

September 28, 2012

**RULE-MAKING NOTICE  
PARKS AND WILDLIFE COMMISSION MEETING  
November 8 & 9, 2012**

In conformance with the State Administrative Procedures Act, section 24-4-103, C.R.S., the Parks and Wildlife Commission gives notice herewith that regulations will be considered for adoption at their next meeting on **November 8 & 9, 2012. The Parks and Wildlife Commission meeting will be held at Yuma Community Center, 421 E. 2<sup>nd</sup> Ave., Yuma, CO 80759.**

**The following regulatory subjects and issues shall be considered** pursuant to the 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.

**FINAL REGULATORY ADOPTION – November 8, 2012 beginning at 8:30 a.m.**

**EFFECTIVE DATE OF REGULATIONS** approved during the November 2012 Parks and Wildlife Commission meeting: January 1, 2013, unless otherwise noted.

**FINAL REGULATIONS:**

**Chapter 1 - "Fishing" 2 CCR 406-1**

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding seasons and season dates, bag and possession limits, licensing requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state, including, but not limited to, the following:

- Extension of the Bear Creek (El Paso County) fishing closure downstream to protect native greenback cutthroat trout.
- 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.
- 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.

Except for regulations pertaining to Bear Creek, these Chapter 1 - Fishing regulations will become effective April 1, 2013.

**Chapter 2 - "Big Game" 2 CCR 406-2**

Open for consideration of regulations adjusting non-resident big game license fees according to the Consumer Price Index and 33-4-102(1.6)(b), C.R.S., and adjusting non-resident big

game license fees for wildlife management purposes, including reducing nonresident license fees for antlerless elk, bear and mountain lion, pursuant to 33-4-102 (1.6)(a)(II) C.R.S.

### **Chapter 3 - "Furbearers and Small Game, except Migratory Birds" 2 CCR 406-3**

Open for annual review of regulations regarding turkey hunting, including but not limited to, license areas and license numbers, season dates, and manner of take provisions for 2013 turkey hunting seasons, including, but not limited to, the following:

- Modification of the Youth Outreach Hunting Licenses program to improve participation.
- Opening GMU 30 (north of Grand Junction) to draw-only spring turkey hunting.

### **Chapter 11 - "Wildlife Parks and Unregulated Wildlife" 2 CCR 406-11**

Open for consideration of regulations pertaining to Commercial Wildlife Parks, including, but not limited to the following:

- 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.

### **Chapter 15 - "License Agents" 2 CCR 406-15**

Open for consideration of regulations regarding license agents, including but not limited to, adjusting commission rates applicable to the sale of licenses by license agents due to adjustments made to nonresident big game license fees in Chapter 2 ("Big Game, 2 CCR 406-2) pursuant to 33-4-102(1.6), C.R.S.

### **Chapter 17 - "Game Damage" 2 CCR 406-17**

Open for consideration of regulations pertaining to Game Damage, including but not limited to:

- 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.

### **CITIZEN PETITIONS:**

**Final action may be taken on rule-making petitions at any step of the Commission's generally applicable three-step rule-making process.**

### **Chapter 0 - "General Provisions" 2 CCR 406-0**

At its November meeting, the Parks and Wildlife Commission will consider a Citizen Petition for Rulemaking related to General Provisions, as follows:

- *A Citizen Petition for rulemaking* requesting the Commission consider allowing the use of certain dogs to take rabbits, hares or squirrels where a regular deer, elk, pronghorn or moose season is in progress.

The Commission may accept all or a portion of the petition(s) for final action, further consideration or otherwise reject the petition(s) at the November Commission meeting. A copy of the petition(s) may be obtained by contacting Brett Ackerman (303) 291-7278, Regulations Manager, Colorado Parks and Wildlife.

#### **Chapter 11 - "Wildlife Parks and Unregulated Wildlife" 2 CCR 406-11**

At its November meeting, the Parks and Wildlife Commission will consider four Citizen Petitions for Rulemaking related to Wildlife Parks and Unregulated Wildlife, as follows:

- *Citizen Petitions for rulemaking* requesting the Commission consider allowing Wildlife Sanctuaries to possess animals taken from the wild.

The Commission may accept all or a portion of the petition(s) for final action, further consideration or otherwise reject the petition(s) at the November Commission meeting. A copy of the petition(s) may be obtained by contacting Brett Ackerman (303) 291-7278, Regulations Manager, Colorado Parks and Wildlife.

#### **DRAFT REGULATIONS:**

#### **Chapter 0 - "General Provisions" 2 CCR 406-0, and those related provisions of Chapter 3 - ("Furbearers and Small Game, except Migratory Birds" 2 CCR 406-3) necessary to accommodate changes to or ensure consistency with Chapter 0**

Open for annual review of the entire chapter, including but not limited to:

- 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 alternative livestock and those commercial parks already in possession of and licensed to have 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 ½ mile hunting closure on either side of Colo 5 (Mount Evans Road) during times the highway is closed to vehicular traffic.

#### **Chapter 16 - "Procedural Rules for the Wildlife Commission" 2 CCR 406-16**

Open for implementation of 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.

#### **ISSUES IDENTIFICATION:**

#### **Chapter 2 - "Big Game" 2 CCR 406-2 and those related provisions of Chapter 0 - ("General Provisions" 2 CCR 406-0) necessary to accommodate changes to or ensure consistency with Chapter 2**

Open for review of the entire chapter, including, but not limited to:

- 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.

**Except for the time indicated for when the meeting is scheduled to begin, the order indicated for each agenda item is approximate and subject to change when necessary to accommodate the Commission's schedule.**

**Viewing of Proposed Rules:** copies of the proposed rules (together with a proposed statement of basis and purpose and specific statutory authority), will be available for inspection and distribution at the Office of the Regulations Manager, Division of Parks and Wildlife, 6060 North Broadway Denver, Colorado, at least five (5) days prior to the date of hearing. Such copies, however, are only proposals to be submitted to the Commission by the Division of Parks and Wildlife.

**Modification of Proposed Rules prior to adoption:** subject to the provisions of Section 24-4-103, C.R.S., modification of these proposals may be made by the Division of Parks and Wildlife or the Commission before the Commission promulgates final rules and regulations on the above topics.

**Comment deadlines:** Comments will be accepted at any time prior to, or as part of the meeting. However, to ensure sufficient time for consideration prior to the meeting, **comments should be provided to the Division of Parks and Wildlife by noon on the following date:**

**October 25, 2012,** for mailing by the Division of Parks and Wildlife to the Parks and Wildlife Commission on **October 26, 2012.**

Comments received by the Division after noon on **October 25, 2012,** will be provided to the Commission on the day of the meeting.

**Opportunity to submit alternate proposals and provide comment:** the Commission will afford all interested persons an opportunity to submit alternate proposals, written data, views or arguments and to present them orally at the meeting unless it deems such oral presentation unnecessary. Written alternate proposals, data, views or arguments and other written statements should be submitted to the Division of Parks and Wildlife at 6060 Broadway, Denver, CO 80216; e-mailed to **CPWCommission@state.co.us,** or faxed to the Division of Parks and Wildlife at 303-291-7110.

#### **Use of Consent Agenda:**

**In order to increase the Parks and Wildlife Commission's efficiency and allow more time for consideration of parks and wildlife policy and contested issues, some or all of this regulatory agenda may be listed for action by the Commission as part of a "Consent Agenda" for this meeting.**

#### ***The process for placing matters on the Consent Agenda is as follows:***

*The Director identifies matters where the recommended action follows established policy or precedent, there has been agreement reached or the matter is expected to be uncontested and non-controversial. Staff will provide written memos to the Parks and Wildlife Commission members explaining the matters on the Consent Agenda. Copies of the memos will be available to the public.*

*Regulatory Matters on the Consent Agenda are noticed for hearing at the same time and in the same manner as other consent agenda items. If a member of the Commission requests further*

*consideration of an item on the consent agenda, that item will be withdrawn from the Consent Agenda and discussed at the end of the meeting or at the next meeting. The Consent Agenda may be voted on without the necessity of reading individual items. Any Commission member may request clarification from the Director of any matter on the Consent Agenda.*

**OTHER AGENDA ITEMS:** The Parks and Wildlife Commission may consider and make policy, program implementation, and other non-regulatory decisions, which may be of public interest at this meeting. A copy of the complete meeting agenda may be viewed on the Division of Parks and Wildlife's internet home page at [www.wildlife.state.co.us](http://www.wildlife.state.co.us), on or after **October 29, 2012**.