

COGCC Wildlife Series Rules Update

Parks and Wildlife Commission Meeting
June 10-11, 2021

June 10, 2021



COLORADO
Oil & Gas Conservation
Commission

Department of Natural Resources

Priya Nanjappa
Julie Murphy
Greg Deranleau

Who are we and what do we do?

- Commission:

- 5 full-time Commissioners with particular expertise to bear on COGCC decisions:
 - ◆ Priya Nanjappa - Environment/Wildlife
 - ◆ John Messner - Local Government/Land Use Planning
 - ◆ Karin McGowan - Public Health
 - ◆ Bill Gonzales - Oil & Gas
 - ◆ Jeff Robbins, Chair - Policy & Decision-making Expertise
- 2 ex officio, non-voting members:
 - ◆ Dan Gibbs, DNR
 - ◆ Shaun McGrath, CDPHE



Who are we and what do we do?

- Organization:
 - 140 Staff Members
 - Leadership Team organized by discipline:
 - ◆ Deputy: Scott Cuthbertson
 - ◆ Environmental: Greg Deranleau
 - ◆ Permitting: Jane Stanczyk
 - ◆ Engineering: Dave Andrews
 - ◆ Field: Mike Leonard
 - ◆ Regulatory: Mimi Larsen
 - ◆ Communications: Megan Castle
 - ◆ Budget: Jarrett Ellis
- Directive:
 - to regulate oil and gas development “in a reasonable manner to protect and minimize adverse impacts to public health, safety, and welfare, the environment, and wildlife resources and shall protect against adverse environmental impacts on any air, water soil, or biological resources resulting from oil and gas operations.”



Day-to-Day Operations

- New rules implemented as of [January 15, 2021](#)
- Drilling and Spacing Units
- Siting: Form 2As (Oil & Gas Development Plan, OGDG)
 - Surface location, number of wells
 - Co-equal authority with local government
- Mineral Development: Form 2s (Application for Permit to Drill)
- Inspections, Enforcement, Remediation, Reclamation



Overview of SB 19-181

- Governor Polis signed SB 19-181 on April 16, 2019
 - Reconstituted the Commissioners (twice)
 - Set a new mission for the COGCC = “Mission Change”
 - ♦ From “foster” to “regulate” oil and gas development
 - ♦ Prioritizes public health, safety, welfare, the environment, and wildlife resources
 - Created new local government authority over surface impacts and siting
 - Directed COGCC to undertake numerous rulemakings
 - Next up: Financial Assurance (Sept/Oct 2021)



1200 Series Wildlife Rules

THANK YOU to your CPW Staff

Incredible collaboration between
COGCC and CPW to develop, revise, and
refine rules and review initial
stakeholder input

... it continues ...



1200 Series Wildlife Rules

- Key Concepts
 - Mitigation Hierarchy:
 - ◆ Avoid → Minimize → Mitigate
 - Landscape level planning:
 - Wildlife Protection Plans
 - Wildlife Mitigation Plans
 - Comprehensive Area Plans (CAPs)
 - Early consultation with CPW encouraged



1200 Series Wildlife Rules

- Key Concepts
 - High Priority Habitat (Rule 1202. c, d)
 - ◆ Substitution for Restricted Surface Occupancy and Sensitive Wildlife Habitat
 - ◆ Reflects species for which there is sufficient geographical information and available and appropriate best management practices
 - CPW may request consultation outside of HPH



1200 Series Wildlife Rules

- Key Concepts
 - Compensatory mitigation ([Rule 1203](#))
 - ◆ requirements that provide flexibility for an operator to implement a Wildlife Mitigation Plan or pay a fee when direct or indirect impacts are unavoidable in High Priority Habitat



1200 Series Wildlife Rules

- Relationship to other Rule Series
 - 300 Series (Permitting Process)
 - ♦ Creates coordination process with local and federal governments on proposed oil and gas development, including protections for wildlife resources
 - ♦ OGDPs and CAPs must include:
 - evaluation of potential impacts to terrestrial and aquatic wildlife resources and ecosystems
 - Wildlife Protection Plans in general
 - Wildlife Mitigation Plans when within High Priority Habitat
 - COAs protective of wildlife resources
 - engaging with CPW for its recommendations



1200 Series Wildlife Rules

- Relationship to other Rule Series
 - 300 Series (Permitting Process, cont'd)
 - ◆ Alternative Location Analysis ([Rule 304.b.2.B](#))
 - Any location proposed within:
 - a floodplain,
 - a surface water supply area,
 - High Priority Habitat,
 - a wetland or riparian corridor (or immediately up-gradient)



1200 Series Wildlife Rules

- Relationship to other Rule Series
 - ◆ Cumulative Impacts ([Rules 303 and 304](#)):
 - Cumulative Impacts Data Evaluation Repository ([CIDER](#))
 - gathering data about impacts to wildlife habitat
 - Annual reporting after January 15, 2022 ([Rule 904](#))
 - Provisions in other Rules:
 - ◆ [400 Series](#): noise, light, dust, water quality



1200 Series Wildlife Rules

- General Operating Requirements ([Rule 1202. a](#))
 - Statewide
 - ◆ Bear proof dumpsters
 - ◆ Water hose disinfection
 - ◆ Fence and net pits (or other CPW approved exclusion)
 - ◆ Escape ramps in open trenches
 - ◆ Wildlife-friendly seed mixes for reclamation
 - ◆ CPW-recommended fence designs
 - ◆ Nesting bird protection during vegetation removal
 - High Priority Habitat
 - ◆ Stream crossings
 - ◆ Mosquito treatment



1200 Series Wildlife Rules

- High Priority Habitat (1202. c)
 - Columbian sharp-tailed grouse (within 0.6 miles of the lek site)
 - Greater prairie chicken (within 0.6 miles of the lek site)
 - Greater sage-grouse (within 1.0 miles of the lek site)
 - Gunnison sage-grouse (within 1.0 miles of the lek site)
 - Lesser prairie chicken (within 1.25 miles of the lek site);
 - Plains sharp-tailed grouse (within 0.4 miles of the lek site);



1200 Series Wildlife Rules

- High Priority Habitat ([1202. c](#), cont'd)
 - Bald eagle (within 0.25 miles of an active nest);
 - Ferruginous hawk (within 0.5 miles of an active nest);
 - Golden eagle (within 0.25 miles of an active nest);
 - Northern goshawk (within 0.5 miles of an active nest);
 - Peregrine falcon (within 0.5 miles of an active nest);
 - Prairie falcon (within 0.5 miles of an active nest);
 - Least tern production area;
 - Piping plover production area;
 - Townsend's big-eared bat, Mexican free-tailed bat, and myotis (within 350 feet of winter hibernacula);



1200 Series Wildlife Rules

- High Priority Habitat (1202. c, cont'd)
 - Bighorn sheep production area;
 - Waters identified by CPW as “Gold Medal” (within 500 feet of OHWM);
 - Cutthroat trout designated crucial habitat and native fish and other native aquatic species conservation waters (within 500 feet of OHWM);
 - Sportfish management waters not identified by CPW as “Gold Medal” (within 500 feet of OHWM); and
 - CPW-owned State Wildlife Areas and State Parks



1200 Series Wildlife Rules

- High Priority Habitat: DETAILS
 - 1202.c subset: No Surface Occupancy (NSO)
 - ◆ Aligns with prior list of Restricted Surface Occupancy (RSO)
 - ◆ Avoidance is the single most effective means to protect
 - 1202.d subset: density determination
 - ◆ Big game (Bighorn Sheep, Elk, Pronghorn)
 - migration corridors and winter range/winter concentration areas;
 - Grouse species
 - Occupied habitat, production areas and focal areas
 - Data show adverse impacts from increasing location density
 - Other HPH areas are mapped and subject to CPW consultation
 - ◆ “Other Consultation Habitat”
 - Species with good spatial data AND
 - Evidence based protection methods



Aquatic Habitat Protections

- Riparian Setbacks
 - 500 ft from Ordinary High Water mark
 - ◆ cutthroat trout designated crucial habitat,
 - ◆ native aquatic species conservation waters,
 - ◆ sportfish management waters
 - ◆ No new staging, refueling, or chemical storage areas
 - Exclusions/Exceptions:
 - ◆ access and utility/pipeline corridors
 - ◆ intermittent and ephemeral streams within the native aquatic species conservation waters and sportfish management waters **with consultation**



Aquatic Habitat Protections

- Within 1,000 feet of a public water supply source (including surface and groundwater):
 - oil and gas operations prohibited
 - increased protections for locations within ½ mile
- Within floodplains:
 - specific best management practices for oil and gas operations
- Surface water and groundwater protections throughout life cycle:
 - 900 series: water testing of pits, existing pit inventory, reclamation standards
 - robust wellbore construction, integrity monitoring
 - plugging requirements to protect groundwater that could be connected to surface waters



Photo by Ryan Fitzpatrick



Aquatic Habitat Protections

- Reducing risk from spills:
 - requiring secondary containment; enhanced spill response requirements; prohibiting use of certain chemicals in frack fluids; requiring chemical tracking; equipment integrity management; and regulating chemicals used for dust suppression
- Enhanced planning tools to avoid impacts to surface water:
 - tracking development near surface waters; hydrology mapping; and incentivizing water reuse and recycling, including quantification of water use



Photo by Ryan Fitzpatrick



Additional upcoming tasks:

- Compensatory Mitigation
 - ◆ CPW will update COGCC soon
- Biological Resources Working Group
 - ◆ Broad group of stakeholders
 - ◆ Defining terms, identifying data sources
 - ◆ Recommendations due **15 January 2022**
- Riparian Areas Technical Working Group
 - ◆ CPW and COGCC staff
 - ◆ Identifying data sources, mapping



Opportunities for partnership?

- Identifying species for additional research on oil & gas impacts
- Pooling of funds for projects
- Other?



ACKNOWLEDGEMENTS - THANK YOU!

- Brett Ackerman
- Energy Liaisons:
 - Jon Holst (formerly SW)
 - Dr. Karen Voltura (SE)
 - Brandon Marrette (NE)
 - Taylor Elm (NW)
- Land Use Specialists:
 - Brian Magee
 - Dani Neumann
 - Elissa Slezak
- Terrestrial Specialists:
 - Brad Banulis
 - Dr. Chuck Anderson
- Aquatic Specialists:
 - Josh Nehring
 - Dr. George Schisler
- COGCC Staff:
 - Director Julie Murphy
 - Greg Deranleau, Mimi Larsen, AAG Caitlin Stafford, John Noto, Dave Kubeczko, Melissa Housey, Sabrina Trask, Dr. Denise Arthur, & many more!





Questions?



COLORADO

**Oil & Gas Conservation
Commission**

Department of Natural Resources

Priya Nanjappa
Priya.Nanjappa@state.co.us