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COLORADO REVISED STATUTES

*** THIS DOCUMENT REFLECTS CHANGES CURRENT THROUGH ALL LAWS PASSED AT THE FIRST REGULAR SESSION OF THE 68TH GENERAL ASSEMBLY OF THE STATE OF COLORADO ***

TITLE 37. WATER AND IRRIGATION
WATER RIGHTS AND IRRIGATION
ARTICLE 80.STATE ENGINEER

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C.R.S. 37-80-104 (2011)

37-80-104. Compact requirements - state engineer's duties

The state engineer shall make and enforce such regulations with respect to deliveries of water as will enable the state of Colorado to meet its compact commitments. In those cases where the compact is deficient in establishing standards for administration within Colorado to provide for meeting its terms, the state engineer shall make such regulations as will be legal and equitable to regulate distribution among the appropriators within Colorado obligated to curtail diversions to meet compact commitments, so as to restore lawful use conditions as they were before the effective date of the compact insofar as possible.

HISTORY: Source: L. 69: p. 1195, § 5. C.R.S. 1963: § 148-11-24.

ANNOTATION

Applicability of section. A compact that was not deficient in establishing standards for administration of water rights in Colorado precluded the application of this section other than as the source of the compact rule power. *Alamosa-La Jara Water Users Prot. Ass'n v. Gould*, 674 P.2d 914 (Colo. 1983).

Where a compact had become deficient in establishing standards for administration of water rights within Colorado, this section was held to authorize the state engineer to adopt rules as necessary to ensure compliance with the compact. However, in adopting such rules, the state engineer is subject to all statutory conditions imposed upon exercise of the water rule power. *Simpson v. Bijou Irrigation Co.*, 69 P.3d 50 (Colo. 2003).

State engineer's authority to apply compact tributary rule. A compact requiring administration of the Rio Grande mainstem and Conejos river according to delivery schedules that did not include the contributions of three creeks as significant to the delivery obligation did away with the state engineer's authority to apply the tributary rule of the compact to the three creeks. *Alamosa-La Jara Water Users Prot. Ass'n v. Gould*, 674 P.2d 914 (Colo. 1983).

Stream administration. Streams independently appropriated remain independent under the doctrine of prior appropriation unless the water of those streams becomes subject to equitable apportionment by compact, in which case the streams must be administered as mandated by the compact or statutory provisions for priority administration of water rights. *Alamosa-La Jara Water Users Prot. Ass'n v. Gould*, 674 P.2d 914 (Colo. 1983).

State engineer may promulgate and enforce appropriate rules. In order to promulgate and enforce rules for compliance with Rio Grande river compact commitments, the state engineer may promulgate and enforce appropriate rules for

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the administration of water rights. *In re Rules Regulations Governing Water Rights, 196 Colo. 197, 583 P.2d 910 (1978).*

Procedures specified in other statutes. This section vests the state engineer with power to administer water use within the state and also with a duty to ensure compliance with Colorado's interstate obligations. However, where neither the compact nor this section set forth specific procedures, the state engineer must necessarily promulgate and enforce rules pursuant to the water rule power granted in § 37-92-501. *Simpson v. Bijou Irrigation Co., 69 P.3d 50 (Colo. 2003).*