



COLORADO
Department of Natural Resources

Executive Director's Office
1313 Sherman Street, Room 718
Denver, CO 80203

Memorandum

To: Members of the Colorado General Assembly
From: Mike King, Executive Director
Date: November 2, 2015
Re: Departmental Regulatory Agenda

On May 17, 2012, Governor Hickenlooper signed into law [HB 12-1008](#), which amends the Colorado Administrative Procedure Act (APA) and requires rulemaking agencies to undertake certain additional methods for soliciting input on executive-branch agencies' rulemaking activities.

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 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 is also to present its DRA as part of its hearing and presentation pursuant to 2-7-203(2)(a)(III)(A), C.R.S.

The following comprises the Department of Natural Resources' DRA for 2015-2016 and is provided in accordance with 24-7-203(2)(a)(IV), C.R.S. As set forth below, four of DNR's divisions anticipate proposing new or amended rules in 2016, and five of DNR's divisions adopted rules since DNR filed its previous DRA on November 3, 2014. Please let me know if you have any questions.



1) Colorado Parks and Wildlife

The Colorado Parks and Wildlife (CPW) Commission is a citizen board, appointed by the Governor, which sets regulations and policies for Colorado's state parks and wildlife programs. While some annual regulations passed by the Commission contain substantive programmatic and management changes, they most often address public use of state parks and hunting and fishing restrictions, including season dates, hunting areas, bag and possession limits, licensing requirements, manner of take provisions, land use regulations, and any other special conditions or restrictions necessary to properly manage Colorado's state parks and wildlife.

The tables found below set forth CPW's anticipated regulatory hearings for 2016 as well as its regulatory summary for 2014-15. These rulemaking proceedings are authorized pursuant to the Parks and Wildlife Commission's authority in sections 33-1-101 to 33-6-209, C.R.S. (the "Wildlife Act"), and especially sections 33-1-104, 33-1-106, 33-1-107, 33-1-108, 33-1-121, 33-2-104, 33-2-105, 33-2-106, 33-3-104, 33-4-101, 33-4-102, 33-5.5-102, 33-6-107, 33-6-109, 33-6-112, 33-6-113, 33-6-114, 33-6-114.5, 33-6-117, 33-6-119, 33-6-121, 33-6-124, 33-6-125, 33-6-127, 33-6-128, 33-6-130, 33-6-205, 33-6-206, 33-6-207, 33-6-208, 33-6-209, C.R.S., and in sections 33-10-101 to 33-33-113, C.R.S. (the "Parks Act"), and especially sections 33-10-106, 33-10-107, 33-10.5-107, 33-11-109, 33-12-101, 33-12-103, 33-12-103.5, 33-12-106, 33-12.5-103, 33-13-103, 33-13-104, 33-13-106, 33-13-109, 33-13-110, 33-13-111, 33-14-107, 33-14.5-107, 33-32-103 and 33-33-105 C.R.S.

A. Anticipated Regulatory Calendar, 2016

| Month | Chapter | Regulatory Change* | Step | Finalized | Affected Parties |
|-----------|---|--|-------------|------------|------------------|
| January | Chapter P-1 - Parks and Outdoor Recreation Lands | Open annually for all issues | Step 1 of 2 | March 2016 | Parks users |
| | Chapter P-7 - Passes, Permits and Registrations | Open annually for all issues | Step 1 of 2 | March 2016 | Parks users |
| | Chapter W-0 - General Provisions | Open annually for all issues | Step 2 of 2 | Jan. 2016 | Hunters/anglers |
| | Chapter W-2 - Big Game | Annual changes to sheep and goat quotas | Step 1 of 1 | Jan. 2016 | Hunters |
| | Chapter W-2 - Big Game | Annual changes to deer, elk, pronghorn, bear, moose, sheep, goat, and lion seasons | Step 2 of 2 | Jan. 2016 | Hunters |
| | Chapter W-3 - Furbearers and Small Game, Except Migratory Birds | Open for annual review including all issues, except turkey | Step 1 of 2 | March 2016 | Hunters |
| | Chapter W_5 - Small Game - Migratory Birds | Open annually for all issues | Step 1 of 2 | March 2016 | Hunters |
| | Chapter W-9 - Division Properties | Open annually for all issues | Step 1 of 2 | March 2016 | Hunters/anglers |
| March | Chapter P-1 - Parks and Outdoor Recreation Lands | Open annually for all issues | Step 2 of 2 | March 2016 | Parks users |
| | Chapter P-7 - Passes, Permits and Registrations | Open annually for all issues | Step 2 of 2 | March 2016 | Parks users |
| | Chapter W-2 - Big Game | Annual big game clean-up | Step 1 of 1 | March 2016 | Hunters |
| | Chapter W-3 - Furbearers and Small Game, Except Migratory Birds | Open for annual review including all issues, except turkey | Step 2 of 2 | March 2016 | Hunters |
| | Chapter W-5 - Small Game - Migratory Birds | Open annually for all issues | Step 2 of 2 | March 2016 | Hunters |
| | Chapter W-9 - Division Properties | Open annually for all issues | Step 2 of 2 | March 2016 | Hunters/anglers |
| May | Chapter W-2 - Big Game | Annual changes to deer, elk, pronghorn, bear, and moose quotas | Step 1 of 1 | May 2016 | Hunters |
| September | Chapter W-1 - Fishing | Open annually for all issues | Step 1 of 2 | Nov. 16 | Anglers |
| | Chapter W-2 - Big Game | Annual changes to lion harvest quotas | Step 2 of 2 | Sept. 2016 | Hunters |

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| | Chapter W-2 - Big Game | Open annually for CPI adjustments to nonresident big game license fees | Step 1 of 2 | Nov. 2016 | Hunters |
| | Chapter W-3 - Furbearers and Small Game, Except Migratory Birds | Annual changes to turkey seasons | Step 1 of 2 | Nov. 2016 | Hunters |
| | Chapter W-15 - License Agents | Open annually for CPI adjustments to the sale of licenses by license agents | Step 1 of 2 | Nov. 2016 | License Agents |
| November | Chapter W-0 - General Provisions | Open annually for all issues | Step 1 of 2 | Jan. 17 | Hunters/anglers |
| | Chapter W-1 - Fishing | Open annually for all issues | Step 2 of 2 | Nov. 2016 | Anglers |
| | Chapter W-2 - Big Game | Annual changes to deer, elk, pronghorn, bear, moose, sheep, goat, and lion seasons | Step 1 of 2 | Jan. 2017 | Hunters |
| | Chapter W-2 - Big Game | Open annually for CPI adjustments to nonresident big game license fees | Step 2 of 2 | Nov. 2016 | Hunters |
| | Chapter W-3 - Furbearers and Small Game, Except Migratory Birds | Annual changes to turkey seasons | Step 2 of 2 | Nov. 2016 | Hunters |
| | Chapter W-3 - Furbearers and Small Game, Except Migratory Birds | Annual changes to turkey quotas | Step 1 of 1 | Nov. 2016 | Hunters |
| | Chapter W-15 - License Agents | Open annually for CPI adjustments to the sale of licenses by license agents | Step 2 of 2 | Nov. 2016 | License Agents |

B. Regulations Adopted, Nov. 2014 - Oct. 2015

| Month | Chapter | Regulatory Change | Finalized |
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| November | Chapter P-4 - Snowmobile Regulations | The Commission finalized regulations in accordance with Executive Order D 2012-002 ("Regulatory Efficiency Reviews"). | November 13, 2014 |
| | Chapter P-5 - Off-Highway Vehicle Regulations | The Commission finalized regulations in accordance with Executive Order D 2012-002 ("Regulatory Efficiency Reviews"). | November 13, 2014 |
| | Chapter P-6 - Procedural Rules | The Commission finalized regulations in accordance with Executive Order D 2012-002 ("Regulatory Efficiency Reviews"). | November 13, 2014 |
| | Chapter W-1 - Fishing (and related provisions of Chapter W-0 - General Provisions) | The Commission finalized regulations in its annual review of Chapter W-1 - Fishing and related provisions of Chapter W-0 - General Provisions. Changes include the following: <ul style="list-style-type: none"> • Removing specific hours of closure from existing regulations for walleye spawning operations at Cherry Creek and Chatfield Reservoirs and allowing the closure to be lifted prior to April 15th if spawning operations have concluded. • Adding regulations to establish bag and possession limits for Arctic char at Dillon Reservoir. • Removing season dates from harvest restrictions on Grand Lake for lake trout. • Adding a minimum size harvest regulation for bass at Poudre Ponds #1 near Greeley. • Removing the bag and possession limit for smallmouth bass at Ridgway Reservoir. • Removing the unlimited bag and possession limit for yellow perch at Rifle Gap Reservoir and establishing new 20 perch bag and possession limits. • Prohibiting public access within 150 feet of any kokanee spawning trap on Wolford Reservoir. • Clarifying prohibition of transfer or transport of live fish. | November 13, 2014 |
| | Chapter W-2 - Big Game (and related provisions of Chapter 15 - License Agents) | The Commission finalized regulations in its annual two-step review (Sep-Nov) of statutorily-required nonresident license price adjustments associated with the Consumer Price Index (CPI), and associated license agent commission fees. CPI discounts were continued for nonresident bear, mountain lion, and antlerless elk. In addition The Commission finalized regulations freezing the agent commission fees for the second rod stamp, fishing-1 day, fishing- 5 day, and small game- 1 day at the current amounts, without adjusting in 2014 for CPI. The Commission also finalized the addition of moose, mountain goat, Rocky Mountain bighorn sheep and desert bighorn sheep to the fixed license agent commission rate table. | November 13, 2014 |
| Chapter W-3 - Furbearers and Small Game, except Migratory Birds | The Commission finalized turkey regulations for the 2015 spring and fall seasons. Specific changed include: <ul style="list-style-type: none"> • 2015 turkey quotas. • Adding fall either-sex turkey licenses in GMUs 25 and 34. • Splitting the spring turkey season in GMUs 103, 107, and 109 into two separate seasons. | November 13, 2014 | |

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| | Chapter W-8 - Field Trials and Training of Hunting Dogs | The Commission finalized regulations in accordance with Executive Order D 2012-002 ("Regulatory Efficiency Reviews"). | November 13, 2014 |
| January | Chapter W-0 - General Provisions | <p>The Commission finalized regulations in its annual review of Chapter W-0 - General Provisions. Changes include the following:</p> <ul style="list-style-type: none"> • Allowing seropositive ungulates to be imported into Colorado for research purposes or for immediate slaughter after prior authorization from the Director. • Removing the reporting requirements for stocking information by private aquaculture operations, except for specific non-native warm-water sport fish in private waters west of the continental divide. | January 14, 2015 |
| | Chapter 2 - Big Game | <p>The Commission finalized regulations in its annual review of Chapter W-2 - Big Game. Changes include the following:</p> <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. • 2015 annual quotas and season dates for sheep and goat. • Annual changes to limited license application and drawing processes. • Removal of the old landowner voucher regulations. • Allowing lighted nocks on arrows and recording devices on bows during the archery season. • Changing all bear licenses in B-11 from list A to list B. • Exempting private ram licenses (not obtained through the public draw) from the 5-year waiting period after harvesting a ½ curl or larger ram. • Increasing youth preference for antlerless mule deer licenses in the Gunnison Basin GMU's from 15% to 50% for 2015. • Changes to youth and black bear season participation. • Changes to license purchase cutoff dates for the concurrent rifle bear season from license agents. • Prohibiting antler shed collection on public lands within the Eagle and Roaring Fork River watersheds, with dates and times consistent with the Gunnison Basin antler shed collection closure. • Opening archery sheep hunting in Waterton Canyon. • Opening ewe hunting in S-6. • Opening hunting in S-55 as a part of the S-10 ram tag. • Opening a portion of GMU S-26 to ram hunting with an S-13 ram tag. • Opening limited ram hunting in BHS units S-24 and S-75 utilizing desert bighorn sheep season dates. • Creating a separate rifle season in S-37. • Establishing two ewe huntcodes for novel seasons in GMU S-69. • Adding clarification language for auction and raffle sheep and goat hunters. • Modifying the G-05 unit restrictions on rifle hunters. • Splitting G-11 into two sub-units to distribute hunting pressure and accommodate additional hunting opportunity. • Establishing a nanny-only huntcode in G-12 with the same season dates as the existing either-sex huntcode. • Creating an either-sex rifle mountain goat huntcode for G-18. • Creating separate huntcodes in GMUs 1, 2, 10, and 201 for bear licenses. • Creating separate huntcodes in GMUs 40, 61, 76, and Bosque portion of 851 for bear licenses during the concurrent rifle bear season. • Changing season dates for the deer, elk and concurrent bear seasons on the Bosque del Oso SWA to match the current statewide west of I-25 season dates. • Requiring that hunters be present at the time and place when hounds are released and continuously participate in the mountain lion hunt until it ends. • Eliminating muzzleloader, 2nd season, and 3rd season doe licenses/huntcodes and converting the either sex archery licenses to buck only in GMUs 71, 72, 73, and 711. • Creating new huntcodes for buck deer valid only in GMU 140 and removing GMU 140 from existing huntcodes. • Adjusting the boundaries for the DE041P5A and DF041P5A huntcodes. • Adding an early (September) high country buck season in GMU65. • Creating antlerless mule deer hunts for the second and third rifle seasons in GMUs 55 and 551. • Reinstating fourth season buck hunts in the Gunnison Basin. • Creating a fourth season rifle antlered deer hunt in GMU 201. • Eliminating the fourth season doe deer huntcode from GMU 501. • Adding a late season rifle doe deer hunt in GMUs 103 and 109. • Shortening the PLO doe deer season in GMU 20 to coincide with the closing date of the PLO buck deer season. • Shortening the PLO doe deer seasons in GMUs 29 and 38 to coincide with the closing date of the PLO buck deer seasons. • Making huntcode DF075P5R valid on private lands south of Hwy 160 in GMUs 75 and 751. | January 14, 2015 |

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| | | <ul style="list-style-type: none"> • Splitting GMU 70 out from the other GMUs in E-24 in the following huntcodes: E-E-070-O1M, E-F-070-O1M, E-E-070-O1R, E-E-070-O4R, E-E-070-P1R, and EE-070-P4R. • Removing GMU 128 from the eastern plains elk season and creating an alternative season structure. • Expanding the boundaries of huntcode EF031P5R to include all of GMU 22. • Eliminating huntcode EF055P5R. • Expanding the boundaries for the EF391P5R huntcode, to include all private lands in GMU 391 and private lands within the Jefferson County portion of GMU 39. • Eliminating huntcode EF054L2R. • Replacing the two existing late cow seasons in GMUs 50, 500, and 501 with one late 9 day cow elk season beginning the last Saturday in December. • Adding a late season public land antlerless elk hunt in GMU 61. • Creating stand-alone bull and cow moose licenses in GMU 38. • Establishing antlered moose huntcodes in GMUs 44 and 45. • Establishing antlerless moose huntcodes for GMUs 66 and 67. • Expanding bull moose hunting opportunities within low density areas of the Southwest Region. • Creating stand-alone cow moose licenses in GMU 191. | |
| March | Chapter P-1 - Parks and Outdoor Recreation Lands | <p>The Commission finalized regulations in its annual review of Chapter P-1 Parks and Outdoor Recreation Lands. Changes included the following:</p> <ul style="list-style-type: none"> • Allowing boats with electric or gas motors of 10 horsepower or less to be launched and operated at a wakeless speed on Blue Heron Reservoir at St. Vrain State Park. • Prohibiting the use of portable grills and stoves outside of designated high-use pads at Eldorado Canyon State Park. • Allowing the Park Manager to require bear proof containers in all or portions of any Colorado State Park. • Updating Regulation No. P-103(a) regarding water restrictions to include the Staunton State Park ponds. • Updating Regulation No. P-106(a)(1)(c)(2), clarifying that Highline Lake State Park is only open for waterfowl hunting on days and times as posted. • Changing personal flotation device labeling in order to comply with US Coast Guard standards. | March 4, 2015 |
| | Chapter P-7 - Passes, Permits and Registrations | <p>The Commission finalized regulations in its annual review of Chapter P-7 - Passes, Permits and Registrations. Changes include the following:</p> <ul style="list-style-type: none"> • Adding the Overlook Event Facility at Ridgway State Park to the set fee schedule. • Increasing the weekend and holiday rate at the Pa Co Chu Puk group event facility. • Removal of the Parks Aspen Leaf Lifetime Pass Card and other applicable regulations. | March 4, 2015 |
| | Chapter W-0 - General Provisions | <p>The Commission finalized regulations in Chapter W-0 - General Provisions. Changes included the following:</p> <ul style="list-style-type: none"> • To allow the limited use of leashed dogs to recover wounded big game, excluding black bears. • Revision of the "Private Land Only Licenses" definition. | March 4, 2015 |
| | Chapter W-2 - Big Game | <p>The Commission finalized regulations in its annual review of Chapter W-2 – Big Game. Changes included the following:</p> <ul style="list-style-type: none"> • Any necessary regulations and corrections to or administrative clean-up of changes previously adopted by the Parks and Wildlife Commission for the 2015 big game seasons, including, but not limited to, game management unit boundaries, season dates, limited license areas and manner of take provisions for bighorn sheep, mountain goat, deer, elk, pronghorn, moose, bear and mountain lion, and regulations otherwise necessary for implementation of the 2015 big game seasons and the 2015-2019 Big Game Season Structure as adopted by the Parks and Wildlife Commission in January of 2015. • Clarification of the weighted preference point regulation. • Removal of the Big Game Access Program. • Instating a ¼ mile closure around Brainard Lake for moose hunting from the beginning of archery season until the USFS gate closes. | March 4, 2015 |

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| | Chapter W-9 - Division Properties | <p>The Commission finalized regulations in its annual review of Chapter W-9 - Division Properties. Changes included the following:</p> <ul style="list-style-type: none"> • Adding new regulations for the Arikaree SWA. • Modifying the winter range closure on Centennial SWA. • Modifying public access restrictions at Dome Rock SWA. • Closing Frank SWA to hunting and prohibiting public access north of the Poudre River. • Allowing bow fishing at Rio Grande, Shriver-Wright, Russell Lakes, and Higel SWAs. • Adding access restrictions to Mount Evans SWA. • Modifying closure dates on Perins Peak and Bodo SWAs. • Prohibiting big game hunting with muzzleloaders or rifles on Meeker Pastures SWA. • Changing the age requirement for the Jumbo and Prewitt SWA permits. • Allowing hand, wind, and electric powered craft at Runyon/Fountain Lakes SWA for fishing. • Closing public access on Wellington Reservoir #4. • Adding the Roselund parcel to existing regulations for the Rio Blanco Lake SWA. • Creating regulations for Overland Trail STL. • Adding in Moosehead Mountain STL to the STL appendix. | March 4, 2015 |
| | Chapter W-11 - Wildlife Parks and Unregulated Wildlife | <p>The Commission finalized regulations in Chapter W-11 – Wildlife Parks and Unregulated Wildlife. Changes included the following:</p> <ul style="list-style-type: none"> • Adding the Asian Water Buffalo to the list of domestic species in Colorado. • Prohibiting the possession of animals taken from the wild in Colorado at all wildlife parks and sanctuaries and adding exceptions for when wildlife sanctuaries may import and possess animals taken from the wild in other states. | March 4, 2015 |
| May | Chapter W-2 - Big Game | The Commission finalized regulations approving the 2015 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. | May 5, 2015 |
| July | Chapter P-7 - Passes, Permits and Registrations | The Commission passed an emergency regulation allowing free entrance for veterans and active duty military personnel to state parks during the month of August, ensuring compliance with the passage of HB 15-1045. Staff will bring this request forward for permanent final adoption in September. | July 9, 2015 |
| | Chapter W-3 - Furbearers and Small Game, Except Migratory Birds (and related provisions of Chapter W-10 – Nongame Wildlife) | The Commission finalized regulations in its annual review of Chapter W-3- Furbearers and Small Game, including 2015-2016 season dates. Porcupine were also removed from W-3 and added to regulation No. W-1000(A)(5) for consistency. | July 9, 2015 |
| | Chapter W-5 - Small Game and Migratory Game Birds (and related provisions of Chapter P-1 – Parks and Outdoor Recreation Lands) | <p>The Commission finalized regulations setting 2015-2016 migratory bird hunting dates and bag limits. Significant changes included:</p> <ul style="list-style-type: none"> • Establishing a new 2016 permit for hunting band-tailed pigeons. • Adjusting the American crow hunting season dates a month later. • Opening Barr Lake State Park to dove hunting using the reservation system on Sundays and Mondays during the month of September and on September 1st annually. • Adding additional hunting days to the Remainder Zone for the Central Flyway dark goose season. • Opening Highline Lake State Park to youth waterfowl hunting during the youth only season weekend. | July 9, 2015 |
| August | Chapter W-5 - Small Game and Migratory Game Birds | <p>The Commission finalized regulations of annual changes to 2015-2016 waterfowl and migratory bird hunting seasons for the Pacific and Central Flyway portions of Colorado and related provisions including, but not limited to, season dates, hunting zones, bag and possession limits and manner of take provisions, and other regulatory changes otherwise necessary to comply with federal requirements imposed by, or to take advantage of opportunity afforded by, the U.S. Fish and Wildlife Service pursuant to the Migratory Bird Treaty Act and other controlling federal laws.</p> <p>Specifically, the canvasback bag limit was increased from 1 to 2 in both flyways and the Pacific flyway dates for scaup were shortened by one day, ending on January 5, 2016 instead of the 6th.</p> | August 6, 2015 |
| | Chapter W-2 - Big Game | The Commission approved leaving resident and non-resident big game license allocations (80/20) and huntcode eligibility for the hybrid draw as status quo for the remainder of the 2015-2019 big game season structure. | August 6, 2015 |

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| September | Chapter P-7 - Passes, Permits and Registrations | The Commission finalized regulations allowing free entrance for veterans and active duty military personnel to state parks during the month of August. The Commission also finalized regulations increasing camping fees and prices for yurts and cabins on State Parks. | September 10, 2015 |
| | Chapter P-8 - Aquatic Nuisance Species | The Commission finalized regulations including administrative clean ups in accordance with Executive Order D 2012-002 ("Regulatory Efficiency Reviews"). | September 10, 2015 |
| | Chapter W-2 - Big Game (and related provisions of Chapter W-0 - General Provisions) | The Commission adopted the 2015-2016 Mountain Lion harvest limit quotas, as recommended by staff. A proposed Predator Management Plan for L-11 with associated quota increases for units 49, 57, 58, and 581 were forwarded by the Commission for final consideration in November. Administrative clean-ups were also approved to the G-11 boundary description in Chapter W-0 and the GEG11S1R huntcode boundary description in W-2. | September 10, 2015 |
| | Chapter W-2 - Big Game, Bighorn Sheep Access Program | The Commission finalized regulations establishing a program to provide public hunting access to Rocky Mountain bighorn sheep on private land. This new program is entitled the Bighorn Sheep Access Program (BSAP) and is separate from the bighorn sheep Ranching for Wildlife Program. | September 10, 2015 |
| | Chapter W-11 - Wildlife Parks and Unrelated Wildlife | The Commission finalized regulations amending provisions related to wildlife sanctuaries. Finalized amendments include the establishment of a provisional wildlife sanctuary license as well as addition of Global Federation of Animal Sanctuaries accreditation or verification as an alternative option to the currently required AZA accreditation or certification. | September 10, 2015 |

2) Division of Water Resources

A. Anticipated Regulatory Calendar, 2016

i. Water Well Construction Rules

The Division of Water Resources (DWR) anticipates adopting amendments to 2 CCR 402-2, its rules for water well construction, pump installation, and monitoring and for construction of observation holes/wells pursuant to Sections 37-91-104(1)(c), (j) and (k), 37-91-106(4) and 37-91-110(2), C.R.S. The purposes of these rule amendments are to protect the state's ground water supplies and provide public safety by setting standards and requirements for the construction and repair of wells, test holes, dewatering wells, and monitoring and observation holes/wells; well plugging, sealing, and abandonment; and pump installation, cistern installation and repair. Rule amendments will affect water well users throughout the state, well constructors, water resource engineers, hydrogeologists and pump installers. Stakeholder outreach via public meetings, public comment, and direct discussions with stakeholders has been ongoing, and a formal adoption hearing is currently scheduled for the January 2016 Board meeting.

ii. State Engineer Procedural Rules

DWR anticipates adopting amendments to its procedural rules, 2 CCR 402-5, pursuant to authority granted in the Water Right Determination and Administration Act, 37-92-101 et seq., C.R.S. and the Ground Water Management Act, sections 37-90-101 et seq., C.R.S. These regulations govern all procedures and hearings before the State Engineer except when acting pursuant to the authority delegated by the Colorado Ground Water Commission or the State Board of Examiners of Water Well and Pump Installation Contractors. The rules are intended to assure that all hearings held before the State Engineer are conducted in a fair and impartial manner, to assure that all parties to the proceedings are accorded due process of law, and to provide the state engineer with all relevant facts and information pertinent to decision making. These rules have not been updated since their adoption in 1984 and revisions will include clarification of authority to cover certain hearing types pursuant to rules and regulations adopted since initial promulgation of the rules. Further, inclusion of provisions for alternative dispute resolution and use of Water Court Rule 11 procedures (meetings of experts) is proposed. Ground water users throughout the state (except in designated basins), water attorneys, and water resource engineers could be affected by the proposed amendments. Rules have been filed with the Secretary of State, and a rulemaking hearing is scheduled for 10:00 a.m. on November 3, 2015.

iii. Fee Rules and Regulations

DWR anticipates adopting amendments to its fee rules, 2CCR 402-9, concerning the water data bank cash fund, the publication cash fund, and the satellite monitoring system cash fund, pursuant to authority in Sections 37-80-111.5, 37-80-102(1)(h), 24-72-205 and 24-4-103, C.R.S. The purpose of these rule amendments will be to set fees collected by the state engineer for data generated, collected, compiled; for the sale of publications; and for the use of the satellite monitoring system. An amendment is necessary because the rules have not been updated since 1994 and costs have significantly changed. In addition, technological advancements have occurred in the last 20 years in the way data is collected, retrieved and made available to the public, requiring further update and clarification of the rules. These rule amendments could affect water users who require data and information concerning water rights and use throughout the state, water attorneys, and water resource engineers and firms. DWR anticipates completing a draft of the proposed rules in August 2016, circulating that draft among stakeholders for comment and discussion during September/October 2016, redrafting and publishing proposed amendments in November 2016, and adopting final rules in December 2016.

B. Regulations Adopted, Nov. 2014 - Oct. 2015

i. Republican River Basin Well-Metering Rules

On September 16, 2015, the DWR adopted rules governing the measurement of ground water diversions in the Republican River Basin, 2 CCR 402-16, pursuant to 37-90-102(1)(g), 37-80-104 and 24-4-101, et seq., C.R.S. These rule amendments will provide information for administration of water rights in the Republican River Basin and assist in compliance with the Republican River Compact.

ii. Rio Grande Basin Groundwater and Irrigation Rules

In September 2015, the DWR also filed the Rio Grande Basin Groundwater and Irrigation Rules in the Water Division No. 3 Water Court. These rules are adopted pursuant to authority in Sections 37-80-104 and 37-92-501, C.R.S. and allow groundwater use while protecting senior surface water rights and the Rio Grande Compact, while also regulating the Confined and Unconfined Aquifers so as to maintain a Sustainable Water Supply in each aquifer system, and establish criteria for the beginning and ending of the Irrigation Season for all irrigation water rights, pursuant to section 37-92-501(4)(b)(II), C.R.S.

3. Division of Reclamation, Mining, and Safety

A. Anticipated Regulatory Calendar, 2016

i. Coal Mine Rules

In 2016, the Division of Reclamation Mining and Safety (DRMS) anticipates proposing to the Mined Land Reclamation Board (MLRB) adoption of changes and corrections to its coal-mining rules pursuant to its rulemaking authority under the Colorado Surface Coal Mining Reclamation Act, 34-33-108(1), C.R.S. The rule amendments will conform to their federal counterpart regulations at 30 CFR Part 700. The rule amendments will also conform to requirements set forth by the Director of the U.S. Department of the Interior Office of Surface Mining (OSM) that arose out of deficiencies identified by OSM in its ongoing review of the MLRB coal rules.¹ Failure to adopt these

¹ The affected rules are 2 CCR 407-2, as well as the Rules and Regulations of the Colorado Mined Land Reclamation Board for Coal Mining, including Rules 1.03.2; 1.04; 1.07 through 1.15; 2.01.3; 2.02.2; 2.02.3; 2.02.4; 2.02.5; 2.03.3; 2.03.4; 2.03.5; 2.03.7; 2.04.5; 2.04.6; 2.04.12; 2.04.13; 2.05.3; 2.05.4; 2.05.6; 2.06.8; 2.07.1; 2.07.3; 2.07.4; 2.07.6; 2.07.7; 2.07.8; 2.07.9; 2.07.10; 2.08.4; 2.08.5; 2.08.6; 2.11; 2.11.1; 2.11.2; 2.11.3; 2.11.4; 3.03.2; 4.03.1; 4.03.2; 4.03.3; 4.05.3; 4.05.9; 4.05.13; 4.05.15; 4.06.4; 4.07.3; 4.08.1; 4.08.2; 4.08.4; 4.08.5; 4.09.1; 4.09.3; 4.10.2; 4.10.4; 4.11.3; 4.11.5; 4.14.2; 4.14.4; 4.14.5; 4.15.1; 4.15.7; 4.15.8; 4.15.9; 4.15.11; 4.16.3; 4.17; 4.18; 4.20.1; 4.20.3; 4.20.4; 4.22.4; 4.25.2;

rule amendments could result in OSM substituting direct federal enforcement on all or part of DRMS's approved regulatory program for coal mining activities, as outlined in 30 C.F.R. §§ 732.17, 733.12 and 733.13.

The changes that DRMS anticipates proposing include minor edits and corrections to errors and omissions, as well as substantive amendments and revisions to several sections of the rules. These amendments address: protection of the hydrologic balance; subsidence; valid existing rights determinations to mine lands designated unsuitable for mining; roads; coal exploration; technical revisions to permits; performance bonds; blasting; backfilling and grading; re-vegetation; petitions to designate lands unsuitable for coal mining; permit application review; permit eligibility; application information; applicant, operator, and permittee information; automated information entry and maintenance; permit suspension and rescission; ownership and control findings; challenge procedures; transfer, assignment, or sale of permit rights; and, alternative enforcement.

DRMS submitted the proposed rules to the OSM for informal review on March 30, 2009, March 12, 2010, and February 28, 2011. DRMS submitted a Formal State Program Amendment Package to OSM on April 8, 2011. DRMS received a letter from OSM on May 20, 2013 that identified additional minor omissions in the proposed rules and, on July 19, 2013, DRMS provided OSM with revised proposed rules that responded to these concerns. DRMS received another deficiency letter from the OSM on February 27, 2014, followed by a revised DRMS submittal to the OSM dated March 17, 2014. DRMS received a last deficiency note from the OSM on May 13, 2014 and DRMS responded with a revised submittal on the same day. The OSM informally approved the DRMS package on May 22, 2014. DRMS submitted a revised Formal Program Amendment Package to OSM on October 1, 2014. OSM submitted a Final Rule Notice to DOI's Office of Solicitor on September 25, 2015.

DRMS held two public meetings to discuss the proposed rule revisions and received written comments from the Colorado Mining Association and others. In addition to members of the mining industry which may view this rulemaking as somewhat negative but driven by OSM, other impacted groups include interested citizens, environmental groups, and local jurisdictions in which coal mines are located. These groups largely view the rulemaking as a positive step toward enhanced protections.

OSM has indicated that it could take up to a year for the Solicitor's Office to review DRMS's Formal Program Amendment Package. After DRMS receives approval from OSM, DRMS will initiate the state rulemaking process which will undertake additional stakeholder outreach.

B. Regulations Adopted, Nov. 2014 - Oct. 2015

i. Limited Impact Mining Operations

At its January 2015 meeting, the MLRB promulgated rules to implement amendments to Section 34-32-110, C.R.S., enacted by the passage of SB 14-076. This legislation created a new category of permit for hard rock mining operations that impact five acres or less of surface area. The rules creating a new "110(1) permit" category were adopted pursuant to the Mineral Rules and Regulations of the MLRB for Hard Rock, Metal, and Designated Mining Operations, 2 CCR 407-1.

This new class of permit allows small miners to proceed with mining operations under the appropriate level of technical review and scrutiny. Additionally, the five-acre-or-less size is more compatible with federal land management and safety agencies' delineations concerning various levels of permitting. The 110(1) permit requires public notice and opportunity for public involvement, proof of legal right of entry, annual reports and progress of reclamation, and a sufficient financial warranty. The new 110(1) permit created an opportunity to legally mine for small scale operators who presently consider the larger 110(2) permit too expensive and time consuming for their level of operation.

4. Colorado Oil and Gas Conservation Commission

The Colorado Oil and Gas Conservation Commission (COGCC) has statutory authority to conduct rulemaking pursuant to § 34-60-105, C.R.S., and has specific authority to promulgate the rules discussed below pursuant to § 34-60-106(2)(d), C.R.S.

A. Anticipated Regulatory Calendar, 2016

i. Noise

The Commission anticipates considering amendments to the 800 Series Rules (Aesthetic and Noise Control Regulations) to include maximum permissible noise levels on the db(C) scale. Rule 802.d currently requires an operator to obtain a low frequency noise impact analysis by a qualified sound expert, including identification of any reasonable control measures to mitigate such low frequency noise impact. However, the current Rule does not explicitly establish a maximum for permissible noise levels. A rulemaking to address maximum permissible noise levels could impact individuals and industry to varying degrees. The Commission is currently engaging with consultants on the issue and anticipates proposing rule amendments in the spring of 2016.

ii. 900-Series Update

The Commission anticipates considering amendments to the 900 Series Rules (Exploration and Production Waste Management) to address flaring, the use of unlined skim pits, and a review of the Table 910-1 standards, specifically the standards for Arsenic. The proposed rulemaking could impact individuals and industry to varying degrees. The Commission anticipates that such a rulemaking hearing would commence in the third quarter of 2016.

iii. Wildlife Map Rulemaking

The Commission, in conjunction with CPW, anticipates that it may propose updates to 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. This map update follows a 2013 rulemaking that updated maps identifying habitat areas for other wildlife species in Colorado; those updated maps became effective on September 30, 2013. The proposed rulemaking could impact industry, surface owners, environmentalists, ecologists, and sportsmen. The Commission will commence this rulemaking promptly after CPW finalizes updates to the greater sage-grouse habitat maps.

iv. Mill Levy Rate Increase for the Oil and Gas Conservation and Environmental Response Fund

The Commission anticipates that it may consider amending the mill levy rate in 2016. With low oil and gas commodity prices, the current levy rate may not generate enough revenue to support OGCC's basic operations and several oil and gas related activities being conducted by the Colorado Department of Public Health and Environment (CDPHE). Given the State's current budgetary constraints, and the fact that the OGCC's proposal would contribute to the State's TABOR limit by \$3.4 to \$4.5 million, however, the Governor has instructed the OGCC not to raise its mill levy in FY 2015-16. If relief to the State's TABOR situation can be achieved, the Governor would consider allowing the OGCC to move forward with the minimal mill levy increase required to support base operations. The proposed rulemaking would primarily impact industry.

B. Regulations Adopted, Nov. 2014 - Oct. 2015

i. Penalty and Enforcement Rulemaking

In December 2014, the Commission adopted rule amendments to implement amendments to 34-60-121, C.R.S., enacted by the passage of HB 14-1356, and Executive Order D 2013-004. This "Penalty and Enforcement

Rulemaking” included amendments to Rules 205, 522, 523, 603, 710, and various provisions of the 100-, 300-, 500-, and 900-Series Rules. The amendments modified rule enforcement and penalty assessment procedures, increased allowable penalties, created a penalty matrix, and codified aggravating and mitigating factors the Commission can use to increase or decrease a penalty. The rule amendments were intended to deter noncompliance and encourage operators that are not in compliance to come into compliance quickly and cooperatively. Changes to the Commission’s rules as part of the “Penalty and Enforcement Rulemaking” were adopted on December 15, 2014 and on January 5, 2015.

ii. Front Range Flood Lessons Learned Rulemaking

During the September 15, 2014 Commission hearing, the Commission directed staff to hold a rulemaking to address the recommendations in a Commission report titled “Lessons Learned in the Front Range Flood of September 2013.” This “Front Range Flood Lessons Learned” rulemaking was designed to consider those recommendations. The changes undertaken in this Rulemaking were to the 100-Series Rules and Rule 603. A definition of “Floodplain” was added to the Rules to clearly identify the area where the new Rule 603.h rule would apply. Operators must comply with the new Rule 603.h only where a government agency or body has officially declared an area to be within a 100 year floodplain at the time of the required analysis. The new Rule 603.h implements many of the safety recommendations for changes to regulations highlighted in the report. Changes to Commission rules approved during the “Front Range Flood Lessons Learned Rulemaking” took effect on March 22, 2015.

iii. Complainant Rulemaking

Parties to recent Commission proceedings raised legal concerns regarding a complainant’s right to compel an Order Finding Violation (“OFV”) hearing to override the director’s resolution of a complaint. This Complainant Rulemaking modified specific Commission Rules in response to the issues raised, while preserving complainants’ ability to bring their concerns regarding the director’s action to the Commission. The Commission adopted amendments to Rules 100, 503.a. and 503.b., 521, 522.b. and 522.e., and 528. The Commission’s primary purpose in promulgating the Complainant Rules was to address a potential legal infirmity in existing Commission Rules that grants a complainant the right to compel an OFV hearing if the complainant disagrees with either the director’s decision not to issue a Notice of Alleged Violation (“NOAV”) in response to a complaint, or with the terms of a proposed settlement of an alleged violation. Changes to Commission rules approved during the “Complainant Rulemaking” took effect on August 9, 2015.

iv. Governor’s Task Force Rulemaking

The COGCC is currently engaged in a rulemaking to implement two recommendations from the Governor’s Oil and Gas Task Force. This “Governor’s Task Force Rulemaking” will create new rules in the 300 series that require earlier consultation between operators and local governments regarding the siting of large oil and gas facilities in Urban Mitigation Areas; new rules in the 600 series requiring specific best management practices and mitigation measures for these facilities; and new rules in the 300 series requiring operators to share planning information with some local governments. A formal rulemaking hearing is scheduled to begin on November 16, 2015.

5. State Land Board

A. Anticipated Regulatory Calendar, 2016

The State Land Board (SLB) does not anticipate proposing any new or amended rules in 2016.

B. Regulations Adopted, Nov. 2014 - Oct. 2015

i. Clean Up Rulemaking

The SLB conducted a rulemaking to rescind its rules regarding the management of the Stewardship Trust, 2 CCR 409-2 (Rules), pursuant to Executive Order D 2012-002 directing Colorado’s state agencies to undertake a periodic regulatory efficiency review of their rules. This “Clean-up Rulemaking” resulted from that review and removed a rule that is duplicative with statute, C.R.S. 36-1-107.5. This statutory provision became effective July 1, 1997 as part of the revision of the State Board of Land Commissioners’ (Board) governing statute in the wake of the

passage of Amendment 16 in 1996. The rule was adopted in November 1997 and became effective December 30, 1997, to assist the SLB in managing the initial nomination processes to establish the original designations for the creation of the Stewardship Trust. Upon completion of the original designations, the rule became largely unnecessary and added little to the statutory requirements. In June 2014, the Board directed the Staff to pursue repeal of 2 CCR 409-2 with the understanding that the objectives for the Stewardship Trust could be more effectively managed through the Stewardship Trust Policy, Board Policy 400-100. The Board conducted the rulemaking hearing on October 1, 2015 and approved the repeal of the Rules, effective January 1, 2016.