

NATURAL RESOURCES

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HB 12-1317 (<i>Enacted</i>) Parks and Wildlife Commission Composition and Terms	HB 12-1330 (<i>Enacted</i>) Hunting Fishing License Suspension Hearing	
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HB 12-1147 (<i>Enacted</i>) Western Tiger Salamander State Amphibian	HB 12-1349 (<i>Enacted</i>) Species Conservation Trust Fund	
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SB 12-107 (<i>Postponed Indefinitely</i>) Protect Water from Oil and Gas Hydraulic Fracturing Operations	HB 12-1160 (<i>Deemed Lost</i>) Captured Methane From Coal Mines	HB 12-1314 (<i>Enacted</i>) Oil and Gas Filing Exception
HB 12-1355 (<i>Enacted</i>) Transfer Geological Survey to School of Mines	HB 12-1356 (<i>Deemed Lost</i>) No Severance Tax Money for Local Governments that Impacts Oil and Gas	
Forest Health		
SB 12-180 (<i>Postponed Indefinitely</i>) Colorado Forest Energy Jobs Act	HB 12-1004 (<i>Postponed Indefinitely</i>) Colorado Timber Act	HB 12-1032 (<i>Enacted</i>) Continue Forest Restoration Programs 5 Years
HB 12-1045 (<i>Enacted</i>) Spruce Beetle Kill Wood Products Tax Exemption		

The General Assembly considered a variety of natural resources related legislation during the 2012 session. Major topics addressed include parks and recreation, forest health, wildlife, and oil, gas and minerals.

Parks and Recreation

In 2012, the General Assembly passed two bills related to Parks and Recreation. In the Department of Natural Resources, **House Bill 12-1317** replaces the Parks and Wildlife Board in with the Parks and Wildlife Commission. The commission is comprised of 11 voting members to be appointed by the Governor and two nonvoting ex officio members — the executive director of the Department of Natural Resources and the Commissioner of the Department of Agriculture. The bill specifies that the appointed members must represent various geographic regions in the state and certain areas of interest or knowledge. The commission is required to meet as often as necessary and hold at least two meetings per year west of the Continental Divide. It must also finalize a five-year strategic plan by December 31, 2013. For every year that is included in the strategic plan, the commission is required to submit an annual report to the House Agriculture, Livestock, and Natural Resources Committee and the Senate Agriculture, Natural Resources, and Energy Committee.

The bill also gives the commission permanent authority to set fees for the use of parks and outdoor recreation facilities and programs. The Parks and Wildlife Board has had fee setting authority since 1996. The authority will expire on July 1, 2012, under current law.

House Bill 12-1330 allows a person whose hunting or fishing license has been suspended to petition the Parks and Wildlife Commission in the Department of Natural Resources, Division of Parks and Wildlife, once every five years to end the suspension after half of the suspension of at least 10 years or 15 years of a lifetime suspension has elapsed. After a person has petitioned the commission three times, the commission may deny the petition without a hearing. The commission may end the suspension if:

- the person is unlikely to offend again;
- the person has not violated the wildlife statutes again; and
- the suspension is the person's first in Colorado.

The commission is authorized to order the person to pay a reinstatement fee of up to \$300, perform up to 40 hours of service on wildlife or park projects, or attend hunting educational courses.

Wildlife

The General Assembly considered two bills concerning wildlife in 2012. **House Bill 12-1147** designates the western tiger salamander as the state amphibian of Colorado. **House Bill 12-1349** transfers money from the Operation and Maintenance Account to the Capital Account of the Species Conservation Trust Fund (SCTF) to fund programs submitted by the executive director of the Department of Natural Resources. These programs are intended to conserve native species that are listed as threatened or endangered under state or federal law, are candidate species, or are likely to become candidate species as determined by the U.S. Fish and Wildlife Service. The bill also combines the Operation and Maintenance Account and the Capital Account of the SCTF, and adjusts the existing appropriation for FY 2011-12 to reflect the amount actually required by the department.

Table 1
Species Conservation Trust Fund Project Expenditures
Under HB 12-1349

Project	FY 2012-13
Upper Colorado River Endangered Fish Recovery Program	\$500,000
Native Fish Conservation - Capital Projects	1,000,000
Native Terrestrial Wildlife Conservation	715,000
Native Aquatic Wildlife Conservation	720,000
Wildlife Disease Management and Adaptation Landscape-Level Change	565,000
Colorado Natural Areas Program	\$500,000
Total Expenditures	\$4,000,000

Oil, Gas, and Minerals

Two bills were passed concerning oil, gas, and minerals during the 2012 legislative session and two bills failed.

Operators and first purchasers who disburse income from oil and gas production in Colorado to any working interest, royalty interest, or any other type of interest withhold one percent from the gross income disbursed and electronically remit the withholding to the Department of Revenue (DOR) on a monthly basis. Annually, they are required to prepare a statement of withholding for each interest owner. Currently, if an entity is a producer or owns a working interest, royalty interest or other interest from oil and gas production in Colorado, the entity must file a return and pay state severance tax. **House Bill 12-1314** creates an exception to the current requirement that all taxpayers owing severance tax on oil and gas production must file a return with the DOR. The exemption applies to any taxpayer for whom the amount withheld:

- is less than \$250; and
- is greater than their severance tax liability.

In addition, the amended bill prohibits the DOR from sending non-filing taxpayers whose withholding is less than \$250 an estimate of their liability unless there is good reason to believe that they do not qualify for the above exception.

House Bill 12-1355 transfers the powers, duties, and functions of the Colorado Geological Survey and the Office of the State Geologist from the Department of Natural Resources (DNR) to the Colorado School of Mines. The transfer occurs on January 31, 2013, providing the president of the university and the executive director of the DNR enter into a memorandum of understanding (MOU) concerning the transfer. The MOU must address the:

- functions and objectives of the geological survey;
- transfer of employees;
- transfer of real and personal property;
- existing contracts of the DNR; and
- existing appropriations allocated to the Geological Survey Cash Fund.

By December 1, 2012, the Colorado School of Mines is required to report to the Joint Budget Committee, the House Agriculture, Livestock, and Natural Resources Committee, and the Senate Agriculture, Natural Resources, and Energy Committee concerning the transfer, whether an MOU was entered into, and the contents of the agreement.

Coal mine methane (CMM) gas is methane that is naturally degassing from coals that have been disturbed by mining activities. CMM gas is an emission from active and abandoned coal mines, and is different from coalbed methane gas, which results from the injection of fluids into virgin coal seams that have not or will not be mined. **House Bill 12-1160**, would have added CMM captured from active or inactive coal mines to the list of eligible energy resources for the purposes of compliance with the state's renewable energy standard. The bill was deemed lost in the Senate on Second Reading.

House Bill 12-1356 would have prohibited local governments from receiving any grants or direct distributions from the Local Government Severance Tax Fund if a local government restricted or delayed the ability of an oil and gas producer to extract oil and gas. The moneys that would have been distributed to the local government would be redistributed on a pro rata basis to all other eligible local governments. The bill died in the House on Second Reading.

Hydraulic fracturing, commonly referred to as *fracking*, is the process of creating small cracks, or fractures, in underground geological formations to allow oil or natural gas to flow into the well bore, thereby increasing production. **Senate Bill 12-107**, postponed indefinitely, would have required the Colorado Oil and Gas Conservation Commission (COGCC) to establish rules for hydraulic fracturing near Superfund sites and radioactive materials, and for shutting down operations when monitoring equipment detects a pressure drop. Prior to fracturing a well, oil and gas operators would have been required to conduct water quality and quantity studies and submit reports of their findings to the COGCC in a searchable format that was to be available to the public. Operators would have been prohibited from inserting chemicals into the ground that cause cancer. Operators engaging in high-risk hydraulic fracturing would have required to obtain an environmental bond or other financial assurance that would be forfeited if the operations caused damage to water rights or nontributary water. Unless rebutted by one or more of the defenses established in the bill, an operator would have been presumed to be responsible for the pollution of a water supply that was within one-half mile of the well, if the pollution occurred within six months after the completion of the hydraulic fracturing of the well. The bill also would have required that operators use a closed-loop system when conducting hydraulic fracturing within one-half mile of any surface water and allowed the COGCC or local governments to adopt more stringent local protections.

Forest Health

The mountain pine and spruce beetle outbreak continues to be the predominant ongoing forest health issue in the state. The issue impacts human safety, communities, infrastructure, and water supplies, as well as wood products, recreation, and tourism. In 2012, two bills were passed relating to forest health and the impact of the pine beetle on Colorado's forests and two bills were postponed indefinitely.

House Bill 12-1032 extends the funding from the Operational Account of the Severance Tax Trust Fund for the Forest Restoration program through FY 2017-18 at a level of \$2.5 million annually. Under current law, the program would sunset after FY 2011-12. The Operational Account of the Severance Tax Trust Fund receives 25 percent of severance tax receipts. **House Bill 12-1045** expands the sales and use tax exemption for timber products made from trees in Colorado killed by spruce beetles. Wood wholesalers must certify on a Department of Revenue form that a product is lawfully harvested in Colorado and from a salvaged tree killed or infested by spruce beetle. The sales tax exemption for these timber products is effective July 1, 2012, would expire on July 1, 2020. This bill also extends the sales and use tax exemption for the sale, storage, and use of wood from salvaged trees killed or infested in Colorado by mountain pine beetles. Under current law, mountain pine beetle killed wood products are taxable in FY 2013-14 because the exemption expires July 1, 2013. This bill extends that exemption until July 1, 2020.

House Bill 12-1004 would have required county and municipal building codes to allow and encourage the use of lumber milled from lodgepole pine or Engelmann spruce trees having a grade of "stud" or better for the framing of buildings. The bill was postponed indefinitely in the House Agriculture, Livestock, and Natural Resources Committee. **Senate Bill 12-180**, postponed indefinitely, sought to reduce the risks caused by diseased and falling trees, pest epidemics, and fire to Colorado's forests and water systems. Specifically, it would have created renewable energy enterprise areas to promote tax credits and incentives for investments made to businesses and facilities in the woody biomass industry.