

## ISSUES SUBMITTAL FORM

	Date: May 2, 2025
<b>ISSUE:</b>	<b>Should the Commission implement SB 24-161 by adopting new procedural rules governing the denial / non-renewal of river outfitter licenses and disciplinary actions against licensed river outfitters?</b>
<b>DISCUSSION (FACTS AND FIGURES, EXPLANATION OF ISSUE):</b>	
<p>This issue paper proposes the Commission adopt new procedural rules to implement <a href="#">SB 24-161</a>, regarding CPW's river outfitting licensing program.</p> <p>The Commission has long had the authority to regulate professional river outfitters through its river outfitter licensing program, codified at § 33-32-101, <i>et seq.</i> and Chapter P-3. In the past, any CPW decision to deny or not renew a river outfitter license or take disciplinary action against a license holder was subject to review by an administrative law judge outside CPW's purview. SB 24-161 changed this framework by bringing the review of such decisions within the purview of a CPW hearing officer, subject to Commission review.</p> <p>The new law enables the Commission to designate a CPW hearing officer to review Division decisions to deny or not renew a river outfitter license, subject to review by the Commission. The new law also empowers the hearing officer to bring disciplinary actions against license holders for violating applicable law. After such a hearing, the hearing officer may suspend or revoke a license, place the river outfitter on probation, or issue a letter of admonition. Affected licensees may appeal the hearing officer decision to the Commission.</p> <p>The disciplinary action framework proposed in this issue paper provides standards to ensure rational and consistent disciplinary decisions. The Commission has adopted similar standards for decisions on the appropriate duration of wildlife license suspensions, see Chapter W- 16 regulation #1601.B.2.f, and Landowner Preference Program disqualifications, see Chapter W16 regulation #1601.B.5. The proposed regulations also provide regulatory certainty to river outfitters facing potential disciplinary actions by CPW.</p>	
<b>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:</b>	
<b>*IT IS ASSUMED THAT ALL NECESSARY INTERNAL PARTIES HAVE BEEN NOTIFIED*.</b>	
<p>§ 33-32-103(3) ("The commission shall e-mail a notice of every proposed rule [affecting licensed river outfitters] to each licensee.").</p> <ul style="list-style-type: none"> <li>• All Current ROL License Holders were notified of the Workgroup and its members via email.</li> </ul> <p>33-32-110(1) ("The commission shall appoint a river outfitter advisory committee, consisting of two river outfitters and one representative of the division. The committee shall review and make recommendations concerning rules promulgated and proposed pursuant to this article.").</p> <ul style="list-style-type: none"> <li>• ROL advisory Committee and ROL Disciplinary Actions Workgroup: Members were supportive of the process once they understood that CPW was already holding similar hearings regarding hunting and fishing licenses and Licensing agents.</li> </ul>	
<b>ALTERNATIVES: (POSSIBLE OUTCOMES or POSSIBLE REGULATIONS):</b>	
1. <b>*Preferred Alternative*: Updating Chapter P-03:</b>	

**#308- River Outfitter License Denials and Non-Renewals, Cease and Desist Orders, and Disciplinary Actions; Hearings and Appeals**

1. **Denials** - These regulations implement the Commission's authority to deny an application for a river outfitter license or a renewal of such a license.
  - a. The Division may deny an application for a river outfitter license or a renewal of such a license without a hearing if the license holder or applicant (collectively, applicant) does not meet the requirements specified in section 33-32-105 or 33-32-106, or commits an act described in section 33-32-109(1) (Initial Decision).
  - b. The Division shall notify the applicant of the Initial Decision via certified mail, with a return receipt requested. The Initial Decision must contain a certificate of mailing evidencing when the decision was mailed and is effective upon mailing.
  - c. The Initial Decision shall notify the applicant of their ability to request a hearing on the denial before a Division hearing officer. The applicant must request a hearing within 60 days of the effective date of the Initial Decision by filing a request for hearing. The request for hearing must be sent to "CPW River Outfitter License Hearings" 6060 Broadway, Denver, CO 80216. If a timely request for hearing is not made, the Initial Decision shall become final.
  - d. If a timely request for hearing on the Initial Decision is made, the hearing officer shall provide the applicant notice of the hearing pursuant to section 33-32-109(3). At the hearing, the applicant may appear and dispute the basis for the Initial Decision and demonstrate why the applicant should not be denied a license. The applicant may provide the hearing officer with documents and other evidence in support of their position in advance of the hearing. The hearing officer shall record the audio of the hearing by electronic recording device.
  - e. The hearing officer shall issue a Hearing Officer's Determination within thirty days after the conclusion of the hearing and notify the applicant of the same via certified mail, with a return receipt requested. The Hearing Officer's Determination must contain a certificate of mailing evidencing when the determination was mailed and is effective upon mailing. The Hearing Officer Determination shall evaluate whether the applicant meets the requirements specified in section 33-32-105 and 33-32-106, or committed an act described in section 33-32-109(1).
  - f. The Hearing Officer's Determination shall notify the applicant of their ability to appeal the determination to the Commission. The applicant must file an appeal within 35 days of the effective date of the Hearing Officer's Determination by filing a notice of appeal. The notice of appeal must be sent to "CPW River Outfitter License Hearings" 6060 Broadway, Denver, CO 80216. The notice of appeal shall include (1) the applicant's name, address and telephone number, (2) a narrative statement of the applicant's position, and (3) any other documentary evidence supporting the applicant's position or disputing the grounds for denial stated in the Hearing Officer Determination. The applicant shall be responsible for preparing a transcript of the hearing, if desired, and include the same with their notice of appeal. If a timely notice of appeal is not filed, the Hearing Officer Determination shall become final.
  - g. The Commission appeal will be based on the notice of appeal and any written materials or documentary evidence provided to the Commission by the Division in response to the notice of appeal. Unless the Commission directs otherwise, there will be no oral presentations or further submittals to the Commission. Except as may otherwise directed

by the Commission, such appeals will be reviewed at the next regular meeting of the Commission following their receipt, provided the notice of appeal is received by the Commission at least thirty days prior to the meeting. The Hearing Officer Determination will be placed on the consent agenda for approval unless the applicant makes an oral presentation to the Commission pursuant to #1601.A.1. The final decision of the Commission is effective upon mailing to the applicant and must contain a certificate of mailing.

**2. Cease and Desist Orders - These regulations implement the Division's authority to issue cease and desist orders.**

- a. The Division may issue a cease-and-desist order pursuant to § 33-32-108(3) without notice. The respondent may request a hearing with the Hearing Officer to determine whether a violation has actually occurred if such request is made in writing within thirty days after the date of the service of the order. If a timely request for hearing is not made, the cease-and-desist order shall become final.
- b. The request for hearing must be sent to "CPW River Outfitter License Hearings" 6060 Broadway, Denver, CO 80216. The date of service of the cease-and-desist order is the date on which a copy of the order is delivered to the respondent in person. Alternatively, such notice may be provided via certified mail, with a return receipt requested. If mailed, the cease-and-desist order must contain a certificate of mailing evidencing when the order was mailed and is effective upon mailing.
- c. At the hearing on the cease-and-desist order, the respondent shall be given the opportunity to appear and dispute the allegation(s) and demonstrate why the order should not be maintained. The respondent may provide the hearing officer with documents and other evidence in support of their position in advance of the hearing. The hearing officer shall record the audio of the hearing by electronic recording device.
- d. The hearing officer shall issue a Hearing Officer's Determination within thirty days after the conclusion of the hearing and notify the respondent of the same via certified mail, with a return receipt requested. The Hearing Officer's Determination must contain a certificate of mailing evidencing when the determination was mailed and is effective upon mailing.
- e. The Hearing Officer's Determination shall notify the respondent of their ability to appeal the determination to the Commission. The respondent must file an appeal within 35 days of the effective date of the Hearing Officer's Determination by filing a notice of appeal. The notice of appeal must be sent to "CPW River Outfitter License Hearings" 6060 Broadway, Denver, CO 80216. The notice of appeal shall include (1) the respondent's name, address and telephone number, (2) a narrative statement of the respondent's position, and (3) any other documentary evidence supporting the respondent's position or disputing the grounds for denial stated in the Hearing Officer Determination. The respondent shall be responsible for preparing a transcript of the hearing, if desired, and include the same with their notice of appeal. If a timely notice of appeal is not filed, the Hearing Officer Determination shall become final.
- f. The Commission appeal will be based on the notice of appeal and any written materials or documentary evidence provided to the Commission by the Division in response to the notice of appeal. Unless the Commission directs otherwise, there will be no oral presentations or further submittals to the Commission. Except as may otherwise directed

by the Commission, such appeals will be reviewed at the next regular meeting of the Commission following their receipt, provided the notice of appeal is received by the Commission at least thirty days prior to the meeting. The Hearing Officer Determination will be placed on the consent agenda for approval unless the respondent makes an oral presentation to the Commission pursuant to #1601.A.1. The final decision of the Commission is effective upon mailing to the respondent and must contain a certificate of mailing.

**3. Disciplinary Actions** - These regulations implement the Commission's authority to suspend or revoke a river outfitter license, place a licensed river outfitter on probation, or issue a letter of admonition to a licensed river outfitter (Disciplinary Action).

- a. The Commission, through a hearing officer, may bring an action against a license holder to impose a Disciplinary Action if the holder commits an act described in section 33-32-109(1). The hearing officer shall provide the license holder notice of the action pursuant to section 33-32-109(3).
- b. At the hearing, the license holder shall be given the opportunity to appear and dispute the allegation(s) and demonstrate why a Disciplinary Action should not be imposed. The license holder may provide the hearing officer with documents and other evidence in support of their position in advance of the hearing. The hearing officer shall record the audio of the hearing by electronic recording device.
- c. The hearing officer shall issue a Hearing Officer's Determination within thirty days after the conclusion of the hearing and notify the license holder of the same via certified mail, with a return receipt requested. The Hearing Officer's Determination must contain a certificate of mailing evidencing when the determination was mailed and is effective upon mailing.
- d. The Hearing Officer Determination shall consider the following factors in imposing a Disciplinary Action, if any:
  - 1) Whether the violation(s) were committed negligently, knowingly or intentionally;
  - 2) Whether the violation(s) show negligent, knowing or intentional disregard for public safety or the environment;
  - 3) Whether the license holder or its agents were previously warned, convicted, cited, or subject to another Disciplinary Action;
  - 4) Whether the violation(s) were a factor in and/or discovered during a commercial boat incident investigation;
  - 5) The experience and age of the license holder or its agents and other social factors or circumstances associated with the violation(s);
  - 6) Whether license holder or its agents party interfered with or hindered the investigation of the violation(s); and
  - 7) Whether the license holder took prompt remedial action.
- e. The Hearing Officer's Determination shall notify the license holder of their ability to appeal the determination to the Commission. The license holder must file an appeal within 35 days of the effective date of the Hearing Officer's Determination by filing a notice of appeal. The notice of appeal must be sent to "CPW River Outfitter License Hearings" 6060 Broadway, Denver, CO 80216. The notice of appeal shall include (1) the

license holder's name, address and telephone number, (2) a narrative statement of the license holder's position, and (3) any other documentary evidence supporting the license holder's position or disputing the grounds for Disciplinary Action stated in the Hearing Officer Determination. The license holder shall be responsible for preparing a transcript of the hearing, if desired, and include the same with their notice of appeal. If a timely notice of appeal is not filed, the Hearing Officer Determination shall become final.

a.f. The Commission appeal will be based on the notice of appeal and any written materials or documentary evidence provided to the Commission by the Division in response to the notice of appeal. Unless the Commission directs otherwise, there will be no oral presentations or further submittals to the Commission. Except as may otherwise directed by the Commission, such appeals will be reviewed at the next regular meeting of the Commission following their receipt, provided the notice of appeal is received by the Commission at least thirty days prior to the meeting. The Hearing Officer Determination will be placed on the consent agenda for approval unless the license holder makes an oral presentation to the Commission pursuant to #1601.A.1. The final decision of the Commission is effective upon mailing to the license holder and must contain a certificate of mailing.

<b>Issue Raised by:</b>	Michael Haskins Swiftwater Investigator, Grant Brown ROL Program Manager, Steve Cooley State Hearing Examiner
<b>Author of the issue paper (if different than person raising the issue):</b>	
<b>CC:</b>	
<b>APPROVED FOR FURTHER CONSIDERATION BY:</b>	Ty Petersburg
<b>REQUIRES NEW SPACE IN THE BROCHURE?</b>	<b>NO</b>
<b>ARE ADEQUATE STAFF AND FUNDING RESOURCES AVAILABLE TO IMPLEMENT?</b>	<b>X</b>
<b>REGION, BRANCH, OR SECTION LEADING IMPLEMENTATION</b>	Field Services, ROL Program, Licensing, Hearings Office
<b>RECOMMENDED FOR CONSENT AGENDA?</b>	<b>NO</b>