

CHAPTER W-15 - DIVISION AGENTS

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CHAPTER W-15 - DIVISION AGENTS

See also § 33-4-101, C.R.S. and §33-12-104(1) C.R.S., for statutory provisions applicable to Division agents.

ARTICLE I - GENERAL PROVISIONS

#1500 – DEFINITIONS

- A. **"Division Product"** means any license, pass, permit, or registration which is sold through the Division of Parks and Wildlife integrated system.
- B. **"Accountable Inventory"** means equipment or stock which are assigned to agents and which they are responsible to return to the Division or the system agent upon request. Types of accountable inventory include, but are not limited to:
 - 1. **"Division Product Stock"** means the specialized paper stock used for the printing of Division products by a Division agent.
 - 2. **"Receipt Stock"** means the specialized paper stock used for the printing of receipts or affidavits by a license agent.
 - 3. **"Point of Sale (POS) Terminal"** means all machine components which license agents use to access the Division's electronic licensing system and conduct license transactions.
- C. **"Automatic Cash Handling" ("ACH")** means the direct electronic transfer of funds from one bank account to another.
- D. **"Division Agent"** means a business (sole proprietorship, partnership, or corporation) which is authorized to sell Division products from a specific location as an agent of the Division of Parks and Wildlife. Types of agencies are defined as follows:
 - 1. **"Retail Agent"** means a business which sells Division products for the Division from its retail store or other location of record.
 - 2. **"Consolidated Agent"** means a retail agent which sells Division products for the Division from two or more stores or other locations of record and which is licensed to conduct all business with the Division as a single entity.
 - 3. **"System Agent"** means the company contracted by the Division to operate its integrated parks and wildlife system, including, but not limited to, the provision of any accountable inventory or other necessary materials to retail agents; the maintenance of the electronic system and provision of electronic reports to the Division; the sale of Division products by telephone and through an internet site; the acceptance of applications through the internet site for the limited license drawings; and the printing and distribution of such licenses to the recipients (license fulfillment).
- E. **"Location of Record"** means the street address of the retail store or other specified business location(s) from which an agent sells Division products, as specified in the agent agreement or system agent contract.

ARTICLE II - DIVISION AGENT ESTABLISHMENT - AGENT REQUIREMENTS AND APPLICATION PROCESSING

#1501 - AGENT REQUIREMENTS AND FUNCTIONS

- A. Division Agent Establishment
 - 1. Division agents will be established and authorized to sell Division products from a permanent location of record.

2. Prior to the sale of electronic Division products, all retail agents must enter into a written contract (agent agreement) with the Division which specifies the terms of operation of such Division agent and the services to be provided by the agent and the Division, in accordance with applicable statutes, regulations, or policies of the Commission or Division.
 3. No Division products may be sold within the same portion of any business, building, or establishment where liquor is sold by the drink.
 4. Retail agents open for business must sell all license types available. Seasonal agents may restrict their hours of operation depending on the nature of their business according to their agent agreement.
- B. Division Product Sales
1. Retail agents must sell Division products from a location of record within the state of Colorado.
 2. The system agent may operate from a location of record within or outside of the state of Colorado.
 3. Retail agents who provide regular, established business hours will be provided with a minimum of one POS terminal. Consolidated agents who sell licenses to the general public during regular business hours will be provided with a minimum of one terminal per store.

#1502 - Application Processing

- A. New applicants for a Division agent must apply to the Division at least 60 days prior to the desired opening date. Provided further, however, that new agent applications are not processed between August 15 and December 31 without demonstration of immediate need. In such cases, applications for transfer of an agency from one owner to another shall have priority.
- B. Prior to the processing of any license agent application, the applicant is required to submit the following:
 1. A completed application, on forms provided by the Division.
 2. Proof of the required financial surety.
 3. Proof of property insurance.
 4. Verification that neither the applicant, nor any partner, officer, director or substantial shareholder thereof was the individual holder of any company, business, corporation or other entity which was a Division agent and which designation was either suspended or canceled for cause within the two year period preceding the application date.
 5. Except in the case of corporations, proof of lawful presence in the United States.

ARTICLE III - FINANCIAL GUARANTY (SURETY)

See also §§ 11-35-101 - 101.5, CRS for general requirements concerning forms of surety.

#1503 - Amount and Proof of Surety

- A. Prior to the establishment of any Division agent, the applicant shall provide proof of financial surety, on forms provided by the Division, for a minimum period of twelve months. The initiation and expiration dates of the coverage must be stated on the surety certificate. A continuation certificate issued by the bonding company or financial institution or proof of other acceptable financial surety shall be required for renewal of the Division agent for each twelve month period, and must be provided to the Division no later than thirty days prior to expiration. All surety

certificates must be originals and signed by both the surety (or their legal designee) and the Division agent.

- B. Agents shall be bonded in the amount necessary to ensure remittance of all funds due the Division. New license agents shall be required to be bonded for a minimum of \$2000. After the first twelve months for a new agency, or considering the historical sales records for existing agents, the amount of financial surety required of each agent shall be sufficient to ensure payment for licenses sold for the highest ten consecutive days sales in the current bonding period. Consolidated agents shall be responsible for the remittance of funds collected by their outlets, and shall be required to bond in the amount necessary to cover each outlet in the agency as if they were licensed individually.
- C. Agents shall not sell Division products in amounts that would exceed their bond level. Agents shall be responsible for payment of revenues at more frequent intervals, via ACH, if necessary to restore available bond.
- D. Agents shall have the option to adjust their surety level on a quarterly basis as determined by the highest ten consecutive days in the quarter. Quarters shall begin on the first days of January, April, July, and October. Proof of such adjustment must be posted before sales can be made against the higher bond amount.

ARTICLE IV - DIVISION AGENT OPERATION AND PERFORMANCE STANDARDS

#1504 - Agent Operation and Performance Standards

- A. Division agents are required to meet the following standards at all times:
 - 1. Maintain the required surety bond level.
 - 2. Display and distribute all public information, such as brochures and placards, as provided by the Division.
 - 3. Maintain a file of receipts, affidavits, or any other document required in the agent agreement.
 - 4. Keep all paper stock, POS terminals, and any other Division product equipment in a safe place and in good condition at the location of record, as specified in the agent agreement.
 - 5. Obtain insurance adequate to cover replacement of any POS terminals or other Division product-related equipment leased from the system agent.
 - 6. Sell all Division products and collect all donations specified in the agent agreement, and only at the location of record.
 - 7. Sell Division products only at face value, and only to those who are eligible to purchase them, in compliance with all applicable statutes and regulations.
 - 8. Establish an agent bank account with ACH capability which is electronically accessible to the Division.
 - 9. Deposit the state share of all Division product revenues in the agent bank account in the total amount due, in accordance with the schedule in the agent agreement.
 - 10. Immediately report the theft or loss of any accountable inventory.
 - 11. Attend any training required by the Division concerning applicable statutes and regulations and performance of agent duties, at the location specified by the Division.
 - 12. Comply with all statutory and regulatory requirements, all provisions of the agent agreement, and all directives of the Division, including, but not limited to, those provided via direct correspondence or in the Division Agent Manual.

13. Provide reasonable access to any Division officer or other peace officer upon request during normal business hours for the purpose of inspection of equipment, materials, records, or other applicable license agent documents or information.
14. Read and comply by any correspondence sent to the agent by the Division, including, but not limited to: electronic bulletins; monthly agent bulletins; special communications by mail, email, or through the system; and non-compliance letters.
15. Train all staff in the issuing of Division products as well as applicable policies and procedures prior to their use of the system.

ARTICLE V - DIVISION AGENT STATUS

#1506 - TERMINATION OF AGENCIES

A. Division Agent Termination

Division agents who wish to terminate their agency shall notify the Division in advance of such termination and the effective date; and shall reconcile their agency with the Division as follows:

1. All revenues due must be deposited in the agent account and all accountable inventory shall be returned to the Division, to the location or in the manner designated, within 10 business days after the termination date.
2. Agents which have purchased their POS terminal must allow the Division or its system agent to remove the integrated system software from the POS terminal within 3 business days after notification of the effective date of the termination.

#1507 - TRANSFER OF AGENCIES

A. Division Agent Transfer

1. Whenever a Division agent is to be sold, leased, or transferred in any manner, the new owner or person having control of the business may file an application for a new Division agent. The new agent must qualify to be an agent and independently comply with all other provisions of the statutes and these regulations.

#1508 - SUSPENSION AND CANCELLATION OF AGENCIES

See also §§ 24-4-104 C.R.S. for applicable statutes concerning appeals process

A. Failure to Comply with Performance Standards

1. General Performance Standards
 - a. Failure of a Division agent to comply with applicable rules and regulations of the Parks and Wildlife Commission or any lawful directives of the Director of Colorado Parks and Wildlife shall be grounds for an agent being declared delinquent, or for the suspension or cancellation of the Division agent.
 - b. When an agent does not comply with performance standards other than surety bond and payment of revenue, the agent shall be notified of the problem and the steps required to correct it. Any failure to correct the problem is grounds for revocation suspension, annulment, limitation, or modification of a Division agent.
2. Performance Standards for Surety and Monies Due the Division
 - a. When, through agent error, the Division does not receive ACH revenues due to it, the following actions shall be taken:

1. For the first failed ACH transaction within a twelve-month period, the agent shall be notified of a new date for an ACH transaction and shall deposit the required amount of funds in the agent account by that date.
 2. For a second failed ACH transaction within the same twelve-month period, the agent's POS terminal shall be disabled until the funds, including any interest due, have been received. The agent shall be notified of the date for another ACH transaction and shall deposit the required amount of funds in the agent account by that date.
 3. For a third failed ACH transaction within the same twelve-month period, the agent's POS terminal shall be disabled and the agent may be revoked. All funds due the Division must be immediately remitted to the Division in certified funds.
- b. When an agent's surety bond is not current, the agent shall be notified of the need to provide a current certificate and shall have fifteen business days to provide the required proof. The agent's POS terminal shall be disabled until the certificate is received. If no bond certificate is received, the agent may be revoked.
3. Consolidated Agent Suspension or Revocation
 - a. One or more outlets (stores) of a consolidated agency may be suspended or revoked without suspension or revocation of the entire agency.

ARTICLE VI - AGENT COMMISSION RATES

#1510 - Agent Commission Rates

See also §33-4-101 C.R.S. relative to Division agents and §33-4-102(1.6)(b) C.R.S. for price indexing information for nonresident big game licenses.

- A. Commission Rates for Retail Agents:
1. Division agents shall be paid a 4.75% commission for each license sold electronically, except for those licenses with commissions as shown below in Table A.4.
 2. Division agents shall be paid a 5% commission for each pass sold electronically.
 3. Division agents who sell registrations shall be paid a flat rate of \$1.00 per registration issued.
 4. Other Commission Rates:

Table A.4: Division Product Type	2020 Commission	% of license price in 2020	2021 Commission	% of license price in 2021
Second Rod Stamp	\$.61	6.7%	\$.63	6.7%
Resident Fishing - 1 day	\$.81	6.7%	\$.84	6.7%
Nonresident Fishing – 1 day	\$1.02	6.7%	\$1.05	6.7%
Fishing - 5 day	\$2.04	6.7%	\$2.09	6.7%
Resident Small Game - 1 day	\$.81	6.7%	\$.84	6.7%
Nonresident Small Game – 1 day	\$1.02	6.7%	\$1.05	6.7%
Nonresident Deer	\$14.40	3.6%	\$14.79	3.6%
Nonresident Pronghorn	\$14.40	3.6%	\$14.79	3.6%

Nonresident Bear	\$3.60	3.6%	\$3.60	3.6%
Nonresident Mountain Lion	\$12.60	3.6%	\$12.60	3.6%
Nonresident Antlerless Elk	\$18.05	3.6%	\$18.54	3.6%
Nonresident Either-sex Elk	\$24.07	3.6%	\$24.71	3.6%
Nonresident Antlered Elk	\$24.07	3.6%	\$24.71	3.6%
Nonresident Rocky Mtn Bighorn Sheep	\$80.58	3.6%	\$82.76	3.6%
Nonresident Desert Bighorn Sheep	\$80.58	3.6%	\$82.76	3.6%
Nonresident Goat	\$80.58	3.6%	\$82.76	3.6%
Nonresident Moose	\$80.58	3.6%	\$82.76	3.6%

All 2020 licenses sold through March 2021 shall be sold at the 2020 license fee and commission rates.

B. Commission Rates for the System Agent: The system agent shall be paid the commissions shown in the Table B.1 below for each license sold through the system:

1. Commission pricing for any CPW Commissionable Product sold through IPAWS

Table B.1: Commission Rates	IPAWS Products
a. Contractor Commission Fee percent commission rate to cover AWO System operation and maintenance cost for those products less than \$100 and not listed below in c.	3.7%
b. Contractor Commission Fee flat fee commission rate to cover AWO System operation and maintenance cost for those products \$100 or greater and not listed below in c.	\$4.25
c.1. All Wildlife Applications, regardless of Product Cost.	\$4.25
c.2. Parks variable cost products, regardless of actual Product Cost.	3.7%
Breakout Costs	
Contractor credit card fee	2.2%
Contractor fulfillment fee	\$1.45

Basis and Purpose Statement:

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. The statements of basis and purpose are not available at the Division of Parks and Wildlife headquarters due to the closure of these facilities to the public in light of the COVID-19 pandemic.

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: §§ 33-1-106, C.R.S.

EFFECTIVE DATE - THESE REGULATIONS SHALL BECOME EFFECTIVE JANUARY 1, 2021 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 THIS 19TH DAY OF NOVEMBER, 2020.

APPROVED:
Marvin McDaniel
Chair

ATTEST:
Marie Haskett
Secretary