



# COLORADO

## Parks and Wildlife

Department of Natural Resources

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**TO:** Members of the Colorado Parks and Wildlife Commission  
**FROM:** Krista Heiner, Regulations Manager  
**RE:** Chapter W-10 Final Regulations for the May 2022 Parks and Wildlife Commission Meeting  
**DATE:** April 22, 2022

Final regulatory changes for Chapter W-10 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 [krista.heiner@state.co.us](mailto:krista.heiner@state.co.us).

### Agenda Item 14: Chapter W-10 - “Nongame Wildlife” - 2 CCR 406-10 (Step 1 of 1)

#### Removing rubber buckshot and rubber slugs from the list of authorized hazing techniques codified in #1000.A.10.a. and repealing and restating emergency regulation #1005.1.a to remove rubber buckshot and rubber slugs from the list of authorized hazing techniques

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).

#### Updating the common name of *Ptychocheilus lucius*



The references to the common name of *Ptychocheilus lucius* in #1003.A.1 and #1004.A.1 have been updated to Colorado pikeminnow.

**FINAL REGULATIONS - CHAPTER 10 - NONGAME WILDLIFE**

**ARTICLE I - GENERAL PROVISIONS**

**#1000 - PROTECTED SPECIES**

A. Nongame species and subspecies, including threatened or endangered wildlife are protected and their harassment, taking or possession is prohibited except as follows:

1. Under a scientific collecting license.
2. Under a rehabilitation license.
3. Under a license for zoological, educational, propagation or other special purposes.
4. Allowed species of raptors under a falconry license.
5. Bats, mice except Preble's meadow jumping mouse (*Zapus hudsonius preblei*), voles, rats, porcupines, and ground squirrels may be captured or killed when creating a nuisance or causing property damage.
6. Except as provided in #015.A. of these regulations, up to four individuals of each of the following species and/or subspecies of reptiles and amphibians may be taken annually and held in captivity, provided that no more than twelve in the aggregate may be possessed at any time:

Plains spadefoot

Woodhouse's toad

Boreal chorus frog

Painted turtle Ornate box turtle

Common sagebrush lizard

Ornate tree lizard

Common side-blotched lizard

Prairie lizard

Plateau fence lizard

Gophersnake

Terrestrial gartersnake

Plains gartersnake

Common lesser earless lizard

Tiger whiptail

North American racer

Plains hog-nosed snake

- a. Such reptiles and amphibians and their progeny may only be disposed of by gift or as authorized by the Division of Wildlife. Further, such reptiles and amphibians may be released back into the wild provided they have not come into contact with reptiles and amphibians from other geographic areas and they are released as close as possible to, but in no event further than ten miles from, their place of origin.
  - b. Any other species of native reptiles or amphibians taken from the wild and lawfully possessed prior to July 1, 1998, may continue to be held in captivity provided that written notification of the numbers and species being held is given to the Division prior to July 1, 1998. Such notification shall be sent to the special licensing unit at 6060 Broadway, Denver, CO 80216.
7. Threatened or endangered wildlife may be possessed if legally taken in and transported from another state or country and legally imported into the United States and Colorado.
8. Any peregrine falcon legally held in captivity which is:
  - a. Possessed and banded in compliance with the terms of a valid permit issued by the U.S. Fish and Wildlife Service; or
  - b. Identified in the earliest applicable annual report required to be filed by a permittee under Title 50, Code of Federal Regulations, as in a permittee's possession on November 10, 1978, or as the progeny of such raptor.
  - c. Provided, however, if a peregrine falcon otherwise excepted under this paragraph 8 is intentionally returned to the wild, it shall thereafter be deemed to be wild and subject to protection as a threatened or endangered species, as if it had never been reduced to lawful possession.
9. Greenback cutthroat trout may be taken under catch and release regulations in certain drainages within Rocky Mountain National Park, in the Cache la Poudre drainage, or in accordance with restrictions for individual waters found in #108 A.
10. 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.

#### **#1001 - INTENTIONALLY LURING GRAY WOLVES**

Unless permitted by the division, it is unlawful for any person to place any olfactory attractant with the intent to lure gray wolves (*Canis lupus*).

### **ARTICLE II - ENDANGERED WILDLIFE**

#### **#1002 - DESIGNATION OF SPECIES**

A. Endangered Species Designation: The following wildlife are hereby declared endangered.

1. Fish
  - Bonytail <sup>1</sup>
  - Razorback Sucker <sup>1</sup>
  - Rio Grande Sucker
  - Northern Redbelly Dace
  - Southern Redbelly Dace
  - Plains Minnow
  - Suckermouth Minnow
  - Lake Chub
  
2. Birds
  - Plains Sharp-tailed Grouse
  - Whooping Crane <sup>1</sup>
  - Least Tern <sup>1</sup>
  - Southwestern Willow Flycatcher <sup>1</sup>
  
3. Mammals
  - Kit Fox
  - Gray Wolf <sup>1</sup>
  - Grizzly Bear <sup>2</sup>
  - Black-footed Ferret <sup>1</sup>
  - Wolverine
  - Lynx <sup>2</sup>

4. Amphibians  
Boreal (Western) Toad

<sup>1</sup> Appears on Federal List as Endangered.

<sup>2</sup> Appears on Federal List as Threatened.

B. Take of Threatened and Endangered Species

1. Any person may take threatened or endangered wildlife in defense of his life or the life of others.
2. All threatened or endangered fish taken by any means shall be returned unharmed to the water immediately.
3. While conducting an otherwise lawful activity, including, but not limited to, live trapping or hunting bobcat, taking action pursuant to 33-6-207, C.R.S., to protect livestock, protection of livestock through the use of guard dogs, or taking action pursuant to 33-3-106, C.R.S., to prevent death or injury to human life or livestock, a Canada lynx is:
  - a. accidentally captured, but not injured, it shall be released immediately and the capture shall be reported to the Division of Wildlife within 24 hours;
  - b. accidentally injured, but not in the possession of the person, the injury shall be reported to the Division of Wildlife within 24 hours;
  - c. accidentally injured and in the possession of the person, the Canada lynx shall be immediately delivered to the Division of Wildlife or taken to a licensed veterinarian for appropriate care and reported to the Division of Wildlife within 24 hours;
  - d. accidentally killed, then it shall be reported to the Division of Wildlife within 24 hours and the carcass shall be delivered to the Division of Wildlife within 3 (three) days of the report.

Any failure to provide the required notice to the Division of Wildlife or to deliver the injured or dead Canada lynx to the Division of Wildlife within the time periods allowed shall be prima facie evidence of unlawful take and possession of Canada lynx.

For the purposes of this subsection, "accidental" specifically excludes any intentional, knowing or negligent action on behalf of any person or a person's agent or employee.

**ARTICLE III - THREATENED WILDLIFE**

**#1003 - DESIGNATION OF SPECIES**

- A. The following wildlife are hereby declared threatened. Any threatened fish taken by any means shall be returned unharmed to the water immediately.

1. Fish
  - Colorado ~~pikeminnow~~Squawfish <sup>1</sup>
  - Humpback Chub <sup>1</sup>
  - Greenback Cutthroat Trout
  - Arkansas Darter
  - Brassy Minnow
  - Common Shiner

2. Birds
  - Mexican Spotted Owl <sup>2</sup>
  - Burrowing Owl
  - Lesser Prairie Chicken
  - Piping Plover <sup>2</sup>

3. Mammals
  - Northern River Otter
  - Preble's meadow jumping mouse

<sup>1</sup> Appears on Federal List as Endangered

<sup>2</sup> Appears on Federal List as Threatened

#### **ARTICLE IV - NONGAME WILDLIFE**

##### **#1004 - DESIGNATION OF SPECIES**

A. The following wildlife are hereby declared nongame wildlife.

1. Fish:
  - Greenback Cutthroat Trout
  - Colorado ~~pikeminnow~~Squawfish
  - Humpback Chub
  - Bonytail
  - Colorado Roundtail Chub

Lake Chub  
Flathead Chub  
Rio Grande Chub  
Plains Minnow  
Suckermouth Minnow  
River Shiner  
Northern Redbelly Dace  
Southern Redbelly Dace  
Razorback Sucker  
Rio Grande Sucker  
Bluehead Sucker  
Flannelmouth Sucker  
Mountain Sucker  
Arkansas Darter  
Plains Orangethroat Darter  
Iowa Darter  
Stonecat  
Plains Topminnow

2. Amphibians:
- Plains Spadefoot Couch's Spadefoot
  - Great Basin Spadefoot
  - Mexican Spadefoot
  - Boreal (Western) Toad
  - Great Plains Toad
  - Green Toad
  - Red-spotted Toad
  - Woodhouse's Toad
  - Northern Cricket Frog
  - Canyon Treefrog
  - Boreal Chorus Frog



Plains Leopard Frog  
Northern Leopard Frog  
Wood Frog  
Western Narrow-mouthed Toad

3. Reptiles:

Yellow Mud Turtle  
Painted Turtle  
Ornate Box Turtle  
Spiny Softshell  
Eastern Collared Lizard  
Long-nosed Leopard Lizard  
Common Lesser Earless Lizard  
Texas Horned Lizard  
Hernandez's Short-horned Lizard  
Round-tailed horned Lizard  
Common Sagebrush Lizard  
Desert Spiny Lizard  
Prairie Lizard  
Plateau Fence Lizard  
Ornate Tree Lizard  
Common Side-blotched Lizard  
Many-lined Skink  
Great Plains Skink  
Six-lined Racerunner  
Common Checkered Whiptail  
Colorado Checkered Whiptail  
Tiger Whiptail  
Plateau Striped Whiptail  
Texas Threadsnake  
Glossy Snake

North American Racer  
Ring-necked Snake  
Great Plains Ratsnake Plains Hog-nosed Snake  
Chihuahuan Nightsnake  
Desert Nightsnake  
Common Kingsnake  
Milksnake  
Coachwhip  
Striped Whipsnake  
Northern Watersnake  
Smooth Greensnake  
Gophersnake  
Long-nosed Snake  
Western Groundsnake  
Plains Black-headed Snake  
Smith's Black-headed Snake  
Western Ribbonsnake  
Black-necked Gartersnake  
Terrestrial Gartersnake  
Plains Gartersnake  
Common Gartersnake  
Lined Snake  
Midget Faded (Western) Rattlesnake  
Massasauga

4. Mollusks:

Mossy Valvata  
Quilted Melania  
Prairie Fossaria  
Cockerell Lymnaea  
Carib Fossaria

Wrinkled Marshsnail  
Marsh Pondsnaill  
Rock Fossaria  
Golden Fossaria  
Pygmy Fossaria  
Swamp Lymnaea  
Lance Aplexa  
Pewter Physa  
Ashy Physa  
Glass Physa  
Utah Physa  
Tadpole Physa  
Protean Physa  
Mimic Lymnaea  
Disc Gyro  
Ash Gyro  
Mesa Rams-horn  
Marsh Rams-horn  
Two-ridge Rams-horn  
Sharp Sprite  
Umbilicate Sprite  
Rocky Mountain Capshell  
Fragile Ancyliid  
Creeping Ancyliid  
Cloche Ancyliid  
Giant Floater  
Cylindrical Papershell  
Pondhorn  
Lake Fingernailclam  
Long Fingernailclam  
Striated Fingernailclam

Ubiquitous Peaclam  
Ridgebeak Peaclam  
Quadrangular Pillclam  
Shiny Peaclam  
Triangular Peaclam  
Glossy Pillar  
Costate Vallonia  
Multirib Vallonia  
Lovely Vallonia  
Rocky Mountain Column  
Widespread Column  
White-lip Dagger  
Rocky Mountain Dagger  
Armed Snaggletooth  
Erie Snaggletooth  
Lambda Snaggletooth  
Slim Snaggletooth  
Comb Snaggletooth  
White Snaggletooth  
Variable Vertigo  
Cross Vertigo  
Ovate Vertigo  
Five-tooth Vertigo  
Toothless Column  
Suboval Ambersnail  
Niobrara Ambersnail  
Blunt Ambersnail  
(NCN) Ambersnail  
Forest Disc  
Compound Coil  
Smooth Coil

Meadow Slug  
One-ridge Fieldslug  
Amber Glass  
Wild Hive  
Brown Hive  
Quick Gloss  
Spruce Snail  
Rocky Mountainsnail  
Lyrate Mountainsnail

5. Birds:

Red-throated Loon  
Pacific Loon  
Common Loon  
Yellow-billed Loon  
Pied-billed Grebe  
Horned Grebe  
Red-necked Grebe  
Eared Grebe  
Western Grebe  
Clark's Grebe  
American White Pelican  
Brown Pelican  
Double-crested Cormorant  
Neotropic Cormorant  
American Bittern  
Least Bittern  
White Ibis  
Glossy Ibis  
Great Blue Heron  
Great Egret

Snowy Egret  
Little Blue Heron  
Tricolored Heron  
Cattle Egret  
Green Heron  
Black-crowned Night-Heron  
Yellow-crowned Night-Heron  
White-faced Ibis  
Tundra Swan  
Trumpeter Swan  
Turkey Vulture  
Osprey  
Mississippi Kite  
Bald Eagle  
Northern Harrier  
Sharp-shinned Hawk  
Cooper's Hawk  
Northern Goshawk  
Red-shouldered Hawk  
Broad-winged Hawk  
Swainson's Hawk  
Red-tailed Hawk  
Ferruginous Hawk  
Rough-legged Hawk  
Golden Eagle  
American Kestrel  
Merlin  
American Peregrine Falcon  
Gyr Falcon  
Prairie Falcon  
Arctic Peregrine Falcon

Lesser Prairie-Chicken  
Plains Sharp-tailed Grouse  
Whooping Crane  
Black-bellied Plover  
American Golden-Plover  
Western Snowy Plover  
Semipalmated Plover  
Piping Plover  
Killdeer  
Mountain Plover  
Black-necked Stilt  
American Avocet  
Greater Yellowlegs  
Lesser Yellowlegs  
Solitary Sandpiper  
Willet  
Spotted Sandpiper  
Upland Sandpiper  
Whimbrel  
Long-billed Curlew  
Hudsonian Godwit  
Marbled Godwit  
Ruddy Turnstone  
Red Knot  
Sanderling  
Semipalmated Sandpiper  
Western Sandpiper  
Least Sandpiper  
White-rumped Sandpiper  
Baird's Sandpiper  
Pectoral Sandpiper

Sharp-tailed Sandpiper  
Dunlin  
Stilt Sandpiper  
Buff-breasted Sandpiper  
Ruff  
Short-billed Dowitcher  
Long-billed Dowitcher  
Wilson's Phalarope  
Red-necked Phalarope  
Red Phalarope  
Pomarine Jaeger  
Parasitic Jaeger  
Long-tailed Jaeger  
Laughing Gull  
Franklin's Gull  
Little Gull  
Bonaparte's Gull  
Mew Gull  
Ring-billed Gull  
California Gull  
Herring Gull  
Thayer's Gull  
Lesser Black-backed Gull  
Glaucous-winged Gull  
Glaucous Gull  
Great Black-backed Gull  
Black-legged Kittiwake  
Sabine's Gull  
Caspian Tern  
Common Tern  
Arctic Tern



Forster's Tern  
Least Tern  
Black Tern  
Marbled Murrelet  
Ancient Murrelet  
Black-billed Cuckoo  
Western Yellow-billed Cuckoo  
Greater Roadrunner  
Groove-billed Ani  
Barn Owl  
Flammulated Owl  
Eastern Screech-owl  
Western Screech-owl  
Great Horned Owl  
Snowy Owl  
Northern Pygmy-Owl  
Burrowing Owl  
Mexican Spotted Owl  
Long-eared Owl  
Short-eared Owl  
Boreal Owl  
Northern Saw-whet Owl  
Lesser Nighthawk  
Common Nighthawk  
Common Poorwill  
Whip-poor-will  
Black Swift  
Chimney Swift  
White-throated Swift  
Blue-throated Hummingbird  
Magnificent Hummingbird

Black-chinned Hummingbird  
Anna's Hummingbird  
Calliope Hummingbird  
Broad-tailed Hummingbird  
Rufous Hummingbird  
Belted Kingfisher  
Lewis's Woodpecker  
Red-headed Woodpecker  
Red-bellied Woodpecker  
Red-naped Sapsucker  
Yellow-bellied Sapsucker  
Williamson's Sapsucker  
Ladder-backed Woodpecker  
Downy Woodpecker  
Hairy Woodpecker  
American Three-toed Woodpecker  
Northern Flicker  
Olive-sided Flycatcher  
Western Wood-Pewee  
Eastern Wood-Pewee  
Alder Flycatcher  
Willow Flycatcher  
Least Flycatcher  
Hammond's Flycatcher  
Dusky Flycatcher  
Gray Flycatcher  
Cordilleran Flycatcher  
Black Phoebe  
Eastern Phoebe  
Say's Phoebe  
Vermilion Flycatcher

Ash-throated Flycatcher  
Great Crested Flycatcher  
Cassin's Kingbird  
Western Kingbird  
Eastern Kingbird  
Scissor-tailed Flycatcher  
Horned Lark  
Purple Martin  
Tree Swallow  
Violet-green Swallow  
Northern Rough-winged Swallow  
Bank Swallow  
Cliff Swallow  
Barn Swallow  
Gray Jay  
Steller's Jay  
Blue Jay  
Western Scrub-Jay  
Pinyon Jay  
Clark's Nutcracker  
Chihuahuan Raven  
Common Raven  
Black-capped Chickadee  
Mountain Chickadee  
Juniper Titmouse  
Bushtit  
Red-breasted Nuthatch  
White-breasted Nuthatch  
Pygmy Nuthatch  
Brown Creeper  
Rock Wren

Canyon Wren  
Carolina Wren  
Bewick's Wren  
House Wren  
Winter Wren  
Sedge Wren  
Marsh Wren  
American Dipper  
Golden-crowned Kinglet  
Ruby-crowned Kinglet  
Blue-gray Gnatcatcher  
Eastern Bluebird  
Western Bluebird  
Mountain Bluebird  
Townsend's Solitaire  
Veery  
Gray-cheeked Thrush  
Swainson's Thrush  
Hermit Thrush  
Wood Thrush  
American Robin  
Varied Thrush  
Gray Catbird  
Northern Mockingbird Sage Thrasher  
Brown Thrasher  
Bendire's Thrasher  
Curve-billed Thrasher  
American Pipit  
Sprague's Pipit  
Bohemian Waxwing  
Cedar Waxwing

Phainopepla  
Northern Shrike  
Loggerhead Shrike  
White-eyed Vireo  
Bell's Vireo  
Gray Vireo  
Plumbeous Vireo  
Yellow-throated Vireo  
Warbling Vireo  
Philadelphia Vireo  
Red-eyed Vireo  
Blue-winged Warbler  
Golden-winged Warbler  
Tennessee Warbler  
Orange-crowned Warbler  
Nashville Warbler  
Virginia's Warbler  
Lucy's Warbler  
Northern Parula  
Yellow Warbler  
Chestnut-sided Warbler  
Magnolia Warbler  
Cape May Warbler  
Black-throated Blue Warbler  
Yellow-rumped Warbler  
Black-throated Gray Warbler  
Townsend's Warbler  
Hermit Warbler  
Black-throated Green Warbler  
Blackburnian Warbler  
Yellow-throated Warbler

Grace's Warbler  
Pine Warbler  
Prairie Warbler  
Palm Warbler  
Bay-breasted Warbler  
Blackpoll Warbler  
Black-and-white Warbler  
American Redstart  
Prothonotary Warbler  
Worm-eating Warbler  
Swainson's Warbler  
Ovenbird  
Northern Waterthrush  
Louisiana Waterthrush  
Kentucky Warbler  
Connecticut Warbler  
Mourning Warbler  
MacGillivray's Warbler  
Common Yellowthroat  
Hooded Warbler  
Wilson's Warbler  
Canada Warbler  
Painted Redstart  
Yellow-breasted Chat  
Hepatic Tanager  
Summer Tanager  
Scarlet Tanager  
Western Tanager  
Northern Cardinal  
Rose-breasted Grosbeak  
Black-headed Grosbeak

Blue Grosbeak  
Lazuli Bunting  
Indigo Bunting  
Painted Bunting  
Dickcissel  
Green-tailed Towhee  
Eastern Towhee  
Spotted Towhee  
Canyon Towhee  
Cassin's Sparrow  
Rufous-crowned Sparrow  
American Tree Sparrow  
Chipping Sparrow  
Clay-colored Sparrow  
Brewer's Sparrow  
Field Sparrow  
Vesper Sparrow  
Lark Sparrow  
Black-throated Sparrow  
Sage Sparrow  
Lark Bunting  
Savannah Sparrow  
Baird's Sparrow  
Grasshopper Sparrow  
Henslow's Sparrow  
Le Conte's Sparrow  
Nelson's Sharp-tailed Sparrow  
Fox Sparrow  
Song Sparrow  
Lincoln's Sparrow  
Swamp Sparrow

White-throated Sparrow  
Golden-crowned Sparrow  
White-crowned Sparrow  
Harris's Sparrow  
Dark-eyed Junco  
McCown's Longspur  
Lapland Longspur  
Chestnut-collared Longspur  
Snow Bunting  
Bobolink  
Red-winged Blackbird  
Eastern Meadowlark  
Western Meadowlark  
Yellow-headed Blackbird  
Rusty Blackbird  
Brewer's Blackbird  
Great-tailed Grackle  
Common Grackle  
Brown-headed Cowbird  
Orchard Oriole  
Baltimore Oriole  
Bullock's Oriole  
Scott's Oriole  
Gray -crowned Rosy-Finch  
Black Rosy-Finch  
Brown-capped Rosy-Finch  
Brambling  
Pine Grosbeak  
Purple Finch  
Cassin's Finch  
House Finch



Red Crossbill  
White-winged Crossbill  
Common Redpoll  
Pine Siskin  
Lesser Goldfinch  
American Goldfinch  
Evening Grosbeak

6. Mammals:
- Masked Shrew
  - Montane Shrew
  - Dwarf Shrew
  - Water Shrew
  - Merriam's Shrew
  - Pygmy Shrew
  - Elliot's Short-tailed Shrew
  - Least Shrew
  - Crawford's Desert Shrew
  - Eastern Mole
  - California Myotis
  - Western small-footed Myotis
  - Long-eared Myotis
  - Little Brown Myotis
  - Fringed Myotis
  - Long-legged Myotis
  - Yuma Myotis
  - Eastern Red Bat
  - Hoary Bat
  - Silver-haired Bat
  - Western Pipistrelle
  - Big Brown Bat

Spotted Bat  
Townsend's Big-eared Bat  
Eastern Pipistrelle  
Pallid Bat  
Brazilian Free-tailed Bat  
Big Free-tailed Bat  
Nine-Banded Armadillo  
American Pika  
Least Chipmunk  
Cliff Chipmunk  
Colorado Chipmunk  
Uinta Chipmunk  
White-tailed Antelope Squirrel  
Spotted Ground Squirrel  
Golden-mantled Ground Squirrel  
Botta's pocket gopher  
Northern pocket gopher  
Olive-backed Pocket Mouse  
Plains Pocket Mouse  
Silky Pocket Mouse  
Great Basin Pocket Mouse  
Hispid Pocket Mouse  
Ord's Kangaroo Rat  
Plains Harvest Mouse  
Western Harvest Mouse  
Deer Mouse  
White-footed Mouse  
Canyon Mouse  
Brush Mouse  
Pinyon Mouse  
Northern Rock Mouse

Northern Grasshopper Mouse  
Hispid Cotton Rat  
Eastern Woodrat  
Southern Plains Woodrat  
Western White-throated Woodrat  
Eastern White-throated Woodrat  
Desert Woodrat  
Mexican Woodrat  
Bushy-tailed Woodrat  
Southern Red-backed Vole  
Western Heather Vole  
Meadow Vole  
Montane Vole  
Long-tailed Vole  
Mogollon Vole  
Prairie Vole  
Sagebrush Vole  
Preble's Meadow Jumping Mouse  
Meadow Jumping Mouse  
Western Jumping Mouse  
North American Porcupine  
Gray Wolf  
Kit Fox  
Grizzly Bear  
Black-footed Ferret  
Wolverine  
Eastern Spotted Skunk  
Common Hog-nosed Skunk  
Northern River Otter  
Lynx

**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).

**Updating the common name of *Ptychocheilus lucius***

The references to the common name of *Ptychocheilus lucius* in #1003.A.1 and #1004.A.1 have been updated to Colorado pikeminnow.

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.**

**EFFECTIVE DATE - THESE REGULATIONS SHALL BECOME EFFECTIVE JULY 1, 2022 AND SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL REPEALED, AMENDED OR SUPERSEDED.**

**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**



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
134 Union Blvd  
Lakewood, Colorado 80228



In Reply Refer to:  
FWS/IR05/IR07

March 7, 2022

Dan Prenzlów, Director  
Colorado Parks and Wildlife  
6060 Broadway  
Denver, CO 80216

Dear Director Prenzlów:

In light of the February 10, 2022, court decision to vacate the U.S. Fish and Wildlife Service's (Service) 2020 final delisting rule, gray wolves in Colorado are once again under federal protection of the Endangered Species Act (ESA) and are classified as endangered throughout the State.

Since wolves are again an endangered species of wildlife, taking (harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting) is prohibited by the ESA. An exception to the ESA prohibition on "take" exists when committed based on a good faith belief that the individual was acting in self-defense or in defense of others (i.e., to protect themselves or any other human from bodily harm) (50 CFR §17.21(c)(2)). Any such taking must be reported to the Service within five days (50 CFR §17.21(c)(4)).

"Harass in the definition of "take" in the [ESA] means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering" (50 CFR §17.3). "Harm in the definition of take" in the [ESA] means an act which actually kills or injures wildlife. Such actions may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering" (50 CFR §17.3).

Wolves can pose a threat to human safety and property, and in an opportunistic and non-injurious manner, they should be discouraged from using areas near homes and other human-occupied areas. Hazing discourages undesirable behavior in wildlife, and when properly conducted, does not create a likelihood of injury to wolves to such an extent as to significantly disrupt normal behavioral patterns. Appropriate hazing methods and techniques minimize conflict risk and discourage wolves from the immediate vicinity of livestock, a human-occupied residence, or other human-occupied area on both public and private lands. Some methods that may be used include, but are not limited to, carcass management, physical barriers (i.e., fencing and

INTERIOR REGION 5  
MISSOURI BASIN

KANSAS, MONTANA\*, NEBRASKA, NORTH DAKOTA,  
SOUTH DAKOTA

\*PARTIAL

INTERIOR REGION 7  
UPPER COLORADO RIVER BASIN

COLORADO, NEW MEXICO, UTAH, WYOMING

electrified fencing), guard animals, auditory and visual scare tactics (i.e., fladry, lights, sirens, cracker shells), increased human presence/vigilance, or any combination of these measures. This list is not exhaustive, and we recognize that novel methods to minimize wolf-conflict risk continue to be developed and tested; thus, we encourage you to refer any questions you may have to our Office of Law Enforcement, Special Agent in Charge in Lakewood, CO at (303) 236-7540 or the Resident Agent in Charge in Littleton, CO at (720) 981-2777.

Prior to the gray wolf's now vacated delisting, there was a 2018 coordination agreement between our agencies including the Colorado Department of Agriculture and Animal Plant Health Inspection Service - Wildlife Services ("Guidelines for a Coordinated Agency Response to Reported Gray Wolf Activity While Under the Protection of the ESA in Colorado" September 4, 2018). With these new circumstances, we recommend ensuring that the agreement is current.

Along with Colorado Parks and Wildlife, we recognize the value in providing landowners in Colorado the ability to minimize wolf-conflict risk in an opportunistic and non-injurious manner while wolves remain classified as endangered under the Federal ESA. We greatly appreciate the efforts of your agency and look forward to working with you and other State and Federal partners in meeting wolf-management goals in Colorado. Please let me know if you have further questions.

Sincerely,



Matt Hogan  
Regional Director