

Policy, Procedure & Guidelines



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DWR Roles and Responsibilities

- Water Administration
- Stream Flow Measurement
- Dam Safety
- Ground Water Administration
- Interstate compacts
- Water Information Record Keeping
 - Diversions & Types of Use

Key Provisions of 1969 Act

- Integrates the use of tributary ground water with surface water-maximum utilization
- Water Courts and Water Divisions
- Adjudication of tributary ground water rights; first time required; retain priority
- Tabulation and Abandonment Procedures
- Plan for Augmentation created to maximize use of ground water
- **State Engineer administers all rights**
- Rules for administration of wells authorized

DWR Administration - *The How:*

LAW

1. Court Decrees
2. Statute

Force of LAW

3. Rules & Regulations

Tools (Not law - tools)

4. Policy (informal policies)
5. Protocol
6. Guideline
7. Procedures

DWR Administration - *The Why:*

- **Regulatory Certainty**

- **Transparency**

- Provides Notice and Accountability

- **Flexibility**

- Modify as needed with Public input
- Basin Specific

- **Efficiency**

- Decree & Rules compliance
- Reporting, Measuring, Communication
- Provide standard methods throughout Division / State

1. Court Decrees:

- DWR Responsible for Administration of Water Rights in accordance with Court Decrees.
- ALL terms and conditions administered
- Decree is Law
 - Terms and Conditions Control VS. Policy & Guidelines

2. Statutes:

- Directs and provides authority to State Engineer regarding duties and responsibilities including water administration.
- 37-92-301
 - (1) state engineer shall be responsible for the administration and distribution of the waters of the state, and, in each division, such administration and distribution shall be accomplished through the offices of the division engineer.....
 - (3)In the distribution of water, the state engineer.....shall be governed by the priorities for water rights and conditional water rights.

Example Statutes:

General Statutory Authority

- State Engineer Authority and Responsibilities C.R.S. 37-80-101, et seq.
- Rule making authority—§§ 37-80-102(1)(g), -102(1)(k), § 37-92-501
- Surface water administration—§§ 37-92-102, -301
- Ground water administration—§§ 37-90-110, -111, -138, § 37-90.5-102, §§ 37-92-102, -301 § 37-92-501 “Water Rule Power”
- Orders to comply —§§ 37-92-502, -503
- Responsibility of User of Water for Maintenance of Diversion Structures, Ditches and Measuring Flumes – C.R.S. 37-84

3. Rules & Regulations: Definition & Purpose

C.R.S. § 24-4-102(15) defines a “Rule” as “the whole or any part of every agency statement of general applicability and future effect implementing, interpreting, or declaring law or policy or setting forth the procedure or practice requirements of an agency. ‘Rule’ includes ‘regulation’.”

- Rules & Regulations – Have the Force of Law
- Required to assist the SEO with mandated duties including:
 - administration, distribution and regulation of the waters of the state.
 - deliveries of water to meet compact obligations

3. Rules: authority to promulgate

- C.R.S. § 37-80-102(1)(k) – State Engineer has the “. . . power and authority to make and enforce such rules and regulations as he may find necessary or desirable to effectuate the performance of his duties. . .
- C.R.S. § 37-92-501: authorizes State Engineer to adopt rules and regulations to assist in the performance of the administration, distribution and regulation of the waters of the state.
- C.R.S. § 37-80-104: make and enforce rules and regulations with respect to deliveries of water to meet compact obligations
- Rules are developed and promulgated through:
 - Water Court
 - Administrative Procedure Act (APA)
 - Required Steps/Process
 - Notice / Public Input

Example - Rules

- Well Measurement Rules, 11CW292 (SP Trib. GW)
 - Defines Acceptable Measurement Devices
 - Provides Requirements for Accuracy Testing
 - Provides Requirements for Usage Reporting
 - Method & Submittal Dates
 - Standardizes and Defines “Inactive” Well

4. Policy: Definition and Purpose

- Definition:

a: definite course or method of action...to guide and determine present and future decisions;

b : explain the meaning of a phrase in a statute or other rule and describes the factors an agency will consider.

- Used to clarify Rules, Statutes, Decrees.

- Clarify what is required by Rules, Statutes & Decrees

- Generally does not create new requirements

- Does not contradict Rules or Decree terms & conditions.

- Defines acceptable methods such as: reporting, measurement, etc.

- Provides outline of what is reviewed in determining compliance with Rules or Statute.

- Clear and rigid, similar to Rule.

- Generally based upon water court decisions and Best Management Practices

- May not be legally binding.

Example - Policy

- Policy 2011-3

CONCERNING COMMERCIAL ACTIVITIES ON PROPERTY SERVED BY EXEMPT WELLS

The objective of this policy is to define the extent to which a well user may engage in commercial activities on the site that is served by an exempt well whose uses are limited according to 37-92-602(1)(b) and (e).

- Defines and clarifies allowable types of use and allowable volumetric diversion in considering statute.
 - Allowable business in residential dwelling
 - Domestic Animals as commercial endeavor
 - Water of lawn and garden as commercial endeavor

5. Protocol: Definition and Purpose

Definition

a : a system of rules that explain the **correct procedures** to be followed in formal situations such as; electronic data communications; reporting, accounting, etc.

- Used to provide **specific procedures required** in accomplishing certain requirements.
 - Provides detailed steps in data collection, formatting and reporting.
 - Provides standards for communication between electronic systems.
 - Reporting methodology, naming conventions, format, etc.
- Deviation from Protocol may result in additional requirements and possible delays (SDR – different software and hardware, etc.).
 - Compliance with Protocol assists in timely DWR decisions
 - Protocol provides minimum needed by DWR for administration
- Tool – not legally binding

Example - Protocol

ADMINISTRATION PROTOCOL Augmentation Plan Accounting Division One

- Establishes Accounting and Reporting process
 - What data to record and how often (format and frequency)
 - Where to submit data (email)
 - Formatting data (naming convention, tabs, etc. (Excel)
 - When to submit (daily, weekly, monthly, annual)

required to enable the division engineer's office to confirm that depletions from all out-of-priority diversions are being replaced so as to prevent injury to vested water rights.

6. Guidelines: Definition and Purpose

Definition

: instruction that explains or recommends how something should be done

- Provides recommendations / guidance for steps in achieving compliance with Policy or Rule.
- Provides standard guidance for reporting, measuring, etc.
- Guides everyone towards a similar conclusion/result
- More flexible than Rules and Policy.
- Serves as guidance, not legally binding.

Example - Guideline

Reservoir Accounting Guidelines

Describes how the Division Engineer for Water Division One intends to administer reservoir operations so as to confirm that vested water rights are not impacted by the reservoir. It serves as a guide to reservoir administration when decrees do not specifically address the issue of accounting.

- “Guides” water user to best or recommended method
 - Similar method or convention is generally accepted.
 - Steps taken not as “critical” as Protocol or Policy
- Provides General Items to be included in Reporting or Process
 - General Data
 - Accounts
 - Owe The River (OTR)
 - Evaporation

7. Procedure: Definition & Purpose

DEFINITION:

Defines general steps taken in making a determination or plan for communicating a decision of the Division Engineer

- Flexible and subject to change
 - Working document - changes with water user input to meet needs.
- Provides clear communication to water users of how the Division Engineer will make and communicate decisions/issues
- Serves as guidance, not legally binding.

Example - Procedure

Communicating Transit Losses

District 2 - South Platte Mainstem below Chatfield

- Implementing monthly advance notice of trend during irrigation season (email notification)
- Seeking monthly user information/input
- Communicating specific number monthly

Proposed New Policy, 2014?

- Free River Policy
- Futile Call Policy
- Division 1 South Platte Tributary Ground Water Measurement Policy
- Division 1 Republican River Measurement Rules Policy - Amendment

Proposed New Guidelines / Procedures

- Transit Losses

- Looking at NHD miles with Water Comm.
- Considering applicable “typical” loss per mile

- Measurement & Reporting

- Special Uses from river or ditch (i.e. industrial/fracking)

Where to find information

- www.water.state.co.us

[Home](#)[Ground Water](#)[Surface Water](#)[Data & Maps](#)[Documents & Forms](#)[Division Offices](#)

> [Documents & Forms](#) > [Policies and Guidelines](#) > [South Platte River Basin Guidance](#)




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Water Supply Plan Policies](#)[Board of Examiners Guidelines](#)[Board of Examiners Policies](#)[Brochures and Guidelines](#)[Dam Safety Policies and
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\(Ground Water Commission\)](#)[South Platte River Basin
Guidance](#)[Use and Measurement Policies](#)[Water Administration Protocols](#)[Water Rights Guidelines and
Policies](#)[Well Permitting Policies](#)[Well Permitting Guidelines](#)[Reports and Publications](#)[Rules and Regulations](#)

South Platte River Basin Guidance

Please visit the [Division 1 homepage](#) for more information.

The policies below are in PDF format, which requires a [PDF Reader](#) for viewing.

Quick Links

-  [Denver Basin Rules](#)
-  [Republican River Basin Rules](#)
-  [Division 1 Homepage](#)

Guidelines

- [Division 1 - South Platte River Administrative Guideline: Access to Private Property \(pdf\)](#)
- [Division 1 - South Platte River Administrative Guideline: Accounting Acquisition & Review \(pdf\)](#)
- [Division 1 - South Platte River Administrative Guideline: Administration Number \(aka Holt Number\) \(pdf\)](#)
- [Division 1 - South Platte River Administrative Guideline: Computer Readable Data \(pdf\)](#)
- [Division 1 - South Platte River Administrative Guideline: Purpose and Types of Documents \(pdf\)](#)
- [Division 1 - South Platte River Administrative Guideline: Reservoir Accounting Guideline \(pdf\)](#)

Protocols

- [Division 1 - South Platte River Administrative Protocol: Administration Protocol Dry-Up of Irrigated Land \(pdf\)](#)
- [Division 1 - South Platte River Administrative Protocol: Alternate Point of Diversion Wells \(pdf\)](#)
- [Division 1 - South Platte River Administrative Protocol: Augmentation Plan Accounting \(pdf\)](#)
- [Division 1 - South Platte River Administrative Protocol: Augmentation Plan Exchanges \(pdf\)](#)
- [Division 1 - South Platte River Administrative Protocol: Augmentation Station Criteria \(pdf\)](#)
- [Division 1 - South Platte River Administrative Protocol: Calling for Water in Water District 2 - South Platte River \(pdf\)](#)
- [Division 1 - South Platte River Administrative Protocol: Data Logger Criteria \(pdf\)](#)
- [Division 1 - South Platte River Administrative Protocol: Delivering Water Using the Natural Stream \(pdf\)](#)
- [Division 1 - South Platte River Administrative Protocol: Recharge \(pdf\)](#)
- [Division 1 - South Platte River Administrative Protocol: Temporary Detention of Direct Flow Rights \(pdf\)](#)
- [Division 1 - South Platte River Administrative Protocol: Use Of Replacement Sources Not Specifically Identified In An SWSP or Augmentation Plan \(pdf\)](#)



Questions

www.water.state.co.us