

DEPARTMENT OF REGULATORY AGENCIES

Office of Outfitters Registration

RULES OF THE OFFICE OF OUTFITTERS REGISTRATION

4 CCR 733-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

CHAPTER 1 GENERAL PROVISIONS

1.1. Citation

For ease of reference, these Rules of the Office of Outfitters Registration may also be cited as the "Outfitter Rules".

1.2. Scope and Applicability

These Outfitter Rules apply to outfitters and guides, as those terms are defined by § 12-55.5-102, C.R.S. and to any other persons over whom the Director has jurisdiction under Article 55.5 of Title 12, C.R.S.

1.3. Definitions

Terms defined in § 12-55.5-102, C.R.S. shall have the same meaning in these rules. In addition, the following definitions apply throughout the Outfitter Rules, unless a specific statute or rule provides otherwise:

- A. "Advertisement" means 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" means the body of individuals appointed by the Director under § 12-55.5-111, C.R.S.
- C. "Authorized agent" means any peace officer as defined in § 12-55.5-102(6), C.R.S.; a local, state, or federal law enforcement officer; or an investigator employed by a district attorney, the attorney general, or the Division.
- D. "Booking agent" means any person or entity who has entered into a written contractual relationship or who is authorized by an outfitter to solicit outfitting services on behalf of an outfitter.
"Client" means an individual, a group of individuals, or any person that engages the services of an outfitter.
- E. "C.R.S." means the Colorado Revised Statutes.
- F. "Director" means the Director of the Division or the Director's designee.
- G. "Division" means the Division of Professions and Occupations in the Department of Regulatory Agencies.

- H. "Game Management Unit" means a hunt area as described in current big game management unit as determined by the Colorado Department of Natural Resources.
- I. "Guide" means, in addition to the meaning set forth in § 12-55.5-102(4), C.R.S., a registrant or an employee or independent contractor of a registrant whose duties include management of outfitter operations and/or guiding, leading, or assisting any person to and from a place where such person expects to hunt to take fish or wildlife.
- J. "Office" means the Division's Office of Outfitters Registration.
- K. "Registrant" means an individual or entity registered as an outfitter under § 12-55.5-105, C.R.S., regardless of the registration status as active, probated, or suspended. The definition of an Outfitter is found in § 12-55.5-102 (5), C.R.S. For purposes of these Rules, Registrant is an Outfitter.
- L. "Registration" means the authorization granted by the Director after meeting all the requirements in the provisions of § 12-55.5-105, C.R.S.
- M. "Reinstatement" means the process by which an expired registration is returned to active status.
- N. "Renewal" means the process of applying to retain a registration in an active status on a schedule determined by the Director pursuant to §§ 12-55.5-105(5) and 24-34-102, C.R.S.
- O. "Responsible party and agent" means an officer, director, member, partner, or other controlling or managing individual of an entity registrant, designated by such registrant to be responsible for all communications with the Division.
- P. "Take" means to hunt, pursue, catch, capture, shoot, trap, kill, or possess any fish or wildlife or to attempt to hunt, pursue, catch, capture, shoot, trap, kill, or possess any fish or wildlife.

CHAPTER 2 REGISTRATION APPLICATION AND ISSUANCE

2.1. General Information

- A. Registrants shall carry proof of registration at all times when providing outfitting services.
- B. When a registrant's registration is suspended or revoked, the registrant must immediately return all documentation of such registration to the Director.

2.2 Entity Registrations

A. Responsible Party

Entity registrants are required to designate a responsible party and agent for the registrant upon initial application and while maintaining the registration pursuant to § 12-55.5-105(4), C.R.S. The responsible party for the registrant shall be accountable for the operations of the registrant and shall be responsible for answering all the screening questions on the application.

B. Personnel Providing Outfitting Services

Entity registrants shall identify all individuals on the initial application for registration who will or may provide outfitting services for the registrant, regardless of whether such individual is an employee or independent contractor.

2.3. Registrant Names

- A. Registrants shall not offer, engage or perform, or offer to perform outfitting services using a name that has not been provided to the Director.
- B. If a registrant performs or offers to perform outfitting services under a trade name, such trade name must be filed with the Colorado Secretary of State pursuant to § 7-71-101, C.R.S.
- C. All names under which a registrant performs or offers to perform outfitter services, including business, assumed, or trade names, shall be provided to the Director.
- D. The name under which a registrant performs or offers to perform outfitting services shall not be misleading about the services provided.
- E. A name shall be considered misleading if the name:
 - i. Implies the existence of a corporation by the use of words or abbreviations such as "Corporation," "Incorporated," "P.C.," "Corp.," or "Inc.," if the registrant is not incorporated or is not a professional corporation;
 - ii. Implies the existence of a partnership by the use of a designation such as "Smith & Jones," "Partnership," "Ltd.," "LP," "LLP," or "LLLLP" if the registrant is not such an entity;
 - iii. Implies the existence of a limited liability company by the use of abbreviations such as "Ltd.," "L.L.C.," "LLC," or "LC" if the registrant is not such an entity;
 - iv. Contains any representation that would likely cause a reasonable person to be misled or confused about the legal entity type (e.g., corporation, partnership, limited liability company, or sole proprietorship) or its ownership;
 - v. Contains any representation that would likely cause a reasonable person to have a false or unjustified expectation of favorable results or capabilities;
 - vi. Contains claims or guarantees about a specific outcome; or
 - vii. Contains claims or implies the ability to influence a regulatory body or official.

2.4. Applications for Registration

- A. Complete Applications.

To apply for issuance of an outfitter registration under § 12-55.5-105, C.R.S., a person must submit a complete application on a form approved by the Director. A complete application requires that an applicant submit the application, the required fee, and all required documentation as set forth in the application. Required documentation includes that which the applicant is responsible for submitting and any other documentation that may be required from other sources to support the applicant's file.

B. Training Equivalent to First Aid Card

As used in §§ 12-55.5-103.5(1) and 12-55.5-105(1)(b), C.R.S. and these rules, the Director considers the American Heart Association, any Wilderness First Aid, Wilderness First Responder, Emergency Medical Technician (EMT) – Basic, Intermediate, or Paramedic training or certification, Mountain Oriented First Aid to constitute “equivalent training” to holding a first aid card or a first aid instructor’s card issued by the American Red Cross. Demonstration of such training listed above shall constitute evidence of equivalent training.

C. Applications are Reviewed under Current Statutes and Rules.

Applications are evaluated under the statutes, rules, and regulations in effect at the time that the application is complete.

CHAPTER 3 REGISTRATION MAINTENANCE AND REPORTING CHANGES

3.1. Reporting Individual Name and Demographic Changes

A. Address and Name Changes

- i. Registrants 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 approved by the Director.
- ii. The Director requires one of the following forms of documentation to change a name or correct a social security number:
 - a. Marriage license;
 - b. Divorce decree;
 - c. Court order;
 - d. A driver’s license or social security card with a second form of identification may be acceptable at the discretion of the Division.

B. Trade Name and Doing Business As (DBA) Changes

- i. Registrants shall report any change of a trade name or DBA to the Director within 30 days of the changing the name with the Secretary of State.
- ii. Registrants shall verify the change by submitting copies of the documents filed with the Secretary of State.

3.2. Reporting Entity Changes

A. Address, Telephone or Email Changes

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 any information without explicit notification in a manner approved by the Director.

B. Trade Name and Doing Business As (DBA) Changes

- i. Registrants shall report any change of a trade name or DBA to the Director within 30 days of the changing the name with the Secretary of State.
- ii. Registrants shall verify any name change by submitting a copy of the certificate of good standing or copies of the documents filed with the Secretary of State.

C. Business Management or Ownership Changes

- i. Registrants shall report any change in ownership or management of an entity registrant to the Director within 30 days of the change. A change in ownership or management includes a change in the manager of a limited liability company, any change of the directors of a corporation, and any change of the partners in a partnership.
- ii. Any sale or transfer of an outfitting business will not include sale or transfer of the registration number assigned to the outfitter.
- iii. Following the sale, transfer, or dissolution of a registered entity, the responsible party must provide written notification and verification of the sale, transfer, or dissolution.
- iv. Following the sale or transfer of a registered entity, the new owner shall be responsible for applying to register the business by filing an application in a form approved by the Director.

D. Responsible Party Changes

- i. Any change to a responsible party requires the submittal of an application in a manner approved by the Director.
- ii. Pursuant to § 12-55.5-105(4), C.R.S., Registrants shall report changes of the responsible party to the Director within 10 working days.
- iii. The responsible party for a registrant may not change without explicit consent of the current responsible party identified in the entity record on file with the Division.

E. Change in Personnel, Officers or Partners

Entity registrants shall notify the Director of any changes to personnel, officers or partners providing outfitting services on behalf of the registrant and provided in the application in Rule 2.2 B.

F. Individual to Entity Registrants

A registered natural person who organizes an entity to offer or offer to perform outfitting services must file an application in a form approved by the Director to register the entity and obtain a new outfitter registration number. An individual outfitter registration number is not transferable to an entity.

3.3. Renewal of an Active Registration

- A. All active registrations expire and must be renewed in a manner approved by the Director pursuant to § 24-34-102, C.R.S. in order to maintain an active registration.

- B. As a condition of renewal, a registrant shall attest that the registrant has complied with the statutory and rule requirements to hold a valid first aid card or the equivalent training, possess a surety bond, and possess the required minimum liability insurance. The Director may audit attestations any time after the renewal.
- C. Failing to renew a registration will result in expiration of the registration. The registrant must reinstate the registration as set forth in Colorado Revised Statutes and these rules prior to continue providing or offering to provide outfitting services.

3.4. Expired Registrations

- A. A registration that is not renewed on or before the expiration date shall expire; however, there is a 60-day “grace period” from the expiration date within which the registration may be renewed, subject to a late fee. A registrant will not be disciplined for providing or offering to provide outfitting services with an expired registration during the grace period if the registration is renewed during the grace period.
- B. After the 60-day grace period, any registrant whose registration has expired is prohibited from performing or offering to perform outfitting services.
- C. Failure to receive a renewal notice does not relieve a registrant of the obligation renew the registration.

3.5. Reinstatement of an Expired Registration

- A. An applicant seeking to reinstate an expired registration shall complete an application in a form approved by the Director, pay a fee, and submit proof of:
 - i. Having a valid first aid card, first aid instructor’s card, or equivalent training;
 - ii. Minimum liability insurance, and
 - iii. Surety bond.
- B. If an applicant to reinstate a registration engaged in activities as an outfitter in another state, the Director may require verification of registration as an outfitter in good standing in such other state.

3.6. Surety Bond and Insurance Coverage

- A. Registrants may not perform or offer to perform outfitting services unless the registrant first posts and maintains a surety bond in the amount of a least \$10,000 and maintains liability insurance coverage in the amount of \$50,000(one individual in a single accident) and \$100,000 (all individuals in a single accident).
- B. Registrants are responsible for maintaining a surety bond and liability insurance coverage at all times the registrant is registered. A registrant may change surety bond or insurance providers, but there shall be no gap in bonding or insurance coverage.
- C. Any failure to maintain or be covered by a complying surety bond or insurance policy shall be grounds for discipline under §§12-55.5-106 (1)(c) and (d), C.R.S.

3.7. First Aid, Bond or Insurance Cancellation

A registrant whose first aid or equivalent training, surety bond, or liability insurance has been canceled or expired during the registration period is not in compliance with the registration requirements, and the registrant shall not perform or offer to perform outfitting services until the registrant provides to the Director proof of a valid first aid card, updated surety bond, or minimum liability insurance coverage pursuant to §§12-55.5-106(1)(c) and (d), C.R.S.

CHAPTER 4 RESPONSIBILITIES, PROFESSIONAL CONDUCT AND PROHIBITED CONDUCT

4.1. Responsibilities and Professional Conduct

- A. A registrant shall be responsible for the acts of all employees, contracted personnel, and booking agents when those persons are acting within the scope of their employment, contract, agreement, at the registrant's direction, or under the registrant's supervision.
- B. A registrant shall respect the legal rights of others, endeavor to promote and practice good stewardship of natural resources, and provide outfitting services on public lands in a manner such that they do not interfere with general public access to public land or access to wildlife on public land.
- C. A registrant shall promptly refund deposits paid by clients upon request if such deposits are due to a client in accordance with the outfitter's written refund policy or any other written agreements;
- D. A registrant shall honor the terms of contractual obligations to clients. If the registrant is unable to honor the terms of a client contract for any reason, the registrant shall immediately notify the client.
- E. A registrant shall ensure that each client has the necessary permits, stamps, and licenses prior to hunting or fishing when the registrant identifies this as a service they expect to provide.
- F. A registrant shall inform clients, employees, contracted personnel, or others who act on behalf of the registrant of all applicable local, state, and federal laws related to land management and fish and game laws and maintain proof of such notification.
- G. A registrant shall clearly indicate to clients the boundaries of the property they will be hunting or fishing, and inform clients of any special restrictions with conducting their hunt or fishing.
- H. A registrant shall not subject any animal used in providing outfitting services to abuse, or cruel and inhumane treatment as provided by Colorado law.
- I. A registrant shall not make any substantially false statements or fail to disclose any substantial facts requested in connection with an application or any communication with the Director.
- J. A registrant shall not make guarantees as to the successful taking of fish or wildlife.
- K. A registrant shall accurately represent its facilities, prices, equipment, services or hunting or fishing opportunities.
- L. A registrant shall not conduct any outfitting services on private or public land, except legal transportation across such lands, without first having obtained permission from the landowner or written authorization from the agency administering the public land.

- M. A registrant shall not condone or willfully allow violations or attempted violations of state and federal statutes or rules related to trespass, land use, wildlife, or cruelty to animals by employees, independent contractors, or clients.
- N. A registrant shall make all attempts to provide for the safety of clients and personnel at all times, and shall not willfully threaten the safety of the public, clients and employees.
- O. A registrant shall fully cooperate with private landowners and public land management agencies and shall adhere to the laws; rules and regulations of the Director; Department of Natural Resources, including Colorado Parks and Wildlife; United States Forest Service; National Park Service; Bureau of Land Management; State Land Office; U.S. Fish and Wildlife Service; and any other government agency having authority over outfitters or outfitting services.
- P. A registrant shall promptly report any known or observed violation of federal or state law or regulation governing wildlife, game, or fish to an appropriate law enforcement officer.

4.2. Cooperation with Investigations

Registrants having knowledge of, or involvement in, any alleged violation of any provision of Article 55.5 of Title 12, C.R.S.; Article 6 of Title 33, C.R.S.; these rules; or any alleged conduct for which disciplinary action would be warranted under § 12-55.5-106(1), C.R.S. shall cooperate with any investigation initiated by the Director and furnish such information, assistance, and documentation as may be requested.

4.3. Advertising Outfitting Services

A. General

In any advertisement offering to provide outfitting services, a registrant shall accurately represent its facilities, prices, equipment, services and hunting or fishing opportunities. A registrant shall not engage in fraud, deceit, misrepresentation, or concealment of any material fact in advertising, soliciting, or in providing outfitting services to the public.

B. Advertising via the Internet.

Any registrant offering to perform outfitting services via the internet must include the following minimum information on the internet site:

- i. Name of the registrant;
- ii. Mailing and physical address of the principal location where the registrant offers and/or provides outfitting services; and,
- iii. Registrant's business telephone number.

4.4. Emergency Guide Replacement

- A. Pursuant to § 12-55.5-106(1)(j), C.R.S., a registrant shall not be subject to disciplinary action for hiring an individual who does not meet the requirements of § 12-55.5-103.5, C.R.S. in an “emergency situation.” The Director shall consider that an emergency situation exists only when, due to circumstances beyond a registrant’s control, a guide becomes unable to provide services to a client with less than 7 days before a scheduled hunt. In such a situation, the registrant may employ an individual who does not have a valid first aid card, first aid instructor’s card, or equivalent training. Any individual hired as a guide in an emergency situation shall be at least 18 years old. A registrant may employ an individual who does not possess a first aid card, first aid instructor’s card, or equivalent training to serve as a guide for either 10 calendar days or for one hunting or fishing excursion, whichever is less.
- B. When an emergency situation arises, the registrant must notify the client, in writing. The registrant and the client shall sign and date the written notification. The registrant shall maintain a copy of the signed written notification and provide a copy to the client. The written notification shall state the following, at a minimum:
- i. The nature of the emergency;
 - ii. The individual who will be guiding the client; and
 - iii. That the replacement individual fails to meet the requirements § 12-55.5-103.5, C.R.S.

CHAPTER 5 SPECIFIC REQUIREMENTS FOR OUTFITTING SERVICES

5.1. Field Safety Kit

A registrant, guide, or contracted personnel leading a member of the public in the field shall maintain and carry a safety kit containing appropriate supplies to provide immediate and necessary first aid suitable for the services provided. At a minimum, such kit must contain adhesive bandages, sterile pads, flexible gauze bandages, first aid tape, and antiseptic to dress a minor cut or injury.

5.2. Guided Hunt - Camp Safety Kit

Registrants are responsible for keeping and maintaining a safety kit at each camp which contains appropriate supplies to necessary provide first aid for the services provided. The camp safety kit must be of a size appropriate for 50% of the guests at the camp. At a minimum, such safety kit must contain adhesive bandages in varying sizes, sterile pads, flexible gauze bandages, first aid tape, and antiseptic suitable to dress a large wound or injury.

5.3. Equipment

- A. Registrants shall provide safe, serviceable, and sufficient equipment in good working condition (e.g., without tears) for its intended use. The equipment provided shall be clean and adequate to provide the services for which the outfitter contracted.
- B. Registrants shall make all equipment available for inspection upon request of an authorized agent to effectuate §12-55.5-110, C.R.S.
- C. This rule shall not apply to a client’s personal equipment that the client chooses to provide and use during outfitting services. A client’s provision of his or her own equipment shall not relieve the registrant from any obligations under this rule.

5.4. HOUSING OR CAMP FACILITIES

Registrants shall maintain safe, orderly, and sanitary housing or camp facilities at all times and shall provide clean, fresh drinking water, protect all food from contamination, and dispose of all garbage, debris, and human waste properly. Housing or camp facilities shall comply with federal, state, and local land use and posting regulations. Livestock facilities shall be separate from camp facilities. Streams shall be protected from contamination.

CHAPTER 6 RECORDS MANAGEMENT & CONTRACT REQUIREMENTS

6.1. Records Management

In accordance with § 12-55.5-107(3), C.R.S., registrants shall maintain accurate and complete records of all outfitting services and shall provide such records to the Director or authorized agents upon request. Outfitting services records shall include the following, at a minimum:

- A. Names and addresses of clients;
- B. Dates services were provided;
- C. Game Management Unit (GMU) authorizations;
- D. Documentation that clients, employees and contracted personnel have been advised of applicable laws;
- E. Documentation of insurance coverage and bond;
- F. Applicable contracts or agreements with contracted personnel and authorized booking agents;
- G. Contracts with each client; and,
- H. Other records required by law.

6.2. Record Retention

Pursuant § 12-55.5-107(3), C.R.S., registrants shall maintain all applicable documents for the current year and the preceding 4 years. The Director construes “applicable documents” to mean any business, employment, or client records, logs or books created and maintained by the registrant.

6.3. Client Contracts

- A. Registrants shall provide a written contract to all clients for outfitting services. In addition to the contract requirements of § 12-55.5-109, C.R.S., 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. The location or locations of the actual hunt using the game management unit or another description that properly identifies the location(s) or area(s) where the services are to be provided;
 - vii. The name of the surety bond company;
 - viii. The name of the insurance company;
 - ix. A statement indicating that proof of bond and insurance is available upon request.
 - x. A statement indicating that outfitters are regulated by the Department of Regulatory Agencies (DORA).
- B. A copy of the contract, signed by the registrant and all clients, shall be provided to all clients within 30 days of the registrant's receipt and acceptance of a deposit from the client.
- C. Any deposit made by a client whom the registrant does not accept must be returned to the client within 30 days of the registrant's decision not to accept.
- D. A registrant that provides a single day hunting or fishing trip shall comply with the minimum contract requirements set forth in §12-55.5-109(1), (2) and (3), C.R.S. and these rules.
- E. A registrant shall provide a copy of the contract to the Director or their designee upon request.

CHAPTER 7 DISCLOSURES AND REPORTING REQUIREMENTS

7.1. Disclosures: Reporting Convictions, Judgments and Administrative Proceedings for Individuals and Entities

- A. Registrants 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 § 12-55.5-106, C.R.S. 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 or responsible party another jurisdiction that licenses or registers outfitters, which would be a violation of § 12-55.5-106, C.R.S., 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. 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 federal, state, or local governmental agency, 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 registrant may submit a written statement in addition to the notice to be included with the registrants records.

7.2. Reporting Activation of a Surety Bond

- A. Each registrant is required to notify the Director in writing within 45 days of a surety bond activation. Such written notice shall include all of the following items listed below:
- i. Name and registration number of registrant;
 - ii. Bond policy number;
 - iii. Number of clients impacted;
 - iv. Dollar amount; and
 - v. Other items that the Director deems necessary.

CHAPTER 8 ADVISORY COMMITTEE

The purpose of this chapter to clarify the terms and scope of the members of the advisory committee required pursuant to § 12-55.5-111, C.R.S.

- 8.1. The Director shall appoint an advisory committee to consist of five members. The advisory committee membership shall consist of the following:
- A. At least three individuals each of whom is a registrant or responsible party for an entity registrant and who personally provides outfitting services. To qualify for appointment to the advisory committee, individuals:
- i. May be required to provide proof of experience (fishing or big game hunting) for the 5 years preceding the date of the application;
 - ii. Shall not have had any pending or prior disciplinary action against their registration within the 5 years preceding the date of the application; and,

- iii. Shall not serve as an officer or in a leadership role at the state level with an outfitting-related association at the time of application and while serving as an advisory committee member.
 - B. One individual who is involved with land or wildlife management, and
 - C. One individual who is a member of the general public.
- 8.2. Advisory committee members serve at the request and pleasure of the Director. The Director shall set the term limits.
- 8.3. The Director may remove any advisory committee member for cause as the Director deems appropriate.
- 8.4. Any advisory committee member may resign at any time by filing a written resignation notice with the Director. Upon receipt of the notice, the Director may appoint an individual to serve the remainder of the unexpired term.
- 8.5. Advisory committee members are responsible for providing recommendations to the Director concerning regulation of outfitting or outfitters in Colorado. Such recommendations are subject to the final approval of the Director.

CHAPTER 9 PETITIONS FOR DECLARATORY ORDERS

The purpose of this rule is to establish procedures for the handling of requests for declaratory orders filed pursuant to § 24-4-105 (11), C.R.S.

- 9.1. Any person may petition the Director for a declaratory order to terminate controversies or remove uncertainties as to the applicability of any statutory provision or of any rule or order of the Director.
- 9.2. The Director will determine, in their discretion and without notice to petitioner, whether to rule upon any such a petition. If the Director determines that they will not rule upon such a petition, the Director shall promptly notify the petitioner of their action and state the reasons for such decision.
- 9.3. 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 as to the applicability to petitioner of any statutory provisions or rule or order of the Director.
 - B. Whether the petition involves any subject, question or issue that is the subject of a formal or informal matter or investigation currently pending before the Director or a court involving one or more 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 Colorado Rules of Civil Procedure 57, which will terminate the controversy or remove any uncertainty as to the applicability to the petitioner of the statute, rule or order in question.
- 9.4. 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 Title 12, Article 55.5.
 - 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.
- 9.5. 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 at § 24-4-105 (8), C.R.S and may utilize their experience, technical competence and specialized knowledge in the disposition of the petition.
 - B. If the Director rules upon the petition without a hearing, the Director shall promptly notify the petitioner of the decision.
 - C. The Director may, in their sole 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 hearing notice to the petitioner shall set forth, to the extent known, the factual or other matters into which the Director intends to inquire.

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- D. 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.
- 9.6. 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 Rule 9.4. Any reference to a “petitioner” in this rule also refers to any person who has been granted leave to intervene by the Director.
- 9.7. 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 § 24-4-106, C.R.S.

Editor’s Notes

History

Entire rule eff. 10/01/2011.

Entire rule eff. 01/31/2017.