

Colorado Parks and Wildlife
Citizen Petition Packet



Last Updated: June 2020



Colorado Parks and Wildlife's Citizen Petition Process

Are you interested in creating a new Colorado Parks and Wildlife (CPW) regulation or modifying or removing an existing rule? Colorado State Statute 24-4-103(7) gives any interested person the right to petition for the issuance, amendment, or repeal of any state rule. A written citizen petition is required to initiate such a process. This packet was created as a resource for those individuals who may be considering submitting a citizen petition to the Parks and Wildlife Commission, the body that sets regulations for Colorado's state parks and wildlife programs. In this packet, you will find the following useful information:

- A brief explanation of the citizen petition process.
- A Frequently Asked Questions Document.
- A copy of the main regulations and Commission Policy related to citizen petitions.
- An example of the Citizen Petition Form.

The Citizen Petition Process

Initiating the Process. The first step to starting the citizen petition rule-making process is to contact CPW's Regulations Manager. The Regulations Manager will assist you through every step of the citizen petition process and will be your main point of contact within the agency. Please direct any inquiries to:

Krista Heiner
CPW Regulations Manager
1313 Sherman Street, Room 111
Denver, CO 80203
303-866-3203 x 4609
krista.heiner@state.co.us

How to Submit a Petition. All petitions must be written and submitted on a Citizen Petition Form. An example of the Citizen Petition Form is included in this packet and can be obtained electronically from the Regulations Manager. Any additional or supporting information may also be included along with this form. All documents received will become public records (available both online and in hard copy form at the meeting), so refrain from including any personal information on the form that you are not willing to share with the public. The Regulations Manager will need adequate contact information from you including your name, phone number, address and email address.

Staff Review of Petitions. After submission, the Regulations Manager will review your petition for completeness. A complete petition will be posted online to CPW's Citizen Petition Page, indicating the petition has been received by CPW and is under consideration. The petition will then be reviewed and discussed by upper-level CPW managers at an internal Regulation Review Meeting. This is when staff's position on or response to your petition is formulated. Staff's position on your petition will be shared with you by the Regulations Manager, shared with the Commission, and posted online a couple of weeks after the internal Regulation Review meeting.

Presenting to the Commission. If staff supports your petition and/or at the direction of the Chair of the Commission, your petition will be placed on the main agenda of an appropriate Commission meeting for discussion. If directed by the Chair of the Commission, you will be asked to present your petition to the Commission. The Regulations Manager will provide you with all the Commission Meeting logistics including the meeting location and the date/time your petition is scheduled on the agenda. The Regulations Manager will also ensure that all of your documents are provided to the Commission prior to the meeting and that any presentation materials are uploaded and ready for viewing the day of the meeting. Immediately following your presentation, staff will be asked by the Commission to respond and provide staff's recommendation. The Regulations Manager typically presents staff's recommendation. After both presentations, public testimony is accepted. The Commission will then vote to grant or deny the petition. Denying the petition constitutes final agency action, whereas granting the petition triggers the filing of appropriate rulemaking notices with the Secretary of State's Office and the Department of Regulatory Agencies. The Commission typically supports staff's recommendation, but this is not always the case. The Commission could also direct staff and the petitioner to continue working out a possible solution or compromise.

If staff does not support your petition and/or at the direction of the Chair of the Commission, your petition will be placed on the consent agenda for denial. Items on the consent agenda, such as Division-opposed citizen petitions, do not have corresponding agenda time for specific discussion unless a Commissioner removes the item from the consent agenda. Accordingly, citizen petitions that are opposed by the Division do not afford an opportunity for the citizen to make a specific presentation to the Commission unless the petition is removed from the consent agenda. Any Commissioner has the opportunity to remove items from the consent agenda and ask that the petition be placed on the main agenda for discussion at a subsequent Commission meeting, if desired. A vote to deny a petition is considered final action.

Citizen Petition Frequently Asked Questions

- 1. How do I submit a petition?** Petitions must be written on a Citizen Petition Form and submitted to the CPW Regulations Manager. Petitions can be emailed (preferred) to Krista.heiner@state.co.us or mailed to Krista Heiner at 1313 Sherman Street, Room 111, Denver, CO 80203.
- 2. What should or shouldn't I include in my petition? Is there a length requirement?** There is no minimum or maximum length requirement for citizen petitions. However, the ideal length is just long enough to adequately and concisely explain your request, provide proper justification, cite relevant scientific information, and answer any required questions. Verifiable facts carry greater weight than personal opinions. Unlike a petition for a ballot measure, signatures of support are not a necessary component of a Parks and Wildlife citizen petition.
- 3. When can I request changes to season structure?** Every five years, several of our regulatory chapters undergo large-scale program reviews, which include public outreach efforts. For example, the review for big game hunting is commonly referred to as the Big Game Season Structure. Big Game Season Structure includes issues like the number of seasons for each species, overlap among different seasons/methods of take, breaks between seasons, and the timing of beginning and ending dates. Requested changes to regulations that affect these items are generally only addressed when a new season structure is being approved. Similar reviews are done for fishing, small game and waterfowl hunting.
- 4. How much supporting information or scientific evidence must I include in my petition?** The burden of proof lies with the petitioner for getting any request approved, not with staff. Therefore, enough supporting information or data should be included to make a convincing argument and "prove" your case.
- 5. What is the difference between a staff issue paper and a citizen petition?** Both types of documents are used to request changes or additions to existing regulations. The difference between them is that staff issue papers have the full support of CPW agency staff. If staff would like to promote the idea raised in a citizen petition, they may choose to support the petition. The Commission typically concurs with agency recommendations so if staff supports your citizen petition, the chances of the Commission approving it greatly increase.
- 6. Can I pick which Commission meeting my petition will be heard?** No. The scheduling of citizen petitions is based on the agency's regulatory calendar (when certain chapters are opened annually), current season structure timeline, the Commission's schedule, as well as when the petition is first submitted to the Regulations Manager.

7. **Can I attend the agency's Regulation Review meeting when my petition is discussed?** No, Regulation Review is for agency staff only.
8. **How much time do I get to present my petition at the Commission meeting?** If granted the opportunity to present by the Chair of the Commission, petitioners get a maximum of fifteen minutes to present their petition. Let the Regulations Manager know if you do not need the entire fifteen minutes so the agenda can be modified prior to the meeting.
9. **If I have presented and the Commission grants my petition, do I need to attend any more meetings?** No. While you are always welcome to attend any Commission Meeting, the subsequent meeting after you have presented your petition is generally just used for approving specific regulatory language written to make your request effective and enforceable. You can view the proposed language a week prior to the meeting on our Commission webpage:
<http://www.cpw.state.co.us/aboutus/pages/commission.aspx>.
10. **Can I resubmit my petition again if the Commission denies it?** Yes, but with certain limitations. You should wait at least a full calendar year before resubmitting a petition for the same request. In addition, your petition should include new and substantial information to be considered further. Again, the timing of when your petition will be readdressed will be based on the agency's regulatory calendar and the Commission's schedule.

Citizen Petition Regulations

The following CPW regulations pertain specifically to filing citizen petitions. Note: if your petition deals with placing additional species of wildlife on the unregulated list or removing any species of wildlife from the unregulated list, please see specific regulations in Chapter W-11 below. Other regulations may also relate directly to your specific request. The Regulations Manager can assist you in identifying any other applicable regulations.

CHAPTER W-16 - PARKS AND WILDLIFE PROCEDURAL RULES

ARTICLE III – CITIZEN PETITIONS

#1606 - Citizen Petition Requirements

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.

CHAPTER W-11 - WILDLIFE PARKS AND UNREGULATED WILDLIFE

#1114 - Unregulated Wildlife Listing or Delisting

- A. Persons desiring to place additional species of wildlife on the unregulated list or remove any species of wildlife from the unregulated wildlife list may petition for such amendment pursuant to subsection 24-4-103(7), C.R.S. 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 contain a concise statement of the basis and purpose behind the requested amendment, and a written response to each of the criteria listed below. Each request shall include appropriate additional evidence in support thereof. The petition shall include documentation that the proposed species would or would not have detrimental effects on native wildlife. Such documentation should include, but is not limited to, the following specific information on each species being requested for consideration:
1. The scientific and common name or names including subspecies.
 2. Habitat requirements and limitations, including an assessment of its survivability in Colorado's native habitats.
 3. The potential of the species to negatively impact or destroy native vegetation.
 4. All known associated diseases, including zoonotic diseases and parasites.
 5. Predatory behavior, including assessment of the anticipated effect predation by the species would have on native wildlife and domestic animals.
 6. An assessment of the potential of the species to damage or destroy agricultural crops or rangeland.

7. An assessment of the ability of the species to breed with native wildlife and domestic animals.
 8. Fecundity and reproductive behavior.
 9. Assessment of the competition this species would have with native wildlife and domestic animals for food, water, and space.
 10. Information about the regulatory status of the species in Arizona, Nevada, Utah, Wyoming, Nebraska, Kansas, Oklahoma, New Mexico, Idaho, and Montana.
 11. Information about the regulatory prohibitions of the species in any city or county within Colorado.
 12. Assessment of the "weediness" of the animal. The "weediness" of an animal shall be defined and assessed by the following criteria: 1) Characterization of the aggressiveness of the animal, 2) its ability to thrive in Colorado, 3) its ability to disperse widely or pioneer, 4) its reproductive potential, and 5) its ability to adapt to other food sources (opportunistic feeding ability).
 13. Cite whether the species is listed by the Convention of International Trade in Endangered Species (CITES), and if so, on which appendix.
 14. An assessment of the potential for illegal trafficking of the species within the United States and internationally.
 15. An assessment of the impacts to wild populations of the species if legal possession and trade were allowed.
 16. An assessment of the care and welfare requirements of the species.
 17. Assessment of the danger this animal poses to humans if it were to escape.
 18. Bibliography of reference materials.
- B. In evaluating petitions, a risk averse precautionary approach to wildlife management will be applied. If the impacts from the species are unknown, petitions to add the species to the unregulated list will be denied. Only where there is compelling scientific consensus that the species will not threaten public health, safety or welfare, or native wildlife, ecosystems, agricultural operations or wild populations of the species in question may a petition to add a species to the unregulated list be granted.
- C. Requested amendments to the unregulated wildlife list must be received prior to October 1st of each calendar year. Such properly completed requests will be reviewed annually by the Commission at their January and March meetings of the following calendar year. The Division will provide a summary of this information to the Departments of Health and Agriculture for their review.
- D. 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 of Commission Regulation #1114(C).

COLORADO PARKS AND WILDLIFE COMMISSION POLICY

Title: CITIZEN PETITIONS TO INITIATE RULEMAKING
Effective Date: June 30, 2020

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.

CITIZEN PETITION FORM

Date:

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Issue:

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Which rule are you seeking to create or revise? Please include a copy of the rule you are proposing to create or change, preferably with the change made in redline format.

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Why are you seeking to create or revise this rule? Please include a general statement of the reasons for the requested rule or revision and any relevant information related to the request.

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Petitioner's name:

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*The following information will not be posted publicly.	
*Petitioner's email address:	
*Petitioner's address:	
*Petitioner's telephone number:	