

GUIDELINES FOR THE OFFICE TO REVIEW AND EVALUATE DROUGHT MITIGATION PLANS SUBMITTED BY COVERED ENTITIES AND OTHER STATE OR LOCAL GOVERNMENTAL ENTITIES

1. TITLE. Guidelines concerning Drought Mitigation Plans prepared by covered entities (as defined in Section 4 of the guidelines) and other State and Local governmental entities, and submitted to the Office of Water Conservation and Drought Planning (“Office”) for review and approval as required in §37-60-126.5 C.R.S., shall be hereinafter referred to as the "Drought Mitigation Plan Guidelines."

2. PURPOSE OF GUIDELINES. The Drought Mitigation Plan Guidelines as presented herein are to be used by the Board and the Office when reviewing and approving Drought Mitigation Plans submitted to the Office in accordance with §37-60-126.5 (4) C.R.S. Drought Mitigation 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 desire having a Drought Mitigation Plan reviewed, approved and posted on the Board website by the Office; or
- b) Other state or local governmental entities that desire to have a Drought Mitigation Plan reviewed, approved and posted on the Board website by the Office.

These guidelines are intended to apply to any entity that submits (i.e., a submitting entity) a Drought Mitigation Plan to the Office for review and approval, including but not limited to, any municipality, agency, special district, or privately or publicly owned utility or other state or local governmental entity that seeks: to plan and implement actions and programs to be used prior to and during periods of unusual water scarcity to reduce the occurrence and severity of water supply shortages; and to manage water supply and water demand appropriately.

3. STATUTORY AUTHORITY. The statutory authority for the Drought Mitigation Plan Guidelines is found at §37-60-126.5, C.R.S. 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.

Board Office: The Colorado Water Conservation Board’s office is located at 1313 Sherman Street, 7th 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., CRS. The Mission Statement of the CWCB is to conserve, develop, protect, and manage Colorado’s water for present and future generations.

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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.

Drought Mitigation: Those actions and programs that are used prior to and during periods of unusual water scarcity to reduce the occurrence and severity of water supply shortages, and manage water supply and water demand appropriately.

Individual with the Authority to Commit Resources: 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.

Office: means the Office of Water Conservation and Drought Planning created in section § 37-60-124.

Plan Elements: means those components of Drought Mitigation Plans that address actions and programs that may be undertaken by a submitting entity to develop, implement, monitor, review, and revise its Drought Mitigation Plan.

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 or furnishing of water.

Submitting Entity: means any covered entity or state or local governmental entity that submits a Drought Mitigation Plan for Office 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 – Submitting entities may submit a Drought Mitigation Plan (“Plan”), or updates of a previously submitted and approved Drought Mitigation Plan, to the Office for review and approval, in accordance with §37-60-126.5. Plan submittals must include a Cover Letter that contains the name and contact information of the submitting entity seeking Office approval, 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 Drought Mitigation Plan. 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 of 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 requirements of these guidelines, and the submitting entity may proceed with the implementation of the Drought Mitigation Plan as submitted. The Office will post the Plan on the CWCB web site.

(b) **Conditional Approval** – means that the submitting entity’s Plan has substantially met the requirements of the guidelines, and the submitting entity may proceed with the implementation of the Drought Mitigation 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 Drought Mitigation 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 web site. 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 is inconsistent with the guidelines, and the submitting entity should not proceed with the implementation of the Drought Mitigation 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.

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

(1) Whenever 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 §37-60-126.5 C.R.S. 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 180th 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 in 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 in the best interest of fairness, unless such waiver would violate applicable statutes.

6. PLAN CONTENT REQUIREMENTS

6a. Plan Adoption - The manner in which the submitting entity develops, adopts, makes publicly available, and implements a Plan shall be determined by the submitting entity in accordance with the guidelines.

6b. Schedule for Plan Implementation - The Plan shall include a schedule for its implementation.

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6c. Plan Elements - A Plan developed by a submitting entity pursuant to subsection (2) of §37-60-126.5, C.R.S. must provide adequate information and narrative to indicate that the following Plan Elements, which are composed of various actions and programs, were considered and included, as appropriate, in the submitting entity's Drought Mitigation Plan:

- (a) Establish a drought task force that combines the various organizational entities and stakeholders that may influence preparation and implementation of a Plan into a communicating unit for purposes of preparing and implementing the Plan.
- (b) Perform a vulnerability assessment of the water supply system regarding seniority of water rights, reliability of infrastructure, availability of alternative supplies, and flexibility of water demand to identify key resource needs, and to support development of relevant policy, emergency response, and public education and awareness needs.
- (c) Assess, and revise or create, policy related to those key areas that impact effective drought mitigation, including establishing: drought response principals, objectives and priorities; authorities for declaring drought; triggers for drought-related actions; ordinances for drought measures; lines of internal and external communications protocols and content; and means for monitoring for drought and/or water supply scarcity.
- (d) Develop a list of emergency response needs and associated actions and programs including, but not limited to: declarations of drought; emergency water supply programs and methods; extending boat ramps and docks; managing new taps; and identifying funding partners and sources for assistance.
- (e) Maintain an ongoing public education and awareness program related to water supply, water conservation and drought preparedness.
- (f) Link drought mitigation with water supply and water conservation planning.

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

7. PLAN UPDATING

7a – Plan Updates – A submitting entity may at any time adopt changes to an approved Drought Mitigation 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 may desire to 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 – PRIORITIZATION OF THE DISTRIBUTION OF MONEYS

9a – Guidelines for Financial Assistance to Covered Entities and Other State and Local Governmental Entities - §37-60-126.5 (3) CRS gives the Board the authority to appropriate and expend revenues from the unobligated balance of the five percent share of the operational account of the Severance Tax Trust Fund designated for use by the Board for the purpose of assisting covered entities and other State and local governmental entities to develop drought mitigation plans consistent with §37-60-126.5 CRS. Board guidelines associated with prioritizing the distribution of such moneys will be developed in advance of such moneys being available from the Severance Tax Trust Fund for assisting covered entities and other State and local governmental entities.

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**Table 1
Drought Mitigation Plan Submittal Cover Letter Checklist**

Checklist Item	Description
1. Include Name and Contact Information	Include phone number, fax number, and address
2. 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
3. Include Copy of the Entity's Drought Mitigation Plan	