

2018

Regulatory Agenda

January 1, 2018-December 31, 2018



COLORADO

Department of Natural Resources

Overview

The Colorado Department of Natural Resources submits the following 2018 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)(A).

The following constitutes the Department's Regulatory Agenda for 2017-2018 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
November 2017	2 CCR-406-1	Fishing	New Rule and Revision	33-1-101(4)	Open annually for all issues	Anglers	Changes included, but were not limited to, adopting catch and release, artificial flies and lures only regulations for Herman Gulch in Clear Creek County and Rock Creek in Park County.
November 2017	2 CCR-406-2	Big Game	Revision	33-4-102 (1)(IV)(b)	Open annually for CPI adjustments to nonresident big game license fees	Hunters	Finalized regulations in its annual two-step review (Sept-Nov) of 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.
November 2017	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 2017 spring and fall seasons.
November 2017	2 CCR-406-8	Field Trials	Revision	33-1-106(1)(c)	Opened for Mandatory Rule Review	Hunters	NA

November 2017	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 regulations establishing commission rates for license agents selling park passes and registrations, approved modifying regulations concerning agents and agent agreements based on future implementation of IPAWS, modifications to regulatory wording for how a park pass should be displayed for vehicles.
November 2017	2 CCR-406-17	Game Damage	Revision		Opened for Mandatory Rule Review	Landowners and Trappers	NA
January 2018	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.
January 2018	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 and goat 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. • Annual changes to limited license application and drawing process.
January 2018	2 CCR-406-12	Lake Licenses	Revision	33-1-104(4)	Opened for Mandatory Rule Review	Anglers/Land owners	NA

March 2018	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	<p>May was the final step in the Commission's annual review of Chapter 3 - Furbearers and Small Game. Small game season dates were updated for the 2017 - 2018 seasons. Other additional changes approved include the following:</p> <ul style="list-style-type: none"> • Requiring all live (cage or box) traps placed on public land to be labeled with the trapper's CID number or name if a CID number is not available. • Including the area west of I-25 in El Paso County in the extended season section of the state for quail hunting.
March 2018	2 CCR-406-5	Small Game - Migratory Birds	Revision	33-1-101(4)	Open annually for all issues	Hunters	Approved a correction to the opening and closing dates for the Pacific Flyway eastern zone for ducks, mergansers and scaup.
March 2018	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.

March 2018	2 CCR-406-11	Wildlife Parks and Unregulated Wildlife	Revision	33-1-101(2)	Open annually for all issues including unregulated wildlife requests	General Public	The Commission denied two citizen petitions related to unregulated wildlife: the first requested adding the two toed sloth to the unregulated wildlife list, the second requested adding the eastern gray kangaroo, western gray kangaroo and agile wallaby to the unregulated wildlife list. The Commission denied a third citizen petition requesting the addition of the Zoological Association of America as an acceptable accreditation agency.
March 2018	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.
March 2018	2 CCR-405-5	Snowmobile Regulations	Revision	33-14-102	Open annually for all issues	Snowmobile Users	NA
May 2018	2 CCR-406-2	Big Game	Revision	33-1-101(4)	Annual changes to deer, elk, pronghorn, bear, and moose quotas	Hunters	Approved the 2017 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.
September 2018	2 CCR-405-1	Parks and Outdoor Rec Lands	Revision	33-10-101	Open annually for all issues	Park Users	Reorganization of the chapter to list all existing park-specific regulations alphabetically by park.

September 2018	2 CCR-405-2	Boating	Revision	33-13-101	Open annually for all issues	Boaters	NA
September 2018	2 CCR-405-5	Off-Highway Vehicles	Revision	33-14.5-107	Open annually for all issues	OHV Users	Allowing passengers on off-highway vehicles (OHVs) which are designed for carrying passengers, as long as the passengers are not interfering with safe operation of the OHV.
NA	2 CCR-405-6	Procedural Rules	Repeal	33-1-101(4)	Open for regulatory efficiency review	Hunters/Park Users	Entire Chapter Repealed
September 2018	2 CCR-405-7	Passes, Permits and Registrations	Revision	33-12-100.2	Open annually for all issues	Park Users	<ul style="list-style-type: none"> • Addition of new regulations on fee waivers, discounts, and sponsorships related to park products and state wildlife area access permits. • Moving existing hunting special use permit regulations from Chapter P-6 into Chapter P-7. • Decreasing the number of hunting special use permits on Lone Mesa State Park from 35 to 25 for the 3rd and 4th seasons. • Requiring only one hunting special use access permit per hunter, per season at Lone Mesa State Park. • Transitioning from seven slots to six seasons for hunting the Green Ranch

							<p>at Golden Gate State Park.</p> <ul style="list-style-type: none"> • Creating one “Procedural Rules” chapter for both the parks and wildlife sides of the agency. • Providing refunds and restoration of preference points for individuals serving on jury duty as well as active duty military personnel who return licenses due to military deployment.
September 2018	2 CCR-405-8	Aquatic Nuisance Species	Revision	33-10.5-107	Open annually for all issues	Boaters	<p>Finalized regulations include, but are not limited to:</p> <ul style="list-style-type: none"> • Removing <i>Daphnia lumholtzii</i> from the prohibited aquatic nuisance species list and prohibited aquatic species list. • Requiring the removal of water drain plugs and aquatic plants from boats and trailers when leaving waters of this state and during overland transport. Defining clean, drain, and dry in regards to watercraft inspection and decontamination procedures.

September 2018	2 CCR-406-2	Big Game	Revision	33-1-101(4)	Annual changes to lion harvest quotas	Hunters	NA
November 2018	2 CCR-405-3	River Outfitters	Revision	33-32-101	Open annually for all issues	River Outfitters	Finalized regulations pertaining to river outfitters include the following: <ul style="list-style-type: none"> • Accepting aggregate miles (with specified criteria) as acceptable documentation for trip leader and guide instructor qualifications/experience. • Accepting a verified river log and signed perjury statement as initial proof of guide training when initial guide training documentation is lost or destroyed.
November 2018	2 CCR-406-1	Fishing	Revision	33-1-101(4)	Open annually for all issues	Anglers	Listed Above
November 2018	2 CCR-406-2	Big Game	Revision	33-4-102 (1)(IV)(b)	Open annually for CPI adjustments to nonresident big game license fees	Hunters	Listed Above
November 2018	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
November 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	Listed Above

January 2019	2 CCR-406-0	General Provisions	Revision	33-1-101(2)	Open annually for all issues	Hunters/Anglers	Listed Above
January 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	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
Unknown	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.	Unknown
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
December 2017	1100 Series	Flowline Rulemaking	Revision	s.34-60-105(1), -106(2), -108 C.R.S.	To update the Commission's flowline regulations and safety and accident requirements.	Industry, local governments, and general public.	Unknown
2018	700 Series	Idle Well and Financial Assurance	Revision	s.34-60-105(1), -106(13) C.R.S.	To update the Commission's idle well and financial assurance requirements.	Industry and general public.	Unknown
2018	310	Oil and Gas Conservation Levy Rate Change	Revision	s. 34-60-122(1) (a) C.R.S.	To increase levy rate, as needed, to meet the expenses chargeable against the Oil and Gas Conservation and Environmental Response Fund.	Industry, Environmental Community, General Public	2018

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>
2018	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	Not yet adopted because not received from OSM.
N/A	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	Ongoing

N/A	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	Ongoing
-----	--------------------------------	---	----------	--------------------	--	--	---------

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>
2018/2019	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
2/16/18	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	Ongoing
2018	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</i>	Water users throughout the state, water lawyers, water	Ongoing

					<i>review will be conducted to update the provisions of the rules.</i>	engineers, ground water modelers	
2018	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
2018	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.
2018	2 CCR 402-11	Rules for the Permitting and Use of Waters Artificially Recharged into the Denver Basin (Denver Basin Artificial	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	Ongoing

		Recharge Extraction Rules					
2018	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.	Ongoing
2018	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 revision to the complete set of rules will be addressed after the amendments above are complete</i>	Designated ground water basin water users, water lawyers, water resource engineers, local ground water management districts	Ongoing

2018		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
2018		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

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 <i>Consider including high-level outreach bullets</i>	List of all rules adopted since previous DRE was filed
2019	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	