COLORADO
Parks and Wildlife
Department of Natural Resources

6060 Broadway
Denver, CO 80216
P 303.866.3203

TO: Members of the Colorado Parks and Wildlife Commission
FROM: Jonathan Boydston, Acting Regulations Manager
RE: September 1-2, 2021 Parks and Wildlife Commission Meeting, Regulatory Items
DATE: August 20, 2021

The regulatory items detailed below are scheduled to be addressed at the Colorado Parks and Wildlife Commission's September 1-2, 2021 meeting.

If there are questions about any of the agenda items below, or if additional information is needed, please feel free to contact me at jonathan.boydston@state.co.us or 303-291-7624.

EMERGENCY REGULATIONS

Agenda Item 11: Chapter W-3 - "Furbearers and Small Game, Except Migratory Birds" 2 CCR 406-3

Open for consideration of emergency regulations related to closing the 2021 hunting season for greater sage-grouse in Game Management Unit 10 pursuant to thresholds set forth in the Northwest Colorado Greater Sage-grouse Conservation Plan.

FINAL REGULATIONS

Agenda Item 12: Chapter W-3 - "Furbearers and Small Game, Except Migratory Birds" 2 CCR 406-3

Open for consideration of final regulations including, but not limited to, the following:

- Closing the 2021 hunting season for greater sage-grouse in Game Management Unit 10 pursuant to thresholds set forth in the Northwest Colorado Greater Sage-grouse Conservation Plan.

EMERGENCY REGULATIONS

Agenda Item 13: Chapter P-7 - "Passes, Permits and Registrations" - 2 CCR 405-7 and those related provisions of Chapter P-1 ("Parks and Outdoor Recreation Lands" - 2 CCR 405-1)

Open for consideration of emergency regulations to implement House Bill 21-1116 related to providing Purple Heart recipients free access to state parks and state recreation areas with a Purple Heart license plate or Independence Parks Pass.

FINAL REGULATIONS

Agenda Item 14: Chapter P-7 - "Passes, Permits and Registrations" - 2 CCR 405-7

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

Dan Prenzlow, Director, Colorado Parks and Wildlife • Parks and Wildlife Commission: Carrie Besnette Hauser, Chair • Charles Garcia, Vice-Chair
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- Implementing House Bill 21-1116 to provide Purple Heart recipients free access to state parks and state recreation areas with a Purple Heart license plate or Independence Parks Pass.
- Changing the replacement fee for an annual affixed park pass and Aspen Leaf annual pass to half the cost of the original pass, if proof of eligible replacement need is not provided.
- Eliminating the replacement fee for the Columbine, Centennial, Blue Spruce and Independence parks passes.
- Updating the camping and day-use reservation cancellation and change regulations.

Agenda Item 15: Chapter P-1 - "Parks and Outdoor Recreation Lands" 2 CCR 405-1

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

- Updating swimming regulations to allow swimming in state-park-managed areas with some exceptions and changing the age restrictions for swimming unaccompanied by an adult from 12 to 13 years old.
- Modifying seasonal restrictions for peregrine falcons at Fishers Peak State Park to correspond with Colorado Parks and Wildlife's Recommended Buffer Zones and Seasonal Restrictions for Colorado Raptors.
- Implementing House Bill 21-1116 to provide Purple Heart recipients free access to state parks and state recreation areas with a Purple Heart license plate or Independence Parks Pass.
- Creating a wakeless day (Wednesday) for boaters at Highline Lake State Park.

Agenda Item 16: Chapter P-8 - "Aquatic Nuisance Species" 2 CCR 405-8

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

- Adding regulations to clarify that defacing or tampering with a watercraft inspection and decontamination seal or seal receipt is unlawful.

Agenda Item 17: Chapter W-0 - "General Provisions" - 2 CCR 406-0

Open for consideration of regulations including, but not limited to, the following:

- Raising the fee for the Federal Duck Stamp and adding the fee for the Federal Duck Stamp to Appendix F of Chapter W-0.

Agenda Item 18: Chapter W-16 - "Park and Wildlife Procedural Rules" – 2 CCR 406-16

Open for final consideration of regulations including, but not limited to, the following:

- Clarifying review via the consent agenda for license suspension appeals and game damage claim appeals

FINAL PWC POLICY – NON-REGULATORY

Agenda Item 19: Citizen Petitions to Initiate Rulemaking – Colorado Parks and Wildlife Commission Policy

Open for consideration of modifications related to withdrawing a petition once a petitioner submits it to the Division

DRAFT REGULATIONS

Agenda Item 21: Chapter W-0 – "General Provisions" 2 CCR 406-0, and those related provisions of Chapter W-2 ("Big Game" 2 CCR 406-2), Chapter W-3 ("Furbearers and Small Game, Except Migratory Birds" 2 CCR 406-3), Chapter W-11 ("Wildlife Parks and Unregulated Wildlife 2 CCR 406-11), Chapter W-15 ("License Agents" 2 CCR 406-15), and Chapter P-7 ("Passes, Permits and Registrations" – 2 CCR 405-7) necessary to accommodate changes to or ensure consistency with Chapter W-0

Open for consideration of draft regulations including, but not limited to, adjusting license fees and license agent commission rates according to adjustments to the Denver-Aurora-Lakewood Consumer Price Index.

ISSUES IDENTIFICATION

Agenda Item 22: Chapter W-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, season dates, and manner of take provisions for the 2022 turkey hunting seasons. Specific considerations include, but are not limited to, the following:

- Creating Novice Adult Outreach Hunting Licenses for turkey.
- Creating an over-the-counter fall turkey season in Game Management Unit 23.

CONSENT AGENDA (Agenda Item 33)

CITIZEN PETITIONS

Agenda Item 33.1 – Chapter W-2 – "Big Game" – 2 CCR 406-2

At its September meeting, the Parks and Wildlife Commission will **consider whether it should adopt the Director's written recommendation to DENY a petition for rulemaking** requesting that the Commission revise big game regulations, as follows:

- A Citizen Petition for Rulemaking requesting the creation of a new regulation to allow youth under the age of 12 to purchase preference points after fulfilling hunter education requirements.

ISSUES IDENTIFICATION

Agenda Item 33.2 – Chapter W-1- "Fishing" 2 CCR 406-1

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

- Removing the prohibition on fishing on the South Prong of Hayden Creek.

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TO: Members of the Colorado Parks and Wildlife Commission
FROM: Jonathan Boydston, Acting Regulations Manager
RE: Chapter W-3 Emergency Regulations for the September 2021 Parks and Wildlife Commission Meeting
DATE: August 20, 2021

Emergency regulatory changes for Chapter W-3 are summarized below. If there are questions about the agenda item below, or if additional information is needed, please feel free to contact me at jonathan.boydston@state.co.us.

Agenda Item 11: Chapter W-3 - "Furbearers and Small Game, Except Migratory Birds" 2 CCR 406-3

Closing the 2021 hunting season for greater sage-grouse in Game Management Unit 10 pursuant to thresholds set forth in the Northwest Colorado Greater Sage-grouse Conservation Plan

The Northwest Colorado Greater Sage-grouse Conservation Plan (NWCO GRSG Conservation Plan) recommends a 100-male minimum threshold based on a 3-year running average of the number of male grouse counted on leks for the management of sage-grouse hunting. The 3-year running average of male sage-grouse counted at leks in Northwest Colorado Management Zone 6 is 79 males, below the threshold of 100. In addition, this year's count of 95 males in this management zone represents a decline by 87% over the past five years. Game Management Unit 10 aligns with Management Zone 6 in the NWCO GRSG Conservation Plan. As a result, we propose modifying regulation #315.A.1 to remove GMU 10 from the 2021 hunting season for greater sage-grouse. GMU 10 will remain temporarily closed until lek counts result in a 3-year average of male lek attendance that exceeds 100.

At the September 1-2 Commission meeting, Commissioners will consider an emergency rule change and a final rule change related to closing GMU 10 sage-grouse hunting. Absent the emergency rule change, the Division would be unable to close GMU 10 to sage-grouse hunting prior to the start of the 2021 hunting season. Therefore, the Division recommends adopting an emergency rule change closing GMU 10 sage-grouse hunting immediately, along with a final rule change closing GMU 10 sage-grouse hunting that would be permanent until revoked.

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EMERGENCY REGULATIONS - CHAPTER W-3 - FURBEARERS and SMALL GAME, EXCEPT MIGRATORY BIRDS

ARTICLE II - SMALL GAME SEASON DATES, UNITS (AS DESCRIBED IN CHAPTER 0 OF THESE REGULATIONS), BAG AND POSSESSION LIMITS, LIMITED LICENSES AND PERMITS

#315 - Greater Sage-grouse

A. Season Dates, Units and Limits, Except North Park

1. Units 2, 3, 11, 13, 18 except that portion of unit 18 east of Colo 125 in Grand County, 27, 28 except that portion of GMU 28 north and east of Grand Co Rd 50 (Church Park Rd) and US 40, 37, 181, 201, 211, 301 and 441.
   a. September 11 - September 17, 2021.
   b. Extended Falconry Season: September 1 - January 31 annually.

~~1. Units 2, 3, 10, 11, 13, 18 except that portion of unit 18 east of Colo 125 in Grand County, 27, 28 except that portion of GMU 28 north and east of Grand Co Rd 50 (Church Park Rd) and US 40, 37, 181, 201, 211, 301 and 441.~~
   ~~a. September 11 - September 17, 2021.~~
   ~~b. Extended Falconry Season: September 1 - January 31 annually.~~

2. Daily Bag and Possession Limits
   a. Daily Bag Limit - Two (2) birds.
   b. Possession Limit - Four (4) birds.

B. Season Dates, Units and Limits, North Park

1. Units 6, 16, 17, 161, and 171.
   a. September 11 - September 12, 2021.
   b. Extended Falconry Season: September 1 - January 31 annually.
2. Daily Bag and Possession Limits
   a. Daily Bag Limit - Two (2) birds.
   b. Possession Limit - Two (2) birds.

Basis and Purpose:

At its September 1-2, 2021 meeting, the Colorado Parks and Wildlife Commission adopted emergency rules affecting Chapter W-3 (Furbearers and Small Game, Except Migratory Birds, 2 CCR 406-3). The emergency rules temporarily allow for the closure of Game Management Unit (GMU) 10 to greater sage-grouse hunting to assure maintenance of adequate populations of wildlife and to protect public welfare.

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" 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 responsible for all wildlife management, for licensing requirements, and for the promulgation of rules, regulations, and orders concerning wildlife programs" (CRS, § 33-1-104(1). Furthermore, "…to provide an adequate, flexible, and coordinated statewide system of wildlife management and to maintain adequate and proper populations of wildlife species, the commission shall have authority in this state, by appropriate rules and regulations, to: (a) Determine 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." (CRS, § 33-1-106 (1)).

The Northwest Colorado Greater Sage-grouse Conservation Plan (NWCO GRSG Conservation Plan) recommends a 100-male minimum threshold based on a 3-year running average of the number of male grouse counted on leks for the management of sage-grouse hunting. The 3-year running average of male sage-grouse counted at leks in Northwest Colorado Management Zone 6 is 79 males, below the threshold of 100. In addition, this year's count of 95 males in this management zone represents a decline by 87% over the past five years. Game Management Unit 10 aligns with Management Zone 6 in the NWCO GRSG Conservation Plan. As a result, regulation #315.A.1 was modified to remove GMU 10 from the 2021 hunting season for greater sage-grouse. GMU 10 will remain temporarily closed until lek counts result in a 3-year average of male lek attendance that exceeds 100.

Absent these emergency rules, the Division would be unable to close GMU 10 to sage-grouse hunting prior to the start of the 2021 hunting season. Accordingly, the emergency rules are necessary to maintain adequate and proper populations of greater sage grouse.

Notice of the proposed emergency rule-making was posted on the CPW website, and at Regional Service Centers, and Area Service Centers (area offices) where possible, indicating the Commission would consider the emergency regulations at its meeting on September 1-2, 2021 and written comments would be accepted prior to that date.

The statements of basis and purpose for these regulations can be obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager by emailing dnr_cpw_planning@state.co.us or by visiting the Division of Parks and Wildlife headquarters at 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.

EFFECTIVE DATE - THESE EMERGENCY REGULATIONS SHALL BECOME EFFECTIVE IMMEDIATLEY 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 1ST DAY OF SEPTEMBER, 2021.

APPROVED:
Carrie Besnette Hauser
Chair

ATTEST:
Luke B. Schafer
Secretary