Flood Insurance Program for floodplain regulation.

Staff provided a presentation to the CWCB Board at the July and September 2021 Board meetings to discuss initiating a rulemaking process in order to update the Rules into alignment with recent updates in FEMA's regulations, standards, and guidelines.

There is a rulemaking page on CWCB's website, which can be found at <https://cwc.colorado.gov/floodplain-rules-revisions> with a link available on the CWCB front page. This update page includes all documents relative to the stakeholder and rulemaking process, including but not limited to: stakeholder meeting information, recommended document updates and revisions, current Rules, public comments, the prehearing statement, a link to the cost-benefit analysis, and additional information.

As announced at the July 2021 board meeting, three stakeholder workshops were held via Zoom on June 29th, July 9th, and July 12th, with an average of approximately 50 attendees at each meeting. Documents from these meetings are posted on the CWCB website.

A Notice of Permanent Rulemaking was filed with the Colorado Secretary of State and the Colorado Department of Regulatory Agencies (DORA) and published in accordance with the proposed timeline. The Notice was published in the Colorado Register on August 10th.

As noticed to the public, the primary proposed changes include the following:



- 1) update the standards and processes for floodplain designation to make the Rules consistent with FEMA floodplain mapping procedures,
- 2) amend and clarify Rule 4 definitions;
- 3) update references to external documents; and
- 4) clarify the following Rules: Rule 5, Rule 7.I.(2), Rule 8.D., Rule 10.C-F, Rule 11.B, Rule 12.D, Rule 12.J., the introductory paragraph to Rule 14, Rule 17, and Rule 20

CWCB Staff is not proposing to make major policy changes with this Rules update.

On August 16, 2021, DORA notified staff that they had received a request that a cost-benefit analysis be completed on the proposed Rules, pursuant to C.R.S. 24-4-103(2.5). The deadline for this analysis to be completed and posted was November 8, 2021, or 10 days before the rulemaking hearing. The final document was submitted to DORA on November 1st, and was accepted and posted to DORA's website on November 2nd. The Cost-Benefit Analysis was completed in accordance with requirements established by the Administrative Procedure Act and with DORA's guidance.

Following the stakeholder meetings, two small stakeholder subgroups were formed to further discuss Rules 12 and 14. Numerous meetings were held with these workgroups, and feedback from these groups was incorporated into the final proposed rule revisions provided with the amended prehearing statement [posted as: Updated Draft Floodplain Rules (v6)].

In response to continuing stakeholder feedback received after the prehearing statement and amended prehearing statement were submitted, minor additional changes have been made to the proposed redlines. This most up-to-date version of the proposed rule revisions was posted on November 4, 2021 on the rulemaking webpage [posted as Updated Draft Floodplain Rules (v7)], and can be accessed there.

No outside stakeholders filed for party status as provided for in the Notice, so CWCB Staff will be the only party during the Rulemaking Hearing.

