



COLORADO

Parks and Wildlife

Department of Natural Resources

Policy and Planning
6060 Broadway
Denver, CO 80216

TO: Mr. Siegfried
FROM: Hilary Hernandez, Regulations Manger
RE: July 30, 2024 Citizen Petition
DATE: August 20, 2024

CPW is in receipt of your citizen petition for rulemaking, which asks the Commission to repeal a portion of its conflicts of interest policy. Your petition will be forwarded to the Commission as a public comment. Your petition will not be placed on the Commission agenda as an action item unless the Commission directs otherwise.

The citizen petition process only applies to formal rules adopted by the Commission, meaning those rules that are codified in the Colorado Code of Regulations. The Commission's formal rules are codified at 2 CCR 405 - 406 and are available on CPW's [website](#). These rules are commonly referred to as Chapters P-01 - P-08 (Parks Regulations) and W-01 - W-17 (Wildlife Regulations).

The conflicts of interest policy at issue in your petition is not codified in the Colorado Code of Regulations and is not a formal rule of the Commission. Citizen petitions for rulemaking are not an available means to repeal Commission policies or resolutions.

The Commission's authority to adopt formal rules is codified in Title 33. *See, e.g.*, § 33-9-102(2), C.R.S. ("In addition to any other specific grant of rule-making authority, the commission may adopt or revise any rules, in accordance with article 4 of title 24, C.R.S., that the commission deems necessary or convenient to effect the purposes of, and fulfill its duties under, this title.").

The Commission adopts formal rules pursuant to the State Administrative Procedure Act (APA), § 24-4-101 - 204, C.R.S., and in particular, § 24-4-103 (rulemaking). Any person has the right to file a citizen petition for rulemaking, requesting the Commission adopt, repeal, or amend a formal rule. § 24-4-103(7). Commission rule [#1606](#) implements this provision of the APA, as does the Commission's citizen petition policy, available [here](#). These procedures only apply to formal rules, not policies or resolutions.

The Commission adopted its current conflicts of interest policy in 2021. It did so as required by [HB 18-1198](#), now codified at § 24-3.7-102(1), C.R.S. This statute allows the Commission to adopt a conflicts policy instead of a formal rule and provides:

Notwithstanding any law to the contrary, commencing January 1, 2019, each statutorily created board or commission in state government ... shall implement written **policies or bylaws** and obtain annual training on: ... (d) Identifying and managing conflicts of interest. (emphasis added).



Jeff Davis, Director, Colorado Parks and Wildlife

Parks and Wildlife Commission: Dallas May, Chair • Richard Reading, Vice-Chair • Karen Bailey, Secretary • Jessica Beaulieu Marie Haskett • Tai Jacober • Jack Murphy • Gabriel Otero • Murphy Robinson • James Jay Tutchtton • Eden Vardy

The Commission complied with HB 18-1198 by adopting its conflicts of interest policy at its May 2021 Commission meeting. The agenda is available [here](#).

Although no law required the Commission to adopt a formal rule codifying its conflicts of interest policy in the Colorado Code of Regulations, it has discretion to do so. Indeed, one other state agency - the Air Quality Control Commission - has adopted the identical phrase you have concerns with in its formal rules. See 5 C.C.R. § 1001-1:X (“An official act that affects a group of industries or businesses does not, in and of itself, constitute an actual conflict of interest even though the Commissioner may work for or otherwise have an interest in one of the industries or businesses impacted by the official act.”).

Thank you for your interest in CPW and this issue.