



# COLORADO

## Parks and Wildlife

Department of Natural Resources

1313 Sherman St, Room 111  
Denver, CO 80203  
P 303.866.3203

**TO:** Members of the Colorado Parks and Wildlife Commission  
**FROM:** Krista Heiner, Regulations Manager  
**RE:** Chapter W-16 Final Regulations for the April 30, 2020 Parks and Wildlife Commission Meeting  
**DATE:** April 17, 2020

Final regulatory changes for Chapter W-16 - "Parks and Wildlife Procedural Rules" - 2 CCR 406-16 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 303-866-3203 x4609.

### Agenda Item 11: Chapter W-16 - "Parks and Wildlife Procedural Rules" - 2 CCR 406-16

Open for consideration of final regulations including, but not limited to:

- **Revising the process by which the Division and Commission respond to citizen petitions for rulemaking (p. 1)**

Previous regulations prompted staff to file a rulemaking notice with the Secretary of State if a petitioner filed a complete citizen petition for rulemaking on time. This presumed the Commission wanted to consider making a regulatory change and obligated the staff to analyze the petition without the benefit of any direction from the Commission. In addition, previous regulations granted citizen petitioners the opportunity to make oral presentations to the Commission, which may not be necessary in all circumstances and limited CPW's ability to manage Commission meeting agendas. The new regulations require petitioners to provide contact information, a copy of the proposed rule (preferably in redline format), the reasons for the proposed rule, and a statement of the Commission's statutory authority. The new regulations do not put a strict timeline on when citizen petitions would be noticed for rulemaking and do not automatically grant citizen petitioners the opportunity to make an oral presentation to the Commission concerning their petition. Citizens always have that right during public comment. These amendments maximize CPW's flexibility in responding to citizen petitions while retaining the public's ability to bring forward proposed regulatory changes.

In addition, the Commission's July 8, 2016 policy on Public Rulemaking Petitions has been revised and a redline version of the changes, as well as a clean version of the policy with proposed changes incorporated are included for consideration.

**FINAL REGULATIONS - CHAPTER W-16 - PARKS AND WILDLIFE PROCEDURAL RULES**

**ARTICLE III – CITIZEN PETITIONS**

**#1606 - Citizen Petition Requirements**

- A. Any person may petition the Commission to initiate rulemaking pursuant to 24-4-103(7), C.R.S. All petitions for rulemaking must contain the following information: (1) The name, address, and telephone number of the person requesting the rulemaking; and (2) A copy of the rule proposed in the petition, preferably in redline format, and a general statement of the reasons for the requested rule or revision. Persons desiring to create, modify, or remove a Commission regulation pursuant to 24-4-103(7), C.R.S. must submit a citizen petition proposal for consideration. The petitioner shall have the burden of proof to demonstrate that the amendment should be adopted by the Commission. The petition shall be in writing, shall include the petitioner's name and adequate contact information, and shall contain a clear and concise statement of the basis and purpose behind the requested amendment. Each request shall also include appropriate additional evidence and documentation in support thereof. Petitions that do not meet these minimum requirements will be considered incomplete and will not be addressed by the Commission.
- B. Proposed amendments to a chapter that is opened annually based on the Division's regulatory calendar will only be considered when that chapter is open. For amendments to chapters that are not opened annually, the petition will be heard at the public meeting determined most appropriate by the Commission Chair. C. Any petition that is submitted late or without adequate time to be included in the applicable public rule making notice will be held by the Division until that chapter reopens or the petition is scheduled to be heard by the Commission Chair.

**#1607 - ReservedCitizen Petition Public Presentations**

- A. A citizen petition presentation to the Commission will generally be limited to fifteen (15) minutes or less, unless otherwise determined appropriate by the Commission Chair.
- B. Each petitioner is strongly encouraged to present their own petition. If a petitioner is unable to attend or present their petition to the Commission, Division staff will present the petition but will not address questions on behalf of the petitioner.

**#1608 - ReservedResubmission of Denied Petitions**

- A. Citizen petitions that are denied by the Commission may not be re-submitted for further consideration until after at least one full calendar year after Commission action and then only if new and substantial information has been developed and added to the petition. Re-submitted petitions must also comply with the timelines outlined in Commission Regulations #1606(B) and #1606(C).

**MAILING - 04/17/2020**  
**Basis and Purpose**  
**Chapter W-16 - Procedural Rules**

**Basis and Purpose:**

**Revising the process by which the Division and Commission respond to citizen petitions for rulemaking**

Previous regulations prompted staff to file a rulemaking notice with the Secretary of State if a petitioner filed a complete citizen petition for rulemaking on time. This presumed the Commission wanted to consider making a regulatory change and obligated the staff to analyze the petition without the benefit of any direction from the Commission. In addition, previous regulations granted citizen petitioners the opportunity to make oral presentations to the Commission, which may not be necessary in all circumstances and limited CPW's ability to manage Commission meeting agendas. The new regulations require petitioners to provide contact information, a copy of the proposed rule (preferably in redline format), the reasons for the proposed rule, and a statement of the Commission's statutory authority. The new regulations do not put a strict timeline on when citizen petitions would be noticed for rulemaking and do not automatically grant citizen petitioners the opportunity to make an oral presentation to the Commission concerning their petition. Citizens always have that right during public comment. These amendments maximize CPW's flexibility in responding to citizen petitions while retaining the public's ability to bring forward proposed regulatory changes.

The statements of basis and purpose for these regulations can be obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager by emailing Krista Heiner at [krista.heiner@state.co.us](mailto:krista.heiner@state.co.us). The statements of basis and purpose are not available at the Division of Parks and Wildlife headquarters due to the closure of these facilities to the public in light of the COVID-19 pandemic and Executive Order D 2020 017.

**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 JUNE 30, 2020 AND SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL REPEALED, AMENDED OR SUPERSEDED.**

**APPROVED AND ADOPTED BY THE PARKS AND WILDLIFE COMMISSION OF THE STATE OF COLORADO THIS 30TH DAY OF APRIL, 2020.**

**APPROVED:**  
**Michelle Zimmerman**  
**Chair**

**ATTEST:**

**James Vigil**  
**Secretary**

# COLORADO PARKS AND WILDLIFE COMMISSION POLICY

Title: PUBLIC CITIZEN PETITIONS TO INITIATE RULEMAKING-PETITIONS  
Effective Date: July 8, 2016

## I. AUTHORITY

~~As a state rulemaking body, the Parks and Wildlife Commission is required by law to operate pursuant to section 24-4-103(7), C.R.S. This section gives any interested person the right to petition for the issuance, amendment, or repeal of a rule. The statute also states that the timeframe for action on such petitions shall be at the discretion of the agency. However, if the Commission chooses to postpone a petition, it is required to consider the petition when it next addresses related rulemaking matters.~~

### I. PURPOSE

Colorado law enables citizens to request agencies adopt, revise or repeal regulations. Agencies have substantial discretion to grant or deny such requests. If granted, a rulemaking process ensues. If denied, the citizen may seek judicial review of the agency's denial. This guidance provides a general overview of the processes applicable to such petitions.

### II. AUTHORITY

C.R.S. 24-4-103. Rule-making - procedure - definitions - statutory citation correction

### III. POLICY STATEMENT

The Parks and Wildlife Commission recognizes that public participation in decisions regarding the management of the state's wildlife and park resources is both desirable and necessary. ~~A petition for Citizen petitions to initiate rulemaking is one of the many methods available to the public to allow for active engagement in the rulemaking process. A standard with CPW. A transparent procedure for the consideration of public such petitions is essential to ensure fair and equitable treatment of such documents, and petitions. This policy is intended to enable inform the public to be informed about the most effective manner in which to how to effectively introduce petitions to the Commission's regulatory process. In addition, a uniform standard establishes the framework is established~~ for the petitioner to set forth

sufficient facts and supporting documentation to provide the Commission with the appropriate information to form the basis for Commission action.

## II.IV. IMPLEMENTATION

### A. Required Information

Petitions presented to the Commission must include the petitioner's name and sufficient, contact information to enable, a copy of the Commission to make an initial determination about whether to accept modified rule as proposed (preferably in redline format), and the petitionrationale for further consideration, the proposed rule change. The petition should refer to the regulation proposed for modification, and shouldmust be submitted through in writing to the Division to the Commission. Petitioners may contact Division staff for related forms, assistance with the process, or any other information necessary for submission of a citizen petition.

### B. Consideration of petitions

Petitioners should be prepared to submit A petition is considered complete documentation in supportwhen it meets all of the rule changes proposed in their petition.

Once a requirements as outlined in #1606 of the Commission's regulations. Once a complete petition is received, staff will recommend to the Director, in consultation with the Commission the Chair, will determine the process and schedule for considering it, likely within the following guidelines:

- If the petition corresponds to a regulatory chapter which is scheduled for review by the Commission on an annual basis, the petition will be heard during the rulemaking hearings applicable to that chapter.
- If the petition corresponds to a regulatory chapter which is not scheduled for review by the Commission on an annual basis, the petition will be heard at the Commission's next possible regularly scheduled hearing within the public notice requirements of the State Administrative Procedures Act.
- In order to maintain consistency in regulations and regulatory process, the Commission generally will not consider a citizen petition addressing a regulation passed, with full process, within the previous 12 months will be disfavored.
- In order to maintain consistency in regulations and regulatory process, petitions requesting reconsideration of fiveconsideration

~~of regulations the Division opens on a periodic basis or for multi-year season structure decisions during planning (e.g., the Division's Five-Year Big Game Season Structure) received outside the applicable five year review period are will be disfavored, and petitioners. Petitioners~~ wishing to address such issues will generally be asked to participate in the Division's next applicable ~~Five Year Big Game Season Structure~~ planning process.

- Resubmission of denied petitions will ~~only be accepted disfavored until~~ after a full calendar year, and ~~generally considered~~ only if new and substantial information has been added to the petition.

Within statutory guidelines, the Commission Chair, acting on behalf of the Commission, will determine when and how a petition is placed on the agenda for a specific Commission meeting. A petition may be placed on the main agenda or the consent agenda.

If the Division supports the petition, Division staff will recommend the petition for inclusion on a meeting agenda for the Commission's consideration and to proceed with rulemaking. Note: initiating rulemaking does not guarantee the passage or repeal of a rule. Instead, it initiates the process whereby the passage or repeal of a rule can, but not necessarily will, occur.

If the Division opposes the petition, Division staff will recommend placing the petition on the consent agenda for denial with a memo from the Director or Division personnel explaining such opposition. Petitioners will generally not be given time at the podium to present Division-opposed petitions. The Commission is not obligated to take public comment through dedicated agenda time; however, the public is always free to comment at meetings using the Commission's general public comment procedures. The Commission is free to take a Division-opposed petition off the consent agenda, and subsequently, either affirm or overrule the staff recommendation, with or without hearing from the petitioner.

If the Division neither supports nor opposes the petition, the Director and Commission Chair will determine the process for consideration. This may or may not include feedback from or collaboration with the petitioner.

When a determination is made regarding the placement of a petition on a specific agenda, petitioners will be notified ~~immediately~~ of that decision, ~~and will be made aware of their opportunity to testify in support of their petition.~~

~~Public petitions should initially be placed on the rulemaking agenda~~

~~clearly separated from other rulemaking matters brought forward by staff. The agenda and rulemaking notice specifically will notice the petition for action by the Commission. Thus, the petitioner should understand that the Commission will either take action to move the petition forward or deny the petition.~~

~~At the initial hearing, the petitioner will be given an opportunity to present the petition~~advance~~. Staff may be requested to present its position on the petition to assist Commission deliberations. Any decision to support, reject, or modify the petition will be made based upon the information placed in the record at the time of the hearing.~~

If the Commission ~~accepts the grants a citizen~~ petition ~~for further consideration to initiate rulemaking~~, the petitioner ~~will and other stakeholders may~~ be asked to work with staff to develop regulatory language and provide any other information or materials requested by the Commission. Within statutory guidelines, the Commission reserves the right to determine the schedule for moving the petition forward, including continuance beyond the regularly-scheduled two-step regulations process. Denial of a petition constitutes final action by the Commission.

Denial of a petition constitutes final action by the Commission.

Any decision to support, reject, or modify a petition will be made based upon the information placed in the record.

Petitioners should be aware that signatures of supporters are not required for submission of a petition. Further, submission of multiple petitions asking for similar Commission action is disfavored, and such petitioners may be asked to coordinate their petitions.

Interpretative documents or general statements of policy, such as this guidance, are not meant to be binding as rules under the State Administrative Procedure Act. § 24-4-103(1), C.R.S.

# COLORADO PARKS AND WILDLIFE COMMISSION POLICY

Title: CITIZEN PETITIONS TO INITIATE RULEMAKING  
Effective Date:

## I. PURPOSE

Colorado law enables citizens to request agencies adopt, revise or repeal regulations. Agencies have substantial discretion to grant or deny such requests. If granted, a rulemaking process ensues. If denied, the citizen may seek judicial review of the agency's denial. This guidance provides a general overview of the processes applicable to such petitions.

## II. AUTHORITY

C.R.S. 24-4-103. Rule-making - procedure - definitions - statutory citation correction

## III. POLICY STATEMENT

The Parks and Wildlife Commission recognizes that public participation in decisions regarding the management of the state's wildlife and park resources is both desirable and necessary. Citizen petitions to initiate rulemaking are one of the many methods available to the public to allow for active engagement with CPW. A transparent procedure for the consideration of such petitions is essential to ensure fair and equitable treatment of such petitions. This policy is intended to inform the public about how to effectively introduce petitions to the Commission's regulatory process. In addition, a framework is established for the petitioner to set forth sufficient facts and supporting documentation to provide the Commission with the appropriate information to form the basis for Commission action.

## IV. IMPLEMENTATION

### A. Required Information

Petitions presented to the Commission must include the petitioner's name, contact information, a copy of the modified rule as proposed (preferably in redline format), and the rationale for the proposed rule change. The petition must be submitted in writing to the Division. Petitioners may contact Division staff for related forms, assistance with the process, or any other information necessary for

submission of a citizen petition.

## B. Consideration of petitions

A petition is considered complete when it meets all of the requirements as outlined in #1606 of the Commission's regulations. Once a complete petition is received, the Director, in consultation with the Commission Chair, will determine the process and schedule for considering it, likely within the following guidelines:

- In order to maintain consistency in regulations and regulatory process, a citizen petition addressing a regulation passed, with full process, within the previous 12 months will be disfavored.
- In order to maintain consistency in regulations and regulatory process, petitions requesting consideration of regulations the Division opens on a periodic basis or for multi-year planning (e.g., the Division's Five-Year Big Game Season Structure) received outside the applicable review period will be disfavored. Petitioners wishing to address such issues will generally be asked to participate in the Division's next applicable planning process.
- Resubmission of denied petitions will be disfavored until after a full calendar year, and generally considered only if new and substantial information has been added to the petition.

Within statutory guidelines, the Commission Chair, acting on behalf of the Commission, will determine when and how a petition is placed on the agenda for a specific Commission meeting. A petition may be placed on the main agenda or the consent agenda.

If the Division supports the petition, Division staff will recommend the petition for inclusion on a meeting agenda for the Commission's consideration and to proceed with rulemaking. Note: initiating rulemaking does not guarantee the passage or repeal of a rule. Instead, it initiates the process whereby the passage or repeal of a rule can, but not necessarily will, occur.

If the Division opposes the petition, Division staff will recommend placing the petition on the consent agenda for denial with a memo from the Director or Division personnel explaining such opposition. Petitioners will generally not be given time at the podium to present Division-opposed petitions. The Commission is not obligated to take public comment through dedicated agenda time; however, the public is always free to comment at meetings using the Commission's general public comment procedures. The Commission is free to take a Division-opposed petition off the consent agenda, and subsequently, either affirm or overrule the staff recommendation, with or without hearing from the

petitioner.

If the Division neither supports nor opposes the petition, the Director and Commission Chair will determine the process for consideration. This may or may not include feedback from or collaboration with the petitioner.

When a determination is made regarding the placement of a petition on a specific agenda, petitioners will be notified of that decision in advance. Staff may be requested to present its position on the petition to assist Commission deliberations.

If the Commission grants a citizen petition to initiate rulemaking, the petitioner and other stakeholders may be asked to work with staff to develop regulatory language and provide any other information or materials requested by the Commission. Within statutory guidelines, the Commission reserves the right to determine the schedule for moving the petition forward, including continuance beyond the regularly-scheduled two-step regulations process.

Denial of a petition constitutes final action by the Commission.

Any decision to support, reject, or modify a petition will be made based upon the information placed in the record.

Petitioners should be aware that signatures of supporters are not required for submission of a petition. Further, submission of multiple petitions asking for similar Commission action is disfavored, and such petitioners may be asked to coordinate their petitions.

*Interpretative documents or general statements of policy, such as this guidance, are not meant to be binding as rules under the State Administrative Procedure Act. § 24-4-103(1), C.R.S.*