

STATE OF COLORADO

OFFICE OF THE EXECUTIVE DIRECTOR

Department of Natural Resources
1313 Sherman Street, Room 718
Denver, Colorado 80203
Phone: (303) 866-3311
Fax: (303) 866-2115
dnr.state.co.us

COLORADO



DEPARTMENT OF
NATURAL
RESOURCES

Memorandum

To: Members of the Colorado General Assembly
From: Mike King, Executive Director *M.K.*
Date: November 1, 2013
Re: Departmental Regulatory Agenda

John W. Hickenlooper
Governor

Mike King
Executive Director

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 2013 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 2014, and two of DNR's divisions adopted rules since DNR filed its previous DRA on November 1, 2012. Please let me know if you have any questions.

1) Division of 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 2013 as well as its regulatory summary for 2013. 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 and 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, 2014

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-14	Parks users
	Chapter P-7 - Passes, Permits and Registrations	Open annually for all issues	Step 1 of 2	March-14	Parks users
	Chapter W-0 - General Provisions	Open annually for all issues	Step 2 of 2	January-14	Hunters/anglers
	Chapter W-2 - Big Game	Annual changes to sheep and goat quotas	Step 1 of 1	January-14	Hunters
	Chapter W-2 - Big Game	Annual changes to deer, elk, pronghorn, bear, moose, sheep, goat, and lion seasons	Step 2 of 2	January-14	Hunters
	Chapter W-9 - Wildlife Properties	Open annually for all issues	Step 1 of 2	March-14	Hunters/anglers
March	Chapter P-1 - Parks and Outdoor Recreation Lands	Open annually for all issues	Step 2 of 2	March-14	Parks users
	Chapter P-7 - Passes, Permits and Registrations	Open annually for all issues	Step 2 of 2	March-14	Parks users
	Chapter W-2 - Big Game	Annual big game clean-up	Step 1 of 1	March-14	Hunters
	Chapter W-9 - Wildlife Properties	Open annually for all issues	Step 2 of 2	March-14	Hunters/anglers
May	Chapter 2 - Big Game	Annual changes to deer, elk, pronghorn, bear, and moose quotas	Step 1 of 1	May-14	Hunters

	Chapter W-3 - Furbearers and Small Game, Except Migratory Birds	Open for annual review including all issues, except turkey	Step 1 of 2	July-14	Hunters
	Chapter W-5 - Small Game - Migratory Birds	Open annually for all issues	Step 1 of 2	July-14	Hunters
July	Chapter W-3 - Furbearers and Small Game, Except Migratory Birds	Open for annual review including all issues, except turkey	Step 2 of 2	July-14	Hunters
	Chapter W-5 - Small Game - Migratory Birds	Open annually for all issues	Step 2 of 2	July-14	Hunters
August	Chapter W-5 - Small Game - Migratory Birds	Changes to late season waterfowl package if July adoptions don't adhere to federal regulations published after July	Step 1 of 1	August-14	Hunters
September	Chapter W-1 - Fishing	Open annually for all issues	Step 1 of 2	November-14	Anglers
	Chapter W-2 - Big Game	Annual changes to lion harvest quotas	Step 1 of 1	September-14	Hunters
	Chapter W-2 - Big Game	Open annually for CPI adjustments to nonresident big game license fees	Step 1 of 2	November-14	Hunters
	Chapter W-3 - Furbearers and Small Game, Except Migratory Birds	Annual changes to turkey seasons	Step 1 of 2	November-14	Hunters
	Chapter W-15 - License Agents	Open annually for CPI adjustments to the sale of licenses by license agents	Step 1 of 2	November-14	License Agents
November	Chapter W-0 - General Provisions	Open annually for all issues	Step 1 of 2	January-14	Hunters/anglers
	Chapter W-1 - Fishing	Open annually for all issues	Step 2 of 2	November-14	Anglers
	Chapter W-2 - Big Game	Annual changes to deer, elk, pronghorn, bear, moose, sheep, goat, and lion seasons	Step 1 of 2	January-14	Hunters
	Chapter W-2 - Big Game	Open annually for CPI adjustments to nonresident big game license fees	Step 2 of 2	November-14	Hunters
	Chapter W-3 - Furbearers and Small Game, Except Migratory Birds	Annual changes to turkey seasons	Step 2 of 2	November-14	Hunters
	Chapter W-3 - Furbearers and Small Game, Except Migratory Birds	Annual changes to turkey quotas	Step 1 of 1	November-14	Hunters
	Chapter W-15 - License Agents	Open annually for CPI adjustments to the sale of licenses by license agents	Step 2 of 2	November-14	License Agents

B. Regulations Adopted, Nov. 2012 – Oct. 2013

Month	Chapter	Regulatory Change	Finalized
November	Chapter W-1 - Fishing	The Commission finalized regulations in its annual review of Chapter W-1 - Fishing. Changes include the following: <ul style="list-style-type: none"> • Extending Pueblo Reservoir special walleye and saugeye regulations upstream into a portion of the Arkansas River in order to ensure protection of spawning-aged walleye. • Extension of the Bear Creek (El Paso County) fishing closure downstream to protect native greenback cutthroat trout. • Allowing take of carp from Sweitzer Lake near Delta. • Modifying fishing regulations on the White River below Taylor Draw Dam (Kenny Reservoir) near Rangely to allow unlimited take of non-native game fish for 400 yards below the dam, commensurate with regulations throughout the remainder of the river downstream to the state line. 	November 8, 2012
	Chapter W-2 - Big Game (and related provisions of Chapter 15 - License Agents)	The Commission finalized statutorily-required nonresident license price adjustments associated with the Consumer Price Index (CPI), and associated license agent commission rates.	November 8, 2012

	Chapter W-3 - Furbearers and Small Game, except Migratory Birds	The Commission finalized turkey regulations for the 2013 spring and fall seasons. Specific changes include: <ul style="list-style-type: none"> • Modifying the Youth Outreach Hunting Licenses program to improve participation. • Opening GMU 30 (north of Grand Junction) to draw-only spring turkey hunting. 	November 8, 2012
	Chapter W-17 - Game Damage	The Commission finalized regulations pertaining to Game Damage, as follows: <ul style="list-style-type: none"> • Adopting a definition for "Commercial Market Gardens" which would be eligible for game damage payments as well as permanent game damage prevention materials. • Clarifying eligibility for temporary game damage prevention materials. 	November 8, 2012
January	Chapter W-0 - General Provisions and related provisions of Chapter W-3 - Furbearers and Small Game, except Migratory Birds	The Commission finalized regulations in its annual review of Chapter W-0 - General Provisions and related provisions of Chapter W-3 - Furbearers and Small Game, except Migratory Birds. All issues have been incorporated into these final regulations. Specific changes include: <ul style="list-style-type: none"> • Clarifying manner of take, season and possession restrictions for feral hogs. • Adding animals from the family Cervidae to the prohibited species list with exemptions for those persons otherwise authorized and properly licensed to possess such species. • Allowing anglers to catch and kill prohibited aquatic species from waters statewide. • Modifying regulations pertaining to the release of aquatic wildlife to incorporate the 2009 cooperative agreement non-native fish stocking procedures for the Upper Colorado River Basin. • Removing the existing ¼ mile hunting closure on either side of Colo 5 (Mount Evans Road) during times the highway is closed to vehicular traffic. 	January 10, 2013
	Chapter W-1 - Fishing	The Commission finalized regulations implementing special fishing regulations at Jayhawker Ponds and River's Edge Natural Area Ponds in Loveland, Colorado. These regulations are necessary in order to protect the aquatic resources of these ponds while allowing for public fishing opportunity.	January 10, 2013
	Chapter 2 - Big Game and related provisions of Ch W-0 - General Provisions	The Commission finalized Chapter W-2 - Big Game regulations. These included big game season dates for 2013 and Bighorn Sheep and Mountain Goat license numbers for 2013. Specific changes were as follows: <ul style="list-style-type: none"> • Annual changes to season dates, limited license areas and license numbers, and manner of take provisions for Bighorn sheep and Rocky Mountain goat. • Annual changes to season dates, limited license areas and manner of take provisions for deer, elk, pronghorn antelope, moose, mountain lion, and bear. • Annual changes to limited license application and drawing process. • Modifying the Youth Outreach Hunting Licenses program to improve participation. • Exempting military installations from the minimum license and preference point requirements necessary to qualify for Wounded Warrior licenses. • Exempting auction and raffle license holders who are archery hunting outside of regular rifle season from the daylight fluorescent orange requirement. • Opening bighorn sheep unit (BHS) S-58 (Lower Poudre) to ram and ewe hunting in 2013. • Modifying sheep and goat management licenses to include disease monitoring of populations as a criterion for their use. • Adding an archery season in BHS unit S-39 (Mount Silverheels). • Adding an archery season in BHS unit S-69 (Cochetopa Canyon). • Establishing multiple hunts and season dates for multiple seasons to help achieve management objectives in BHS Data Analysis Unit (DAU) RBS-21 (Game Management Units (GMUs) S-21 & S-33). • Modifying bear hunt to be unlimited over the counter and List C. • Establishing a Private Land Only (PLO) bear season in DAU B-2 (GMUs 58, 581, 59, 511 and 591). • Extending the mountain lion season statewide through April 30 annually. • Removing GMU 51 from GMUs 391 and 461 during deer archery and muzzleloader season. • Eliminating antlerless deer licenses in D-3 (North Park) (GMUs 6, 16, 17, 161, and 171). • Establishing regular and youth-only antlerless mule deer hunts in D-25 (GMUs 66 and 67) during the 2nd and 3rd rifle seasons. • Establishing PLO antlered deer seasons in D-27 (GMUs 29 and 38). • Establishing a PLO antlerless deer hunt in a portion of GMU 33 designed to mitigate urban deer conflicts. • Establishing a PLO either-sex and antlerless deer hunt in a portion of GMU 41 designed to mitigate urban deer conflicts. • Establishing a PLO antlerless deer hunt in a portion of GMU 85 designed to mitigate urban deer conflicts. • Establishing a hunt for an extended rifle antlerless deer only season from Oct. 1 	January 10, 2013

		<p>through Dec 31 in portions of GMU 104 to mitigate urban deer conflicts.</p> <ul style="list-style-type: none"> • Establishing a PLO Season Choice doe license east of Highway 71 in GMU 96. • Establishing Season Choice Whitetail Only (WTO) deer either-sex and antlerless licenses valid in GMUs 89, 90, and 95. • Expanding the current Season Choice WTO deer licenses in D-54 (GMUs 93, 97, 98, 99, and 100), and changing the Season Choice either-sex WTO licenses from List A to List B. • Amending existing regulations for youth elk hunters hunting in the late season with unfilled licenses to limit youth participation in late seasons. • Changing antlerless elk licenses, excluding PLO, in GMU 20 to List A. • Changing either-sex elk licenses in DAU E-2 (GMUs 3, 4, 5, 14, 214, 301, and 441) in the 1st and 4th rifle seasons to specified antlered/antlerless licenses. • Changing either-sex elk licenses in DAU E-6 (GMUs 11, 12, 13, 23, 24, 25, 26, 33, 34, 131, 211, and 231) in the first and fourth rifle seasons to specified antlered/antlerless licenses. • Eliminating antlerless elk licenses in GMU 21 for the late rifle season. • Establishing limited antlerless elk license hunts valid in GMUs 25 and 26 for 2nd, 3rd, and 4th rifle seasons. • Establishing an antlerless elk 4th season rifle hunt in GMU 32. • Eliminating the late antlerless-only elk season in GMU 40. • Eliminating the antlerless elk late season hunts in GMUs 58, 581, and 59. • Establishing a private land only antlerless elk hunt in GMU 511. • Reestablishing limited pronghorn hunts in GMU 551 and 66. • Establishing a late season pronghorn doe hunt in GMU 97. • Extending late season dates for a pronghorn doe license in A-12 to December 1-31. • Removing the PLO designation from a pronghorn doe license in GMU 9 and 191. • Combining PLO hunts for GMU 130 and 146 during regular and late pronghorn season. • Adding mandatory moose incisor tooth extraction requirement for all harvested moose. • Establishing moose hunts in GMUs 12, 23, and 24. • Establishing antlerless moose hunts in DAU M-5 (GMUs 41, 42, 411, 421, 52, and 521). • Establishing antlerless moose hunts in GMUs 39, 46, 49, 500, and 501. • Establishing separate hunts for bull moose in GMUs 66 & 67. 	
	Chapter W-11 - Wildlife Parks and Unregulated Wildlife	<p>The Commission finalized regulations pertaining to Commercial Wildlife Parks, including, but not limited to the following:</p> <ul style="list-style-type: none"> • Modifying protocol for addition of species to existing licenses by requiring licensees to submit a new license application for the desired species. • Establishing a new category of Commercial Parks Exhibitors License allowing for temporary exhibition of regulated wildlife by non-residents. • Administrative clean-up of the chapter. 	January 10, 2013
	Chapter W-16 - Procedural Rules for the Wildlife Commission	<p>The Commission finalized regulations implementing HB 12-1330 (33-6-106(9), C.R.S.), including, but not limited to, petition submittal procedures, to allow individuals to petition the Commission to end a license suspension under circumstances set forth in statute.</p>	January 10, 2013
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. These regulations include, but are not limited to, the following:</p> <ul style="list-style-type: none"> • Restricting the type of shotgun ammunition that may be used on the Cherry Creek State Park trap and skeet shooting range to protect public safety. • Prohibiting jumping from cliffs, ledges, or man-made structures at Lake Pueblo State Park to protect public safety. 	March 7, 2013
	Chapter P-3 - River Outfitters	<p>The Commission finalized regulations regarding river outfitters modifying trip leader qualification standards to ensure proper implementation of HB 10-1221.</p>	March 7, 2013
	Chapter P-7 - Passes, Permits and Registrations	<p>The Commission finalized regulations in its annual review of Chapter P-7 - Passes, Permits and Registrations. These regulations increase the use fee for Lyon's Overlook Deck at Roxborough State Park commensurate with other facilities of similar quality.</p>	March 7, 2013
	Chapter W-2 - Big Game	<p>The Commission finalized administrative clean-up changes to Chapter W-2 - Big Game regulations.</p>	March 7, 2013
	Chapter W-9 - Wildlife Properties	<p>The Commission finalized regulations in its annual review of Chapter W-9 - Division Properties. Issues incorporated into the final regulations include, but are not limited to, the following:</p> <ul style="list-style-type: none"> • Establishment of regulations for newly opened properties which include use restrictions in order to preserve their value and/or purpose. Those properties include two fishing easements (Bighorn Springs State Wildlife Area (SWA) and Ruby Mountain SWA), an access agreement (Perkins SWA), and four State Trust Land leases (Karney 	March 7, 2013

		<p>Ranch, Mud Springs, Shaw Creek and Ted's Canyon).</p> <ul style="list-style-type: none"> Exempting Smelter Mountain Trail (Bodo SWA) from the existing winter closure, to allow hiking with restrictions intended to minimize disturbance to big game. Removal of the boat hunting reservation program on Jackson Lake SWA and Jumbo (Julesburg) Reservoir SWA. Establishment of a reservation system for waterfowl hunting during certain periods of the day on Mitani-Tokuyasu SWA. Prohibiting jumping from cliffs, ledges, or man-made structures at Pueblo Reservoir SWA to protect public safety. Restriction of hunting methods on Shriver-Wright SWA to ensure public safety. Formalization of a motor vehicle closure on La Jara STL to enhance the opportunity for a quality hunting experience. 	
May	Chapter W-0 – General Provisions	The Commission finalized regulations of Chapter W-0 - General Provisions allowing falconry raptors to consume some of the prey they catch in the course of the sport of falconry.	May 9, 2013
	Chapter W-2 - Big Game	The Commission finalized regulations approving the 2013 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 9, 2013
	Chapter W-1 - Fishing	The Commission passed an emergency regulation prohibiting the take of northern pike on Harvey Gap Reservoir by means of spearfishing, archery or gigs in order to protect transplanted tiger muskies.	May 9, 2013
July	Chapter W-1 - Fishing	The Commission finalized regulations prohibiting the take of northern pike on Harvey Gap Reservoir by means of spearfishing, archery or gigs in order to protect transplanted tiger muskellunges. This restriction was previously in place under an emergency order issued in May, but is now a permanent regulation.	July 11, 2013
	Chapter W-3 - Furbearers and Small Game, Except Migratory Birds	The Commission finalized regulations in its annual review of Chapter W-3- Furbearers and Small Game, including 2013-2014 season dates. Regulations allowing for Novice Hunter Properties were also established within the Walk-In Access Program, and the hunting season for chukar during the 2013-2014 seasons was closed in GMUs 9, 19 and 191 pending establishment of a huntable population. Prairie Rattlesnake season dates have been carried over for approval in August pending further staff evaluation, including justification for the historic season dates.	July 11, 2013
	Chapter W-5 - Small Game and Migratory Game Birds	The Commission finalized regulations setting 2013-2014 migratory bird hunting dates and bag limits. Significant changes included: <ul style="list-style-type: none"> Increasing the possession limit on most species from 2X the daily bag limit to 3X the daily bag limit. Increasing the daily bag limit during the September Teal Season from 4 to 6 birds. Increasing the Central Flyway dark goose daily bag limit from 4 to 5 birds. 	July 11, 2013
	Chapter W-11 - Wildlife Parks and Unregulated Wildlife	The Commission finalized regulations pertaining to Wildlife Parks and Unregulated Wildlife, as follows: <ul style="list-style-type: none"> Allowing the relocation of existing wildlife sanctuaries with "grandfathered" facilities requirements status to other locations within Colorado without American Zoo and Aquarium Association (AZA) certification under specific circumstances and restrictions, providing that relocation was precipitated by an act of nature, such as a fire, flood, etc. Allowing Commercial Parks licensees to possess members of the Cervidae family to submit animal samples for CWD testing at any CPW CWD submission location. 	July 11, 2013
August	Chapter W-2 - Big Game	The Commission passed emergency regulations modifying bighorn sheep license refund rules in Game Management Unit 5-15 as a result of the wildfire that consumed most of the huntable sheep habitat in that unit. Sheep license holders may exchange their license for a similar 2014 voucher, or they may return their license for a refund, restoration of previous preference points, and addition of one preference point.	August 8, 2013
	Chapter W-3 - Furbearers and Small Game, Except Migratory Birds	The Commission finalized regulations continuing existing season dates for Prairie Rattlesnake.	August 8, 2013

	Chapter W-5 - Small Game and Migratory Game Birds	The Commission finalized emergency regulations regarding 2013-2014 migratory bird hunting dates and bag limits, as a result of changes to federal regulations. Significant changes included: <ul style="list-style-type: none"> • Decrease the daily bag limit and season dates for scaup to 3 birds in order to comply with federal regulations. • Increase the daily bag limit for canvasback to 2 birds in order to provide the full opportunity allowed to Colorado hunters under federal regulations. • Increase the possession limit for Sora and Virginia rail to 3X the daily bag limit in order to provide the full opportunity allowed to Colorado hunters under federal regulations. • Increase the possession limit for migratory birds taken by falconry to 3X the daily bag limit in order to provide the full opportunity allowed to Colorado falconers under federal regulations. • Increase the Central Flyway light goose daily bag limit to 50 birds. 	August 8, 2013
September	Chapter P-1 - Parks and Outdoor Recreation Lands and those related provisions of Chapter P-7 - Passes, Permits and Registrations	The Commission finalized an emergency regulation allowing for the immediate opening of Cheyenne Mountain Park archery range to public use. They also finalized permanent regulations opening the archery range, including use restrictions, hours of operation, and the adoption of a separate user fee for the range.	September 12, 2013
	Chapter W-0 - General Provisions	The Commission finalized emergency regulations granting the Director of Colorado Parks and Wildlife authority to offer relief to hunters and other citizens impacted by the 2013 flood events in Colorado, including, but not limited to: <ul style="list-style-type: none"> • Refunds of hunting license fees • Restoration of preference points • Exemption from occupancy length limitations on Division properties 	September 25, 2013
	Chapter W-5 - Small Game - Migratory Birds	The Commission finalized regulations adopting some late-breaking federal changes to 2013-2014 waterfowl and migratory bird hunting seasons for the Pacific and Central Flyway portions of 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, as follows: <ul style="list-style-type: none"> • Decrease the daily bag limit and season dates for scaup statewide in order to comply with federal regulations. • Increase the daily bag limit for canvasback in order to provide the full opportunity allowed to Colorado hunters under federal regulations. • Increase the possession limit for Sora and Virginia rail in order to provide the full opportunity allowed to Colorado hunters under federal regulations. • Increase the possession limit for migratory birds taken by falconry in order to provide the full opportunity allowed to Colorado falconers under federal regulations. • Increase the Central Flyway light goose daily bag limit to provide the full opportunity allowed to Colorado hunters under federal regulations. 	September 12, 2013

2) Division of Water Resources

A. Anticipated Regulatory Calendar, 2014

i. Rio Grande Basin Groundwater Rules

The Division of Water Resources (DWR) anticipates final promulgation of groundwater use rules in the Rio Grande basin before March 31, 2014. These rules are intended to allow groundwater use while protecting senior surface water rights and the Rio Grande Compact. DWR convened a Special Advisory Committee to work on these rules, which has included entities that could be impacted by the rules such as municipalities, local governments, county governments, state agencies, conservation districts, irrigation districts, conservancy districts, individual water users, and water user associations. These rules will be promulgated pursuant to the State Engineer's statutory authority under the Water Right Determination and Administration Act, 37-92-501, C.R.S. Pursuant to the Act, these rules will be filed with the Colorado Water Court and not promulgated pursuant to general rulemaking authority under the Colorado APA.

ii. Republican River Basin Well-Metering Rules

DWR also anticipates amending the well metering rules in the Republican River Basin by the second quarter of 2014. These rules became effective in 2008, and during their promulgation an area to the south of the basin was inadvertently left out of the legal description. The local groundwater management district noted the issue and has asked DWR to modify the rules to include this area. While the wells are already metered, these anticipated rule amendments would bring the reporting and certification standards for these wells in line with the rest of the wells in the Republican River Basin. Entities that could be impacted by the rules amendment include management districts, conservation districts, well users, and towns. The statutory bases for these rules are 37-80-104 and 37-80-02(1)(g), C.R.S.

B. Regulations Adopted, Nov. 2012 – Oct. 2013

DWR did not adopt any permanent or temporary rules adopted since the previous DRA was filed on November 1, 2012.

3) Division of Reclamation, Mining, and Safety

A. Anticipated Regulatory Calendar, 2014

In 2013, 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 rulemaking authority under the Colorado Surface Coal Mining Reclamation Act, 34-33-108(1), C.R.S. Specifically, DRMS anticipates proposing amendments to 2 CCR 407-2, 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; 4.25.3; 4.25.5; 4.30.1; 5.02.2; 5.03.2; 5.03.5; 5.04; 5.04.3; 5.04.7; 5.04.8; 5.05.1; 5.06; 5.06.1; 5.06.2; 5.06.3; 5.06.4; 6.01.1; 6.01.3; 6.04; 7.06.2; and 7.06.3.

These rule amendments will be proposed to clarify existing rules and correct typographical errors; to be no less effective than and to conform to the Federal counterpart regulations at 30 CFR Part 700; and to conform to requirements set forth by the Director of the U.S. Department of the Interior Office of Surface Mining (OSM) as a result of deficiencies identified by OSM in its ongoing review of the MLRB coal-mining rules. Failure to adopt these 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 that address protection of the hydrologic balance; subsidence; valid existing rights determinations to mine lands designated unsuitable for mining; roads; coal exploration; technical revisions to a permit; performance bonds; blasting; backfilling and grading; revegetation; 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 and challenge procedures; transfer, assignment, or sale of permit rights; and alternative enforcement.

The proposed rules were submitted to the OSM for informal review on March 30, 2009, March 12, 2010, and February 28, 2011. Comments from and revisions required by OSM have been and will be incorporated into the rules that DRMS will propose. DRMS received a letter from OSM on May 16, 2013 that identified minor omissions in the proposed rules that resulted in the proposed rules being less effective than the corresponding federal rules. These issues had not been identified in OSM's previous informal reviews of the proposed rules. On July 19, 2013, DRMS provided OSM with revised proposed rules that responded to concerns outlined in OSM's May 16, 2013 letter, for further informal review.

DRMS has held two public meetings to discuss the proposed rule revisions and has received written comments from the Colorado Mining Association and others. In addition to members of the mining industry, other impacted groups include interested citizens, interested environmental groups, and local jurisdictions in which coal mines are located. DRMS will again initiate stakeholder meetings after OSM completes its informal review, and it will resubmit the proposed rules to OSM for a final formal review. After it receives approval from OSM to move forward, DRMS will initiate the state rulemaking process.

B. Regulations Adopted, Nov. 2012 – Oct. 2013

DRMS did not adopt any permanent or temporary rules adopted since the previous DRA was filed on November 1, 2012.

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, 2014

i. Reporting of Spills and Releases

On May 8, 2013, Governor Hickenlooper signed into law House Bill 13-1278, which related to the reporting of spills from oil and gas sites, and the Commission anticipates considering amendments to the 300 Series (Series Drilling, Development, Production, and Abandonment) and 900 Series (E&P Waste Management) of the Commission's Rules of Practice and Procedure, 2 CCR 404-1 (Rules), to implement its provisions. The rules will align COGCC's Rules to HB 13-1278 by requiring oil and gas operators to report any spill or releases of one barrel or more of exploration and production waste within 24 hours after the discovery to the COGCC as well as to either the municipality or county where the spill occurs, and requiring that the report include any information available to the operator concerning the type of waste involved in the spill. Such rules would align COGCC's Rules to HB 13-1278. The COGCC anticipates that this rulemaking hearing will commence in the fourth quarter of 2013.

A rulemaking on reporting of spills and releases would impact environmental groups, individuals, and industry to varying degrees.

ii. Wildlife Map Rulemaking – Greater Sage Grouse

The Commission, in conjunction with Colorado Parks and Wildlife, anticipates proposing updates to maps showing, and spatial data identifying, the individual and combined extents of restricted surface occupancy (RSO) areas and sensitive wildlife habitat (SWH) areas for greater sage-grouse. The Commission's Rules provide that such maps may be updated through the Commission's rule making process on a periodic basis, but no more frequently than annually for RSO area and biennially for SWH areas. It has been more than two years since the relevant maps were updated. The rule making would result in changes to the 100 Series (Definitions) of the Commission's Rules. The COGCC anticipates that this rulemaking hearing will commence in the first quarter of 2014.

The proposed rulemaking would impact industry, surface owners, environmentalists, ecologists, and sportsmen.

iii. Rule Clean-up

The Commission anticipates considering amendments to the 100 Series (Definitions), 300 Series (Series Drilling, Development, Production, and Abandonment), 400 Series (Unit Operations, Enhanced Recovery Projects, and Storage of Liquid Hydrocarbons), 600 Series (Series Safety Regulations), and 800 Series (Aesthetic and Noise Control Regulations) of the Commission's Rules to make corrections to any typographical errors, correct cross-reference errors, update references to applicable Forms, and make other non-substantive revisions to the Rules. Many of these proposed amendments may be incorporated in the other rulemakings. The COGCC anticipates that this rulemaking hearing will commence in the second quarter of 2014.

The proposed corrections are non-substantive, and the rulemaking is expected to have a neutral effect on all parties.

iv. Violation and Penalty Assessment Procedures

On May 8, 2013, Governor Hickenlooper signed Executive Order (EO) 2013-004 directing the COGCC to undertake a strategic review of its enforcement and penalty assessment procedures used to enforce its Rules and the Act. After conducting the review called for in EO 2013-004, the Commission may amend rules related to its procedures for issuing notices of alleged violations, penalty schedule and related policies, calculation or adjustment of penalties, and imposition and collection of fines. Additionally, the COGCC is currently undergoing a LEAN process-improvement program for the notices of alleged violation and enforcement, which may also result in proposed rule amendments. Such changes would generally be made in the 500 Series (Rules of Practice and Procedure) of the Commission's Rules. The COGCC anticipates that this rulemaking hearing could commence in the third quarter of 2014.

If rules are amended after the review called for in EO 2013-004, the rulemaking would impact environmental groups, individuals, and industry to varying degrees.

v. Site Construction in Floodplains

Historic flooding along Colorado's Front Range in September 2013 damaged personal property and public infrastructure including roads, bridges, water and wastewater treatment facilities, distribution and collection systems, and oil and gas facilities. Based on lessons learned about impacts to oil and gas sites, the COGCC has asked operators reengineering, reconstructing, and relocating facilities and equipment in the flood-impacted area, as well as those constructing new wells or production facilities in floodplains, to adopt practices such as utilizing armored secondary containment, structural tank restraints, upstream structural fencing, remote shut-in controls, and alignment of equipment that

locates tanks along streamlines. The COGCC may seek to amend its rules related to site construction in floodplains to implement these and other best practices to reduce and mitigate damage and impacts during future floods. These changes would occur in the 200 Series (General Rules), 600 Series (Safety), and 900 Series (Exploration and Production Waste Management) Rules of the Commission. COGCC anticipates that such a rulemaking hearing could commence in the third quarter of 2014.

Proposed amendments as to site construction in floodplains could impact industry, surface owners, environmental groups, individuals, and local governments to varying degrees.

B. Regulations Adopted, Nov. 2012 – Oct. 2013

i. Setback Rules

The COGCC adopted new setback rules that increase the minimum distance between wells and buildings to 500 feet statewide and impose stringent best management practices such as green completions and pit-less drilling on all wells and production facilities within 1,000 feet of occupied buildings. The new setback rules prohibit wells within 1,000 feet of specified “High Occupancy Buildings,” such as schools, day care centers, and hospitals, without Commission approval following a public hearing. The increased setbacks and required BMPs will eliminate or greatly reduce potential adverse impacts associated with drilling operations. The new rules also require operators to provide advance notice to all homes within 1,000 feet of a proposed new well before drilling operations begin, and to meet with community members when requested to do so. The combination of setback distances, required best management practices, and early engagement with neighbors make Colorado’s new setback rules among the most progressive and protective in the nation. The new setback rules took effect August 1, 2013.

ii. Groundwater Sampling Rules

In January 2013, Colorado became the first state in the nation to require operators to sample groundwater near new drilling sites both before and after drilling the well. Operators must sample domestic wells and springs within a half-mile of a new drilling site once before and twice after drilling at a new location. A maximum of four sampling locations is required. Within the Greater Wattenberg Area, one location per quarter section must be sampled, and only one post-drilling sample is required. Additional sampling may be required any time potential oil and gas impacts to groundwater are observed. All water quality data generated under the rule will be publicly available and can be provided to local governments upon request. The new sampling rules will protect and preserve Colorado’s groundwater resources, document baseline groundwater quality before oil and gas development, and improve detection of any adverse impacts. The new groundwater sampling rules took effect on May 1, 2013.

iii. Updates to Restricted Surface Occupancy Area and Sensitive Wildlife Habitat maps

On September 17, 2013, the COGCC amended the RSO and SWH maps, which are Appendix VII and VIII, respectively, to the COGCC’s Rules, and made conforming changes to the Commission Rule 100-Series definition of Sensitive Wildlife Habitat for all covered species except Greater sage-grouse. These updates to the maps and definitions are set to take effect on November 14, 2013.