

# COLORAD COUNTIES Inc summer conference 2026

## County 1041 Powers 201

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House Bill 1041 was enacted in 1974

Codified at CRS 24-65.1-101 et seq

Counties and municipalities given a new tool to address “areas and activities of state interest”

Government may adopt more stringent regulations than the criteria in 1041: Colorado Springs v Eagle County BOCC: 895 P.2d 1105 (Colo. App. 1994)

- Originally proposed for the Land Use Commission to adopt regulations
- As enacted, counties and municipalities were authorized instead.
- Terminology of “matters of state interest” was not changed.

- 1041 authorizes designation of and regulations for “areas and activities of state interest.”
- Both require a permit:
  - activities of state interest: permit required for that activity
  - areas of state interest: permit required for “development” in the designated area

# ACTIVITIES OF STATE INTEREST

- major new domestic water and sewage treatment systems
- solid waste disposal sites
- site selection of airports
- site selection of mass transit
- site selection of arterial highways, interchanges, and collectors
- site selection and construction of major facilities of a public utility
- site selection of new communities

# ACTIVITIES OF STATE INTEREST

- ❑ “efficient utilization” of municipal and industrial water projects
- ❑ conduct of nuclear detonations
- ❑ Mineral resource areas
- ❑ Natural hazard areas
- ❑ Areas containing or having a significant impact upon historical, natural, or archaeological resources of statewide importance
- ❑ Areas around key facilities in which development may have a material effect upon the key facility or the surrounding community

# PROCEDURE FOR ADOPTION

- not specified in 1041
- generally may use process for adoption of the zoning plan or amendments to the land use code
- public hearing is required
- action by resolution to designate the activities, the boundaries of proposed areas of state interest, and why regulation under 1041 is needed

# Permitting process

- application is submitted to the “permit authority” established in the regulations
- Permit authority is typically the Board of County Commissioners, or City Council
- Planning commission review permitted but not required
- Permit hearing required, giving due process to the applicant and opposers; similar to rezoning

## Significant examples of 1041 regulations

- ❑ Transmountain water diversion projects
  - Eagle, Grand and Summit County's 1041 adoption in the late 1970s
  - Challenged by Denver, Colorado Springs, Northern District
  - Uniformly upheld against various challenges, including:
    - ✓ interference with water rights
    - ✓ home rule powers
    - ✓ impact on public utilities

## **Significant examples of 1041 regulations, *cont'd***

- ✓ Otero, Bent, and Prowers Counties
- ✓ Designation of “areas containing or having a significant impact upon natural resources of statewide importance”
- ✓ “Development” within such areas defined to include permanent cessation of irrigation
- ✓ Regulations identified topsoil as fundamental to significant wildlife habitat
- ✓ Loss of topsoil and noxious weed invasion made as findings in support
- ✓ Revegetation required as a permit condition

## Significant examples of 1041 regulations, *cont'd*

- ✓ Regulation of **Colorado Department of Transportation**
- ✓ Both Douglas County and Idaho Springs designate site selection of arterial highways and interchanges and collector highways
- ✓ CDOT objects on various grounds including preemption
- ✓ Regulations upheld