

2019

Regulatory Agenda

January 1, 2019-December 31, 2019



COLORADO

Department of Natural Resources

Overview

The Colorado Department of Natural Resources submits the following 2019 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and
- A list and brief summary of all permanent and temporary rules adopted since the previous DRA was filed.

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department’s “Regulatory Efficiencies Reviews” during 2018 (which are denoted as such in the “purpose” column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department’s web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its “SMART Act” hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(III).

The following constitutes the Department’s Regulatory Agenda for 2018-2019 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

Colorado Parks and Wildlife							
Anticipated Hearing or Adoption Date	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders <i>Consider including high-level outreach bullets</i>	List of all rules adopted since previous DRE was filed
11/15/2018	2 CCR-405-1 2 CCR-406-9 3 CCR-406-16	Division Properties	Revision	33-1-107	Open for consideration of revised alcohol consumption regulations based on implementation of Senate Bill 18-243.	Hunters/Anglers	Change allows individuals who are at least twenty-one years of age or older to consume all types of liquor on public lands, including state parks and state wildlife areas, as long as such consumption has been approved by rule of the Parks and Wildlife Commission.
11/15/2018	2 CCR-406-1	Fishing	New Rule and Revision	33-1-101(4)	Open annually for all issues	Anglers	Changes include, but are not limited to, site-specific fishing regulations for the Rio Grande River, Upper Seepage Lake in Mineral County, Dry Gulch in Clear Creek County, and Chatfield, Cherry Creek and Pueblo Reservoirs.
11/15/2018	2 CCR-406-2	Big Game	Revision	33-4-102 (1)(IV)(b)	Open annually for CPI adjustments to license fees	Hunters	Finalized license price adjustments and associated license agent commission fees based on the Consumer Price Index (CPI) and implementation of the Hunting, Fishing, and Parks for Future

							Generations Act (Senate Bill 18-143).
11/15/2018	2 CCR-406-3	Furbearers and Small Game, Except Migratory Birds	Revision	33-1-101(4)	Open for annual review of turkey seasons, quotas and issues	Hunters	Finalized turkey regulations, season dates and quotas for the 2019 spring and fall seasons.
11/15/2018	2 CCR-406-15 2 CCR-405-7	Division Agents	Revision	33-4-101	Open annually for CPI adjustments to commission rates for license agents	License Agents	Finalized commission rates for license agents selling park passes and registrations, and license/pass price adjustments based on implementation of the Hunting, Fishing, and Parks for Future Generations Act (Senate Bill 18-143).
1/9/2019	2 CCR-406-17	Game Damage	Revision	33-1-101 and 33-3-103.5	Opened for implementation of a citizen petition and edits to trapping regulations	Landowners and Trappers	Opened for implementation of a citizen petition and edits to trapping regulations
1/9/2019	2 CCR-406-0	General Provisions	Revision	33-1-101(4)	Open annually for all issues	Hunters/ Anglers	Changes included, but were not limited to, Game Management Unit boundaries, regulations relating to fish management, health, importation, prohibited species, and other annual changes.
1/9/2019	2 CCR-406-2	Big Game	Revision	33-1-101(4)	Annual changes to deer, elk, pronghorn, bear, moose, sheep, goat, and lion seasons; annual changes to sheep, goat, and lion quotas	Hunters	Changes include the following: <ul style="list-style-type: none"> • Annual changes to season dates, limited license areas and manner of take provisions for deer, elk, pronghorn

							antelope, moose, mountain lion and bear. <ul style="list-style-type: none"> • Annual changes to limited license application and drawing process. • Annual changes to sheep, goat, and lion quota.
3/13/2019	2 CCR-406-3	Furbearers and Small Game, Except Migratory Birds	Revision	33-1-101(4)	Open for annual review including all issues, except turkey	Hunters	Finalized regulations setting 2019-2020 small game season dates, excluding turkey, with related provisions, including bag and possession limits and definitions.
3/13/2019	2 CCR-406-5	Small Game - Migratory Birds	Revision	33-1-101(4)	Open annually for all issues	Hunters	Finalized regulations setting 2019-2020 waterfowl and migratory bird hunting seasons and related provisions, including season dates, bag and possession limits and manner of take provisions.
3/13/2019	2 CCR-406-9	Division Properties	Revision	33-1-107	Open annually for all issues	Hunters/Anglers	Changes include, but are not limited to, generally applicable and property-specific requirements for, or restrictions on use of, wildlife properties controlled by the Colorado Parks and Wildlife, including State Trust Lands leased by the Division.
3/13/2019	2 CCR-406-11	Wildlife Parks and	Revision	33-1-101(2)	Open annually for all issues including	General Public	Opened for annual review of the entire chapter

		Unregulated Wildlife			unregulated wildlife requests		including, but not limited to, regulations pertaining to wildlife parks, sanctuaries and unregulated wildlife
3/13/2019	2 CCR-406-2	Big Game	Revision	33-1-101(4)	Annual big game clean-up	Hunters	Finalized necessary corrections and administrative cleanups to regulations previously adopted by the Parks and Wildlife Commission.
3/13/2019	2 CCR-405-5	Snowmobile Regulations	Revision	33-14-102	Open annually for all issues	Snowmobile Users	Open for annual review of the entire chapter.
5/9/2019	2 CCR-406-2	Big Game	Revision	33-1-101(4)	Annual changes to deer, elk, pronghorn, bear, and moose quotas	Hunters	Approval of the 2019 limited license numbers for deer, elk, pronghorn, bear and moose for all Game Management Units in the state that have limited licenses for these species.
9/5/2019	2 CCR-405-1	Parks and Outdoor Rec Lands	Revision	33-10-101	Open annually for all issues	Park Users	Opened for annual review of the entire chapter including but not limited to, generally-applicable and property-specific requirements for, or restrictions on use of, parks properties controlled by Colorado Parks and Wildlife.
9/5/2019	2 CCR-405-2	Boating	Revision	33-13-101	Open annually for all issues	Boaters	Open for annual review of the entire chapter.
9/5/2019	2 CCR-405-5	Off-Highway Vehicles	Revision	33-14.5-107	Open annually for all issues	OHV Users	Opened for annual review of the entire chapter including but not limited to, regulations pertaining to registration,

							off-highway use permits and required equipment for safe operation of OHV's within the state.
9/5/2019	2 CCR-405-7	Passes, Permits and Registrations	Revision	33-12-100.2	Open annually for all issues	Park Users	Opened for annual review of the entire chapter including but not limited to, regulations pertaining to eligibility requirements and fees for individual and vehicle park passes, use permits, vessel, snowmobile and off-highway vehicle registrations and license agent requirements.
9/5/2019	2 CCR-405-8	Aquatic Nuisance Species	Revision	33-10.5-107	Open annually for all issues	Boaters	Opened for annual review of the entire chapter including, but not limited to, regulations pertaining to inspections, decontaminations and impounding of vessels or other floatation devices, as well as establishing monitoring, identification and reporting procedures for suspected aquatic nuisance species.
11/14/2019	2 CCR-405-3	River Outfitters	Revision	33-32-101	Open annually for all issues	River Outfitters	Open annually for review of the entire chapter.

11/14/2019	2 CCR-406-1	Fishing	Revision	33-1-101(4)	Open annually for all issues	Anglers	Listed Above
11/14/2019	2 CCR-406-2	Big Game	Revision	33-4-102 (1)(IV)(b)	Open annually for finalizing license price adjustments and associated license agent commission fees based on the Consumer Price Index (CPI) and implementation of the Hunting, Fishing, and Parks for Future Generations Act (Senate Bill 18-143).	Hunters	Listed Above
11/14/2019	2 CCR-406-3	Furbearers and Small Game, Except Migratory Birds	Revision	33-1-101(4)	Annual changes to turkey seasons and quotas	Hunters	Listed Above
11/14/2019	2 CCR-406-15 2 CCR-405-7	Division Agents	Revision	33-4-101	Open annually for finalizing commission rates for license agents selling park passes and registrations, and license/pass price adjustments based on implementation of the Hunting, Fishing, and Parks for Future Generations Act (Senate Bill 18-143).	License Agents	Listed Above
January 2020	2 CCR-406-0	General Provisions	Revision	33-1-101(2)	Open annually for all issues	Hunters/Anglers	Listed Above
January 2020	2 CCR-406-2	Big Game	Revision	33-1-101(4)	Annual changes to deer, elk, pronghorn, bear, moose, sheep, goat, and lion seasons	Hunters	Listed Above

Colorado Oil and Gas Conservation Commission							
Schedule	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders <i>Consider including high-level outreach bullets</i>	List of all rules adopted since previous DRE was files
Unknown		Wildlife Mapping Rulemaking involving the Greater sage-grouse	New	s.34-60-105(1), -106(2)(d), C.R.S.	To update maps showing, and spatial data identifying, the individual and combined extents of restricted surface occupancy areas and sensitive wildlife habitat areas for greater sage-grouse and address any rule changes necessary based on COGCC's 1200 Series regulatory efficiency review in 2016.	Industry; surface owners, environmentalists, ecologists, and sportsmen/women .	Unknown
Unknown	318A Revisions		Revision	s.34-60-105(1), -106(2)(a), (c), (d), C.R.S.	To improve functionality of rules for the efficient development of the Greater Wattenberg Area.	Industry, mineral owners, surface owners.	Unknown
Unknown	900 Series Update		Revision	s.34-60-105(1), -106(2), C.R.S.	To update the rules and review of Table 910-1 standards.	Industry, environmentalists, surface owners.	Unknown
Unknown	400 Series Update		Revision	s.34-60-105(1), -106(2), C.R.S.	To address any rule changes necessary based on COGCC's 400 Series regulatory efficiency review in 2017.	Industry.	Unknown

10/30/2018	500 Series Update		Revision	s.34-60-105(1), -106(2), -108, C.R.S.	To address any rule changes necessary based on COGCC's 500 Series regulatory efficiency review in 2017.	Industry, participants in COGCC hearings.	Anticipated
Unknown	Well Category Determination Procedures Update		Revision	s.34-60-105(1), -106(2), C.R.S.	To address any rule changes necessary based on COGCC's Well Category Determination Procedures regulatory efficiency review in 2017.	Industry.	Unknown

Colorado Division of Reclamation, Mining and Safety							
Hearing or Adoption Date	Rule Number	Rule Title	New Rule, Revision, or Repeal?	Statutory or Other Basis for Adoption of Rule	Purpose of Proposed Rule	High-Level Stakeholders <i>Consider including high-level outreach bullets</i>	Status <i>Adopted/Not Adopted/Withdrawn/ Ongoing</i>
Unknown	2 CCR 407-2f	Rules and Regulations of the Colorado Mined Land Reclamation Board for Coal Mining previously identified by OSM* as requiring revision.	Revisions	34-33-108(1), C.R.S., and 30 C.F.R. §§ 732.17, 733.12 and 733.13	Response to Federal 732 letters previously received from OSM. Minor edits and corrections to errors and omissions, as well as substantive amendments and revisions to several sections of the rules.	Coal Mine industry, interested citizens, environmental groups, and local jurisdictions	Waiting for response from OSM.
2019	2 CCR 407-1 Rule 1, 5 & 7	Hard Rock/Metal Mining Rules	Revision and Repeal	C.R.S. 34-32-101	Remove outdated rules associated with Custom Mills, Clean up language in Prospecting Section and add clarifying language to Rule 7 addressing surety releases and reductions for Designated Mining Operations	Hard Rock Mining Community and Environmental Community	On going: Draft rules submitted to Reclamation Board for Consideration 10/24, Stakeholders meetings scheduled for December / January, Adoption hearings set for March / April 2019

2019	2 CCR 407-1 Rule 1, 2, 3 and 6	Construction Material Rules and Regulations	Revision	C.R.S. 34-32.5-101	Align Act and rule requirements for submittal of annual fees, reports and maps, Clarify procedure for attending MLRB meetings via phone or video, Add language specifying signage requirements for public notice and mine identification signs	Construction Material Operators, Environmental Community	On going: Draft rules submitted to Reclamation Board for Consideration 10/24, Stakeholders meetings scheduled for December / January, Adoption hearings set for March / April 2019
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Colorado Division of Water Resources							
Hearing or Adoption Date	Rule Number	Rule Title	New Rule, Revision, or Repeal?	Statutory or Other Basis for Adoption of Rule	Purpose of Proposed Rule	High-Level Stakeholders <i>Consider including high-level outreach bullets</i>	Status <i>Adopted/Not Adopted/Withdrawn/ Ongoing</i>
2019	2 CCR 402-1	Dam Safety and Construction Rules	Revisions	Sections 37-87-102, 105, 37-80-102(k), 24-4-103	Amending rules to modify spillway requirements and clarify extreme precipitation estimate methodologies	Public at large, dam owners, construction and dam design engineers, FEMA, Homeland Security	Ongoing
03/31/18	2 CCR 402-3	Adjudicatory Hearings before the Colorado Ground Water Commission	Revisions	Sections 37-90-111(1)(h) , 24-4-131	<i>Update and revise rules that govern rulemaking and adjudicatory hearings with open and clear procedures</i>	Designated Ground Water Management Districts and constituents, water lawyers	Adopted

2019	2 CCR 402-7	Statewide Nontributary Rules	Review for revisions	Sections 37-90-137(9)(a) , (b) and 37-80-102(1)(g)	<i>Governs well permitting of nontributary water statewide. The review will be conducted to update the provisions of the rules.</i>	Water users throughout the state, water lawyers, water engineers, ground water modelers	Ongoing
2019	2 CCR 402-9	Fees set and collected by the State Engineer for the Water Data Bank Cash Fund, the Division of Water Resources Publication Cash Fund, and the Satellite Monitoring System Cash Fund	Review for revisions	Sections 37-80-111.5, 37-80-102(1)(h) , 24-72-205, 24-4-103	<i>Need to review for consistency and appropriateness</i>	Water users, satellite system users, CWCB, water engineers and firms, public at large, water lawyers	Ongoing
2019	2 CCR 402-10	Rules for Permitting the Development and Appropriation of Geothermal Resources through the use of Wells (Geothermal Rules)	Review for revisions	Sections 37-80-102(1)(g) & (k), 37-90-138, 37-90.5-106 thru 108	<i>Potential clean up of certain areas may be useful long term dependent upon review.</i>	Water users, specific towns and areas of the state where geothermal resources exist, water resources engineers, geologists, geothermal resource developers, water lawyers, & public at large,	Ongoing.

7/01/18	2 CCR 402-11	Rules for the Permitting and Use of Waters Artificially Recharged into the Denver Basin (Denver Basin Artificial Recharge Extraction Rules	Review for revisions	Sections 37-80-102(1)(g) & (k), 37-90-138, 37-90-137(9)(d)	<i>Revise to make consistent with HB17-1076</i>	Water users, water resource engineers including modelers, geologists, cities and users overlying the Denver Basin, water lawyers	Adopted
01/01/18	2 CCR 402-14 Remedial Action	Rules and Regulations for administration of Licensing, Financial Responsibility, Continuing Education and	Revisions	Section 37-91-104(1)	<i>Revise drillers and pump installers, license process, continuing education process and remedial actions.</i>	Public at large, well owners, well construction contractors, water users, pump installers, Colorado Ground Water Assoc., Colorado Well Contractors Assoc.	Adopted
05/15/18 Rule 5.2.9 adopted. Hearing on Artificial Recharge 11/26/18. All others in 2019	2 CCR 410-1	Rules and Regulations for the Management and Control of Designated Ground Water	Revisions and amendments	Sections 37-90-107, 108, 109 and 111	<i>This will involve three separate rulemaking processes. One will be to redefine and clarify artificial recharge, storage and replacement plans. The second will be to amend Rule 5.2.9 to determine the alluvial aquifer and all of the Fan & White River aquifers in the Upper Crow Ck basin over-appropriated. Finally, an overall</i>	Designated ground water basin water users, water lawyers, water resource engineers, local ground water management districts	Ongoing

					<i>revision to the complete set of rules will be addressed after the amendments above are complete</i>		
2019		Water Court Republican River Compact Rules	New Rules	U.S. Supreme Court in Kansas v. Nebraska & Colorado, Number 126, Original, Sections 37-80-102(1)(a) & 37-80-104	<i>The rulemaking will consider the requirement to offset impacts in excess of Colorado's apportionment under the Republican River Compact as determined under the Final Settlement Stipulation, and work to ensure that all users of waters accounted for in Colorado's Republican River Compact Accounting have a stake in ensuring ongoing compact compliance</i>	Water users in the Northern High Plains designated ground water basin.	Ongoing
2019		Water Court Rules and Regulations concerning HB 16-1228, Agricultural Water Protection Water Right Bill	New Rules	Sections 37-80-123(1)(a) and 37-92-308(12)	<i>This rulemaking is required of the Division of Water Resources under HB 16-1228 to develop rules for substitute supply plans for decreed agricultural water protection water rights per section 37-92-305(19)</i>	Water users in the South Platte and Arkansas River basins.	Ongoing

2018		Water Court Rules Governing the Withdrawal of Groundwater in Water Division No. 3	New Rules	Sections 37-80-104 & 37-92-501	<i>Regulation and Use of water withdrawals from the Confined and Unconfined aquifers in the San Luis Valley</i>	Water users in San Luis Valley	Ongoing
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Colorado State Board of Land Commissioners							
Anticipated Hearing or Adoption Date	Rule Number	Rule Title	New rule, revision, or repeal?	Statutory or other basis for adoption or change to rule	Purpose of Proposed Rule	Stakeholders Consider including high-level outreach bullets	Status Adopted/Not Adopted/Withdrawn/Ongoing
2018	2 CCR 409-1;	State Forest Lands	Revision or Repeal, TBD	§36-7-104; §36-7-201; §24-4-103	Review the rule to determine if the best course of action is to revise or repeal rule to simplify and align the rule with contemporary forest management protocols and resources	Colorado State Forest Service; Beneficiaries of affected land trusts; Jackson and Larimer County governments; State Forest Steering Committee; Colorado Parks and Wildlife; lessees of affected parcels; adjacent landowners to adjacent parcels; Natural Resources stakeholder notification groups	Ongoing (Last reviewed 2018)