



CO L O R A D O

**Department of
Regulatory Agencies**

Colorado Office of Policy, Research &
Regulatory Reform

2018 Sunset Review: River Outfitter Licensing

October 15, 2018



COLORADO

**Department of
Regulatory Agencies**

Executive Director's Office

October 15, 2018

Members of the Colorado General Assembly
c/o the Office of Legislative Legal Services
State Capitol Building
Denver, Colorado 80203

Dear Members of the General Assembly:

The Colorado General Assembly established the sunset review process in 1976 as a way to analyze and evaluate regulatory programs and determine the least restrictive regulation consistent with the public interest. Since that time, Colorado's sunset process has gained national recognition and is routinely highlighted as a best practice as governments seek to streamline regulation and increase efficiencies.

Section 24-34-104(5)(a), Colorado Revised Statutes (C.R.S.), directs the Department of Regulatory Agencies to:

- Conduct an analysis of the performance of each division, board or agency or each function scheduled for termination; and
- Submit a report and supporting materials to the office of legislative legal services no later than October 15 of the year preceding the date established for termination.

The Colorado Office of Policy, Research and Regulatory Reform (COPRRR), located within my office, is responsible for fulfilling these statutory mandates. Accordingly, COPRRR has completed the evaluation of the River Outfitter Licensing program. I am pleased to submit this written report, which will be the basis for COPRRR's oral testimony before the 2019 legislative committee of reference.

The report discusses the question of whether there is a need for the regulation provided under Article 32 of Title 33, C.R.S. The report also discusses the effectiveness of the Colorado Parks and Wildlife Commission in carrying out the intent of the statutes and makes recommendations for statutory changes in the event this regulatory program is continued by the General Assembly.

Sincerely,

Marguerite Salazar
Executive Director





COLORADO

Department of Regulatory Agencies

Colorado Office of Policy, Research &
Regulatory Reform

2018 Sunset Review River Outfitter Licensing

SUMMARY

What is regulated?

A river outfitter is a commercial entity that provides river-running services. The River Outfitter Licensing program (Program) is a boating safety program under the jurisdiction of the Colorado Parks and Wildlife Commission and operated by the Colorado Division of Parks and Wildlife (CPW) which is housed in the Colorado Department of Natural Resources.

Why is it regulated?

Colorado is home to seven river basins: the Colorado, Gunnison, San Juan/Dolores, Yampa/White, Rio Grande, South Platte, and Arkansas rivers all have a footprint in Colorado. There is an average of approximately eight deaths per year on Colorado rivers. This illustrates quite plainly that the water in Colorado rivers can be deadly.

Who is regulated?

During 2017, the Program licensed 194 river outfitters and 12 of those had limited licenses. The limited license allows the licensee to operate only on portions of the North Platte, Green, Yampa, Colorado, and Dolores rivers.

How is it regulated?

The Program registers river outfitters; inspects the boats and boating equipment used on regulated, commercial trips; verifies that the guides employed by the registrants are qualified; assists both commercial and noncommercial boating trips, when necessary; and investigates boating accidents that occur on Colorado rivers. The national government administers much of the public land in Colorado. In addition to complying with the Program requirements, river outfitters must obtain a federal recreational use permit prior to launching a trip from federal land or on federally regulated waters. Also, the Department of Regulatory Agencies regulates fishing and hunting outfitters.

What does it cost?

The administration of the Program costs approximately \$109,000 annually to operate and is allotted 1.5 full-time equivalent employees and 3 temporary employees.

What disciplinary activity is there?

Complaints to the Program are rare. There were three made during the entire period examined for this sunset review and there was only one license revoked. The mindset of both the Program licensees and the staff is to ensure compliance with the laws for safety reasons rather than strict enforcement. During 2017, the Program issued 35 warnings and 8 fines valued at \$2,400.

KEY RECOMMENDATIONS

Continue the Program for nine years, until 2028.

The Program ensures that commercial whitewater companies have insurance, experienced guides, and the health and safety equipment necessary to operate a rafting business under potentially dangerous circumstances. CPW rangers inspect equipment and documentation on the river and in the outfitter's place of business.

Create separate qualification standards for Fishing Trip Leaders.

The Program is constructed mainly to regulate whitewater river outfitters. Fishing out of a boat on a river is far different than the thrill-seeking of running whitewater rapids. Not only are river conditions different, the equipment, the approaches, and the methods used in navigating a river are quite different. The conditions are generally less demanding and dangerous, yet it is more difficult to become qualified to lead a fishing trip than a whitewater trip.

To be qualified as a Trip Leader working for a licensed river outfitter, the statutes require 500 river miles as a qualified guide. Whitewater guides generally do not have problems accruing miles. They will often accrue enough regulated miles to qualify as a Trip Leader in several weeks. Guides who specialize in fishing trips, however, may spend years acquiring miles on the same stretch(s) of river and know it very well, but they may not qualify to lead a trip of anglers.

METHODOLOGY

As part of this review, Colorado Office of Policy, Research and Regulatory Reform staff interviewed CPW, U.S. Bureau of Land Management, and U.S. Forest Service staff; interviewed officials with state and national professional associations; conducted a survey of licensees; reviewed records; and reviewed federal laws, Colorado statutes and rules, and the laws of other states.

MAJOR CONTACTS MADE DURING THIS REVIEW

Arkansas Headwaters River Association
Colorado Division of Parks and Wildlife
Department of Regulatory Agencies-Office of Outfitter Registration
U.S. Bureau of Land Management
U.S. Forest Service
Colorado River Outfitters Association

What is a Sunset Review?

A sunset review is a periodic assessment of state boards, programs, and functions to determine whether they should be continued by the legislature. Sunset reviews focus on creating the least restrictive form of regulation consistent with protecting the public. In formulating recommendations, sunset reviews consider the public's right to consistent, high quality professional or occupational services and the ability of businesses to exist and thrive in a competitive market, free from unnecessary regulation.

Sunset Reviews are prepared by:
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Background

Introduction

Enacted in 1976, Colorado's sunset law was the first of its kind in the United States. A sunset provision repeals all or part of a law after a specific date, unless the legislature affirmatively acts to extend it. During the sunset review process, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) within the Department of Regulatory Agencies (DORA) conducts a thorough evaluation of such programs based upon specific statutory criteria¹ and solicits diverse input from a broad spectrum of stakeholders including consumers, government agencies, public advocacy groups, and professional associations.

Sunset reviews are based on the following statutory criteria:

- Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;
- If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;
- Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;
- Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;
- Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;
- Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;

¹ Criteria may be found at § 24-34-104, C.R.S.

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- Whether the agency through its licensing or certification process imposes any disqualifications on applicants based on past criminal history and, if so, whether the disqualifications serve public safety or commercial or consumer protection interests. To assist in considering this factor, the analysis prepared pursuant to subparagraph (i) of paragraph (a) of subsection (8) of this section shall include data on the number of licenses or certifications that were denied, revoked, or suspended based on a disqualification and the basis for the disqualification; and
 - Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

Types of Regulation

Consistent, flexible, and fair regulatory oversight assures consumers, professionals and businesses an equitable playing field. All Coloradans share a long-term, common interest in a fair marketplace where consumers are protected. Regulation, if done appropriately, should protect consumers. If consumers are not better protected and competition is hindered, then regulation may not be the answer.

As regulatory programs relate to individual professionals, such programs typically entail the establishment of minimum standards for initial entry and continued participation in a given profession or occupation. This serves to protect the public from incompetent practitioners. Similarly, such programs provide a vehicle for limiting or removing from practice those practitioners deemed to have harmed the public.

From a practitioner perspective, regulation can lead to increased prestige and higher income. Accordingly, regulatory programs are often championed by those who will be the subject of regulation.

On the other hand, by erecting barriers to entry into a given profession or occupation, even when justified, regulation can serve to restrict the supply of practitioners. This not only limits consumer choice, but can also lead to an increase in the cost of services.

There are also several levels of regulation.

Licensure

Licensure is the most restrictive form of regulation, yet it provides the greatest level of public protection. Licensing programs typically involve the completion of a prescribed educational program (usually college level or higher) and the passage of an examination that is designed to measure a minimal level of competency. These types of programs usually entail title protection - only those individuals who are properly licensed may use a particular title(s) - and practice exclusivity - only those individuals who are properly licensed may engage in the particular practice. While these requirements can be viewed as barriers to entry, they also afford the highest level of consumer protection in that they ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Certification

Certification programs offer a level of consumer protection similar to licensing programs, but the barriers to entry are generally lower. The required educational program may be more vocational in nature, but the required examination should still measure a minimal level of competency. Additionally, certification programs typically involve a non-governmental entity that establishes the training requirements and owns and administers the examination. State certification is made conditional upon the individual practitioner obtaining and maintaining the relevant private credential. These types of programs also usually entail title protection and practice exclusivity.

While the aforementioned requirements can still be viewed as barriers to entry, they afford a level of consumer protection that is lower than a licensing program. They ensure that only those who are deemed competent may practice and the public is alerted to those who may practice by the title(s) used.

Registration

Registration programs can serve to protect the public with minimal barriers to entry. A typical registration program involves an individual satisfying certain prescribed requirements - typically non-practice related items, such as insurance or the use of a disclosure form - and the state, in turn, placing that individual on the pertinent registry. These types of programs can entail title protection and practice exclusivity. Since the barriers to entry in registration programs are relatively low, registration programs are generally best suited to those professions and occupations where the risk of public harm is relatively low, but nevertheless present. In short, registration programs serve to notify the state of which individuals are engaging in the relevant practice and to notify the public of those who may practice by the title(s) used.

Title Protection

Finally, title protection programs represent one of the lowest levels of regulation. Only those who satisfy certain prescribed requirements may use the relevant prescribed title(s). Practitioners need not register or otherwise notify the state that they are engaging in the relevant practice, and practice exclusivity does not attach. In other words, anyone may engage in the particular practice, but only those who satisfy the prescribed requirements may use the enumerated title(s). This serves to indirectly ensure a minimal level of competency - depending upon the prescribed preconditions for use of the protected title(s) - and the public is alerted to the qualifications of those who may use the particular title(s).

Licensing, certification and registration programs also typically involve some kind of mechanism for removing individuals from practice when such individuals engage in enumerated proscribed activities. This is generally not the case with title protection programs.

Regulation of Businesses

Regulatory programs involving businesses are typically in place to enhance public safety, as with a salon or pharmacy. These programs also help to ensure financial solvency and reliability of continued service for consumers, such as with a public utility, a bank or an insurance company.

Activities can involve auditing of certain capital, bookkeeping and other recordkeeping requirements, such as filing quarterly financial statements with the regulator. Other programs may require onsite examinations of financial records, safety features or service records.

Although these programs are intended to enhance public protection and reliability of service for consumers, costs of compliance are a factor. These administrative costs, if too burdensome, may be passed on to consumers.

Sunset Process

Regulatory programs scheduled for sunset review receive a comprehensive analysis. The review includes a thorough dialogue with agency officials, representatives of the regulated profession and other stakeholders. Anyone can submit input on any upcoming sunrise or sunset review on COPRRR's website at: www.dora.colorado.gov/opr.

The functions of the River Outfitter Licensing program (Program) and Colorado Parks and Wildlife Commission and staff as enumerated in Article 32 of Title 33, Colorado Revised Statutes (C.R.S.), shall terminate on September 1, 2019 unless continued by the General Assembly. During the year prior to this date, it is the duty of COPRRR to conduct an analysis and evaluation of the Program pursuant to section 24-34-104, C.R.S.

The purpose of this review is to determine whether the currently prescribed regulation should be continued and to evaluate the performance of Colorado Parks and Wildlife Commission (Commission) and the Colorado Parks and Wildlife Division (CPW) staff. During this review, the Program staff must demonstrate the Program serves the public interest. COPRRR's findings and recommendations are submitted via this report to the Office of Legislative Legal Services.

Methodology

As part of this review, Colorado Office of Policy, Research and Regulatory Reform staff interviewed CPW, U.S. Bureau of Land Management, and U.S. Forest Service staff; interviewed officials with state and national professional associations; conducted a survey of licensees; reviewed records; and reviewed federal laws, Colorado statutes and rules, and the laws of other states.

Profile of the Industry

River boating can be both a peaceful and thrilling experience. It provides consumers with a relaxing escape from the hectic world as well as an exhilarating, adrenaline-triggering adventure.

Under Colorado law, a river outfitter is any person or business that advertises to act as a river-running guide and supplies the river-running equipment for compensation. Outfitters offer varied choices of trips on nearly every river in the U.S. The experience can differ by both region and company.²

The rubber river raft is believed to have been invented in the early 1840s by Army Lt. John Fremont and Horace H. Day. They invented the rubber raft with the intention of surveying the Rocky Mountains and the Great Plains. Although the raft was invented in the mid-19th century, it was not until the turn of the century that the first commercial trips occurred.³

A scale to measure and classify the intensity of the water flow and the difficulty of the whitewater experience has been created. The scale identifies classes of rapids. The rating system helps one understand what to expect and the peril one might face on a river. Most rivers fall into multiple categories, so the scale is somewhat subjective. Regardless, it can and should be used to plan a trip.⁴

Class I - Slow to fast moving water. Some small waves and ripples along the way. Not many obstructions, easily visible.

Class II - The rapids are slightly larger than Class I. Channels are wide, clear and easily navigable. Maneuvering around some objects may be necessary but not difficult. If slightly more navigation is necessary or water is quicker, the rapid may be considered "Class II+".

Class III - Moderately sized, irregular waves. Faster current and narrower passages. Large waves, obstructions, rocks can be easily avoided with precise maneuvering. Powerful currents and strong eddies exist. Injuries are rare.

Class IV - Current is fast, rapids are long and difficult. Passages are constricted and may include unavoidable waves and holes. Scouting the rapid before is recommended to know the best route.

Class V - Extremely long, complex and difficult. Waves are large and unavoidable. Drops, holes and steep chutes are common. Scouting is highly recommended.

² § 33-32-102(6), C.R.S.

³ Whitewater Rafting. *History*. Retrieved February 12, 2018, from <http://www.whitewater rafting.com/rafting-info/history>

⁴ Whitewater Rafting. *Rapid Classes*. Retrieved February 12, 2018, from <http://www.whitewater rafting.com/rafting-info/rapid-classes>

Class VI - These runs often exemplify the extremes of difficulty, unpredictability, and dangers of whitewater rafting. The consequences of errors are very severe.

Fishing boat trips offer a different type of excitement for the consumer. Simply floating down the river while fishing can be a rejuvenating experience. While a whitewater boat may have eight or more people onboard, a fishing boat typically will have two, plus the guide. Each river has its own distinct characteristics and trips pass through a mixture of environments.

A float trip, as they are often called, will typically cover miles of river that are inaccessible to the wading public because the land, not the water, is privately owned. Some of those stretches hold fish that see minimal fishing pressure. Other trips offer anglers the chance to anchor the boat and wade-fish in secluded, prime, holding water.

Because catching fish is the objective of the trips, the boats are rarely in water faster than Class I or Class II rapids.

Legal Framework

History of Regulation

During the early 1980s, the Colorado River Outfitters Association (CROA), a trade organization of Colorado commercial river outfitters, brought the notion of state licensing to the General Assembly. The River Outfitter License program (Program) was established in 1984 and it authorized the Colorado Board of Parks and Outdoor Recreation with implementation authority.

Legal Summary

Because the national government, via the Bureau of Land Management (BLM), the National Park Service (NPS), and the U.S. Forest Service (USFS), oversees the majority of public land in Colorado, it has a significant role in determining the manner in which river outfitters conduct business. River outfitters must obtain a recreational use permit prior to launching a trip from, or through, any federal land.

The line dividing jurisdiction between the federal programs and the Program is that the Program's sole regulatory concern is boating safety. While the federal government may be concerned with the safety of citizens on the rivers, safety is not a regulatory directive. The federal government's charge is all other issues involved in the supervision of federally managed land, including issuing recreational use permits. As a matter of unofficial intergovernmental cooperation, the federal agencies will not grant a use permit to any entity that is required to have a Program license, if the applying entity does not have one.

Memoranda of Understanding

The Colorado Department of Natural Resources, Division of Parks and Wildlife (CPW), as the Program's managing agency, also takes part in more formal cooperative efforts with other jurisdictions as well. Memoranda of understanding (MOU) exist with other jurisdictions in order to pool resources and provide administrative efficiencies.

One such MOU exists among the BLM, USFS, the Colorado Office of Outfitters Registration (OR), Division of Parks and Outdoor Recreation, and the Colorado Division of Wildlife.⁵ Its stated purpose is to:

maintain and enhance the quality of service provided to and by the outfitting industry in Colorado on [USFS] system lands, BLM administered public lands and state public lands; to achieve consistency of permit issuance, administration, and compliance with applicable Federal, State, and local laws and regulations; and to promote cooperative efforts between all parties in the identification and prosecution of individuals who

⁵ The original signatories were the Colorado Division of Parks and Outdoor Recreation, and the Division of Wildlife. They have been combined and the successor agency is CPW.

are operating in violation of applicable federal and state laws and regulations.⁶

Another MOU exists among the BLM, CPW, and CROA. The purpose of this MOU is to improve communications among the signatories concerning river management, limiting the impacts of recreation, enhancing public safety, and promoting partnerships with the public.⁷

The River Outfitters Act

The General Assembly affirms, through Article 32 of Title 33, Colorado Revised Statutes (C.R.S.), (Act), it is state policy to encourage enjoyment of rivers and protect the public's health, safety, welfare, and freedom from injury or danger by licensing river outfitters. It is expressly not the intent of the General Assembly to infringe on private property rights, limit river-running or the use of equipment for no compensation, interfere with public recreational enjoyment of rivers, or obstruct federal land use management. The Act also recognizes the economic impact and the increasing number of participants in river-running.⁸

The Colorado Parks and Wildlife Commission (Commission), is instructed to promulgate regulations to govern licensing; regulate river outfitters, guides, guide instructors, and trip leaders; determine hazardous river conditions; and carry out provisions of the Act.⁹ However, the CPW Director may grant variances from the Commission's regulations on a case-by-case basis, if no public endangerment will occur as a result of the variance.¹⁰

Licensure

No person¹¹ may represent oneself as a river outfitter without first acquiring a license.¹² To obtain a license, a person must submit a completed application and pay a Commission-determined fee.¹³ Currently the fee is \$400 for a standard license.¹⁴ The Act also establishes a cash fund to finance all direct and indirect costs for implementation of the Act.¹⁵

⁶ Memorandum of Understanding between the Colorado Bureau of Land Management United States Department of Interior and the Rocky Mountain Region Forest Service United States Department of Agriculture Agreement No. 07-MU-11020000-030 and the Colorado Office of Outfitters Registration and the Colorado Division of Wildlife and the Colorado Division of Parks and Outdoor Recreation, on The Coordination and enhancement of Services to and by the Outfitting Industry in Colorado on National Forest System, BLM, and State Public Lands.

⁷ Memorandum of Understanding between Colorado River Outfitters Association and USDI Bureau of Land Management, Colorado State Office and Colorado Parks and Wildlife.

⁸ § 33-32-101, C.R.S.

⁹ § 33-32-103, C.R.S.

¹⁰ § 33-32-103.5, C.R.S.

¹¹ § 33-32-102(5), C.R.S., defines, "person" as any individual, sole proprietorship, partnership, corporation, nonprofit corporation or organization as defined in section 13-21-115.5 (3), C.R.S., limited liability company, firm, association, or other legal entity either located within or outside of Colorado.

¹² § 33-32-104(1), C.R.S.

¹³ § 33-32-104(2), C.R.S.

¹⁴ Colorado Parks and Wildlife, 2018 Colorado River Outfitter License Application.

¹⁵ § 33-32-111, C.R.S.

To be eligible for a license, each applicant must also meet certain qualifications:

- Incorporate pursuant to Colorado law or be duly qualified to conduct business in Colorado.¹⁶
 - A copy of a current and valid certification of authority must be submitted with the application.¹⁷
 - The signature on the application must be the president or executive officer's and it must be attested to by the secretary of the corporation.¹⁸
- Carry, at minimum, \$300,000 combined single limit liability insurance for property damage and bodily injury.¹⁹
- Meet Commission-established safety standards for river-running.²⁰

A copy of a current, valid certificate of insurance must be submitted with the application certifying comprehensive general liability, commercial general liability, or watercraft liability coverage. It must also provide the names and addresses of both the insurer and the insured, the policy number, the coverage period dates, and statements attesting that: the CPW is a certificate holder; the CPW will be given written notice by certified mail prior to any modification, termination, or cancellation of the policy; and that the company providing insurance coverage is licensed in Colorado or listed on the approved surplus lines.²¹ The insurance policy must insure the licensee against all claims brought against the licensee acting in its capacity as a river outfitter.²² It is the responsibility of the licensee to maintain the minimum insurance coverage at all times while licensed. If the minimum insurance coverage is not maintained, then the license becomes invalid.

The Commission may deny, suspend, or revoke a license, place a licensee on probation, or issue a letter of admonition if the applicant or licensee:²³

- Violates the provisions of the Act or Commission regulations;
- Does not meet minimum license requirements;
- Does not have required equipment;
- Has an unqualified employee;
- Is deceitful or fraudulent on the license application;
- Violates another state's laws concerning river outfitting;
- Is convicted, in its capacity as a river outfitter or guide, of second- or third-degree criminal trespass during any three- to five-year period; or
- Enters a plea of *nolo contendere* or deferred prosecution.²⁴

Hearings to deny, suspend, or revoke a license, or to place a licensee on probation, and all appeals of decisions, proceed pursuant to Article 4 of Title 24, C.R.S., which governs rule making and licensing procedures.²⁵

¹⁶ § 33-32-105(1)(a), C.R.S.

¹⁷ 2 CCR § 405-3-300-2, River Outfitter Rules

¹⁸ 2 CCR § 405-3-300-1(c), River Outfitter Rules

¹⁹ § 33-32-105(1)(b), C.R.S.

²⁰ § 33-32-105(1)(c), C.R.S.

²¹ 2 CCR § 405-3-300-5, River Outfitter Rules

²² 2 CCR § 405-3-300-5(c), River Outfitter Rules

²³ § 33-32-109(1), C.R.S.

²⁴ § 33-32-109(2), C.R.S.

QUALIFICATIONS

A licensee must keep a qualification record for each guide, trip leader, and guide instructor employed, including subcontractors, at its place of business for three years after termination. The records must be made available at any reasonable time to a peace officer enforcing the Act.²⁶ Minimum qualifications for guides, trip leaders, and guide instructors are:

- Guide – A guide is employed by the river outfitter to operate a vessel on a regulated trip.²⁷ All guides must be 18 years old, have a valid standard first aid card, cardiopulmonary resuscitation training, and 50 hours of on-river training from a qualified guide instructor.²⁸ The on-river training must include:²⁹
 - Rigging and maneuvering the vessel;
 - River currents, eddies, and waves;
 - River hazards;
 - Types and causes of river rapids;
 - Scouting and running rapids;
 - River rescue and emergency procedures;
 - Minimizing outdoor recreation resource impacts; and
 - Proper fit, wearing, and use of personal floatation devices.
- Trip leader – A trip leader is a guide who is in charge of a river trip. All trip leaders must have the same basic training as the guide plus 500 miles on the river with 250 river miles acting as a qualified guide.³⁰
- Guide Instructors – A guide instructor is a person whose job responsibilities include the training of guides.³¹ All guide instructors must have the same basic training as the guide plus at least 1,500 river miles, with 750 of those river miles being logged while acting as a qualified guide.³²

Enforcement

The Act may be enforced by any Colorado law enforcement officer, all of whom are authorized by the Act to board a vessel.³³ A river outfitter must reimburse all actual expenses incurred by a governmental entity for search and rescue efforts conducted as a result of a regulated trip.³⁴

²⁵ § 33-32-109(3), C.R.S.

²⁶ 2 CCR § 405-3-302-7, River Outfitter Rules

²⁷ § 33-32-102(3), C.R.S.

²⁸ § 33-32-105.5(1)(a), C.R.S.

²⁹ 2 CCR § 405-3-302-1(b), River Outfitter Rules

³⁰ § 33-32-105.5(1)(b), C.R.S.

³¹ § 33-32-102(4), C.R.S.

³² § 33-32-105.5(1)(c), C.R.S.

³³ § 33-32-108(1)(a), C.R.S.

³⁴ § 33-32-108(2), C.R.S.

If a CPW inspection or investigation uncovers a violation of the Act or associated regulations which creates, or may create, an emergency condition hazardous to the health, safety, and welfare of any person, then a cease and desist order must be immediately issued for the violating activity.³⁵ The cease and desist order must include:

- The section of the Act allegedly violated,³⁶
- The factual basis for the violation allegation,³⁷ and
- A mandate that all violating actions cease immediately.³⁸

No stay of a cease and desist order may be issued until a hearing, attended by all involved parties, is held.³⁹ A recipient of a cease and desist order may request a hearing to contest the violation, if the request is made within 30 days of the cease and desist order's issuance.⁴⁰

Advisory Committee

The Act directs that the Commission appoint a river outfitter advisory committee to advise on the promulgation of rules. The advisory committee must consist of two river outfitters and a CPW representative.⁴¹

Rules

Following the General Assembly mandate, the Commission established rules, beyond the licensing provisions, to implement the Act and provide a safe recreational environment. The subject matter covered by the rules includes:

- Rule 300 - License Application and Issuance
- Rule 301 - Regulated Trips, Passenger Orientation, and Trip Logs
- Rule 302 - Guide, Trip Leader, and Instructor Training and Qualification Records
- Rule 303 - Drinking Water and Sanitation
- Rule 304 - Personal Floation Devices
- Rule 305 - Vessels and Equipment
- Rule 306 - Vessel Loading Capacity
- Rule 307 - Boat Accidents

³⁵ § 33-32-108(3)(a)(I), C.R.S.

³⁶ § 33-32-108(3)(a)(II)(A), C.R.S.

³⁷ § 33-32-108(3)(a)(II)(B), C.R.S.

³⁸ § 33-32-108(3)(a)(II)(C), C.R.S.

³⁹ § 33-32-108(3)(c), C.R.S.

⁴⁰ § 33-32-108(3)(a)(III)(A), C.R.S.

⁴¹ § 33-32-110(1), C.R.S.

Program Description and Administration

The national government administers much of the public land in Colorado. The Bureau of Land Management (BLM), the National Park Service (NPS), and the U.S. Forest Service (USFS) play a major role in river outfitter operations. In addition to complying with the state's River Outfitter Licensing program (Program), river outfitters must obtain a federal recreational use permit prior to launching a trip from federal land or on federally regulated waters. Among other things, federal agencies issue use permits to enable access to land and water. In cooperation with state authorities, the federal agencies will not issue a use permit to any unlicensed, commercial, permit applicant.

While the federal agencies have many charges and concerns, the Program's interest is limited to boating safety on commercial river trips. The Program does not issue use permits, does not regulate noncommercial trips, and its mission is safety. But the Program is not the only state regulatory authority pertaining to river outfitters.

The Department of Regulatory Agencies regulates fishing and hunting outfitters. Regulation under the Outfitter Registration (OR) program is based on the taking of fish and game as a commercial endeavor. The OR program regulates business operating practices, rather than boating safety concerns. The differing programmatic purposes eliminate regulatory overlap.

The Program is a boating safety program directed by a Boating Safety Program Coordinator employed by the Division of Parks and Wildlife (CPW) in the Colorado Department of Natural Resources. The Program registers river outfitters, inspects the boats and boating equipment used on regulated, commercial trips; verifies that the guides employed by the registrants are qualified; assists both commercial and noncommercial boating trips, when necessary; and investigates boating accidents that occur on Colorado rivers.

To work with the Boating Safety Program Coordinator, the CPW hires three seasonal rangers. The rangers are unarmed law enforcement positions. They enforce Program laws and regulations; issue citations for violations; patrol rivers open to regulated floating trips; patrol the "put-ins" and "take-outs" on the rivers; respond to emergencies; and investigate customer complaints. According to the official job description, 40 percent of the job involves patrolling the river access areas, conducting safety inspections for regulated trips, and helping with non-regulated trips when safety is an issue; 30 percent of their time is allocated to records inspections that ensure the guides are qualified; 25 percent of the time is allocated to inspecting accidents that occur on regulated trips; and the final 5 percent is allocated for administrative tasks. Typically, the temporary rangers start in early May, attend training, and then go into the field to work.

Table 1 lists the financial expenditures and the personnel used to administer the Program during the years examined for this sunset review.

Table 1
Agency Fiscal Information
Fiscal Years 12-13 through 16-17

| Fiscal Year | Total Program Expenditure | Full-time employees | Temporary employees |
|-------------|---------------------------|---------------------|---------------------|
| 12-13 | \$108,353 | 1.5 | 3 |
| 13-14 | \$107,625 | 1.5 | 3 |
| 14-15 | \$109,062 | 1.5 | 3 |
| 15-16 | \$110,028 | 1.5 | 3 |
| 16-17 | \$82,879 | 1.5 | 3 |

Table 1 shows that the administration of the program is very stable. The one variation is the expenditures in fiscal year 16-17, which are approximately 25 percent less than the previous years. This variation is due to the Boating Safety Program Coordinator position being vacant part of the year.

Licensing

Any activity as a paid river outfitter may only be carried out by an entity licensed by the Program. An applicant must pay a fee and have evidence of liability insurance. The business must also have an address where the license will be on display and all records will be kept for inspection when needed. An applicant must list all business names that it will be using.

The fees for licenses are as follows:⁴²

| | |
|----------------------------------|-------|
| Original license application fee | \$400 |
| Limited use license fee | \$100 |
| Late application filing fee | \$100 |
| Application refiling fee | \$ 25 |

The original license is valid on all Colorado rivers but the limited use license may only be used on portions of the North Platte, Green, Yampa, Colorado, and Dolores rivers.⁴³

Many river outfitters also guide fishing trips. If they are fishing outfitters they are also required to register as a fishing outfitter with the OR program. The cost for an original OR registration is \$200.

⁴² 2 CCR 405-3-300-13. River Outfitters.

⁴³ 2 CCR 405-3-300-12. River Outfitters.

Table 2 lists the licensing information provided by Program staff for the period examined for this sunset review.

Table 2
Licensing Information
Calendar Years 2013 through 2017*

| Year | New | Percent Renewing | Ceased Operations | Total Active | Limited License |
|------|-----|------------------|-------------------|--------------|-----------------|
| 2013 | 11 | 94% | 0 | 184 | 11 |
| 2014 | 18 | 91% | 0 | 192 | 13 |
| 2015 | 20 | 90% | 1 | 202 | 13 |
| 2016 | 10 | 95% | 2 | 188 | 12 |
| 2017 | 23 | 88% | 2 | 194 | 12 |

*The Program collects much of its data based on rafting season versus fiscal year. Therefore, the data are reported by calendar year.

Table 2 indicates that there is very little turnover in Program licenses. More than 90 percent renew and there is little variation from the average of 192 licenses issued each year.

Inspections

The main purpose of the Program is to ensure the safety of consumers on regulated trips. Any licensed outfitter may undergo a river safety inspection. The rangers patrol river “put-ins” and “take-outs,” and may inspect boats and guide qualifications there or on the water.

Program rangers examine the boats and their contents for Program compliance in several areas to help ensure the vessel is water worthy, specifically:⁴⁴

- Vessel Condition
 - Vessel marking,
 - Vessel identification, and
 - Vessel construction.
- Required Operating Gear
 - Three oars,
 - One spare paddle per boat,
 - One adequate bailing device, and
 - 10-foot minimum, secured bow and stern line.

⁴⁴ Colorado Parks & Wildlife. *River Safety Inspection Form, River Outfitter Licensing Program*. Retrieved March 20, 2018, from <http://cpw.state.co.us/placestogo/parks/ArkansasHeadwatersRecreationArea/Documents/Rationing-Agreement-Coordinator/Outfitter-Forms-Regs-Statutes/RSI.pdf>

- Required Safety Gear
 - First-aid kit with requisite supplies in a clean, dry, suitable container;
 - Throw bag with at least 50 feet of rope;
 - Serviceable repair kit in a durable container;
 - Air pump (only on inflatable boats); and
 - Personal flotation devices of the proper type, number, and condition, that are fitted correctly.

- On-River Equipment and Procedures
 - Drinking water - either clean containers or a purification procedure;
 - Trash disposal and fire pans; and
 - Human waste containers.

- Safety Procedures
 - Passenger orientation,
 - Guide assignment, and
 - Trip continuity.

The in-boat individuals who guide the trips are required to reach specific training and experience levels to be designated “guide,” “trip leader,” or “guide instructor.” The Program does not issue credentials. River outfitter licenses are issued to the businesses that employ these individuals. The businesses are responsible for ensuring the guides are qualified and documenting those qualifications. The Program may also verify documentation during the office record inspections that staff periodically performs of the companies.

Table 3 documents the number of inspections made by the rangers during the period examined for this sunset review. These include both the inspections of regulated trips and businesses and contact made with private, unregulated trips.

Table 3
Program Contacts Made
Calendar Years 2013 through 2017*

| Year | Office Records Inspections | River Safety Inspections | River Assists | River Accident Investigations | Commercial Contacts | Private Contacts |
|------|----------------------------|--------------------------|---------------|-------------------------------|---------------------|------------------|
| 2013 | 43 | 506 | 123 | 25 | 6,297 | 4,616 |
| 2014 | 36 | 380 | 77 | 133 | 5,150 | 5,381 |
| 2015 | 37 | 265 | 244 | 51 | 4,664 | 3,921 |
| 2016 | 35 | 190 | 30 | 35 | 5,104 | 4,157 |
| 2017 | 9 | 175 | 45 | 40 | 4,826 | 4,907 |

*The Program collects much of its data based on season versus fiscal year. Therefore, the data are reported by calendar year.

The number of office record inspections dropped significantly during 2017. This is due to the Boating Safety Program Coordinator position being vacant part of the year. Most of those inspections are performed during the off-season by full-time, rather than seasonal,

staff. That is the time in which the position was vacant. While the private trips are not regulated, the rangers will make contact as a matter of public service. Because the natural environment, conditions on the rivers, and the weather vary, the specific type and number of contacts and investigations changes year to year.

The rangers also investigate reportable accidents. Reportable accidents are those that occur during a regulated trip when a person loses consciousness; sustains an injury requiring a physician’s attention; when there is a loss of life; or when any person disappears indicating a possibility of death or injury.⁴⁵ The investigating ranger gets an overview of the incident by contacting the licensee, individuals involved, and, on occasion, local law enforcement. A ranger considers the conditions surrounding the incident and determines whether the accident was due to equipment failure, river conditions, or human error. If deemed necessary, disciplinary action is taken.

Complaints and Discipline

Complaints to the Program are rare. In fact, there were three made during the entire period examined for this sunset review and there was only one license revoked. The mindset of both the Program licensees and the staff is to ensure compliance with the laws for safety reasons rather than strict enforcement. Therefore, the number of disciplinary actions is quite low when compared to the number of contacts made, noted above in Table 3. Still, during contact, a ranger may issue a verbal warning to an outfitter and occasionally the ranger may issue a fine for a violation.

Table 4 shows the number of verbal warnings made by Program rangers and the fines issued during the period under review.

Table 4
Warnings and Fines
Calendar Years 2013 through 2017*

| Fiscal Year | Warnings | Fines | Value of Fines |
|-------------|----------|-------|----------------|
| 2013 | 119 | 68 | \$3,400 |
| 2014 | 102 | 34 | \$1,700 |
| 2015 | 70 | 13 | \$650 |
| 2016 | 27 | 13 | \$650 |
| 2017 | 35 | 8 | \$2,400 |

*The Program collects much of its data based on season versus fiscal year. Therefore, the data are reported by calendar year.

The number of fines is substantially less than the number of warnings. However, the amount of the fines varies quite a bit based on the severity of the violation. As with the type of contact made, the number and amount of fines fluctuates because of changes in the natural environment.

⁴⁵ 2 CCR 405-3-307-2a. River Outfitters.

River Outfitter Advisory Committee

The river outfitter advisory committee was established pursuant to the Act to discuss promulgation of rules to regulate the industry. The advisory committee typically meets annually during the Colorado River Outfitters Association convention and consists of two river outfitters and a representative from CPW. Most recently the advisory committee has advised the Program on recordkeeping and training practices.

Collateral Consequences – Criminal Convictions

Section 24-34-104(6)(b)(IX), C.R.S., requires the Colorado Office of Policy, Research and Regulatory Reform to determine whether the agency under review, through its licensing processes, imposes any disqualifications on applicants or registrants based on past criminal history, and if so, whether the disqualifications serve public safety or commercial or consumer protection interests.

There are no disqualifications based on criminal convictions in the Program statutes. However, it is a violation of the OR statutes, specifically section 12-55.5-106(1)(d), C.R.S., to have pled guilty or *nolo contendere*, or been convicted of a felony. A violation may result in the Director of the Division of Professions and Occupations issuing a letter of admonition, denying, suspending, revoking, or placing on probation, an outfitter's registration. Because the OR program does not issue a registration or collect data specifically based on species of animal, information concerning the discipline of fishing outfitters under this statute is not readily available. However, OR records indicate one registration was denied, in 2012, because of a felony conviction.

Analysis and Recommendations

Recommendation 1 – Continue the River Outfitter License program for nine years, until 2028.

Colorado is home to seven river basins: the Colorado, Gunnison, the San Juan/Dolores, the Yampa/White, Rio Grande, South Platte, and Arkansas rivers all have a footprint in Colorado.⁴⁶ Since the last sunset review of the River Outfitter License program (Program) was published in October of 2009, through July of 2017, there have been 55 fatalities on Colorado rivers. That is an average of about eight per year.⁴⁷ This illustrates quite plainly that Colorado rivers can be deadly.

Fatalities occurring on commercial regulated trips comprise 35 percent of the above total, or 19 fatalities. However, the 19 fatalities are based on millions of trip participants. The Colorado River Outfitters Association estimated that there were 550,861 guests who utilized the services of commercial river outfitters during 2016 alone.⁴⁸ Extrapolating that number over the eight year time period amounts to well over 4 million trip participants.

Is regulation the reason for the difference between the lower number of deaths on regulated commercial trips and the non-regulated private trips? This analysis cannot definitively answer that question. However, given the inherent danger in participating in an adventurous, thrill-seeking event such as whitewater rafting, it is reasonable to infer that requiring safety equipment to be present on commercial trips and that guides have met certain qualifications, has a positive effect.

The program regulator, the Colorado Division of Parks and Wildlife (CPW), rarely receives a complaint involving a river outfitter, and only three complaints were filed during the entire period examined for this sunset review. The low number shows that the regulated community agrees that safety measures are paramount and that, while it is needed, regulation is not overly burdensome to the licensees. This notion is verified by a survey conducted of licensees for this sunset review conducted during the spring of 2018.

The Colorado Office of Policy, Research, and Regulatory Reform (COPRRR) emailed surveys to all of the licensees with valid email addresses on file with CPW. Of 180 valid addresses, there were 75 responses, which is a high response rate of 41.7 percent.

Pertaining to boat safety inspections, 85.3 percent of the survey respondents affirmed the importance of safety inspections; more than four out of five respondents, 81.3 percent, answered that the Program inspections are thorough; and 98.7 percent believed that having qualified guides is important (76 percent of those strongly agreed).

⁴⁶ Colorado Department of Natural Resources. *Colorado Basins*. Retrieved June 8, 2018, from https://www.colorado.gov/governor/sites/default/files/documents/colorado_river_basins.pdf

⁴⁷ American Whitewater. *Accident Database*. Retrieved May 8, 2018, from <https://www.americanwhitewater.org/content/Accident/summarize/state/CO/>

⁴⁸ Jason Blevins, *Denver Post*, “2016 a banner year for Colorado rafting industry,” February 10, 2017. Retrieved May 8, 2018, from <https://www.denverpost.com/2017/02/10/2016-a-banner-year-for-colorado-rafting-industry/>

Inspecting equipment and ensuring that guides are qualified are two of the major charges of the Program.

Making sure that commercial whitewater companies are eligible to conduct business, that is, they have insurance, experienced guides, and the health and safety equipment necessary to operate a rafting business under potentially dangerous circumstances, is important.

CPW rangers inspect equipment and documentation on the river and in the outfitter's place of business. The relationship observed was more collegial rather than uncooperative or confrontational. Only four percent of the survey respondents disagreed that the rangers are helpful. Mobilizing a staff that patrols Colorado's rivers and whose clear mindset is ensuring that everyone in a boat is safe, rather than writing minor citations, emphasizes the notion that safety is at the core of the Program. Only four percent of survey respondents disagreed with a statement that the Program protects consumers.

The existence of an available, connected regulatory program does protect the health, safety, and welfare of the public. Observing Program-ranger/regulated-entity interaction confirmed that Program is the least restrictive regulation consistent with protecting the public interest.

The Program protects the public health, safety, and welfare. Therefore, the General Assembly should continue the program. Because there are no major changes suggested in the recommendations of this sunset review, the General Assembly should continue the Program for nine years, until 2028.

Recommendation 2 – Continue the River Outfitter Advisory Committee.

The river outfitter advisory committee was established, pursuant to the Act, to advise on the development of rules to implement the Act. It meets annually during the spring and provides a formal venue for licensees to officially interact with CPW staff concerning enforcement issues.

It has advised the Program on recordkeeping and training practices which have been adopted by the Program. Specifically, it has provided advice regarding:

- Creation of an In-State Missing Guide Record Affidavit,
- Creation of an affidavit which allows for the combining of trip miles on the guide trip log, and
- Establishment of an annual training for Program rangers to ensure consistency in enforcement.

Because the river outfitter advisory committee, as a body comprising representatives of the regulated community, provides valuable input to the Program, the General Assembly should continue the river outfitter advisory committee.

Recommendation 3 – Create separate qualification standards for *Fishing Trip Leaders*.

The Act is constructed mainly to regulate whitewater river outfitters. Fishing out of a boat on a river is far different than the thrill-seeking of running whitewater rapids. While flowing water is always something that commands attention, the demands and knowledge of a whitewater guide and a flat water float-fishing guide are generally different. A whitewater guide will often have a large number of people in an inflatable raft while fishing trips will typically be in a drift boat, dory, or a customized raft with no more than two passengers.

Float-fishing guides generally avoid whitewater for several reasons including: the clients are in the boat for the thrill of catching fish not careening down a river at a high rate of speed; fish are very hard to see under a turbulent surface and generally do not feed in whitewater; and it is impossible to steady a boat in most whitewater conditions so that a passenger may fish.

Not only are river conditions different, the equipment used, the approaches, and methods in navigating a river are quite different. A whitewater trip entails the guide facing downstream and directing all of the passengers to work in unison to negotiate a dangerous stretch of river. On a float-fishing trip, the guide is generally rowing upstream to steady the boat against the current or to pass a hole or eddy only to float past it again so that his or her clients may stalk fish. The passengers are fishing rather than being active participants in negotiating the river.

Though the skill-set, equipment, and purpose for being on the river are different for whitewater and float-fishing trips, there is another issue that more directly affects the qualifying of guides and the regulation of river outfitters: the miles covered on a whitewater versus float-fishing trip. A full-day whitewater trip on the Arkansas River can cover 15 to 26 miles.⁴⁹ While the length of a trip will vary based on river conditions and season, a fishing trip often covers only about four miles.

To be qualified as a Trip Leader working for a licensed river outfitter, the Act requires 500 river miles as a qualified guide and no more than 250 of those miles can be on a nonregulated trip.⁵⁰ A regulated trip is “any river trip for which river-running services are provided which has been the subject of an advertisement or for which a fee has been charged...”⁵¹

Whitewater guides generally do not have problems accruing miles. They will often accrue enough regulated miles to qualify as a Trip Leader in several weeks. Guides that specialize in fishing trips, however, may spend years acquiring miles on the same stretch(s) of river and know it very well, but he or she may not qualify to lead a trip of anglers. Recall that the typical fishing trip has one or two passengers fishing in a boat with a guide. In theory, a guide could float the same four-mile stretch of river, five days

⁴⁹ Wilderness Arkansas Rafting, *Arkansas River Rafting Trips in Colorado*. Retrieved February 9, 2018, from <https://www.inaraft.com/rafting-colorado/arkansas/>

⁵⁰ § 33-32-105.5(1)(b), C.R.S.

⁵¹ § 33-32-102(5.5), C.R.S.

a week, for six months, and not be qualified to take two other people on the river to fish. He or she would either have to be accompanied by a Trip Leader in his or her boat or in an accompanying boat. The current system is overly restrictive and hurts both consumer and licensee.

A fishing guide may have far more on-water experience than a whitewater guide but not be able to lead a trip. The current qualification system means that a fishing guide may spend six to nine hours per day fishing the same river for years and not qualify to lead a trip in far less hazardous conditions than the whitewater guide; whereas, a whitewater guide who may spend six to eight hours per day on multiple sections of multiple rivers can be qualified to lead a trip with multiple boats and multiple people in each boat in a matter of weeks.

The solution is to codify different qualifications for *Fishing Trip Leaders* that are different from those for whitewater Trip Leaders. This recommendation proposes the following modifications. All of which will still protect consumers but reduce overly restrictive regulation:

1. Of the 500 hours required to become a trip leader specified in Section 33-32-105.5(1)(b), Colorado Revised Statutes (C.R.S.), up to 400 may be logged on nonregulated trips to qualify as a *Fishing Trip Leader*.
2. Because a daylight float-fishing trip is likely to be less hazardous, the *Fishing Trip Leader* should be allowed to lead only single-day, daylight, fishing trips. The fully qualified Trip Leaders may still lead multi-day fishing trips and trips after daylight.
3. A *Fishing Trip Leader* should never have more than himself or herself plus two clients in a boat at a time.

A question that has arisen during the researching and vetting of this recommendation is, “What is to stop a *Fishing Trip Leader* from acting as a whitewater trip leader?” The answer is simply the same system and law that exist today. One of the main reasons that Program licensing exists is to protect consumers from harm by un-trained or under-trained professionals. First, the owner of the company is the licensee and is responsible for ensuring qualifications and all of the actions of all of its employees. An owner is extremely unlikely to send consumers out in a boat with someone who is not qualified, regardless of whether the guide has accrued the miles necessary to be a guide or a trip leader. Second, all levels of guides are personally responsible for acting within the confines of their abilities. The Act stipulates:

It is unlawful for any river outfitter, guide, trip leader, or guide instructor to:⁵²

(b) Operate a vessel in a careless or imprudent manner without due regard for river conditions or other attending circumstances, or in such a manner as to endanger any person, property, or wildlife. Any person who violates the provisions of this paragraph is guilty of a class 3 misdemeanor and,

⁵² 33-32-107(2), C.R.S.

upon conviction thereof, shall be punished as provided in section 18-1.3-501, C.R.S.

(c) Operate a vessel with wanton or willful disregard for the safety of persons or property. Any person who violates the provisions of this paragraph is guilty of a class 2 misdemeanor and, upon conviction thereof, shall be punished as provided in section 18-1.3-501, C.R.S.

Under section 18-1.3-501, C.R.S., a class 3 misdemeanor conviction carries penalties from a \$50-fine to a \$750-fine, six months in prison, or both. A class 2 misdemeanor conviction carries penalties from three months in prison, a \$250-fine, or both, to 12 months in prison, a \$1,000-fine, or both.

Therefore, it is currently a crime to guide or offer a regulated trip unless the guide and/or trip leader is qualified both on paper and in fact.

The new separate class of trip leader is meant to qualify *Fishing Trip Leaders* only. Adopting a new category and qualifications for *Fishing Trip Leaders* will protect consumers by making sure the guides are qualified, and will also eliminate an unnecessary regulatory burden.

The second sunset criterion asks analysis to consider:

If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;

In this case ensuring that *Fishing Trip Leaders* are qualified by requiring the same number of on-river hours as a Trip Leader protects the public, health, safety, and welfare. However, by allowing a *Fishing Trip Leader* to count hours logged on nonregulated trips establishes the least restrictive regulation consistent with the public interest. Therefore, the General Assembly should create separate qualification standards for *Fishing Trip Leaders*.

Appendix A - Survey results

The Colorado Office of Policy, Research, and Regulatory Reform emailed surveys to all of the licensees with valid email addresses on file with the Colorado Division of Parks and Wildlife. Of 180 valid addresses, there were 75 responses, which is a high response rate of 41.7 percent.

1. You offer what type of river experience:

| | | |
|------------------------------------|----|-------|
| White water only | 32 | 42.7% |
| Float fishing only | 30 | 40.0% |
| Both white water and float fishing | 13 | 17.3% |

2. Are river boat safety inspections important?

| | | |
|-----|----|-------|
| Yes | 64 | 85.3% |
| No | 11 | 14.7% |

3. Should commercial river guides be required to be licensed?

| | | |
|-----|----|-------|
| Yes | 56 | 74.7% |
| No | 19 | 25.3% |

4. Do you belong to a professional river outfitter organization?

| | | |
|-----|----|-----|
| Yes | 45 | 60% |
| No | 30 | 40% |

5. The ROL program protects consumers.

| | | |
|-------------------|----|-------|
| Strongly agree | 21 | 28% |
| Agree | 37 | 49.3% |
| Neutral | 14 | 18.7% |
| Disagree | 2 | 2.7% |
| Strongly disagree | 1 | 1.3% |

6. The ROL program protects outfitter businesses.

| | | |
|-------------------|----|-------|
| Strongly agree | 21 | 28% |
| Agree | 35 | 46.7% |
| Neutral | 15 | 20% |
| Disagree | 3 | 4% |
| Strongly disagree | 1 | 1.3% |

7. The Division of Parks and Wildlife river rangers are helpful.

| | | |
|----------------|----|-------|
| Strongly agree | 24 | 32% |
| Agree | 35 | 46.7% |
| Neutral | 13 | 17.3% |

| | | |
|-------------------|---|------|
| Disagree | 1 | 1.3% |
| Strongly disagree | 2 | 2.7% |

8. The Division of Parks and Wildlife river boat inspections are thorough.

| | | |
|-------------------|----|-------|
| Strongly agree | 21 | 28% |
| Agree | 40 | 53.3% |
| Neutral | 12 | 16% |
| Disagree | 2 | 2.7% |
| Strongly disagree | 0 | 0 |

9. The Division of Parks and Wildlife accident investigations are thorough.

| | | |
|-------------------|----|-------|
| Strongly agree | 16 | 21.3% |
| Agree | 21 | 28% |
| Neutral | 36 | 48% |
| Disagree | 1 | 1.3% |
| Strongly disagree | 1 | 1.3% |

10. The ROL keeps unqualified river outfitters from operating.

| | | |
|-------------------|----|-------|
| Strongly agree | 6 | 8% |
| Agree | 26 | 34.7% |
| Neutral | 17 | 22.7% |
| Disagree | 19 | 25.3% |
| Strongly disagree | 7 | 9.3% |

11. It is important to ensure that commercial river guides are qualified.

| | | |
|-------------------|----|-------|
| Strongly agree | 57 | 76% |
| Agree | 17 | 22.7% |
| Neutral | 1 | 1.3% |
| Disagree | 0 | 0 |
| Strongly disagree | 0 | 0 |

12. Commercial float fishing guides should have different qualifications than commercial white water guides.

| | | |
|-------------------|----|-------|
| Strongly agree | 17 | 22.7% |
| Agree | 18 | 24% |
| Neutral | 14 | 18.7% |
| Disagree | 15 | 20% |
| Strongly disagree | 11 | 14.7% |

13. It is important to educate passengers prior to putting in the river.

| | | |
|----------------|----|-------|
| Strongly agree | 56 | 74.7% |
| Agree | 18 | 24% |
| Neutral | 1 | 1.3% |

| | | |
|---|----|-------|
| Disagree | 0 | 0 |
| Strongly disagree | 0 | 0 |
| 14. The ROL is necessary to protect consumers. | | |
| Strongly agree | 21 | 28% |
| Agree | 34 | 45.3% |
| Neutral | 17 | 22.7% |
| Disagree | 1 | 1.3% |
| Strongly disagree | 2 | 2.7% |