

EMERGENCY REGULATIONS - CHAPTER 10 - NONGAME WILDLIFE

ARTICLE V

#1005 - EMERGENCY REGULATIONS

- ~~1. Livestock owners and their agents are authorized to use hazing techniques when necessary to prevent or reduce injury or damages to livestock and guard animals caused by gray wolves (*Canis lupus*).~~
- ~~a. "Hazing techniques" means the use of:~~
- ~~(i) Livestock guard animals,~~
- ~~(ii) Fladry or electrified fladry,~~
- ~~(iii) Cracker shells, rubber buckshot, rubber slugs, and bean bag rounds,~~
- ~~(iv) Scare devices or tactics including propane cannons, vehicles, ATVs, range riders, noisemakers, fox lights and motion- and radio-activated guard devices.~~
- ~~b. Hazing that results in the injury or death of a wolf is not permitted. Any person who injures or kills a wolf must report the same to the Division within 48 hours.~~
- ~~c. Hazing must be consistent with federal law. If gray wolves are on the list of federally endangered or threatened species, hazing is prohibited unless authorized by the United States Fish and Wildlife Service.~~
- ~~d. For purposes of this rule, "livestock" is defined in § 35-1-102(6), CRS.~~
1. Livestock owners and their agents are authorized to use hazing techniques when necessary to prevent or reduce injury or damages to livestock and guard animals caused by gray wolves (*Canis lupus*).
- a. "Hazing techniques" means the use of:
- (i) Livestock guard animals,
- (ii) Fladry or electrified fladry,
- (iii) Cracker shells and bean bag rounds,
- (iv) Scare devices or tactics including propane cannons, vehicles, ATVs, range riders, noisemakers, fox lights and motion- and radio-activated guard devices.
- b. Hazing that results in the injury or death of a wolf is not permitted. Any person who injures or kills a wolf must report the same to the Division within 48 hours.
- c. Hazing must be consistent with federal law. If gray wolves are on the list of federally endangered or threatened species, hazing is prohibited unless authorized by the United States Fish and Wildlife Service.
- d. For purposes of this rule, "livestock" is defined in § 35-1-102(6), CRS.

**Basis and Purpose:**

On January 12, 2022, the Colorado Parks and Wildlife Commission adopted new regulations authorizing livestock owners and their agents to haze gray wolves to prevent or reduce injury to livestock. The rules identified authorized hazing techniques, including the use of rubber buckshot and slugs. The Commission adopted a permanent hazing rule and an identical emergency rule. The Commission adopted an emergency rule to authorize lawful hazing immediately, and in response to a confirmed wolf depredation incident in Jackson County.

On February 10, 2022, a federal court vacated a 2020 rule by the U.S. Fish and Wildlife Service (USFWS) that removed Endangered Species Act (ESA) protections for gray wolves. As a result of the order, gray wolves in Colorado are once again classified as endangered and protected under the ESA. Primary management authority over gray wolves returned to the USFWS as a result of the ruling.

On March 7, 2022, the USFWS provided CPW with a guidance letter identifying various hazing methods that are consistent with the ESA. The letter does not specifically identify rubber buckshot or slugs, so CPW is amending its hazing regulations to remove such projectiles from its list of authorized hazing techniques. Specifically, the Commission now repeals the emergency rule it adopted on January 12, 2022, and adopts an emergency rule and permanent rule removing rubber buckshot and slugs from its list of authorized hazing techniques.

State law enables the Commission to pass emergency rules with no notice or public comment if the Commission “finds that immediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for the preservation of public health, safety, or welfare....” § 24-4-103(6)(a), CRS. The Commission finds these standards are satisfied here.

The Commission repealed and restated its emergency rules governing hazing because of the court ruling, because of the Jackson County incident, and because “[r]estoration of the gray wolf to the state must be designed to resolve conflicts with persons engaged in ranching and farming in this state.” § 33-2-105.8(1)(d), CRS.

The statutory authority for the emergency repeal and recodification of CPW’s hazing rule includes § 33-6-128(1), CRS (it is unlawful to harass wildlife unless permitted by CPW) and § 33-2-105.8(1)(d), CRS (gray wolf restoration must be designed to resolve conflicts with farmers and ranchers).

The statements of basis and purpose for these regulations can be viewed and copies obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager, Public Involvement Unit, 6060 Broadway, Denver, CO 80216.

**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, C.R.S.**

**THE AMENDED EMERGENCY REGULATION #1005.1 RELATED TO WOLF HAZING SHALL BECOME EFFECTIVE IMMEDIATELY UPON ADOPTION AND SHALL REMAIN IN EFFECT FOR NO MORE THAN 120 DAYS OR UNTIL PERMANENT REGULATIONS TAKE EFFECT, WHICHEVER OCCURS FIRST, OR THE EMERGENCY REGULATIONS ARE OTHERWISE REPEALED, AMENDED OR SUPERSEDED.**

**APPROVED AND ADOPTED BY THE PARKS AND WILDLIFE COMMISSION OF THE STATE OF  
COLORADO THIS 4TH DAY OF MAY, 2022.**

**APPROVED:  
Carrie Besnette Hauser  
Chair**

**ATTEST:  
Luke B. Schafer  
Secretary**

**Philip J. Weiser**  
Attorney General

**Natalie Hanlon Leh**  
Chief Deputy Attorney General

**Eric R. Olson**  
Solicitor General



**STATE OF COLORADO**  
DEPARTMENT OF LAW

**Ralph L. Carr**  
**Colorado Judicial Center**  
1300 Broadway, 10th floor  
Denver, CO 80203  
Phone 720-508-6000

**Office of the Attorney General**

Tracking Number: **2022-00238**

**OPINION OF THE ATTORNEY GENERAL RENDERED IN  
CONNECTION WITH THE RULES ADOPTED BY THE  
Colorado Parks and Wildlife (406 Series, Wildlife)  
ON 05/04/2022**

**2 CCR 406-10  
CHAPTER W-10 - NONGAME WILDLIFE**

The above-referenced rules were submitted to this office on 05/10/2022 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

**May 23, 2022 10:10:53 MST**

A handwritten signature in blue ink, appearing to read "P. J. Weiser".

**Philip J. Weiser**  
Attorney General  
by Eric R. Olson  
Solicitor General