



COLORADO

Parks and Wildlife

Department of Natural Resources

1313 Sherman St, Room 111
Denver, CO 80203
P 303.866.3203

TO: Members of the Colorado Parks and Wildlife Commission
FROM: Krista Heiner, Regulations Manager
RE: Emergency Regulations for Chapter W-0
DATE: April 3, 2020

Emergency regulatory changes for Chapter W-0 - "General Provisions" - 2 CCR 406-0 are summarized below. Redline versions of these proposed emergency regulatory changes are included. If there are questions about the agenda items below, or if additional information is needed, please feel free to contact me at 303-866-3203 x4609.

Chapter W-0 is open for consideration of emergency regulations to temporarily expand the Parks and Wildlife Commission's delegation of authority to the Director of the Division of Parks and Wildlife to establish and enforce temporary closures of, or restrictions on, lands and waters of the state to hunting and fishing or other wildlife-related recreation, after consultation with the relevant board of county commissioners, due to the presence of COVID-19 in the state. Emergency rule #027 will remain in effect up to and including May 1, 2020.

Yuma County Commissioners have requested that the Commission impose a turkey hunting season closure in their county based on concerns about COVID-19. In an effort to be responsive to the request, the Commission is delegating authority to the Director to close the Spring Turkey season in Yuma County until May 2.

The Division has, to the extent it could, given notice of its emergency rulemaking. Notice of the proposed emergency rulemaking was posted online on the CPW website, indicating the Commission would consider the emergency regulations on April 6, 2020 and written comment would be accepted prior to that date. The notice was not posted at the State Capitol, at the Division of Parks and Wildlife headquarters, Regional Service Centers, and Area Service Centers (area offices) due to the closure of these facilities to the public in light of the COVID-19 pandemic and Executive Order D 2020 017.

EMERGENCY REGULATIONS- CHAPTER W-0 - GENERAL PROVISIONS

#027 –Director’s Authority

- A. The purpose of this emergency regulation is to temporarily expand the Parks and Wildlife Commission’s delegation of authority to the Director of the Division of Parks and Wildlife due to the presence of Covid-19 in the state. This emergency rule is intended to temporarily expand the delegation of authority granted in regulation W-0 #020(F) (Director’s Authority). No Director closure order issued under this emergency regulation shall have any effect after May 1, 2020.

- B. The Director of the Division may, after consulting with the relevant board of county commissioners, establish and enforce temporary closures of, or restrictions on, lands and waters of the state to hunting, fishing or other wildlife-related recreation, including but not limited to the collection of shed antlers, for any period of time, up to and including May 1, 2020. Such temporary closures may be established and enforced only where necessary to protect public safety, protect threatened or endangered wildlife species, protect wildlife resources from significant natural or manmade threats, such as the introduction or spread of disease or nuisance species, changing environmental conditions or other similar threats, protect time-sensitive wildlife use of lands or waters, protect against additional and significant environmental damage after an area has sustained a natural or manmade disaster, or to facilitate Division-sponsored wildlife research projects or management activities. Whenever such closure is established, public notice of the closure shall be given indicating the nature and purpose of the closure. The closure shall be posted on the Colorado Parks and Wildlife website and the Division shall, to the extent practicable, give actual notice to potentially-affected license holders. After such closure, it shall be unlawful to hunt, fish or engage in any other designated wildlife-related recreation on such lands or waters or enter the lands or waters for the purpose of hunting, fishing or any other designated wildlife-related recreation.

MAILING – 04/03/2020
Basis and Purpose
Chapter W-0 - General Provisions

Basis and Purpose:

At the April 6, 2020 emergency rulemaking hearing, the Colorado Parks and Wildlife Commission adopted emergency rules affecting Chapter W-0 (General Provisions, 2 CCR 406-0). The emergency rule temporarily expands the Parks and Wildlife Commission's delegation of authority to the Director of the Division of Parks and Wildlife to establish and enforce temporary closures of, or restrictions on, lands and waters of the state to hunting and fishing or other wildlife-related recreation, after consultation with the relevant board of county commissioners, due to the presence of COVID-19 in the state. Emergency rule #027 will remain in effect up to and including May 1, 2020.

Yuma County Commissioners requested that the Commission impose a turkey hunting season closure in their county based on concerns about COVID-19. In an effort to be responsive to the request, the Commission delegated authority to the Director to close the Spring Turkey season in Yuma County until May 2, 2020.

The Commission adopted the foregoing rules on an emergency basis as authorized by the Colorado Administrative Procedures Act (APA), CRS § 24-4-103(6)(a). This section authorizes emergency rules where "the agency finds that immediate adoption of the rule is imperatively necessary ... for the preservation of public health, safety, or welfare and compliance" where the APA's standard rulemaking requirements "would be contrary to the public interest." The Commission finds such standards are satisfied here.

The Commission is required to manage wildlife and their environment for "the use, benefit, and enjoyment of the people of this state and its visitors" (CRS, § 33-1-101(1)) and it has the responsibility "for all wildlife management, for licensing requirements, and for the promulgation of rules, regulations, and orders concerning wildlife programs." C.R.S § 33-1-104(1). The Commission has the authority to "[d]etermine under what circumstances, when, in which localities, by what means, what sex of, and in what amounts and numbers the wildlife of this state may be taken and, further, to shorten, extend, or close seasons on any species of wildlife in any specific locality or the entire state when it finds after investigation that such action is necessary to assure maintenance of adequate populations of wildlife or to preserve the proper ecological balance of the environment." C.R.S. § 33-1-106(1)(a). In addition, the Commission has the authority to adopt "...such rules or regulations as may be reasonably necessary for the administration, protection, and maintenance of all land and water, or interests in land and water, acquired by the commission....Specifically, the commission shall have power to adopt rules or regulations upon the following matters....(c) Necessary sanitation, health and safety measures." C.R.S. § 33-1-107(1).

The Division has, to the extent it could, given notice of its emergency rulemaking. Notice of the proposed emergency rulemaking was posted online on the CPW website, indicating the Commission would consider the emergency regulations on April 6, 2020 and written comment would be accepted prior to that date. The notice was not posted at the State Capitol, at the Division of Parks and Wildlife headquarters, Regional Service Centers, and Area Service Centers (area offices) due to the closure of these facilities to the public in light of the COVID-19 pandemic and Executive Order D 2020 017.

The statements of basis and purpose for these regulations can be viewed online at <https://cpw.state.co.us/aboutus/pages/commission.aspx> and copies can be obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager by emailing Krista Heiner at krista.heiner@state.co.us. The statement of basis and purpose is not available at the Division of Parks and Wildlife headquarters due to the closure of these facilities to the public in light of the COVID-19 pandemic and Executive Order D 2020 017.

The primary statutory authority for these regulations can be found in § 24-4-103, C.R.S., and the state Wildlife Act, § 33-1-101 to § 33-6-209, C.R.S., specifically including, but not limited to: § 33-1-

106, § 33-1-107 and § 33-9-103(3) (“The director shall exercise all the powers and perform all the functions of the commission in the interim between its meetings, subject to the ratification of the commission.”).

EFFECTIVE DATE - THESE EMERGENCY REGULATIONS SHALL BECOME EFFECTIVE IMMEDIATELY UPON ADOPTION AND SHALL REMAIN IN EFFECT UP TO AND INCLUDING MAY 1, 2020.

APPROVED AND ADOPTED BY THE PARKS AND WILDLIFE COMMISSION OF THE STATE OF COLORADO THIS 6TH DAY OF APRIL, 2020.

**APPROVED:
Michelle Zimmerman
Chair**

**ATTEST:
James Vigil
Secretary**