

# 2019

## Division of Water Resources

## Regulatory Agenda

November 1, 2018-October 31, 2019



**COLORADO**  
Department of Natural Resources

## 2019 Regulatory Agenda for the Division of Water Resources

### Overview

The Colorado Division of Water Resources 2019 Regulatory Agenda is published 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 2019 (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 Colorado Division of Water Resource's Regulatory Review Calendar for November 2018 through October 2019. Should you have questions concerning any listing in this calendar please contact Joseph Grantham at: [jody.grantham@state.co.us](mailto:jody.grantham@state.co.us)

Colorado Division of Water Resources							
Hearing or Adoption Date	Rule Number	Rule Title	New Rule, Revision, or Repeal?	Statutory or Other Basis for Adoption of Rule	Purpose of Proposed Rule	High-Level Stakeholders <i>Consider including high-level outreach bullets</i>	Status <i>Adopted/Not Adopted/Withdrawn/Ongoing</i>
2019	2 CCR 402-1	Dam Safety and Construction Rules	Revisions	Sections 37-87-102, 105, 37-80-102(k), 24-4-103	Amending rules to modify spillway requirements and clarify extreme precipitation estimate methodologies	Public at large, dam owners, construction and dam design engineers, FEMA, Homeland Security	Ongoing
3/31/18	2 CCR 402-3	Adjudicatory Hearings before the Colorado Ground Water Commission	Revisions	Sections 37-90-111(1)(h), 24-4-131	<i>Update and revise rules that govern rulemaking and adjudicatory hearings with open and clear procedures</i>	Designated Ground Water Management Districts and constituents, water lawyers	Adopted
2019	2 CCR 402-7	Statewide Nontributary Rules	Review for revisions	Sections 37-90-137(9)(a), (b) and 37-80-102(1)(g)	<i>Governs well permitting of nontributary water statewide. The review will be conducted to update the provisions of the rules.</i>	Water users throughout the state, water lawyers, water engineers, ground water modelers	Ongoing

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

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7/1/18	2 CCR 402-11	Rules for the Permitting and Use of Waters Artificially Recharged into the Denver Basin (Denver Basin Artificial Recharge Extraction Rules	Review for revisions	Sections 37-80-102(1)(g) & (k), 37-90-138, 37-90-137(9)(d)	<i>Revise to make consistent with HB17-1076</i>	Water users, water resource engineers including modelers, geologists, cities and users overlying the Denver Basin, water lawyers	Adopted
01/01/18	2 CCR 402-14 Remedial Action	Rules and Regulations for Administration of Licensing, Financial Responsibility, Continuing Education and	Revisions	Section 37-91-104(1)	<i>Revise drillers and pump installers, license process, continuing education process and remedial actions.</i>	Public at large, well owners, well construction contractors, water users, pump installers, Colorado Ground Water Assoc., Colorado Well Contractors Assoc.	Adopted

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On 05/15/18 Rule 5.2.9 adopted. Hearing on Artificial Recharge 11/26/18. All others in 2019	2 CCR 410-1	Rules and Regulations for the Management and Control of Designated Ground Water	Revisions and amendments	Sections 37-90-107, 108, 109 and 111	<i>This will involve three separate rulemaking processes. One will be to redefine and clarify artificial recharge, storage and replacement plans (Rules 5.6 &amp; 5.8). The second will be to amend Rule 5.2.9 to determine the alluvial aquifer and all of the Fan &amp; 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

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

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2018. Trial held, awaiting judge decision.		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