

STATE OF COLORADO
Division of Registrations



Dora
Department of Regulatory Agencies

OFFICE OF OUTFITTERS
REGISTRATION

RULES

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**RULES OF THE COLORADO STATE OFFICE OF OUTFITTERS
REGISTRATION
EFFECTIVE OCTOBER 1, 2011**

TABLE OF CONTENTS

<u>CHAPTERS</u>	<u>SUBJECT</u>	<u>PAGE</u>
CHAPTER 1	GENERAL DEFINITIONS	1
CHAPTER 2	ISSUANCE OF OUTFITTERS REGISTRATION FOR INDIVIDUALS	3
CHAPTER 3	ISSUANCE OF OUTFITTERS REGISTRATION FOR ENTITIES	4
CHAPTER 4	RENEWAL AND REINSTATEMENT OF OUTFITTER REGISTRATION	5
CHAPTER 5	OUTFITTER RESPONSIBILITIES	6
CHAPTER 6	ADVISORY COMMITTEE	9
CHAPTER 7	CONTRACT GUIDELINES	10
CHAPTER 8	DECLARATORY ORDERS	11

DEPARTMENT OF REGULATORY AGENCIES
OFFICE OF OUTFITTER REGISTRATION

4 CCR 733-1

RULES OF THE OFFICE OF OUTFITTER REGISTRATION

Effective Date: October 1, 2011

CHAPTER 1
GENERAL DEFINITIONS

1.1 DEFINITIONS

In addition to the definitions found in Colorado Revised Statutes ("C.R.S.") §12-55.5-102, the following shall apply:

- A. **ADVERTISEMENT.** The attempt by publication, dissemination, solicitation, or circulation, whether by visual, oral, electronic, or written means, to induce directly or indirectly any person to enter into an agreement with an outfitter.
- B. **ADVISORY COMMITTEE.** Individuals appointed by the director to provide recommendations regarding industry related issues, in accordance with C.R.S. § 12-55.5-111.
- C. **AUTHORIZED AGENT.** Any peace officer as defined in C.R.S. §§12-55.5-102(6); local, state or federal law enforcement officer; or investigator employed by a district attorney, the attorney general or the division of registrations.
- D. **BOOKING AGENT.** An individual or business entity which has entered into a contractual relationship with an outfitter, as defined in C.R.S. §§12-55.5-102(5), to solicit outfitting services on behalf of an outfitter.
- E. **CLIENT.** A person who engages the services of a registered outfitter.
- F. **DIRECTOR.** In addition to the definition found in C.R.S. §12-55.5-102(2), the director can be the division director's designee.
- G. **OFFICE.** The Office of Outfitters Registration.
- H. **TAKE.** To hunt, pursue, catch, capture, shoot, trap, kill or possess, or attempt to hunt, pursue, catch, capture, shoot, trap, kill or possess any fish or wildlife.
- I. **REGISTRATION.** A form of licensure issued by the director pursuant to the provisions of C.R.S. §12-55.5-105, and shall be renewable subject to approval by the director.
- J. **REINSTATEMENT.** The process by which an individual or entity registrant that has expired is returned to active status.

- K. RENEWAL. The process of applying to retain the individual or entity registration in an active status every year in accordance with the schedule established by the division of registrations pursuant to C.R.S. §§ 12-55.5-105((5) and 24-34-102.
- L. RESPONSIBLE PARTY. An individual designated to be the responsible party and agent for a registered entity.

CHAPTER 2
ISSUANCE OF OUTFITTERS REGISTRATION FOR INDIVIDUALS

- 2.1 Any person may apply for a registration by submitting an application and fee in the manner approved by the division of registrations and must be registered prior to soliciting to provide or providing outfitting services.
- 2.2 An individual registrant using or intending to use a d/b/a, business name, or trade name for offering or providing outfitting services must list such name(s) on the initial application for registration.
- 2.3 Any registrant using or intending to use a d/b/a, business name, or trade name for offering or providing outfitting services must list such name(s) on the initial application for registration.
- 2.4 Registrations issued to individuals are not transferable. If a registered individual sells or transfers an outfitting business, the new owner shall be required to submit a new application for registration. The current owner shall submit notification to the Office that the business was sold or transferred as part of the initial application for the new owner.

2.5 NOTICES FROM INDIVIDUAL REGISTRANTS

A. Address and Name Changes

- i. Outfitters shall inform the director of any name, address, telephone, or email change within 30 days of the change. The director will not change the outfitters registration information without explicit notification in a manner prescribed by the director.
- ii. One of the following forms of documentation is needed to change a name or correct a social security number:
 - a. Marriage license;
 - b. Divorce decree;
 - c. Court order; or
 - d. A driver's license or social security card with a second form of identification may be acceptable at the discretion of the division of registrations.

CHAPTER 3
ISSUANCE OF OUTFITTERS REGISTRATION FOR ENTITIES

3.1 Any entity may apply for registration by submitting an application and fee in the manner approved by the division of registrations and must be registered prior to soliciting to provide or providing outfitting services under the entity name.

3.2 Registrations issued to entities are transferable.

3.3 NOTICES FROM ENTITY REGISTRANTS

A. Address, Telephone or Email Changes

- i. Entity registrants shall inform the director of any name, address, telephone, or email change within 30 days of the change. The director will not change an entities' information without explicit notification in a manner prescribed by the director.

B. Responsible Party Changes

- i. Any change to a responsible party requires the submittal of an application in a manner approved by the division of registrations.
- ii. Pursuant to C.R.S. § 12-55.5-105(4), changes to the responsible party must be reported within ten working days.
- iii. Responsible parties may not change without explicit consent of the current responsible party.

**CHAPTER 4
RENEWAL AND REINSTATEMENT OF OUTFITTER REGISTRATIONS**

4.1 RENEWAL NOTICES TO REGISTRANTS

- A. The director sends notices for renewal of individual or entity registrations according to a schedule established and in a manner approved by the division of registrations pursuant to C.R.S. § 24-34-102(8). Renewal notices are mailed to the last address furnished to the director. There is a 60 day grace period from the expiration date of the registration within which to pay the renewal fee, plus a late fee.
- B. Failure to receive a renewal notice does not relieve the individual or entity registrant of the obligation to pay the renewal fee and submit appropriate documentation in support of the renewal application.

4.2 REINSTATEMENT OF AN EXPIRED REGISTRATION

The purpose of this rule is to establish the qualifications and procedures for reinstatement of an expired registration, pursuant to C.R.S. §§ 12-55.5-105(5) and 24-34-105.

- A. Conditions of Reinstatement for an Expired Registration:
 - i. An applicant seeking reinstatement of an expired registration shall complete a reinstatement application, pay a reinstatement fee, and submit proof of having first aid training, insurance, and surety bond.
 - ii. An applicant for reinstatement who has engaged in activities as an outfitter or advertised in any publication or represented himself or itself as an outfitter in Colorado with an expired registration in violation of C.R.S. § 12-55.5-103 is subject to denial of the application, disciplinary action, and/or other penalties as authorized by C.R.S. Title 12, Article 55.5 and in accordance with C.R.S. § 24-34-102, *et seq.*

CHAPTER 5 OUTFITTER RESPONSIBILITIES

- 5.1 Outfitters shall advise clients, employees, and contracted personnel of applicable local, state, and federal laws related to land management including licensing requirements and wildlife and shall not condone their violation.
- 5.2 An outfitter shall at all times provide for the safety of clients and personnel, and shall not threaten the safety of the public.
- 5.3 A kit containing supplies to provide immediate and necessary first aid shall be carried by each outfitter and guide while in the field with clients appropriate for the services provided. A more extensive kit shall be available at each camp which contains additional supplies to provide first aid necessary until the injured party can be moved to a medical facility.
- 5.4 An outfitter shall provide safe, serviceable, and sufficient equipment in good working condition, adequate to provide the services for which the outfitter contracted. Such equipment shall be made available for inspection upon request of the director or other authorized agent.
- 5.5 An outfitter shall maintain safe and clean facilities where services are provided, which shall include compliance with local, county, state, and federal land use regulations.
- 5.6 An outfitter shall not misrepresent rates, services, or accommodations. An outfitter shall not employ false or misleading statements or advertisement materials.
- 5.7 An outfitter shall honor the terms of the contractual obligations to all clients. If the outfitter is unable to honor the terms of the contract for any reason, each client shall be notified immediately.
- 5.8 An outfitter is responsible for the acts of all employees, contracted personnel and authorized booking agents when those individuals are acting within the scope of their employment, contract, agreement, or at the outfitter's direction or supervision.
- 5.9 In accordance with C.R.S. §12-55.5-107(3) an outfitter shall maintain accurate and complete records of all outfitting services and shall provide such records to the director or authorized agents upon request. Records shall include:
 - A. Names and addresses of clients;
 - B. Dates services were provided;
 - C. Names and addresses of employees and contracted personnel;
 - D. Copies of employee or contracted personnel first aid cards or the equivalent, in accordance with C.R.S. §12-55.5-108(2);
 - E. Documentation that clients, employees and contracted personnel have been advised of applicable laws required by rule 5.1;
 - F. Documentation of insurance coverage and bond;
 - G. Contracts or agreements with authorized booking agents;
 - H. Contracts with each client; and
 - I. Other records required by law.
- 5.11 Should first aid verification, bond or insurance be canceled or expire during the registration period, the outfitter is no longer in compliance with the registration requirements, and outfitting services cannot be provided or solicited until the outfitter provides updated bond or insurance coverage.

- 5.12 An outfitter shall not employ or contract with any individual whose outfitter registration is revoked or suspended to:
- A. Provide guide services as defined in C.R.S. §12-55.5-102(4);
 - B. Provide outfitting services as defined in C.R.S. §12-55.5-102(5.5);
 - C. Act, behave like, pose as, impersonate, appear or seem to be, or function as a substitute for the outfitter; or,
 - D. Represent, stand for, symbolize, serve as the official and authorized delegate or agent for, act as a spokesman for, or act the part or role of the outfitter.
- 5.13 Pursuant to C.R.S. §12-55.5-106(1)(j), an outfitter may hire an individual who does not meet the requirements of C.R.S. §12-55.5-103.5 in an “emergency” situation. An emergency situation arises only when, due to circumstances beyond an outfitter’s control, an existing guide becomes unable to provide services to a client for a scheduled hunt. In such a situation, the outfitter may employ an individual who does not have a first aid card. Any individual hired as a guide in an emergency situation must be at least 18 years old. An outfitter may employ an individual without a first aid card to serve as a guide for either 10 days or for one excursion, whichever is less. When an emergency arises, the outfitter must notify the client, in writing. The outfitter and the client shall sign and date the written notification. The outfitter shall provide a copy of the written notification to the client and keep a copy of this document pursuant to C.R.S. §12-55.5-107(3) and rule 5.10. The written notification shall state the following:
- A. The nature of the emergency;
 - B. The individual who will be guiding the client; and
 - C. That the individual fails to meet the requirements C.R.S. §12-55.5-103.5.

5.14 REPORTING CONVICTIONS, JUDGMENTS AND ADMINISTRATIVE PROCEEDINGS FOR INDIVIDUALS AND ENTITIES

- A. Outfitters shall notify the director within 45 days of any of the following events:
 - i. The outfitter’s or responsible party’s conviction of a felony under the laws of any state or of the United States, which would be grounds for discipline under C.R.S. §12-55.5-106. A guilty verdict, a plea of guilty, or a plea of nolo contendere (no contest) accepted by the court is considered a conviction;
 - ii. A disciplinary action imposed upon the outfitter by another jurisdiction that licenses or registers outfitters, which would be a violation of C.R.S. § 12-55.5-106, including, but not limited to, a citation, sanction, probation, civil penalty, or a denial, suspension, revocation, or modification of a license or registration whether it is imposed by consent decree, order, or other decision, for any cause other than failure to pay a license or registration fee by the due date;
 - iii. Revocation or suspension by another state, municipality, federal or state agency who oversees outfitters and guides;
 - iv. Any judgment, award or settlement of a civil action or arbitration in which there was a final judgment or settlement against the outfitter related to the practice of outfitting.
- B. The notice to the director shall include the following information;

- i. If the event is an action by a governmental agency (as described in ii or iii above), the name of the agency, its jurisdiction, the case name, and the docket, proceeding or case number by which the event is designated, and a copy of the consent decree, order or decision;
 - ii. If the event is a felony conviction, the court, its jurisdiction, the case name, the case number, a description of the matter or a copy of the indictment or charges, and any plea or verdict entered by the court. The outfitter shall also provide to the director a copy of the imposition of sentence related to the felony conviction and the completion of all terms of the sentence with forty-five days of such action;
 - iii. If the event concerns a civil action or arbitration proceeding, the court or arbiter, the jurisdiction, the case name, the case number, a description of the matter or a copy of the complaint, and a copy of the verdict, the court or arbitration decision, or, if settled, the settlement agreement and court's order of dismissal;
- C. The outfitter notifying the director may submit a written statement with the notice to be included with the outfitter records.

**CHAPTER 6
ADVISORY COMMITTEE**

- 6.1 The director shall appoint an advisory committee of five members. The advisory committee will consist of not less than three registered or retired outfitters and not more than two non-registered individuals who may be individuals involved with land or wildlife management, or a member of the general public.
- 6.2 When reasonably practical, the registered outfitter members of the advisory committee shall include both fishing and hunting outfitters and each may have been practicing as a registered outfitter.
- 6.3 Each member shall serve a four year term. No member shall serve more than two full consecutive terms.
- 6.4 The director may remove any advisory committee member for cause. Any member may resign at any time by filing a written notice with the director. Upon receipt of a resignation, the director may appoint an individual to serve the remainder of the unexpired term.
- 6.5 The members shall be responsible to make recommendations concerning outfitting or outfitters to the director. Such recommendations are subject to the final approval by the director.
- 6.6 The advisory committee shall meet upon the request of the director at such times as are deemed necessary to conduct the business of the Office.
- 6.7 While serving as an advisory committee member for the Office, a member cannot serve as an active officer in a leadership role at the state level with an industry-related association as determined by the director.

**CHAPTER 7
CONTRACT GUIDELINES**

7.1 CONTRACTS FOR HUNTING OR FISHING CLIENTS

- A. In addition to the requirements of C.R.S. §12-55.5-109, a registered outfitter must provide a written contract to all clients for outfitting services. The contract with each client must contain a minimum of the following:
 - i. The name of the outfitter, the entity name, business name or trade name;
 - ii. The physical location of the business;
 - iii. Contact information of the business;
 - iv. The outfitter registration number;
 - v. A refund policy which defines the refund policy when the prospective client does not draw the required license or tag for the species the client is negotiating to hunt; and
 - vi. Specify the location or locations of the actual hunt using game management units assigned by Colorado Parks and Wildlife.
 - vii. The name of the bond and insurance company.
 - viii. A statement indicating that proof of bond and insurance is available upon request.

- B. The contract must be provided to all clients within 30 days of the outfitter's receipt and acceptance of a deposit from the client. Any deposit made by a client who the outfitter does not accept must be returned within 30 days of the decision not to accept.

- C. A single day hunting or fishing trip requires a contract that contains the minimum requirements in C.R.S. §12-55.5-109(1), (2) and (3) and this rule.

- D. A copy of the contract shall be provided to the director or authorized agent upon request.

**CHAPTER 8
DECLARATORY ORDERS**

- 8.1 Any person may petition the director for a declaratory order to terminate controversies or to remove uncertainties as to the applicability to the petitioner of any statutory provision or of any rule or order of the director.
- 8.2 The director will determine, in their discretion and without notice to petitioner, whether to rule upon any such a petition. The director shall promptly notify the petitioner of their action and state the reasons for such action.
- 8.3 In determining whether to rule upon a petition filed pursuant to this rule, the director will consider the following matters, among others:
- A. Whether a ruling on the petition will terminate a controversy or remove uncertainties.
 - B. Whether the petition involves any subject, question or issue which is the subject of a formal or informal matter or investigation currently pending before the director or a court involving one or more of the petitioners.
 - C. Whether the petition involves any subject, question or issue which is the subject of a formal or informal matter or investigation currently pending before the director or a court but not involving any petitioner.
 - D. Whether the petition seeks a ruling on a moot or hypothetical question or will result in an advisory ruling or opinion.
 - E. Whether the petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Rule 57, Colorado Rules of Civil Procedure, which will terminate the controversy or remove any uncertainty as to the applicability to the petitioner of the statute, rule or order in question.
- 8.4 Any petition filed pursuant to this rule shall set forth the following:
- A. The name and address of the petitioner and whether the petitioner is registered pursuant to C.R.S. § 12-55.5-105.
 - B. The statute, rule or order to which the petition relates.
 - C. A concise statement of all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule or order in question applies or potentially applies to the petitioner.
- 8.5 If the director determines that they will rule on the petition, the following procedure shall apply:
- A. The director may rule upon the petition based solely upon the facts presented in the petition. In such a case:
 - i. Any ruling of the director will apply only to the extent of the facts presented in the petition and any amendment to the petition.
 - ii. The director may order the petitioner to file a written brief, memorandum or statement of position.
 - iii. The director may set the petition, upon due notice to petitioner, for a non-evidentiary hearing.
 - iv. The director may dispose of the petition on the sole basis of the matters set forth in the petition.
 - v. The director may request the petitioner to submit additional facts in writing. In such event, such additional facts will be considered as an amendment to the petition.

- vi. The director may take administrative notice of facts pursuant to the State Administrative Procedure Act and may utilize available experience, technical competence and specialized knowledge in the disposition of the petition.
 - vii. If the director rules upon the petition without a hearing, the director shall promptly notify the petitioner of the decision.
- B. The director may, in their discretion, set the petition for hearing, upon due notice to petitioner, for the purpose of obtaining additional facts or information or to determine the truth of any facts set forth in the petition or to hear oral argument on the petition. The notice to the petitioner setting such hearing shall set forth, to the extent known, the factual or other matters into which the director intends to inquire. For the purpose of such a hearing, to the extent necessary, the petitioner shall have the burden of proving all of the facts stated in the petition, all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule or order in question applies or potentially applies to the petitioner and any other facts the petitioner desires the director to consider.
- 8.6 The parties to any proceeding pursuant to this rule shall be the director and the petitioner. Any other person may seek leave of the director to intervene in such a proceeding, and leave to intervene will be granted at the sole discretion of the director. A petition to intervene shall set forth the same matters as required by section 8.4 of this chapter. Any reference to a "petitioner" in this rule also refers to any person who has been granted leave to intervene by the director.
- 8.7 Any declaratory order or other order disposing of a petition pursuant to this rule shall constitute final agency action subject to judicial review pursuant to C.R.S. § 24-4-106.