

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

ARTICLE III – ~~CITIZEN RULEMAKING~~ 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.

#1607 - ~~Reserved~~ Implementation of SB 23-267, Chatfield State Park Water quality Fee

A. The Chatfield Watershed Authority may petition the Commission to initiate rulemaking pursuant to SB 23-267, codified at § 33-9-114, CRS, to impose a water quality fee on visitors to Chatfield State Park, provided the requested fee shall not apply to visitors to Chatfield State Park holding an annual or lifetime pass. The Authority's petition must:

- (1) Contain a general statement of the reasons for imposing the requested water quality fee,
- (2) Contain a copy of the proposed rule, preferably in redline format,
- (3) Identify current or proposed water quality projects within the boundaries of the Authority in need of funding, including an overview of the anticipated costs and benefits of such projects, and
- (4) Prioritize current or proposed water quality projects in terms of most urgent need and demonstrate financial need for such projects.

B. In the event the Commission imposes a water quality fee on visitors to Chatfield State Park, the Authority must, on or before June 1, 2029, submit a report to the Division detailing how and to what extent the resulting funding supported water quality projects that benefited Chatfield State Park and its recommendation on whether the water quality fee should be increased, repealed or otherwise amended. At least 25% of the funding will be used for water quality projects within the boundaries of Chatfield State Park. If the recommendation is to increase the fee with CPI, the fee may only be increased to the nearest dollar amount.

#1608 - Reserved

Basis and Purpose:

Implementing regulations for SB 23-267 Chatfield State Park Water Quality Fee

The General Assembly passed SB 23-267 in 2023, creating new § 33-9-114, CRS. The law created a funding mechanism for the Chatfield Watershed Authority, which is comprised of counties, municipalities, and water and sanitation districts near Chatfield State Park (the Authority). The Authority's mission is to promote the protection of water quality in the Chatfield watershed.

The new law is intended to raise money for the Authority by enabling CPW, at the Authority's request, to charge certain people who visit Chatfield SP an additional fee, up to \$2.00. CPW must collect the fee and transmit proceeds to the Authority, less CPW's administrative costs. The Authority must spend at least 25% of the proceeds on water quality projects within Chatfield SP. Annual and lifetime pass holders cannot be charged the fee.

The new law requires the Commission to adopt implementing regulations in two phases. The new law contemplates the Authority filing a rulemaking petition with the Commission requesting CPW impose the fee. These regulation changes, amend CPW procedural rules to accommodate such a petition before one is filed.

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 dnr_cpw_planning@state.co.us or by visiting the Division of Parks and Wildlife headquarters at 6060 Broadway, Denver, CO, 80216.

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: § 33-6-106, C.R.S. and §33-1-106(1)(a), C.R.S.

EFFECTIVE DATE - THESE REGULATIONS SHALL BECOME EFFECTIVE MAY 1, 2024 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 ON THIS 13TH DAY OF MARCH 2024.

APPROVED:
Dallas May
Chair

ATTEST:
Karen Bailey
Secretary

ISSUES SUBMITTAL FORM

Date:

03/01/2024

ISSUE:	Implementation of SB 23-267 (Concerning A Water Quality Fee To Be Paid For Admission To Chatfield State Park, And, In Connection Therewith, Requiring The Division Of Parks And Wildlife To Collect The Fee And Transfer The Amount Of The Fee To The Chatfield Watershed Authority).
DISCUSSION (FACTS AND FIGURES, EXPLANATION OF ISSUE):	
<p>The General Assembly passed SB 23-267 in 2023, creating new § 33-9-114, CRS. The law created a funding mechanism for the Chatfield Watershed Authority, which is comprised of counties, municipalities, and water and sanitation districts near Chatfield State Park (the Authority). The Authority's mission is to promote the protection of water quality in the Chatfield watershed.</p> <p>The new law is intended to raise money for the Authority by enabling CPW, at the Authority's request, to charge certain people who visit Chatfield SP an additional fee, up to \$2.00. CPW must collect the fee and transmit proceeds to the Authority, less CPW's administrative costs. The Authority must spend at least 25% of the proceeds on water quality projects within Chatfield SP. Annual and lifetime passholders cannot be charged the fee.</p> <p>The new law requires the Commission to adopt implementing regulations in two phases. The new law contemplates the Authority filing a rulemaking petition with the Commission requesting CPW impose the fee. So first, CPW needs to amend its procedural rules to accommodate such a petition before one is filed. Second, CPW would need to grant such a petition and amend its regulations to impose the fee.</p> <p><i>Phase 1:</i> In phase one of implementing the new law, CPW will need to amend its regulations in W-16 to accommodate the filing of a petition for rulemaking by the Authority and develop the substantive criteria the Commission will evaluate in considering whether to impose the Authority's desired fee, or not. A redline of the proposed W-16 changes is provided below.</p> <p>We anticipate the W-16 changes being approved at Step 1 of 1 by the Commission in March 2024. The Commission must promulgate the phase one process rules by July 1, 2024. Although the new law doesn't <i>require</i> the Commission to impose the fee, it does state that the "Division shall collect the water quality fee on and after January 1, 2025" and also states the Commission shall not "unreasonably deny" the Authority's request to impose the fee.</p> <p><i>Phase 2:</i> In phase two of implementing the new law, the Authority will need to file a petition for rulemaking, similar to CPW's current process for citizen petitions. The petition will need to adhere to the process rules the Commission adopted in phase one and include things like a draft of the proposed rule, a statement of need for funding, and identify high-priority projects. Although it will be incumbent on the Authority to provide a redline of its desired rule imposing the fee, we expect the process to be collaborative.</p>	
STATE LAW REQUIRES CPW TO SOLICIT INPUT FROM STAKEHOLDERS THAT MAY BE AFFECTED POSITIVELY OR NEGATIVELY BY THE PROPOSED RULES. THE FOLLOWING STAKEHOLDERS HAVE BEEN ADVISED OF AND INVITED TO PROVIDE INPUT ON THE REGULATORY CHANGES PROPOSED IN THIS ISSUE PAPER:	
IT IS ASSUMED THAT ALL NECESSARY INTERNAL PARTIES HAVE BEEN NOTIFIED.	
[List stakeholder groups and briefly summarize comments received]	
<p>The Chatfield Watershed Authority (CWA) was the organization to proposed SB 23-267 in 2023. We consulted with them on January 29, 2024. They are supportive of this regulation change and have agreed to provide what they can from their perspective to help it be successful.</p>	

ALTERNATIVES: (POSSIBLE OUTCOMES or POSSIBLE REGULATIONS):

1. *Preferred Alternative*:

Redline changes to W-16 to accommodate a rulemaking petition by the Authority

This issue paper proposes Chapter W-16 Article III be amended to apply to rulemaking petitions, generally. This issue paper also proposes to add a new Regulation #1607, specific to SB 23-267.

W-16

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Issue Raised by:

Kris Wahlers

**Author of the issue paper
(if different than person raising the
issue):**

CC:	
APPROVED FOR FURTHER CONSIDERATION BY:	Mark Leslie
REQUIRES NEW SPACE IN THE BROCHURE?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
ARE ADEQUATE STAFF AND FUNDING RESOURCES AVAILABLE TO IMPLEMENT?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
REGION, BRANCH, OR SECTION LEADING IMPLEMENTATION	NE Region
RECOMMENDED FOR CONSENT AGENDA?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO