



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

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April 13, 2016

The Honorable Mark Neuman and Steve Thompson
Co-Chairman, House Finance Committee
State Capitol
Juneau, Alaska 99801

Dear Chairmen Neuman and Thompson:

We appreciated the time with your committee last week and offer the following responses to the questions that were posed and thoughtful discussion that occurred:

1. When and how did the transporters become part of the Big Game Commercial Services Board (BGCSB)?

The first transporter license was issued on August 1, 1989. The intent of the legislature to license transporters will require additional research into the testimony provided at committee hearings and floor sessions from that era.

2. Why are air taxis not charged a fee to carry hunters?

State law exempts air taxis and commercial airlines in AS 08.54.790, as stated below:

In this chapter,

(12) "transportation services" means the carriage for compensation of big game hunters, their equipment, or big game animals harvested by hunters to, from, or in the field; "transportation services" does not include the carriage by aircraft of big game hunters, their equipment, or big game animals harvested by hunters

(A) on nonstop flights between airports listed in the Alaska supplement to the Airmen's Guide published by the Federal Aviation Administration; or

(B) by an air taxi operator or air carrier for which the carriage of big game hunters, their equipment, or big game animals harvested by hunters is only an incidental portion of its business; in this subparagraph, "incidental" means transportation provided to a big game hunter by an air taxi operator or air carrier who does not

(i) charge more than the usual tariff or charter rate for the carriage of big game hunters, their equipment, or big game animals harvested by hunters; or

(ii) advertise transportation services or big game hunting services to the public; in this subparagraph, "advertise" means soliciting big game hunters to be customers of an air taxi operator or air carrier for the purpose of providing air transportation to, from, or in the field through the use

of print or electronic media, including advertising at trade shows, or the use of hunt broker services or other promotional services.

3. A full copy of the statutes and regulations of the Big Game Commercial Services Board is attached, per Representative Neuman's request.

As to the additional discussion that arose during the meeting, DCCED offers the following for clarification and understanding:

- **Discussion noted that the Division of Corporations, Business and Professional Licensing has faced a number of issues over the years.**

The Division has been working to resolve the various statutory, regulatory and other (i.e. Board direction) limitations to resolving the fee-setting dynamics. Since 2013, the Department has requested legislative reform to the current statutory licensing fee structures through legislation (HB187), meetings with the Legislative Budget & Audit Committee, and in discussions with individual legislators. Concepts included allowing fine revenue to be receipted back to licensing programs to offset some of the expense of investigation, litigation, and appeals. These concepts to address the dual role of licensing (consumer protection that is arguably a state interest and costs of licensing of the profession that is properly and fully born by licensees) remain under discussion.

Current law requires fees (revenues) to approximately equal the expenses in each professional licensing program. Because programs renew biennially, there is but one opportunity every two years to estimate and cost-effectively implement changes to the operating expenses of a program—including all investigations, appeals, and litigation—and set fees to cover those unknown costs.

Since fees are set in regulation, this analysis must be completed no later than six months before a program is scheduled to renew. This lag time results in a two to three year gap between the estimate of the fee and the actual results.

Revenues spike in the renewal year and dip in the non-renewal year. One remedy is to set fees high enough to carry one fiscal year's expenses and cover unexpected investigation costs. Boards and licensees are concerned for such high fees effect on small businesses.

Legislative Finance has agreed incremental increases in fees to overcome deficits may take several years. The Division submitted the fee analysis model developed and initiated in 2015 for review by Legislative Finance last fall, as well as the anticipated fiscal year in which a handful of larger program deficits are expected to be erased.

Please note further that Division-level appropriation authority—not funds—allows license programs receiving revenue from renewals to maintain positive cash flow on behalf of the programs that are not in a revenue-generating year. At no time do programs “borrow” from other programs. All program receipts and direct expenses are maintained in separate accounts in IRIS, the state's accounting system.

- **Are fines receipted into designated general fund and then given back over to the Department?**

No. Per state statute, fines are receipted and deposited into the general fund. Note that boards are limited by statute as to fines. In most cases, the amount of the fine is nominal and does not cover the expense of investigating and disciplining the violator. Nonetheless, receipting fines back to the licensing programs that incurred the investigative expense would be helpful.

- **Does the Attorney General's Office bill the Department for cases pertaining to their programs?**

Yes. All legal support for Division programs—including its 21 professional licensing boards—is billed through a reimbursable services agreement. This is reflected under the “services” line in the quarterly fiscal reports to boards, as well as in the Annual Professional Licensing Report to the Legislature, which was distributed in October 2015.

- **Did the previous sunset of the Board cause the deficit?**

Legislative Auditor Kris Kurtis stated that this is not what the audit found. The Department concurs that this is speculation. When the Big Game Commercial Services Board was sunset, the occupations were still regulated under statute by the Department and continued to incur costs.

- **What are the reasons for the deficit?**

Several potential reasons for this deficit exist:

1. **This licensing program has a high volume of investigations and appeals by licensees.** There are also a number of appeals of Board decisions by licensees, which results in additional legal and hearing expenses.

The Department has initiated several efficiencies that resulted in reductions in the costs of administering these programs. The Board has increased fees. However, major expenses remain outside the Board and Department's control, such as investigations of legitimate complaints of licensing violations and licensee appeals of Board disciplinary decisions.

2. **Controversy over increasing fees deterred the Administration from supporting a fee increase in 2011, which resulted in a lost opportunity to recoup some of this expense.** The Department proposed regulations to increase fees for both the BGCSB and the Real Estate Commission in 2011; however, there was a large pushback from the Board(s), the industry, and members of the Legislature. Legislative hearings took place and it was determined that a fee increase could not be sustained without support by important stakeholders.

Controversy remains today - licensed transporters have complained about the new fees for required reporting to the Department. The 2011 audit recognized the cost of maintaining hunt records and transporter activity reports, and the Division responded by developing a new system to reduce that expense. However, the historical cost of maintaining these records has contributed to the deficit—perhaps to the tune of a few hundred thousand dollars. The per-form fee of \$50 was noticed per the APA last summer, effective in November 2015. This fee covers the lower current cost of maintaining these forms, as well as contributing to recovering historical expenses described above.

3. **Reconciliation of Division indirect expenses to the state accounting system, as requested by the Legislature, uncovered the program's responsibility for additional expenses.** In 2012, the Department examined allocation of indirect expenses, which revealed that over \$200,000 in expenses had not been accurately allocated or reported to the Board. This process resulted in greater procedural oversight by the Department to prevent recurrence. Fees were increased in both 2013 and 2015; however, due to the large deficit, it has not yet resolved the lingering deficit, but is on track to do so.
4. **How are investigations initiated? What role does the board have in authorizing investigations and determining discipline?** Three attachments explain the investigative process. In summary, no complaint proceeds to an investigation without a board member's review and advice to do so. In complaints jurisdictional to a licensing board, a reviewing board member with expertise in the area of the complaint reviews the facts presented and advises the division whether to proceed.

Once completed, the full board is presented with a completed investigation and proposed action, if relevant to established board disciplinary guidelines. The reviewing board member is recused from discussion and voting on the matter for the protection of the licensee. Only a board, not the Division, may discipline a licensee under that board's jurisdiction. Where there is no board, the Director is delegated authority to review and sign disciplinary orders.

In the matter that Mr. Umphenour described in testimony, the investigation was performed upon the advice of the reviewing board member, also a licensed guide-outfitter, who believed a violation took place, and on which the board had the final say in any discipline.

- **Governance and administration of the Marijuana Control Board**

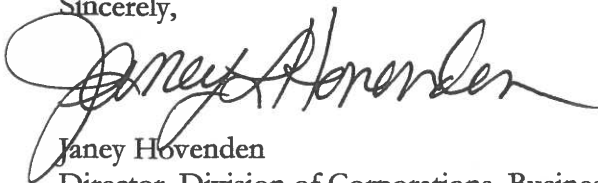
The Marijuana Control Board is statutorily housed under DCCED within the Alcohol & Marijuana Control Office.

- **A request for more information regarding Mr. Richards' testimony concerning current litigation to remove transporters from regulation by the BGCSB was made.**

The Department is not aware of any litigation that has been filed to remove transporters from state regulation under AS 08.54.

We appreciate our time before the committee and its hard work on these ongoing topics.

Sincerely,



Janey Hovenden
Director, Division of Corporations, Business and Professional Licensing

Attachments

Statutes and Regulations **Big Game Commercial Services Board**

November 2015

(Centralized Statutes and Regulations not included)



DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT

***DIVISION OF CORPORATIONS, BUSINESS
AND PROFESSIONAL LICENSING***

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CHAPTER 54.
BIG GAME GUIDES AND RELATED OCCUPATIONS.

Article

- 1. Big Game Guides and Transporters (AS 08.54.591 – AS 08.54.680)**
- 2. Enforcement (AS 08.54.710 – AS 08.54.790)**

ARTICLE 1.
BIG GAME GUIDES AND TRANSPORTERS.

Section

- 591. Creation and membership of board**
- 595. Board assistance**
- 600. Duties of board**
- 605. Eligibility for licenses**
- 608. Retired status license**
- 610. Registered guide-outfitter license**
- 620. Class-A assistant guide license**
- 630. Assistant guide license**
- 635. Guide services provided by unlicensed persons**
- 640. Law enforcement officers and game biologists**
- 650. Transporter license**
- 660. Renewal of guide and transporter licenses**
- 670. Failure to renew**
- 680. Financial responsibility and other requirements for guides and transporters**

Sec. 08.54.591. CREATION AND MEMBERSHIP OF BOARD. (a) For the purposes of licensing and regulating the activities of providers of commercial services to big game hunters in the interest of the state's wildlife resources, there is created the Big Game Commercial Services Board. For administrative purposes, the board is in the Department of Commerce, Community, and Economic Development.

(b) The board consists of nine members as follows:

- (1) two members who are current, licensed registered guide-outfitters;
- (2) two members who are licensed transporters;
- (3) one member of the Board of Game who is chosen by the Board of Game and who does not hold a guide or transport license;
- (4) two members who represent private landholders affected by guided hunting activities or transportation services and who do not hold a license issued under this chapter; and
- (5) two public members.

Sec. 08.54.595. BOARD ASSISTANCE. State agencies shall provide the board with information, data, or technical assistance requested by the board for the purposes of licensing and regulating the activities of providers of commercial services to big game hunters.

Sec. 08.54.600. DUTIES OF BOARD. (a) The board shall

- (1) prepare and grade
 - (A) a qualification examination for a registered guide-outfitter license that requires demonstration that the applicant is qualified generally to provide guided and outfitted hunts and, in particular, possesses knowledge of fishing, hunting, and guiding laws and regulations; and
 - (B) a certification examination for each game management unit in which the registered guide-outfitter intends to provide big game hunting services; the examination must require demonstration that the registered guide-outfitter is qualified to provide guided and outfitted hunts in the game management unit for which the registered guide-outfitter seeks to be certified and, in particular, must require demonstration that the registered guide-outfitter possesses knowledge of the terrain, transportation problems, game, and other characteristics of the game management unit;
- (2) authorize the issuance of registered guide-outfitter, master guide-outfitter, class-A assistant guide, assistant guide, and transporter licenses after the applicant for the license satisfies the requirements for the license;
- (3) impose appropriate disciplinary sanctions on a licensee under AS 08.54.600 - 08.54.790;
- (4) require an applicant for issuance or renewal of any class of guide license or of a transporter license to state in a written and signed document whether the applicant's right to obtain, or exercise the privileges granted by, a hunting, guiding, outfitting, or transportation services license is revoked or suspended in this state or another state or in Canada;
- (5) regularly disseminate information regarding examinations and other qualifications for all classes of guide licenses to residents of the rural areas of the state;

- (6) adopt procedural and substantive regulations required by this chapter;
 - (7) provide for administration of examinations for registered guide-outfitters at least twice a year;
 - (8) meet at least twice annually.
- (b) The board shall provide for administration of an oral examination for a registered guide-outfitter license or for a game management unit certification if requested at the time of application for the license.
- (c) In addition to the regulations required under (a) of this section, the board may adopt regulations the board considers appropriate, including regulations to
- (1) establish a code of ethics for professions regulated by the board;
 - (2) establish requirements for the contents of written contracts to provide big game hunting services and transportation services to clients;
 - (3) authorize the department to request a copy of a big game hunting services or transportation services contract entered into by a person licensed under this chapter.

Sec. 08.54.605. ELIGIBILITY FOR LICENSES. (a) Notwithstanding AS 08.54.610, 08.54.620, 08.54.630, 08.54.650, and 08.54.660, a person may not receive or renew a registered guide-outfitter license, master guide-outfitter license, class-A assistant guide license, assistant guide license, or transporter license if

- (1) the person has been convicted of
 - (A) a violation of a state or federal hunting, guiding, or transportation services statute or regulation for which
 - (i) the person was imprisoned for more than five days within the previous five years;
 - (ii) an unsuspended fine of more than \$2,000 was imposed in the previous 12 months;
 - (iii) an unsuspended fine of more than \$3,000 was imposed in the previous 36 months; or
 - (iv) an unsuspended fine of more than \$5,000 was imposed in the previous 60 months;
 - (B) a felony within the last five years; or
 - (C) a felony offense against the person under AS 11.41 within the last 10 years; or
 - (2) the person's right to obtain, or exercise the privileges granted by, a hunting, guiding, outfitting, or transportation services license is suspended or revoked in this state or another state or in Canada.
- (b) Notwithstanding (a) of this section, (a)(1)(B) and (C) of this section are not applicable to offenses committed by a person who receives or received any class of guide license or a transporter license under sec. 13, ch 33, SLA 1996, if the offense was committed before May 23, 1996. This subsection does not apply when a person applies for a license that is different from the class of guide license or the transporter license received under sec. 13, ch 33, SLA 1996.
- (c) A person may not receive a certification for a game management unit if the person is prohibited by (a) of this section from receiving or renewing a registered guide-outfitter license or master guide-outfitter license.

Sec. 08.54.608. RETIRED STATUS LICENSE. (a) On retiring from guiding or outfitting, or both, and on payment of an appropriate one-time fee, an individual who has held a license issued under AS 08.54.610, 08.54.620, or 08.54.630 that has not been suspended or revoked under AS 08.54.710 may apply for a retired status license. The retired status license shall indicate whether the individual was licensed as a master guide-outfitter, registered guide-outfitter, class-A assistant guide, or assistant guide. An individual holding a retired status license may not guide, outfit, or take charge of a camp in the state under the retired status license. A retired status license is valid for the life of the license holder and does not require renewal.

(b) An individual with a retired status license issued under (a) of this section may apply for a new registered guide-outfitter license under AS 08.54.610, a new class-A assistant guide license under AS 08.54.620, or a new assistant guide license under AS 08.54.630.

Sec. 08.54.610. REGISTERED GUIDE-OUTFITTER LICENSE. (a) A natural person is entitled to a registered guide-outfitter license if the person

- (1) is 21 years of age or older;
- (2) has practical field experience in the handling of firearms, hunting, judging trophies, field preparation of meat and trophies, first aid, photography, and related guiding and outfitting activities;
- (3) either
 - (A) has passed the qualification examination prepared by the board under AS 08.54.600; or
 - (B) provides evidence of 25 years of experience as a class-A assistant guide or class-A assistant guide-outfitter;
- (4) has passed a certification examination prepared by the board under AS 08.54.600 for at least one game management unit;
- (5) has legally hunted big game in the state for part of each of any five years in a manner directly contributing to the person's experience and competency as a guide;
- (6) has been licensed as and performed the services of a class-A assistant guide or assistant guide, or of a class-A assistant guide-outfitter or assistant guide-outfitter under former AS 08.54.300 - 08.54.590, in the state for a part of each of three years;
- (7) is capable of performing the essential duties associated with guiding and outfitting;

(8) has been favorably recommended in writing by eight big game hunters whose recommendations have been solicited by the department from a list provided by the applicant, including at least two favorable recommendations for each year of any three years during which the person was a class-A assistant guide or assistant guide, or a class-A assistant guide-outfitter or assistant guide-outfitter under former AS 08.54.300 - 08.54.590;

(9) has provided proof of financial responsibility if required by the department under AS 08.54.680; and

(10) has applied for a registered guide-outfitter license on a form provided by the department and paid the license application fee and the registered guide-outfitter license fee.

(b) A master guide-outfitter license authorizes a registered guide-outfitter to use the title master guide-outfitter, but is for all other purposes under this chapter a registered guide-outfitter license. A natural person is entitled to receive a renewable master guide-outfitter license if the person

(1) is, at the time of application for a master guide-outfitter license, licensed as a registered guide-outfitter under this section;

(2) has been licensed in this state as a registered guide or a guide-outfitter, under former AS 08.54.010 - 08.54.240, former AS 08.54.300 - 08.54.590, or this chapter, for at least 12 of the last 15 years, including the year immediately preceding the year in which the person applies for a master guide-outfitter license;

(3) submits a list to the department of at least 25 clients for whom the person has personally provided guiding or outfitting services and the person receives a favorable evaluation from 10 of the clients selected from the list by the department; and

(4) applies for a master guide-outfitter license on a form provided by the department and pays the application fee, if any.

(c) A registered guide-outfitter may contract to guide or outfit hunts for big game and may provide transportation services, personally or through an assistant, to big game hunters who are clients of the registered guide-outfitter.

(d) Notwithstanding AS 08.54.750, a person who is licensed as a registered guide-outfitter may be employed by another registered guide-outfitter to provide the services of

(1) a class-A assistant guide in a game management unit if the registered guide-outfitter providing the services of a class-A assistant guide is able to demonstrate, to the satisfaction of the board, adequate knowledge of and experience in the game management unit; and

(2) an assistant guide in any game management unit.

(e) A registered guide-outfitter who contracts for a guided hunt shall be primarily in the field supervising and participating in the contracted hunt. The contracting registered guide-outfitter shall also conduct the hunt, unless the hunt, under regulations adopted by the board, is being conducted by a class-A assistant guide or a registered guide-outfitter employed by the contracting registered guide-outfitter.

Sec. 08.54.620. CLASS-A ASSISTANT GUIDE LICENSE. (a) A natural person is entitled to a class-A assistant guide license if the person

(1) is 21 years of age or older;

(2) applies for a class-A assistant guide license on a form provided by the department and pays the license application fee and the license fee;

(3) possesses a current first aid card issued by the Red Cross or a similar organization; and

(4) either

(A) has

(i) been employed during at least three calendar years as any class of licensed guide in the game management unit for which the license is sought; and

(ii) at least 10 years' hunting experience in the state; military service outside of the state for not more than three years shall be accepted as part of the required 10 years' hunting experience;

(B) provides

(i) evidence that the person physically resides in the game management unit in which the person is to be employed;

(ii) evidence that the person has had at least 15 years' hunting experience in the game management unit in which the person is to be employed; military service outside of the state for not more than three years shall be accepted as part of the required 15 years' hunting experience; and

(iii) a written recommendation from a registered guide-outfitter who intends to employ the person as a class-A assistant guide; or

(C) provides evidence that the person

(i) physically resides in the game management unit in which the person is to be employed;

(ii) has at least 10 years' hunting experience in the state; military service outside of the state for not more than three years shall be accepted as part of the required 10 years' hunting experience; and

(iii) has passed a class-A assistant guide training course approved by the board.

(b) A class-A assistant guide

(1) may not contract to guide or outfit a big game hunt;

(2) shall be employed by and under the supervision of a registered guide-outfitter who has contracted with the client for whom the class-A assistant guide is conducting the hunt;

(3) may take charge of a camp and provide guide services from the camp without the contracting registered guide-outfitter being in the field and participating in the contracted hunt if the contracting registered guide-outfitter is supervising the guiding activities;

(4) may not perform functions of a class-A assistant guide outside of the game management unit for which the license is issued; and

(5) may be employed by a registered guide-outfitter to perform the functions of an assistant guide in any game management unit.

Sec. 08.54.630. ASSISTANT GUIDE LICENSE. (a) A natural person is entitled to an assistant guide license if the person

(1) is 18 years of age or older;

(2) has legally hunted big game in the state during two calendar years;

(3) possesses a first aid card issued by the Red Cross or a similar organization;

(4) either

(A) obtains a written recommendation from a registered guide-outfitter who intends to employ the person as an assistant guide; or

(B) provides evidence that the person passed an assistant guide training course approved by the board; and

(5) applies for an assistant guide license on a form provided by the department and pays the license application fee and the license fee.

(b) An assistant guide

(1) may not contract to guide or outfit a big game hunt;

(2) shall be employed by a registered guide-outfitter and under the supervision of a registered guide-outfitter or class-A assistant guide while the assistant guide is in the field on guided hunts; and

(3) may not take charge of a camp or provide guide services unless the contracting registered guide-outfitter is in the field and participating in the contracted hunt or a registered guide-outfitter or class-A assistant guide employed by the contracting guide is physically present and supervising the hunt.

Sec. 08.54.635. GUIDE SERVICES PROVIDED BY UNLICENSED PERSONS. (a) A registered guide-outfitter who contracts to guide a big game hunt may, under regulations adopted by the board, delegate to a person not licensed under this chapter the services of

(1) packing, preparing, salvaging, or caring for a client's meat;

(2) packing trophies; and

(3) packing camping equipment.

(b) For training purposes established by the board in regulation, a person who is not licensed under this chapter may assist in providing the guide services of field preparation of trophies, stalking, pursuing, tracking, killing, or attempting to kill big game, and using guiding or outfitting equipment, including spotting scopes and firearms, for the benefit of a hunter. An unlicensed person may only assist in providing a guide service under this subsection if a licensed registered guide-outfitter, class-A assistant guide, or assistant guide is physically present and the class-A assistant guide or assistant guide is employed by and under the supervision of the registered guide-outfitter who contracted for the big game hunt.

(c) A person who does not hold a license issued under this chapter may provide or assist in providing the services identified under this section only if the person meets requirements adopted by the board. A person who provides or assists in providing guide services under this section may receive compensation for providing the services.

Sec. 08.54.640. LAW ENFORCEMENT OFFICERS AND GAME BIOLOGISTS. (a) Notwithstanding AS 08.54.610 - 08.54.630 and except as provided in (b) of this section, a person may not hold, or earn experience credits to apply for, a registered guide-outfitter license under this chapter, while the person is a law enforcement officer and for three months after terminating the person's status as a law enforcement officer.

(b) A registered guide-outfitter license, class-A assistant guide license, or assistant guide license issued under this chapter, or under former provisions of AS 08.54.300 - 08.54.590, after May 16, 1992, is suspended if the person to whom the license is issued subsequently becomes a law enforcement officer. A person whose license is subject to suspension under this subsection shall notify the department that the person has become a law enforcement officer within 30 days after becoming a law enforcement officer. The suspension of a license under this subsection remains in effect until three months have elapsed from the date on which the licensee provides written notification to the department of the fact that the person is no longer a law enforcement officer. A person whose license is suspended under this subsection is not required to renew the license or pay license renewal fees for the period of suspension. Once a suspension of a license is terminated, the licensee may provide, without further payment of a guide license fee, the guide services authorized by the license for the remainder of the licensing period in which the suspension is terminated. Notwithstanding other provisions of this subsection, if a person whose license is suspended under this subsection fails to notify the department within one year after the person is no longer a law enforcement officer, the person's license lapses and the person is eligible for reissuance of the license only as provided in AS 08.54.670. The board may adopt regulations to implement this subsection.

(c) A person who holds any class of guide license and who is employed by the Department of Fish and Game or a federal wildlife management agency may not, while employed by the department or agency as a game or wildlife biologist and for 12 months after leaving employment with the department or agency as a game or wildlife biologist, engage in providing big game hunting services in a game management unit in which the person conducted game or wildlife management or research activities for the department or agency at any time during the preceding 12 months.

(d) In this section, "law enforcement officer" means a person who is

(1) employed by the Department of Public Safety as a state trooper or as a law enforcement officer engaged in fish and wildlife protection; or

(2) employed as a fish and wildlife law enforcement officer by the United States Department of the Interior or the United States Department of Agriculture.

Sec. 08.54.650. TRANSPORTER LICENSE. (a) A person is entitled to a transporter license if the person

(1) applies for a transporter license on a form provided by the department; and

(2) pays the license application fee and the license fee.

(b) A transporter may provide transportation services and accommodations to big game hunters in the field at a permanent lodge, house, or cabin owned by the transporter or on a boat with permanent living quarters located on salt water. A transporter may not provide big game hunting services without holding the appropriate license.

(c) A transporter shall provide an annual activity report on a form provided by the department. An activity report must contain all information required by the board by regulation.

Sec. 08.54.660. RENEWAL OF GUIDE AND TRANSPORTER LICENSES. (a) An applicant for renewal of a registered guide-outfitter, class-A assistant guide, assistant guide, or transporter license shall submit

(1) a request for renewal of the license on a form provided by the department; and

(2) the appropriate license fee for the next licensing period.

(b) The department may not renew a registered guide-outfitter license under this section unless all fees have been paid in full and the registered guide-outfitter has signed an affidavit that all hunt records due during the term of the current license have been filed with the department.

(c) The department may not renew a transporter license unless all fees have been paid in full and the transporter has signed an affidavit that all activity reports due during the term of the current license have been filed with the department.

Sec. 08.54.670. FAILURE TO RENEW. The department may not issue a license to a person who held a registered guide-outfitter, class-A assistant guide, or assistant guide license and who has failed to renew the license under this chapter for four consecutive years unless the person again meets the qualifications for initial issuance of the license.

Sec. 08.54.680. FINANCIAL RESPONSIBILITY AND OTHER REQUIREMENTS FOR GUIDES AND TRANSPORTERS. (a) The department may require a registered guide-outfitter, who contracts to guide or outfit a big game hunt, or a transporter to provide proof of financial responsibility up to the amount of \$100,000. A registered guide or transporter may demonstrate financial responsibility by assets, insurance, or a bond in the requisite amount.

(b) If a registered guide-outfitter, class-A assistant guide, or assistant guide personally pilots an aircraft to transport clients during the provision of big game hunting services, the registered guide-outfitter, class-A assistant guide, or assistant guide shall have a commercial pilot's rating or a minimum of 500 hours of flying time in the state.

(c) On or after January 1, 2006, a registered guide-outfitter may not provide big game hunting services and a transporter may not provide transportation services unless the registered guide-outfitter or transporter has entered into a written contract with the client for the provision of those services. A contract to provide big game hunting services must include at least the following information: the name and guide license number of the registered guide-outfitter, the name of the client, a listing of the big game to be hunted, the approximate time and dates that the client will be in the field, a statement as to what transportation is provided by the registered guide-outfitter, a statement as to whether accommodations and meals in the field are provided by the registered guide-outfitter, and a statement of the amount to be paid for the big game hunting services provided. A contract to provide transportation services must include at least the following information: the name and transporter license number of the transporter, the name of the client, a listing of the big game to be hunted, the approximate time and dates that the client will be in the field, and a statement of the amount to be paid for the transportation services provided. A registered guide-outfitter or transporter shall provide a copy of contracts to provide big game hunting services or transportation service, as appropriate, to the department upon the request of the department. Except as necessary for disciplinary proceedings conducted by the board and as necessary for law enforcement purposes by the Department of Public Safety and the Department of Law, a copy of a contract provided to the department is confidential. The department may provide a copy of contracts in the possession of the department to the Department of Fish and Game or the Department of Natural Resources upon the request of that department if the department receiving the copy agrees to maintain the confidentiality of the contracts.

**ARTICLE 2.
ENFORCEMENT.**

Section

- 710. Discipline of guides and transporters**
- 720. Unlawful acts**
- 730. Injunction against unlawful action**
- 740. Responsibility of guide or transporter for violations**
- 750. Use area registration**
- 760. Hunt records; confidentiality of hunt records and activity reports**
- 770. License and examination fees**
- 785. Chapter not applicable**
- 790. Definitions**

Sec. 08.54.710. DISCIPLINE OF GUIDES AND TRANSPORTERS. (a) The board may impose a disciplinary sanction in a timely manner under (c) of this section if the board finds that a licensee

(1) is convicted of a violation of any state or federal statute or regulation relating to hunting or to provision of big game hunting services or transportation services;

(2) has failed to file records or reports required under this chapter;

(3) has negligently misrepresented or omitted a material fact on an application for any class of guide license or a transporter license; or

(4) has breached a contract to provide big game hunting services or transportation services to a client.

(b) *[Repealed, Sec. 4 ch 49 SLA 2008.]*

(c) The board may impose the following disciplinary sanctions, singly or in combination:

(1) permanently revoke a license;

(2) suspend a license for a specified period;

(3) censure or reprimand a licensee;

(4) impose limitations or conditions on the professional practice of a licensee;

(5) impose requirements for remedial professional education to correct deficiencies in the education, training, and skill of the licensee;

(6) impose probation requiring a licensee to report regularly to the board on matters related to the grounds for probation;

(7) impose a civil fine not to exceed \$5,000.

(d) The board shall permanently revoke a transporter license or any class of guide license if the board finds after a hearing that the license was obtained through fraud, deceit, or misrepresentation.

(e) The board shall suspend or permanently revoke a transporter license or any class of guide license without a hearing if the court orders the board to suspend or permanently revoke the license as a penalty for conviction of an unlawful act. If the board suspends or permanently revokes a license under this subsection, the board may not also impose an administrative disciplinary sanction of suspension or permanent revocation of the same license for the same offense for which the court ordered the suspension or permanent revocation under AS 08.54.720.

(f) A certified copy of a judgment of conviction of a licensee for an offense is conclusive evidence of the commission of that offense in a disciplinary proceeding instituted against the licensee under this section based on that conviction, regardless of whether the conviction resulted from a plea of nolo contendere or the conviction is under appeal, unless the conviction is overturned on appeal.

(g) A person whose license is suspended or revoked under this section may not engage in the provision of big game hunting services or transportation services during the period of license suspension or revocation.

(h) If the board revokes a license under this section, the person whose license has been revoked shall immediately surrender the license to the department.

(i) *[Repealed, Sec. 4 ch 49 SLA 2008.]*

(j) The board may suspend or permanently revoke a transporter license or any class of guide license if the board finds after a hearing that the licensee engaged in conduct involving unprofessionalism, moral turpitude, or gross immorality.

Sec. 08.54.720. UNLAWFUL ACTS. (a) It is unlawful for a

(1) person who is licensed under this chapter to knowingly fail to promptly report, unless a reasonable means of communication is not reasonably available, to the Department of Public Safety, and in no event later than 20 days, a violation of a state or federal wildlife or game, guiding, or transportation services statute or regulation that the person reasonably believes was committed by a client or an employee of the person;

(2) person who is licensed under this chapter to intentionally obstruct or hinder or attempt to obstruct or hinder lawful hunting engaged in by a person who is not a client of the person;

(3) class-A assistant guide or an assistant guide to knowingly guide a big game hunt except while employed and supervised by a registered guide-outfitter;

- (4) person who holds any class of guide license or transporter license to knowingly enter or remain on private, state, or federal land without prior authorization during the course of providing big game hunting services or transportation services;
- (5) registered guide-outfitter to knowingly engage in providing big game hunting services outside of
- (A) a game management unit for which the registered guide-outfitter is certified; or
 - (B) a use area for which the registered guide-outfitter is registered under AS 08.54.750 unless the registration requirement for the area has been suspended by the Department of Fish and Game;
- (6) person to knowingly guide without having a current registered guide-outfitter, class-A assistant guide, or assistant guide license and a valid Alaska hunting license in actual possession;
- (7) registered guide-outfitter to knowingly fail to comply with AS 08.54.610(e);
- (8) person who is licensed under this chapter to knowingly
- (A) commit or aid in the commission of a violation of this chapter, a regulation adopted under this chapter, or a state or federal wildlife or game statute or regulation; or
 - (B) permit the commission of a violation of this chapter, a regulation adopted under this chapter, or a state or federal wildlife or game statute or regulation that the person knows or reasonably believes is being or will be committed without
 - (i) attempting to prevent it, short of using force; and
 - (ii) reporting the violation;
- (9) person without a current registered guide-outfitter license to knowingly guide, advertise as a registered guide-outfitter, or represent to be a registered guide-outfitter, except as provided by AS 08.54.635;
- (10) person without a current master guide-outfitter license to knowingly advertise as, or represent to be, a master guide-outfitter;
- (11) person without a current registered guide-outfitter license to knowingly outfit a big game hunt, provide outfitting services, advertise as an outfitter of big game hunts, or represent to be an outfitter of big game hunts;
- (12) person to knowingly provide transportation services to big game hunters without holding a current registered guide-outfitter license or transporter license;
- (13) person without a current transporter license to knowingly advertise as, or represent to be, a transporter;
- (14) class-A assistant guide or an assistant guide to knowingly contract to guide or outfit a hunt;
- (15) person licensed under this chapter to knowingly violate a state statute or regulation prohibiting waste of a wild food animal or hunting on the same day airborne;
- (16) person to knowingly provide big game hunting services or transportation services during the period for which the person's license to provide that service is suspended or revoked;
- (17) registered guide-outfitter, except in the defense of life or property, to knowingly personally take
- (A) big game while accompanying a client in the field; or
 - (B) a species of big game if the registered guide-outfitter is under contract with a client to provide a guided hunt for that species of big game and the client is in the field;
- (18) person who is licensed as a registered guide-outfitter, a class-A assistant guide, or an assistant guide, except in the defense of life or property, to knowingly personally take big game while a client of the registered guide-outfitter by whom the person is employed is in the field unless the person is not participating in, supporting, or otherwise assisting in providing big game hunting services to a client of the registered guide-outfitter by whom the person is employed; or
- (19) person who is licensed as a transporter, or who provides transportation services under a transporter license, to knowingly accompany or remain in the field with a big game hunter who is a client of the person except as necessary to perform the specific duties of embarking or disembarking big game hunters, their equipment, or big game animals harvested by hunters; this paragraph does not apply to a person who holds both a transporter license and a registered guide-outfitter license issued under this chapter when the person has a contract to provide guiding services for the client.
- (b) In addition to a disciplinary sanction imposed under AS 08.54.710, a person who commits an offense set out in (a)(1) - (7), (17), (18), or (19) of this section is guilty of a misdemeanor and is punishable by a fine of not more than \$10,000 or by imprisonment up to one year, or both.
- (c) In addition to a disciplinary sanction imposed under AS 08.54.710, a person who commits an offense set out in (a)(8) - (14) of this section is guilty of a misdemeanor and is punishable by a fine of not more than \$30,000 or by imprisonment up to one year, or both.
- (d) In addition to a disciplinary sanction imposed under AS 08.54.710, a person who commits an offense set out in (a)(15) of this section is guilty,
- (1) for a first offense, of a misdemeanor and is punishable by a fine of not more than \$30,000 or by imprisonment up to one year, or both;
 - (2) for a second or subsequent offense, of a class C felony.
- (e) In addition to a disciplinary sanction imposed under AS 08.54.710, a person who violates (a)(16) of this section is guilty of a class C felony.
- (f) In addition to the penalties set out in (b) - (e) of this section and a disciplinary sanction imposed under AS 08.54.710,

(1) the court may order the board to suspend the guide license or transporter license of a person who commits a misdemeanor offense set out in (a)(1), (3) - (5), (7), (8), (17), (18), or (19) of this section for a specified period of not more than three years;

(2) the court shall order the board to suspend the guide license or transporter license of a person who commits a misdemeanor offense set out in (a)(2) or (9) - (14) of this section for a specified period of not less than one year and not more than five years;

(3) the court shall order the board to suspend the guide license or transporter license for a specified period of not less than three years, or to permanently revoke the guide license or transporter license, of a person who commits an offense set out in (a)(15) or (16) of this section; and

(4) all guns, fishing tackle, boats, aircraft, automobiles, or other vehicles, camping gear, and other equipment and paraphernalia used in, or in aid of, a violation of (a) of this section may be seized by persons authorized to enforce this chapter and may be forfeited to the state as provided under AS 16.05.195.

(g) Upon conviction of a person for committing an offense set out in (a) of this section, the execution of sentence may not be suspended and probation may not be granted except on the condition that the minimum term of imprisonment is served. Imposition of sentence may not be suspended.

Sec. 08.54.730. INJUNCTION AGAINST UNLAWFUL ACTION. When in the judgment of the board, a person has engaged in an act in violation of AS 08.54.620(b), 08.54.630(b), 08.54.650(b), 08.54.710(g), or 08.54.720(a) or the regulations adopted under these statutes, the board may apply to the appropriate court for an order enjoining the action. Upon a showing by the board that the person is engaging in the act, the court shall grant injunctive relief or other appropriate order without bond.

Sec. 08.54.740. RESPONSIBILITY OF GUIDE OR TRANSPORTER FOR VIOLATIONS. (a) A registered guide-outfitter who contracts to guide or outfit a big game hunt is equally responsible under AS 08.54.710 for a violation of a state or federal wildlife or game or guiding statute or regulation committed by a person while the person provides guide services for the guide-outfitter under AS 08.54.635 or during the course of the person's employment for the registered guide-outfitter.

(b) A transporter who provides transportation services is equally responsible under AS 08.54.710 for a violation of a state or federal wildlife or game, guiding, or transportation services statute or regulation committed by a person while in the course of the person's employment for the transporter.

Sec. 08.54.750. USE AREA REGISTRATION. (a) At least 30 days before conducting big game hunting services within a guide use area, a registered guide-outfitter shall inform the department, in person or by registered mail on a registration form provided by the department, that the guide-outfitter will be conducting big game hunting services in the use area. A registered guide-outfitter may not withdraw or amend a guide use area registration during the calendar year in which the registration was submitted to the department.

(b) A registered guide-outfitter may not register for, or conduct big game hunting services in,

(1) more than three guide use areas during a calendar year; or

(2) a guide use area that is outside of a game management unit for which the registered guide-outfitter is certified under AS 08.54.600.

(c) Notwithstanding (a) and (b) of this section, a registered guide-outfitter may register to conduct big game hunting services within a guide use area at any time before beginning operations in the guide use area and may conduct big game hunting services in a guide use area, or for a big game species in a guide use area, that is not one of the three guide use areas for which the registered guide-outfitter has registered under (b) of this section if the Department of Fish and Game has determined by regulation that it is in the public interest to suspend the registration requirements for that guide use area or for all guide use areas in a game management unit or game management subunit for a big game species within those guide use areas.

(d) Notwithstanding (b) of this section, a registered guide-outfitter who is registered in three guide use areas may also register for and conduct big game hunting services in a portion of one additional guide use area on federal land adjacent to a guide use area in which the registered guide-outfitter is already registered if the board finds that the portion of the adjacent guide use area for which the registered guide-outfitter is seeking to be registered would otherwise remain unused by a registered guide-outfitter because the boundaries of guide use areas do not coincide with boundaries of federal big game guide concession or permit areas.

(e) Notwithstanding (b) of this section, a registered guide-outfitter who is registered in three guide use areas may also register for and conduct big game hunting services for wolf, black bear, brown bear, or grizzly bear in guide use areas within a game management unit or portion of a game management unit where the Board of Game has identified predation by wolf, black bear, brown bear, or grizzly bear as a cause of the depletion of a big game prey population or a reduction of the productivity of a big game prey population that is the basis for the establishment of an intensive management program in the game management unit or portion of the game management unit or for the declaration of the biological emergency in the game management unit or portion of the game management unit. A registered guide-outfitter may only conduct hunts in a guide use area under this subsection for the big game species identified by the Board of Game as the cause of the depletion or reduction of productivity of a big game prey population.

(f) At least 60 days before providing transportation services to, from, or in an area as may be determined by the board, a transporter shall inform the department, in person or by registered mail on a registration form provided by the department, that the transporter will be providing transportation services to, from, or in the use area. The board may establish transporter use areas and adopt regulations to implement this subsection as the board considers necessary.

(g) In this section, "guide use area" means a geographic area of the state identified as a guide-outfitter use area by the former Big Game Commercial Services Board established under former AS 08.54.300 and described on a set of maps titled Guide-Outfitter Use Area Maps, dated June 22, 1994, as amended by the board as the board considers necessary.

Sec. 08.54.760. HUNT RECORDS; CONFIDENTIALITY OF HUNT RECORDS AND ACTIVITY REPORTS. (a) The department shall collect and maintain hunt records provided by a registered guide-outfitter. A registered guide-outfitter shall submit to the department a hunt record for each contracted hunt within 60 days after the completion of the hunt. A hunt record must include a list of all big game hunters who used the guiding or outfitting services of the registered guide-outfitter, the number of each big game species taken, and other information required by the board. The department shall provide forms for reporting hunt records.

(b) The department shall make hunt records received under this section, and activity reports received under AS 08.54.650, available to state agencies, federal law enforcement agencies, and other law enforcement agencies if requested. Aggregated data compiled from hunt records and activity reports may be included in reports by the department. For all other purposes, the hunt records and activity reports are confidential and are not subject to inspection or copying under AS 40.25.110 - 40.25.125.

(c) Forms, records, and reports required under this chapter may be distributed, received, and stored electronically.

Sec. 08.54.770. LICENSE AND EXAMINATION FEES. (a) The department shall set fees under AS 08.01.065 for each of the following:

- (1) registered guide-outfitter license;
- (2) class-A assistant guide license;
- (3) assistant guide license;
- (4) transporter license;
- (5) retired status license;
- (6) license application fee.

(b) The license fee for the registered guide-outfitter, class-A assistant guide, or assistant guide license is in addition to the fee required for a hunting license issued by the Department of Fish and Game under AS 16.05.340.

(c) An applicant for a qualifying examination for a registered guide-outfitter license shall pay a fee established by regulations adopted under AS 08.01.065.

(d) The fee for the transporter license must be equal to the fee for the registered guide-outfitter license.

(e) The amount of the license fee for a nonresident shall be two times the amount of the license fee for a resident.

Sec. 08.54.785. CHAPTER NOT APPLICABLE. The provisions of this chapter do not apply to a person providing, for compensation or with the intent to receive compensation, only accommodations to a big game hunter in the field at

- (1) a permanent lodge, house, or cabin on private land owned by the person; or
- (2) a state or federal cabin on state or federal land.

Sec. 08.54.790. DEFINITIONS. In this chapter,

(1) "any class of guide license" does not include a retired status license issued under AS 08.54.608;

(2) "big game" means brown bear, grizzly bear, caribou, moose, black bear, bison, Sitka blacktail deer, elk, mountain goat, musk ox, and mountain or Dall sheep; "big game" includes wolf and wolverine when taken under hunting regulations;

(3) "big game hunting service" means a service for which the provider of the service must obtain a registered guide-outfitter, class-A assistant guide, or assistant guide license; "big game hunting service" includes guiding services and outfitting services;

(4) "board" means the Big Game Commercial Services Board;

(5) "compensation" means payment for services including wages or other remuneration but not including reimbursement for actual expenses incurred;

(6) "department" means the Department of Commerce, Community, and Economic Development;

(7) "field" means an area outside of established year-round dwellings, businesses, or other developments associated with a city, town, or village; "field" does not include permanent hotels or roadhouses on the state road system or state or federally maintained airports;

(8) "game management unit" means one of the 26 geographic areas defined by the Board of Game for game management purposes;

(9) "guide" means to provide, for compensation or with the intent or with an agreement to receive compensation, services, equipment, or facilities to a big game hunter in the field by a person who accompanies or is

present with the big game hunter in the field either personally or through an assistant; in this paragraph, “services” includes

- (A) contracting to guide or outfit big game hunts;
 - (B) stalking, pursuing, tracking, killing, or attempting to kill big game;
 - (C) packing, preparing, salvaging, or caring for meat, except that which is required to properly and safely load the meat on the mode of transportation being used by a transporter;
 - (D) field preparation of trophies, including skinning and caping;
 - (E) selling, leasing, or renting goods when the transaction occurs in the field;
 - (F) using guiding or outfitting equipment, including spotting scopes and firearms, for the benefit of a hunter; and
 - (G) providing camping or hunting equipment or supplies that are already located in the field;
- (10) “licensee” means a person to whom a license, other than a retired status license, has been issued under this chapter;
- (11) “outfit” means to provide, for compensation or with the intent to receive compensation, services, supplies, or facilities, excluding the provision of accommodations by a person described in AS 08.54.785, to a big game hunter in the field, by a person who neither accompanies nor is present with the big game hunter in the field either personally or by an assistant;
- (12) “transportation services” means the carriage for compensation of big game hunters, their equipment, or big game animals harvested by hunters to, from, or in the field; “transportation services” does not include the carriage by aircraft of big game hunters, their equipment, or big game animals harvested by hunters
- (A) on nonstop flights between airports listed in the Alaska supplement to the Airmen’s Guide published by the Federal Aviation Administration; or
 - (B) by an air taxi operator or air carrier for which the carriage of big game hunters, their equipment, or big game animals harvested by hunters is only an incidental portion of its business; in this subparagraph, “incidental” means transportation provided to a big game hunter by an air taxi operator or air carrier who does not
 - (i) charge more than the usual tariff or charter rate for the carriage of big game hunters, their equipment, or big game animals harvested by hunters; or
 - (ii) advertise transportation services or big game hunting services to the public; in this sub-subparagraph, “advertise” means soliciting big game hunters to be customers of an air taxi operator or air carrier for the purpose of providing air transportation to, from, or in the field through the use of print or electronic media, including advertising at trade shows, or the use of hunt broker services or other promotional services.

CHAPTER 75.
BIG GAME COMMERCIAL SERVICES BOARD.

Article

- 1. Guide License Qualifications (12 AAC 75.100 - 12 AAC 75.140)**
- 2. Registered Guide-Outfitter Operations (12 AAC 75.200 - 12 AAC 75.260)**
- 3. Professional Ethics Standards for Guides (12 AAC 75.300 - 12 AAC 75.340)**
- 4. Transportation Services (12 AAC 75.400 - 12 AAC 75.450)**
- 5. General Provisions (12 AAC 75.900 - 12 AAC 75.990)**

ARTICLE 1.
GUIDE LICENSE QUALIFICATIONS.

Section

- 100. Application for registered guide-outfitter examination**
- 105. Application for master guide-outfitter license**
- 110. Registered guide-outfitter examinations**
- 112. Game management unit certification examination**
- 115. Registered guide-outfitter exempt from examination**
- 117. Registered guide-outfitter reexamination**
- 120. Application for class-A assistant guide license**
- 130. Application for assistant guide license**
- 140. Term of guide licenses**
- 145. Application for a transporter license**

12 AAC 75.100. APPLICATION FOR REGISTERED GUIDE-OUTFITTER EXAMINATION. (a) An applicant for a registered guide-outfitter license who is applying under AS 08.54.610(a)(3)(A) must submit,

- (1) at least 120 days before the date of the next scheduled registered guide-outfitter examination,
 - (A) the applicable fees required in 12 AAC 02.230;
 - (B) a completed application on a form provided by the department; the applicant must indicate if the applicant will be contracting to provide big game commercial services during the licensing period for which the applicant is applying;
 - (C) a list of hunters for whom the applicant has provided big game hunting services in compliance with AS 08.54.610(a)(8);
 - (D) a written certification by the applicant on a form provided by the department certifying the applicant's
 - (i) practical field experience as required in AS 08.54.610(a)(2);
 - (ii) capability to perform "essential duties associated with guiding and outfitting" as defined in 12 AAC 75.990; and
 - (iii) successful experience guiding sheep, moose, brown bear, mountain goat, and caribou hunts, if the applicant is seeking licensure for one of these species; the applicant must have been involved in a minimum of three harvests on a guided hunt for each of these listed species in order to be licensed for that species;
 - (E) a signed statement from the applicant certifying that the applicant meets the eligibility requirements in AS 08.54.605;
 - (F) a form completed by the applicant listing the dates that the applicant hunted in the state and certifying that the applicant meets the requirements in AS 08.54.610(a)(5); and
 - (G) the applicant's license number and dates of licensure as a class-A assistant guide, class-A assistant guide-outfitter, assistant guide, or assistant guide-outfitter in the state; and
 - (2) at least 45 days before the date of the next scheduled registered guide-outfitter examination,
 - (A) a complete report of criminal justice information under AS 12.62, including fish and wildlife violations, and if a state other than this state is the applicant's primary state of residence, an equivalent report issued by that other state; and
 - (B) for each guiding, outfitting, transportation, or other hunting services license, if any, issued to the applicant by another state or by a jurisdiction of Canada, verification from the issuing government body that the license has not been suspended or revoked.
- (b) For the purposes of determining the applicable license fee under (a) of this section, the applicant shall state on the application form whether the applicant is a resident.
- (c) The department will not schedule an applicant for the registered guide-outfitter examination unless the department has received all letters of recommendation required under AS 08.54.610(a)(8) at least 45 days before the date of the examination.
- (d) In addition to meeting the requirements of (a) – (c) of this section, an applicant must
- (1) have participated in contracted hunts for 125 days over a minimum of three years with at least eight clients; and
 - (2) submit, at least 45 days before the date of the next scheduled registered guide-outfitter examination, an

affidavit signed by an employing registered guide-outfitter attesting that the applicant has met the requirements of this subsection and including a completed form assessing the applicant's skills and abilities in the following areas and explaining negative responses:

- (A) hunting regulations;
- (B) guiding regulations;
- (C) meat care and preservation;
- (D) cape and trophy care;
- (E) trophy judging;
- (F) photography;
- (G) ethics;
- (H) logistics;
- (I) stalking;
- (J) safety procedures;
- (K) first aid;
- (L) emergency protocol;
- (M) firearm use and safety;
- (N) knowledge of property ownership.

(e) The department will schedule an applicant to sit for the registered guide-outfitter examination if items in (a) – (d) of this section are received and verified before the scheduled examination date.

(f) An applicant who appears for an examination and chooses not to take a scheduled test forfeits the examination fees.

Authority: AS 08.54.600 AS 08.54.605 AS 08.54.610

12 AAC 75.105. APPLICATION FOR MASTER GUIDE-OUTFITTER LICENSE. (a) The department will issue a license as a master guide-outfitter to a person who meets the requirements of AS 08.54.610(b) and this section. An applicant for a master guide-outfitter license must submit

- (1) a completed application on a form provided by the department;
- (2) the applicable fees required in 12 AAC 02.230;
- (3) a list of 25 big game hunters for whom the applicant has personally provided guiding or outfitting services in compliance with AS 08.54.610;
- (4) for each guiding, outfitting, transportation, or other hunting services license, if any, issued to the applicant by another state or by a jurisdiction of Canada, verification from the issuing government body that the license has not been suspended or revoked;
- (5) the favorable evaluations required under AS 08.54.610(b)(3); and
- (6) an affidavit identifying the years for which the applicant is requesting to receive guide experience credit.

(b) For the purposes of determining the applicable license fee, the applicant shall state on the application form whether the applicant is a resident.

Authority: AS 08.54.600 AS 08.54.605 AS 08.54.610

12 AAC 75.110. REGISTERED GUIDE-OUTFITTER EXAMINATIONS. (a) To be eligible for a registered guide-outfitter license, an applicant must pass the

- (1) qualification examination, which includes a practical examination covering
 - (A) trophy judging of actual antlers and horns;
 - (B) aging of animals;
 - (C) sexing of mountain goats and bears; and
 - (D) capping a big game animal; for this portion of the examination, the applicant must provide a visual recording of the applicant capping a big game animal; and
- (2) game management unit examination for at least one game management unit.

(b) The minimum score required to pass the qualification and game management unit registered guide-outfitter examinations is 75 percent on each examination.

- (c) *Repealed 11/24/2007.*
- (d) *Repealed 11/24/2007.*
- (e) *Repealed 7/30/2006.*
- (f) *Repealed 11/24/2007.*

Authority: AS 08.54.600 AS 08.54.605 AS 08.54.610

12 AAC 75.112. GAME MANAGEMENT UNIT CERTIFICATION EXAMINATION. (a) The department will schedule an applicant to sit for the certification examination for a game management unit if the applicant submits, at least 45 days before the date of the next scheduled examination,

- (1) a written request and applicable examination fees established in 12 AAC 02.230; and

(2) proof satisfactory to the department of having, for at least 60 days within the game management unit for which the applicant is requesting certification, performed one or more of the following activities in the field:

- (A) guiding;
- (B) hunting;
- (C) trapping;
- (D) camping; in this subparagraph, "camping" means using a vehicle, tent, or shelter, or arranging bedding, or both, to stay overnight in the field, regardless of whether the stay is for personal purposes or in a camp as defined in 12 AAC 75.990;
- (E) surveying game.

(b) An applicant may take examinations for no more than three game management units at a time.

(c) The department will certify an applicant for a game management unit if the applicant

- (1) meets the requirements of this section;
- (2) passes the certification examination testing, for the game management unit for which certification is sought, the applicant's knowledge on terrain, game, geography, transportation, logistics, and land ownership; and
- (3) is a registered guide-outfitter with a valid license; if the applicant does not already have a valid registered guide-outfitter license, the department will issue certification when the applicant

(A) has met all the qualification requirements of AS 08.54 and this chapter for initial issuance of a registered guide-outfitter license and is issued that license; or

(B) has timely renewed an expired registered guide-outfitter license in accordance with AS 08.54.660 and 08.54.670.

(d) The department will schedule an applicant to sit for a game management unit certification examination if the proof required under (a)(2) of this section is verified before the scheduled examination date.

(e) An applicant who appears for an examination and chooses not to take a scheduled test forfeits the examination fees.

Authority: AS 08.54.600 AS 08.54.610

12 AAC 75.115. REGISTERED GUIDE-OUTFITTER EXEMPT FROM EXAMINATION. (a) An applicant for a registered guide-outfitter license who is applying under AS 08.54.610(a)(3)(B) must submit,

(1) at least 120 days before the date of the next scheduled examination for game management unit certification,

- (A) the applicable fees required in 12 AAC 02.230;
- (B) a completed application on a form provided by the department;
- (C) a list of hunters for whom the applicant has provided big game hunting services in compliance with AS 08.54.610(a)(8);
- (D) a written certification by the applicant on a form provided by the department certifying the applicant's
 - (i) practical field experience as required in AS 08.54.610(a)(2);
 - (ii) capability to perform "essential duties associated with guiding and outfitting" as defined in 12 AAC 75.990; and
 - (iii) successful experience guiding sheep, moose, brown bear, mountain goat, and caribou hunts, if the applicant is seeking licensure for one of these species; the applicant must have been involved in a minimum of three harvests on a guided hunt for each of these listed species in order to be licensed for that species;

(E) a signed statement by the applicant certifying that the applicant meets the eligibility requirements in AS 08.54.605;

(F) a form completed by the applicant listing the dates that the applicant has hunted in the state and certifying that the applicant meets the requirements of AS 08.54.610(a)(5); and

(G) the applicant's license number and dates of licensure that meet the requirements of AS 08.54.610(a)(3)(B), verifying at least 25 years of qualifying experience; and

(2) at least 45 days before the date of the next scheduled examination for game management unit certification,

(A) a complete report of criminal justice information under AS 12.62, including fish and wildlife violations, and if a state other than this state is the applicant's primary state of residence, an equivalent report issued by that other state; and

(B) for each guiding, outfitting, transportation, or other hunting services license, if any, issued to the applicant by another state or by a jurisdiction of Canada, verification from the issuing government body that the license has not been suspended or revoked; and

(C) an affidavit and form completed and signed by an employing registered guide-outfitter assessing the applicant's skills and abilities in the following areas and explaining negative responses:

- (i) hunting regulations;
- (ii) guiding regulations;
- (iii) meat care and preservation;
- (iv) cape and trophy care;
- (v) trophy judging;
- (vi) photography;

- (vii) ethics;
- (viii) logistics;
- (ix) stalking;
- (x) safety procedures;
- (xi) first aid;
- (xii) emergency protocol;
- (xiii) firearm use and safety;
- (xiv) knowledge of property ownership.

(b) For the purposes of determining the applicable license fee, the applicant shall state on the application form whether the applicant is a resident.

(c) The department will not schedule an applicant for the game management unit examination unless the department has received all letters of recommendation required under AS 08.54.610(a)(8) at least 45 days before the date of the examination.

(d) *Repealed 7/30/2006.*

(e) An applicant who appears for an examination and chooses not to take a scheduled test forfeits the examination fees.

Authority: AS 08.54.600 AS 08.54.605 AS 08.54.610

12 AAC 75.117. REGISTERED GUIDE-OUTFITTER REEXAMINATION. (a) An applicant who fails a registered guide-outfitter examination may apply for reexamination any time within two years after the date of the first examination. If, within two years after the date of the first examination, the applicant fails to apply for reexamination, the applicant must apply again for initial licensure, and must meet the qualifications in AS 08.54 and this chapter for initial issuance of a registered guide-outfitter license.

(b) An applicant who fails a certification examination for a game management unit may apply for reexamination any time within two years after the date of the first examination. If, within two years after the date of the first examination, the applicant fails to apply for reexamination, and if the applicant

(1) has not already passed a certification examination as required under AS 08.54.610(a)(4) for initial licensure, is not already licensed as a registered guide-outfitter, or on or before the date of reexamination has failed under AS 08.54.660 and 08.54.670 to renew a license for four consecutive years, the applicant must apply again for initial licensure, and must meet the qualifications in AS 08.54 and this chapter for initial issuance of a registered guide-outfitter license; or

(2) either is already licensed as a registered guide-outfitter or has an expired license for which, on or before the date of reexamination, the four consecutive-year period for renewal under AS 08.54.660 and 08.54.670 has not run, and if the failed certification examination is for an additional game management unit, the applicant must apply again under 12 AAC 75.112 and must meet the requirements in that section to sit for the examination.

(c) To apply for reexamination, an applicant must submit, at least 45 days before the date of the examination,

- (1) a written request for reexamination; and
- (2) the examination fee required in 12 AAC 02.230 for the requested examination.

(d) The department may, if staff resources allow, waive the application deadline in (c) of this section.

(e) An examination score is valid for no more than two years. If the examination is a

(1) registered guide-outfitter examination, and if, within two years after the date of the examination, the applicant is not issued a license as a registered guide-outfitter, the applicant must apply again for initial licensure, and must meet the qualifications in AS 08.54 and this chapter for initial issuance of a registered guide-outfitter license;

(2) certification examination for a game management unit and is required under AS 08.54.610(a)(4) for initial licensure, and if, within two years after the date of the examination, the applicant is not issued a license as a registered guide-outfitter, the applicant must apply again for initial licensure, and must meet the qualifications in AS 08.54 and this chapter for initial issuance of a registered guide-outfitter license; or

(3) certification examination for an additional game management unit, not required under AS 08.54.610(a)(4) for initial licensure, and if the applicant has an expired registered guide-outfitter license for which, within the two-year period that the examination score is valid, the four consecutive-year period for renewal under AS 08.54.660 and 08.54.670 runs out, the applicant may not apply that score to meet the initial licensure requirements in AS 08.54.610(a)(4).

Authority: AS 08.54.600 AS 08.54.610 AS 08.54.670
AS 08.54.605 AS 08.54.660

12 AAC 75.120. APPLICATION FOR CLASS-A ASSISTANT GUIDE LICENSE. (a) The department will issue a license as a class-A assistant guide to an applicant who meets the requirements of AS 08.54.620 and this section.

(b) Before a class-A assistant guide license will be issued, the department must receive

- (1) the fees required in 12 AAC 02.230;
- (2) a completed application on a form provided by the department;

- (3) verification of the applicant's applicable employment, residency, and hunting experience required under AS 08.54.620(a)(4); an applicant applying for a class-A assistant guide license under
- (A) AS 08.54.620(a)(4)(A) and this section shall submit
 - (i) verification, from employing registered guides or guide-outfitters, of experience spanning three years as described in AS 08.54.620(a)(4)(A)(i); and
 - (ii) an affidavit that the applicant has had the hunting experience required in AS 08.54.620(a)(4)(A)(ii);
 - (B) AS 08.54.620(a)(4)(B) and this section shall submit
 - (i) the evidence required in AS 08.54.620(a)(4)(B)(i) of physical residency;
 - (ii) three affidavits of hunting experience from individuals who certify that the applicant has had the hunting experience required in AS 08.54.620(a)(4)(B)(ii); and
 - (iii) a letter of recommendation from a licensed registered guide-outfitter who intends to employ the applicant as a class-A assistant guide;
- (4) a copy of the applicant's valid first aid card issued by the Red Cross or a similar organization recognized by the department;
- (5) a signed statement from the applicant certifying that the applicant meets the eligibility requirements in AS 08.54.605;
- (6) a complete report of criminal justice information under AS 12.62, including fish and wildlife violations, and if a state other than this state is the applicant's primary state of residence, an equivalent report issued by that other state; and
- (7) for each guiding, outfitting, transportation, or other hunting services license, if any, issued to the applicant by another state or by a jurisdiction of Canada, verification from the issuing government body that the license has not been suspended or revoked.
- (c) A class-A assistant guide licensed under AS 08.54.620(a)(4)(B) may be certified for additional game management units in which the licensee does not reside if that licensee also meets the requirements of AS 08.54.620(a)(4)(A).

Authority: AS 08.54.600 AS 08.54.605 AS 08.54.620

12 AAC 75.130. APPLICATION FOR ASSISTANT GUIDE LICENSE. The department will issue a license as an assistant guide to an applicant who meets the requirements of AS 08.54.630 and this section. An assistant guide license applicant shall submit

- (1) the fees required in 12 AAC 02.230;
- (2) a completed application on a form provided by the department;
- (3) a copy of the applicant's valid first aid card issued by the American Red Cross or a similar organization recognized by the department;
- (4) a form completed by the applicant listing the dates the applicant has hunted in the state and certifying that the applicant meets the requirements in AS 08.54.630(a)(2);
- (5) a written recommendation or evidence as required in AS 08.54.630(a)(4);
- (6) a signed statement from the applicant certifying that the applicant meets the eligibility requirements in AS 08.54.605;
- (7) a complete report of criminal justice information under AS 12.62, including fish and wildlife violations, and if a state other than this state is the applicant's primary state of residence, an equivalent report issued by that other state; and
- (8) for each guiding, outfitting, transportation, or other hunting services license, if any, issued to the applicant by another state or by a jurisdiction of Canada, verification from the issuing government body that the license has not been suspended or revoked.

Authority: AS 08.54.600 AS 08.54.605 AS 08.54.630

12 AAC 75.140. TERM OF GUIDE LICENSES. Registered guide-outfitter, class-A assistant guide, and assistant guide licenses expire on December 31 of odd-numbered years.

Authority: AS 08.01.100 AS 08.54.600

12 AAC 75.145. APPLICATION FOR A TRANSPORTER LICENSE. (a) The department will issue a license as a transporter to an applicant who meets the requirements of AS 08.54.650 and this section. An applicant for a transporter license must submit

- (1) a completed application on a form provided by the department;
- (2) the applicable fees required in 12 AAC 02.230;
- (3) proof of financial responsibility in accordance with 12 AAC 75.420;
- (4) copies of the Federal Aviation Administration and United States Coast Guard licenses applicable to the applicant's operations; and

- (5) the name of one individual who is responsible for managing the transporter's business activities.
- (b) In addition to meeting the requirements in (a) of this section, an applicant that is a
- (1) corporation must submit proof of either a certificate of incorporation or a certificate of authority in good standing under AS 10, and if the corporation is organized in this state, proof of articles of incorporation in good standing under AS 10;
- (2) limited liability company, proof of either articles of organization or registration in good standing under AS 10.50;
- (3) limited liability partnership, proof of either a statement of qualification or a statement of foreign qualification in good standing under AS 32.06.911 – 32.06.925; or
- (4) limited partnership, proof of either a certificate of limited partnership or registration in good standing under AS 32.11.
- (c) To change the individual identified under (a)(5) of this section, a licensed transporter must file with the department, within 20 days after the date of the change, a written statement verifying the change and identifying the new individual responsible for managing the transporter's business activities.
- (d) A licensed transporter shall notify the department in accordance with 12 AAC 02.900 if the transporter's mailing address changes.

Authority: AS 08.54.600 AS 08.54.650 AS 08.54.660

ARTICLE 2. REGISTERED GUIDE-OUTFITTER OPERATIONS.

Section

- 200. Registered guide-outfitter providing services**
- 205. Distribution and use of hunt records**
- 210. Hunt record**
- 220. Proof of financial responsibility**
- 230. Guide-outfitter use area registration**
- 235. Guide-outfitter use area maps**
- 240. Supervision**
- 250. Participation in a hunt**
- 260. Registered guide-outfitter contract requirements**
- 265. Guide use area boundary changes**

12 AAC 75.200. REGISTERED GUIDE-OUTFITTER PROVIDING SERVICES. (a) In addition to the restrictions in AS 08.54.720, a registered guide-outfitter may provide transportation services only in a guide use area for which the guide-outfitter is registered, unless the guide-outfitter also holds a transporter license.

(b) A registered guide-outfitter who provides transportation or outfitting services in a guide use area, for which the guide-outfitter is registered, shall complete a hunt record for each client transported or outfitted.

Authority: AS 08.54.600 AS 08.54.610 AS 08.54.750

12 AAC 75.205. DISTRIBUTION AND USE OF HUNT RECORDS. (a) The department will issue uniquely identifiable hunt records to a registered guide-outfitter with a valid license who has proof of financial responsibility in accordance with 12 AAC 75.220 on file with the board. Once the department issues the hunt records, the board

- (1) will consider the hunt records to be in the possession of the registered guide-outfitter; and
- (2) may discipline the registered guide-outfitter under AS 08.54.710(a)(2) if the
 - (A) registered guide-outfitter loses or misplaces the hunt records, or fails to return hunt records as required under this section or upon the department's request;
 - (B) hunt records are damaged or destroyed while in the registered guide-outfitter's possession; or
 - (C) hunt records, while in the registered guide-outfitter's possession, are used in a manner that violates AS 08.54.760, this section, or 12 AAC 75.210.

(b) The hunt records must be used only by the assigned registered guide-outfitter. Hunt records may not be shared.

(c) All copies of a hunt record must be completed in accordance with 12 AAC 75.210. Copies must be distributed in accordance with 12 AAC 75.210.

(d) A voided hunt record must be returned to the department.

(e) *Repealed 3/21/2010.*

(f) A maximum of 50 hunt records will be issued to a registered guide-outfitter and may be in the registered guide-outfitter's possession at any given time. Additional hunt records may be issued. However, upon a written request and showing of good cause, as determined by the department, a registered guide-outfitter may have more than 50 hunt records assigned and in the registered guide-outfitter's possession.

- (g) A registered guide-outfitter who misplaces or loses a hunt record shall submit to the department
 - (1) a notarized statement documenting the loss of the hunt record; and
 - (2) client information not already submitted to the department under 12 AAC 75.210.

Authority: AS 08.54.600 AS 08.54.660 AS 08.54.760

12 AAC 75.210. HUNT RECORD. (a) The hunt record required by AS 08.54.760 must be on a form provided by the department, titled *Registered Guide-Outfitter Hunt Record*, dated October 2012, and adopted by reference. This form is established by the board for review of the information required to be submitted by registered guide-outfitters.

(b) Before a hunt, a registered guide-outfitter who contracts to guide, transport, or outfit a hunt shall complete or have completed the portions of the hunt record form that are required to be completed before a hunt.

(c) A copy of the hunt record must be with the client for the duration of a hunt.

(d) At the conclusion of the hunt, the registered guide-outfitter shall complete the applicable remaining portions of the hunt record.

(e) The registered guide-outfitter shall furnish one copy of the completed hunt record to the client and retain one copy for four years at the registered guide-outfitter's regular place of business.

(f) A hunt record must be produced for inspection upon request by an agent of the board or department or any state or federal enforcement agent authorized to enforce guiding, game, or game management statutes or regulations.

(g) If a big game hunting client contracts to hunt big game with more than one registered or master guide-outfitter, a separate hunt record must be completed by each registered or master guide-outfitter and each client. The department will not accept hunt records signed by more than one guide-outfitter.

Authority: AS 08.54.600 AS 08.54.660 AS 08.54.760

Editor's note: Copies of the *Registered Guide-Outfitter Hunt Record* Form, adopted by reference in 12 AAC 75.210, may be obtained from the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, Big Game Commercial Services Board, 333 Willoughby Avenue, Juneau, AK 99801; telephone: (907) 465-2543; Internet: <http://commerce.alaska.gov/occ/pgui.htm>.

12 AAC 75.220. REGISTERED GUIDE-OUTFITTER PROOF OF FINANCIAL RESPONSIBILITY. (a) *Repealed 12/1/2007.*

(b) An applicant who intends to contract to guide or outfit a big game hunt shall

(1) certify that the applicant has and will maintain during the licensing period, assets, general liability insurance, or a bond totaling at least a minimum of \$100,000 that will be available for payment of a judgment against the applicant resulting from the applicant's big game hunting services; and

(2) list the assets, insurance, or bond, including, if applicable,

(A) a description of the assets, their fair market value less any liens, identification of any liens against the assets, and the location of the assets; and

(B) the name of the company issuing the insurance or bond, the policy or bond number, and the amount and type of coverage supplied by the insurance or bond.

(c) A registered guide-outfitter who indicated on the application for initial license or renewal that the registered guide-outfitter would not contract to guide or outfit a big game hunt shall notify the department and provide the information required in (b) of this section before the registered guide-outfitter may contract to guide or outfit a big game hunt.

(d) A registered guide-outfitter shall notify the department within 10 days of any change to the information reported under (b) of this section.

(e) The department may require additional documentation to substantiate the information provided in (b) of this section before approving an applicant for initial licensure or license renewal.

Authority: AS 08.54.600 AS 08.54.610 AS 08.54.680

12 AAC 75.230. GUIDE USE AREA REGISTRATION. (a) The department will register an applicant in a guide use area if the applicant meets the requirements of AS 08.54.750 and this section. For each guide use area for which a registered guide-outfitter is registering, the registered guide-outfitter shall submit the following information on a form provided by the department:

(1) the applicant's registered guide-outfitter license number;

(2) the guide use area for which the registered guide-outfitter is registering;

(3) the location of the registered guide-outfitter's camp;

(4) documentation from the landowner or land manager that the applicant has the authorization to provide big game hunting services on at least 5,000 contiguous acres of the uplands in the guide use area; proof of prior year authorization, if still valid, will be accepted to meet the requirement of this paragraph; a letter of intent to authorize use for the current year, from the landowner or land manager, will be accepted to meet the requirement of this paragraph;

(5) whether registration is for a single calendar year or multiple calendar years.

(b) Unless it is issued for multiple calendar years, a guide use area registration issued under AS 08.54.750 and this section expires on December 31 of each year. A registration for multiple calendar years expires on December 31 of the last year for which it is issued. To re-register, the registered guide-outfitter must again submit a complete application under (a) of this section.

(c) A registered guide-outfitter may register for a maximum of five calendar years ending on December 31, including the calendar year in which the registration becomes effective. A registration for multiple calendar years may be withdrawn or changed annually, with the withdrawal or change to take effect on or after January 1 of the next calendar year.

(d) In accordance with AS 08.54.750, a registration will be considered effective 30 days after the date the registration is submitted to the department, or 30 days after the date the application is considered complete, whichever is later.

(e) A registered guide-outfitter who is registered in three guide use areas may register for and conduct big game hunting services in a portion of one additional guide use area on federal land adjacent to a guide use area for which the registered guide-outfitter is already registered if the registered guide-outfitter meets the requirements of (a)(1) – (4) of this section, and submits

(1) the guide use area map that identifies the portion of the additional guide use area that is located on federal land and is adjacent to a guide use area for which the registered guide-outfitter is currently registered; and

(2) a letter from the federal landholder that states that the area would otherwise remain unused by a registered guide-outfitter because the boundaries do not coincide with boundaries of a federal big game guide concession or permit area.

Authority: AS 08.54.600 AS 08.54.750

12 AAC 75.235. GUIDE-OUTFITTER USE AREA MAPS. The set of maps titled *Guide-Outfitter Use Area Maps*, dated June 22, 1994, as amended December 2009, July 2011, and December 2011, also titled *Guide-Outfitter Use Area Maps*, is adopted by reference. This set of maps prepared by the Department of Natural Resources depicts the boundaries of the guide use areas established under AS 08.54.750(g).

Authority: AS 08.54.600 AS 08.54.750

Editor's note: Copies of the *Guide-Outfitter Use Area Maps*, adopted by reference in 12 AAC 75.235, are available for inspection at the Department of Natural Resources, Division of Mining, Land and Water offices in Anchorage at the Robert B. Atwood Building, 550 W. 7th Avenue, Suite 900C, and in Fairbanks at 3700 Airport Way, and at the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing office in Juneau at the State Office Building, 9th Floor, 333 Willoughby Avenue. Electronic equivalents of the *Guide-Outfitter Use Area Maps* are also available through the Department of Natural Resources, Division of Mining, Land and Water website at: <http://dnr.alaska.gov/mlw/gcp/gua.cfm>.

12 AAC 75.240. SUPERVISION. (a) A registered guide-outfitter who contracts to guide a hunt shall plan, direct, and monitor the big game hunting services provided to the client.

(b) At the conclusion of the hunt, a registered guide-outfitter who contracts to guide a hunt shall evaluate the performance of the assistant guide, class-A assistant guide, or registered guide-outfitter involved in the hunt to determine whether the big game hunting services provided to the client were satisfactory.

(c) To comply with (b) of this section, the contracting registered guide-outfitter shall verbally communicate, by telephone or radio, or in person, with the client and the assistant guide, class-A assistant guide, or registered guide-outfitter involved in the hunt, separately or together, at least once within 10 days after the conclusion of the hunt. The contracting registered guide-outfitter shall obtain the necessary information to evaluate the performance of the assistant guide, the class-A assistant guide, or registered guide-outfitter and determine whether the big game hunting services were provided safely, in accordance with state and federal law, and to the satisfaction of the client.

(d) The contracting registered guide-outfitter shall make a good faith effort to verbally communicate with the client to obtain the necessary information to evaluate the performance of the assistant guide, class-A assistant guide, or registered guide-outfitter. If the attempt to verbally communicate with the client is unsuccessful, the contracting registered guide-outfitter shall write to the client and request the necessary information to evaluate the performance of the assistant guide, the class-A assistant guide, or registered guide-outfitter. The contracting registered guide-outfitter shall write to the client within 60 days after the conclusion of the hunt.

(e) A registered guide-outfitter shall document on the hunt record the date the registered guide-outfitter complied with the verbal, or if applicable the written, client communication requirements in (c) and (d) of this section.

(f) The contracting registered-guide outfitter or a noncontracting registered guide-outfitter or class-A assistant guide supervising an assistant guide shall be available in the same guide use area, or an adjacent guide use area with a common border, to direct and monitor the big game hunting services provided to the client, except during times when

(1) an emergency situation exists that requires the guide's assistance; or

- (2) the contracting registered guide-outfitter or noncontracting registered guide-outfitter or class-A assistant guide supervising the hunt is outside the guide use area or neighboring guide use area while
 - (A) in transit with meat or trophies from that or a neighboring guide use area;
 - (B) in transit with food, supplies, or clients directly associated with conducting guided hunts in that or a neighboring guide use area; or
 - (C) conducting important duties that are essential for completion of current contracted hunts.
- (g) *Repealed 7/30/2006.*
- (h) In this section, "emergency situation" means a situation in which a person is in a remote area and
 - (1) is involuntarily experiencing an absence of food, water, shelter, or medical care required to sustain life or health;
 - (2) is lost;
 - (3) is unable to perform the functions necessary for survival, leading to a high risk of death or serious and permanent health problems without the assistance of the guide; or
 - (4) the guide's presence is necessary for a family medical condition.
- (i) For purposes of the requirement in AS 08.54.610(e) for supervision of a contracted hunt, and in addition to the requirements of this section, the contracting registered guide-outfitter may plan, direct, and monitor a contracted hunt
 - (1) while in the field and present in
 - (A) the same game management unit in which the contracted hunt is taking place;
 - (B) a game management unit adjacent to and sharing a common border with the unit in which the contracted hunt is taking place; or
 - (C) a location that is no further than 50 miles from the nearest boundary of an area or unit described in (A) or (B) of this paragraph; and
 - (2) if performing those activities, while in the field and present in a location listed in (1) of this subsection, is practicable; for purposes of this paragraph, planning, directing, and monitoring the contracted hunt is not practicable if the contracting registered guide-outfitter cannot communicate in person, communicate personally by telephone, or communicate personally by radio with the assistant guide, class-A assistant guide, or registered guide-outfitter involved in the contracted hunt.

Authority:	AS 08.54.600	AS 08.54.620	AS 08.54.710
	AS 08.54.610	AS 08.54.630	

12 AAC 75.250. PARTICIPATION IN A HUNT. (a) *Repealed 6/2/2011.*

- (b) A registered guide-outfitter who contracts to guide a hunt and who is participating in a hunt as required in AS 08.54.630(b)(3) shall be in communication, either personally or through an agent, with the assistant guide, who is in the field with the client, at least once during the hunt if the hunt is longer than five days.
- (c) In this section, "communication" includes in-person contact, radio contact, telephone contact, and signaling.
- (d) A registered guide-outfitter who contracts to outfit a hunt shall
 - (1) before leaving a client in the field, advise the client of the date, time, and location at which the registered guide-outfitter will pick up the client and the course of action the client should follow if the registered guide-outfitter is unable to pick up the client as planned;
 - (2) either personally or through a class-A assistant guide, an assistant guide, or a licensed transporter, transport the client into and out of the field at the planned date, time, and location, unless prevented by weather, mechanical problems, or other safety concerns; and
 - (3) check on or communicate with a client in the field as agreed to before transporting that client.

Authority:	AS 08.54.600	AS 08.54.620	AS 08.54.710
	AS 08.54.610	AS 08.54.630	

12 AAC 75.260. REGISTERED GUIDE-OUTFITTER CONTRACT REQUIREMENTS. (a) A contracting registered guide-outfitter shall deliver a written contract to the client within 90 days after receipt of a deposit, or before services are provided, whichever is earlier.

- (b) A contract must
 - (1) include the name, license number, and signature of the guide-outfitter, and must include the name of the guide-outfitter's business if it is different from the name of the individual guide-outfitter;
 - (2) include the name and signature of the client;
 - (3) list each big game animal to be hunted, and must identify the primary animal to be hunted;
 - (4) list the approximate times and dates that the client will be in the field;
 - (5) list the number of hunting days and dates for each species, if appropriate;
 - (6) state the cost and payment schedule;
 - (7) state the amount of the trophy fee, if any, and must identify who is responsible for the cost of the license and tags;
 - (8) state the extra transportation cost, if any;
 - (9) include a statement of services provided, including lodging, meals, number of clients per guide, trophy

care and shipping, care of meat, and clarification of who is responsible for what;

(10) set out the deposit refund or transfer policy upon cancellation;

(11) include a statement about compensation for any delay of the client arriving in the field on schedule or for the client departing the field before the contracted hunt ends; and

(12) identify who is responsible for private and federal land use fees.

(c) A registered guide-outfitter shall retain a copy of the contract for at least four years.

Authority: AS 08.54.600
AS 08.54.680

AS 08.54.720

AS 08.54.790

12 AAC 75.265. GUIDE USE AREA BOUNDARY CHANGES. (a) The board may propose to amend guide use area boundaries

(1) on its own motion;

(2) upon the recommendation of the Department of Fish and Game; or

(3) in response to a petition from another person.

(b) At least 90 days before the date of a board meeting at which guide use area boundaries changes are proposed, the department will publish, in a newspaper of general circulation, a notice soliciting petitions to propose amendments to guide use area boundaries. To be considered for proposal by the board at the board's next meeting, a petition must be received by the department no later than 60 days after the notice is published.

(c) If the board proposes to amend guide use area boundaries, the board will mail notice of the proposed amendment to

(1) each registered guide-outfitter with a valid license who is registered for a guide use area the boundaries of which are proposed for amendment;

(2) the Department of Natural Resources;

(3) the Department of Fish and Game; and

(4) the Department of Public Safety.

(d) The board may amend guide use area boundaries after considering whether

(1) the Department of Fish and Game objects to the proposed amendment; and

(2) amendment of existing guide use area boundaries is necessary in order to respond to

(A) big game conservation and management concerns, including

(i) abundance and diversity of big game;

(ii) the historical harvest of big game in an area; and

(iii) existing administrative boundaries established for wildlife management purposes;

(B) law enforcement concerns;

(C) land ownership in an area;

(D) administrative restrictions;

(E) the existence of boundaries that can be readily identified in the field;

(F) the accessibility of an area and other transportation considerations;

(G) the existence of complementary and noncomplementary land uses within an area;

(H) recommendations of the Department of Natural Resources;

(I) the existing facilities within the area;

(J) any public comment received; and

(K) other considerations relevant to the drawing of guide use area boundaries.

Authority: AS 08.54.600

AS 08.54.750

ARTICLE 3. PROFESSIONAL ETHICS STANDARDS FOR GUIDES.

Section

300. (Repealed)

310. (Repealed)

320. (Repealed)

330. (Repealed)

340. Professional ethics standards for guides

12 AAC 75.300. PROFESSIONAL COMPETENCE STANDARDS FOR GUIDES. *Repealed 7/30/2006.*

12 AAC 75.310. RESPONSIBILITIES OF GUIDES. *Repealed 7/30/2006.*

12 AAC 75.320. TRANSPORTING MEAT. *Repealed 4/6/2001.*

12 AAC 75.330. DUTIES OF A REGISTERED GUIDE. *Repealed 4/6/2001.*

12 AAC 75.340. PROFESSIONAL ETHICS STANDARDS FOR GUIDES. (a) **Unethical activities.** A master guide-outfitter, registered guide-outfitter, assistant guide, or class-A assistant guide may not participate in an unethical activity that may result in a disciplinary sanction under AS 08.54.710. In this subsection, "unethical activity"

(1) means failing to or being unfit to meet a professional standard of conduct that satisfactorily and safely implements, under field conditions, the knowledge, skills, qualifications, and judgment required for the license held; and

(2) includes

(A) failing to comply with the standards set out in (b) – (f) of this section;

(B) failing to fulfill a condition or requirement established as a disciplinary sanction under AS 08.54.710;

(C) failing to fulfill the supervision, hunt participation, and other requirements of this chapter; and

(D) failing to report to the board, within 30 days after the date of conviction, a conviction in this state, another state, or the United States for a

(i) violation of a state or federal statute or regulation related to hunting;

(ii) violation of a state or federal statute or regulation relating to guiding, outfitting, transportation, or other hunting services; or

(iii) felony;

(E) failing to comply with an order from the board.

(b) **Compliance with law.** All classes of guides shall

(1) comply with applicable state and federal statutes and regulations; and

(2) obtain prior authorization as appropriate before entering or remaining on private, state, or federal land during the course of providing big game hunting services.

(c) **Client and employee care standards.** All classes of guides shall

(1) take every reasonable measure to assure the safety and comfort of the client, including ensuring that during the hunt

(A) adequate supplies are present to provide first aid for injuries that are reasonably expected in the field;

(B) sufficient supplies are present to provide for emergencies, including food, clothing, and a source of heat; and

(C) food and shelter are present that are normally considered satisfactory under field conditions;

(2) avoid intentionally, recklessly, or carelessly exposing an employee or client to undue hazards;

(3) advise clients and employees involved in a hunt of the applicable state and federal statutes and regulations relating to hunting, land use, wildlife, big game hunting services, and conservation;

(4) ensure that the proper hunting licenses, hunt record, game tags, and harvest reports for the big game species being hunted are in the client's possession before the hunt begins;

(5) ensure that the appropriate tags are attached to any game taken by a client and all game is sealed or marked as required by 5 AAC 92;

(6) advise a client before a hunt of the game population in the hunting area; and

(7) provide remuneration in a complete and timely manner of debts or refunds owed to clients or contracting guides, or wages owed to an employee.

(d) **Field craft standards.** All classes of guides shall

(1) use every lawful means at the licensee's disposal to bag a wounded animal while it is in danger of escaping, or, in a serious emergency, while human life or well-being is endangered;

(2) barring unforeseen conditions, properly prepare according to generally accepted procedures, all antlers, horns, hides, and capes to be delivered to the taxidermist or to the client at the conclusion of a hunt in a satisfactory and unspoiled condition, unless the guide is providing only outfitting and transportation services for the client;

(3) endeavor to salvage all meat of animals taken by clients, in accordance with state statutes and regulations;

(4) except for brown bear, grizzly bear, wolves, and wolverine, transport the meat of a big game animal taken by the client in accordance with 5 AAC 92;

(5) respect gear, equipment, food, shelter, and camps established by other users;

(6) avoid staging unused or unattended camps and gear to discourage other users from utilizing a location;

(7) allow appropriate buffer areas between hunters and camps in order to avoid disrupting hunts and hunting experiences; in Game Management Unit 9, a person holding any class of guide license may not place a camp within two miles of a legally permitted year-round structure being used for big game guiding purposes, unless agreed upon in a written agreement between the involved parties;

(8) avoid using an aircraft in any manner to spot big game for the purpose of taking a specific animal, unless

(A) hunting brown, grizzly, or black bears from January 1 through June 30 in an area with an allowable harvest under 5 AAC 85 and 5 AAC 92, of one or more brown or grizzly bears per regulatory year; in this subparagraph, "regulatory year" has the meaning given in 5 AAC 92.990; or

(B) specifically authorized under another statute or regulation;

(9) avoid utilizing, in any manner, global positioning system (GPS) or other electronic devices to assist in the taking of a big game animal; and

(10) respond personally or through an assistant to requests for assistance communicated during the hunt; a contracting or employing guide must respond within a reasonable time based on the urgency of the request, weather conditions, and other safety factors.

(e) **Standards for cooperation with law enforcement officers and for conservation awareness.** All classes of guides shall

(1) cooperate with state or federal law enforcement officers;

(2) provide any information to assist law enforcement or state and federal wildlife officials; and

(3) practice sound wildlife conservation and create an awareness of conservation needs and practices when dealing with the public.

(f) **Standards of professionalism.** A guide

(1) of any class may not make guarantees as to the success of a hunt or the number of animals to be taken on a hunt;

(2) shall provide supervision as required from a guide of that class, and make a good faith effort to make the verbal or, if applicable, the written client communication as required in 12 AAC 75.240;

(3) if permitted to advertise or sell big game hunts under AS 08.54, may not advertise or sell big game hunts to be conducted solely on tidelands; a guide of any class may not provide big game hunting services on tidelands or below mean high water mark in fresh water, except on those tidelands and below mean high water mark lands that are immediately adjacent to uplands on which the guide has authorization to provide big game hunting services; in this paragraph, "tidelands" has the meaning given in AS 38.05.965; and

(4) if permitted to advertise under AS 08.54, may not misrepresent services by false or misleading advertising.

Authority: AS 08.54.600

AS 08.54.680

AS 08.54.710

ARTICLE 4. TRANSPORTATION SERVICES.

Section

395. Distribution and use of transporter activity reports

400. Transporter activity report

410. Term of transporter license

420. Proof of transporter's financial responsibility

430. (Repealed)

440. Professional ethics standards for providers of transportation services

450. Transporter contract requirements

460. Species-specific licensing

12 AAC 75.395. DISTRIBUTION AND USE OF TRANSPORTER ACTIVITY REPORTS. (a) Upon request, the department will issue transporter activity reports to a transporter with a valid license. Once the department issues the activity reports, the board

(1) will consider them to be in the possession of the transporter until they are returned; and

(2) may discipline the transporter under AS 08.54.710(a)(2) if the

(A) transporter loses or misplaces the activity reports, or fails to return them as required under this section or upon the department's request;

(B) activity reports are damaged or destroyed while in the transporter's possession; or

(C) activity reports, while in the transporter's possession, are used in a manner that violates AS 08.54.650, this section, or 12 AAC 75.400.

(b) The transporter activity reports must be used only by the assigned transporter. Transporter activity reports may not be shared.

(c) All copies of a transporter activity report must be completed in accordance with 12 AAC 75.400.

(d) A voided transporter activity report must be returned to the department.

(e) *Repealed 12/2/2012.*

(f) A maximum of 150 transporter activity reports will be issued to a transporter and may be in the transporter's possession at any given time. Additional transporter activity reports may be issued. However, upon a written request and showing of good cause, as determined by the department, a transporter may have more than 150 transporter activity reports assigned and in the transporter's possession.

(g) A transporter who misplaces or loses a transporter activity report shall submit to the department

(1) a notarized statement documenting the loss of the transporter activity report; and

(2) client information not already submitted to the department under 12 AAC 75.400.

Authority: AS 08.54.600

AS 08.54.650

AS 08.54.660

12 AAC 75.400. TRANSPORTER ACTIVITY REPORT. (a) Each transporter activity report required by AS 08.54.650 must be on a form provided by the department, titled *Transporter Activity Report*, dated October 2012, and adopted by reference. This form is established by the board for review of the information required by AS 08.54.650.

(b) On the day a client is transported, a transporter shall complete or have completed the portions of the transporter activity report that are required to be completed at that time.

(c) Immediately after transporting the client out of the field, the transporter shall complete the applicable remaining portions of the transporter activity report.

(d) The transporter shall make the transporter activity report available for inspection upon request by an agent of the board or department or any state or federal enforcement agent authorized to enforce guiding, game, or game management statutes or regulations.

Authority: AS 08.54.600 AS 08.54.660 AS 08.54.760
AS 08.54.650

Editor's note: Copies of the *Transporter Activity Report*, adopted by reference in 12 AAC 75.400, may be obtained from the Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing, Big Game Commercial Services Board, 333 Willoughby Avenue, Juneau, AK 99801; telephone: (907) 465-2543, website: <http://commerce.alaska.gov/occ/pgui.htm>.

Authority: AS 08.54.600 AS 08.54.660 AS 08.54.760
AS 08.54.650

12 AAC 75.410. TERM OF TRANSPORTER LICENSE. A transporter license expires on December 31 of odd-numbered years.

Authority: AS 08.01.100 AS 08.54.600

12 AAC 75.420. PROOF OF TRANSPORTER'S FINANCIAL RESPONSIBILITY. (a) *Repealed 12/1/2007.*

(b) An applicant for a transporter license shall

(1) certify that the applicant has and will maintain during the licensing period, assets, general liability insurance, or a bond totaling at least a minimum of \$100,000 that will be available for payment of a judgment against the applicant resulting from the applicant's transportation services; and

(2) list the assets, insurance, or bond, including, if applicable,

(A) a description of the assets, their fair market value less any liens, identification of any liens against the assets, and the location of the assets; and

(B) the name of the company issuing the insurance or bond, the policy or bond number, and the amount and type of coverage supplied by the insurance or bond.

(c) A transporter shall notify the department within 10 days of any change to the information reported under (b) of this section.

(d) The department may require additional documentation to substantiate the information provided in (b) of this section before approving an applicant for licensure or license renewal.

Authority: AS 08.54.600 AS 08.54.660 AS 08.54.680
AS 08.54.650

12 AAC 75.430. PROFESSIONAL COMPETENCE STANDARDS FOR PROVIDERS OF TRANSPORTATION SERVICES. *Repealed 7/30/2006.*

12 AAC 75.440. PROFESSIONAL ETHICS STANDARDS FOR PROVIDERS OF TRANSPORTATION SERVICES. (a) **Unethical activities.** A transporter, master guide-outfitter, or registered guide-outfitter may not participate in an unethical activity that may result in a disciplinary sanction under AS 08.54.710. In this subsection, "unethical activity"

(1) means failing to or being unfit to meet a professional standard of conduct that satisfactorily and safely implements, under field conditions, the knowledge, skills, qualifications, and judgment required for a transporter; and

(2) includes

(A) failing to comply with the standards set out in (b) – (d) of this section; and

(B) failing to comply with a condition or requirement established as a disciplinary sanction in AS 08.54.710;

(C) failing to comply with an order from the board.

(b) **Compliance with law.** A transporter or registered guide-outfitter providing transportation services shall

(1) comply with applicable state and federal statutes and regulations; and

(2) obtain prior authorization as appropriate before entering or remaining on private, state, or federal lands during the course of providing transportation services.

(c) **Client care and transportation standards.** A transporter or registered guide-outfitter providing transportation services shall

(1) take every reasonable measure to ensure the safety and comfort of the client, including ensuring that while the licensee is providing transportation services

(A) adequate supplies are present to provide first aid for injuries that are reasonably expected while providing transportation services; and

(B) sufficient supplies are present to provide for emergencies, including food, clothing, and a source of heat;

(2) before leaving a client in the field, advise the client of the date, time, and location at which the transporter or registered guide-outfitter will pick up the client and the course of action the client should follow if the transporter or registered guide-outfitter is unable to pick up the client as planned;

(3) transport the client into and out of the field at the planned date, time, and location, unless prevented by weather, mechanical problems, or other safety concerns;

(4) check on or communicate with a client in the field as agreed to before transporting that client;

(5) clearly define rates and services to prospective clients before booking and acceptance of deposits, and shall avoid misleading prospective clients through false or fictitious advertising;

(6) be willing and capable of making financial restitution to a client for any breach of contract owing to no fault of the client;

(7) avoid staging unused or unattended camps and gear to discourage other users from utilizing a location;

(8) endeavor to transport all meat of animals taken by clients, in accordance with state statutes and regulations;

(9) avoid using an aircraft in any manner to spot big game for the purpose of taking a specific animal;

(10) avoid utilizing, in any manner, global positioning system (GPS) or other electronic devices to assist in the taking of a big game animal;

(11) avoid herding, driving, or chasing animals with the use of mechanically powered equipment;

(12) avoid overbooking clients such that the transporter or registered guide-outfitter is unable to take otherwise reasonable measures to ensure the safety and comfort of clients already in the field;

(13) allow appropriate buffer areas between hunters and camps transported by the same service to avoid disrupting hunts and hunt experiences; and

(14) avoid making guarantees as to the success of a hunt or the number of animals to be taken on a hunt.

(d) **Standards for cooperation with law enforcement officers and for conservation awareness.** A transporter or registered guide-outfitter providing transportation services shall

(1) cooperate with state or federal law enforcement officers;

(2) provide any information to assist law enforcement or state and federal wildlife officials; and

(3) practice sound wildlife conservation and create an awareness of conservation needs and practices when dealing with the public.

Authority: AS 08.54.600
AS 08.54.710

AS 08.54.720

AS 08.54.790

12 AAC 75.450. TRANSPORTER CONTRACT REQUIREMENTS. (a) A transporter or a registered guide-outfitter contracting solely to provide transportation services shall deliver a written contract to the client

(1) within 90 days after receipt of a deposit, and before transportation services are provided; or

(2) as soon as possible, and before transportation services are provided, if a deposit is received less than 90 days before transportation services are to be provided.

(b) A written contract to provide transportation services must

(1) include the name, license number, and signature of the transporter or guide-outfitter, and must include the name of the transporter's or guide-outfitter's business if it is different from the name of the individual transporter or guide-outfitter;

(2) include the name and signature of the client;

(3) list each big game animal to be hunted;

(4) state the cost, payment schedule, and specific weight limitation, if any;

(5) set out the deposit refund or transfer policy upon cancellation;

(6) state that services are for transportation only;

(7) state that guide services are not provided;

(8) state that the client is responsible for salvage of the meat during the hunt;

(9) state that the client is responsible for salvage of the meat after the hunt unless the meat is legally transferred to a third party;

(10) identify the methods of communication with the transporter during the time clients are in the field, such as use of a satellite phone, VHF radio, overflight, or signal device;

(11) state who is responsible for the cost of extra trips to transport meat if necessary;

(12) include the following statement: “A licensed transporter may provide transportation services with accommodations only at a permanent lodge, house, or cabin owned by the transporter or on a boat with permanent living quarters located on salt water. A licensed transporter may not accompany or remain in the field with a big game hunter who is a client of the transporter except as necessary to perform transportation services”; and

(13) include the following statement: “A licensed transporter may not provide vehicles, fuel, camping, hunting, or game processing equipment, or any hunting services such as skinning, caping, or cleaning of game, glassing, and packing in the field, including from a permanent structure or on a boat on salt water.”

(c) A transporter shall retain a copy of the contract for at least four years.

Authority: AS 08.54.600 AS 08.54.680 AS 08.54.790
AS 08.54.650 AS 08.54.720

12 AAC 75.460. SPECIES-SPECIFIC LICENSING. (a) A registered guide-outfitter who was initially licensed on or after July 30, 2006, and who wishes to contract to guide a hunt for sheep, moose, brown bear, mountain goat, or caribou, must have the specific species named on the registered guide-outfitter’s license as an authorized species.

(b) To qualify for the species to be added to an existing license, the registered guide-outfitter must submit

(1) a completed application on a form provided by the department; and

(2) an affidavit signed by the registered guide-outfitter certifying that the registered guide-outfitter has been involved in a minimum of three harvests on guided hunts for that species.

Authority: AS 08.54.600 AS 08.54.610 AS 08.54.740

ARTICLE 5. GENERAL PROVISIONS.

Section

900. License renewal

910. Failure to file

920. Hunting, guiding, and practical experience

930. Department request for copy of contract

940. Compensation: form and time received

990. Definitions

12 AAC 75.900. LICENSE RENEWAL. (a) The license renewal requirements in AS 08.54.660 and 08.54.670 apply to persons licensed under AS 08.54.591 – 08.54.790.

(b) *Repealed 12/1/2007.*

(c) *Repealed 12/1/2007.*

(d) An applicant for renewal of a registered guide-outfitter license must submit

(1) a complete renewal application on a form provided by the department;

(2) the license renewal fees required in 12 AAC 02.230;

(3) if the applicant will contract to guide or outfit a big game hunt during the licensing period for which the applicant is applying, proof of financial responsibility as required in AS 08.54.680(a);

(4) a statement regarding whether the applicant contracted to guide or outfit big game hunts during the concluding licensing period; and

(5) the affidavit required by AS 08.54.660(b).

(e) An applicant for renewal of a transporter license must submit

(1) a complete renewal application on a form provided by the department;

(2) the license renewal fees required in 12 AAC 02.230;

(3) proof of financial responsibility as required in AS 08.54.680(a);

(4) a statement regarding whether the applicant provided transportation services during the concluding licensing period;

(5) the name of one individual who is responsible for managing the transporter’s business activities;

(6) copies of the Federal Aviation Administration and United States Coast Guard licenses applicable to the applicant’s operations;

(7) the proof required under the applicable provisions of 12 AAC 75.145(b), if the applicant is a corporation, limited liability company, limited liability partnership, or limited partnership; and

(8) the affidavit required by AS 08.54.660(c).

(f) An applicant for renewal of a class-A assistant guide or assistant guide license must submit

(1) a complete renewal application on a form provided by the department;

(2) the license renewal fees required in 12 AAC 02.230; and

(3) the names of the guide-outfitters that employed the applicant during the concluding licensing period.

(g) For the purposes of determining the applicable license renewal fee, the applicant shall state on the application form whether the applicant is a resident.

Authority: AS 08.01.100 AS 08.54.660 AS 08.54.670
AS 08.54.600

12 AAC 75.910. FAILURE TO FILE. In AS 08.54.710(a)(2), “failed to file records or reports required under this chapter” includes

- (1) failure to file a record or report timely; or
- (2) submitting a record or report that is substantially incomplete.

Authority: AS 08.54.600 AS 08.54.710

12 AAC 75.920. HUNTING, GUIDING, AND PRACTICAL EXPERIENCE. (a) The hunting, guiding, or practical field experience required under AS 08.54.610 – 08.54.630 will only be accepted by the board if the applicant’s hunting and guiding licenses issued by this state were valid and unencumbered during the time period for which experience is claimed.

(b) For purposes of satisfying the hunting experience requirements in AS 08.54.620 the applicant must document at least 20 days of big game hunting activity in a calendar year in order to receive credit for one year.

(c) For purposes of satisfying the requirements in AS 08.54.630(a)(2), the applicant must document at least 30 days of big game hunting activity in a calendar year in order to receive credit for a year. However, an applicant may also satisfy those requirements by documenting a cumulative total of 60 days of big game hunting activity over a period longer than two years, if for at least 30 of the 60 days the applicant works in a guide camp or under the supervision of a licensed guide while performing guide-related duties. Documented passage of the assistant guide training course described in AS 08.54.630(a)(4)(B) may count for 10 days.

(d) For the purposes of the requirements in AS 08.54.630(a)(4)(A), the written recommendation must be signed by the registered guide-outfitter who intends to employ the person as an assistant guide and must attest to the fact that the applicant meets each of the following criteria:

- (1) has knowledge and experience in the safe operation of firearms;
- (2) has knowledge of guide statutes and regulations and game regulations;
- (3) has knowledge in trophy judging, caping, skinning, butchering, and meat and trophy care;
- (4) has directly participated in the spotting, stalking, and subsequent harvesting of at least three big game animals during a guided hunt in this state;
- (5) has knowledge and experience concerning general safety and emergency protocol.

Authority: AS 08.54.600 AS 08.54.610 AS 08.54.630
AS 08.54.605 AS 08.54.620

12 AAC 75.930. DEPARTMENT REQUEST FOR COPY OF CONTRACT. Upon opening an investigation or receiving a complaint on behalf of the board, the department may request a copy of the client contract required under AS 08.54.680. The department will make that request in writing, and will identify the name of the client whose contract is being requested. Within 30 days after receiving the request, the registered guide-outfitter or transporter shall provide a copy of the requested contract to the department. The department may extend that deadline by an additional 30 days.

Authority: AS 08.54.600 AS 08.54.680

12 AAC 75.940. COMPENSATION: FORM AND TIME RECEIVED. For the purposes of “compensation” as defined in AS 08.54.790, “payment for services” includes receiving remuneration, directly or indirectly, for any provision of services, equipment, or facilities in the field to a person who, in fact,

- (1) engages in big game hunting; and
- (2) uses or benefits from the services, equipment, or facilities.

Authority: AS 08.54.600 AS 08.54.790

12 AAC 75.990. DEFINITIONS. (a) Unless the context requires otherwise, in AS 08.54 and this chapter,

- (1) “board” means the Big Game Commercial Services Board;
- (2) “camp” means a primary base of operations in the field for the hunt;
- (3) “department” means the Department of Commerce, Community, and Economic Development;
- (4) “essential duties associated with guiding and outfitting” includes providing, in compliance with AS 08.54 and this chapter, the services listed in AS 08.54.790(9), (11), and (12).

(b) Unless the context requires otherwise, in this chapter,

- (1) “resident” has the meaning given in AS 16.05.940;

(2) “specific location” means the name commonly used for a drainage, mountain, lodge, camp, landing strip, or valley that is a documented place name or is commonly used by people frequenting the location.

Authority:	AS 08.54.600	AS 08.54.620	AS 08.54.710
	AS 08.54.610	AS 08.54.630	

Overview of the Board and Division (Investigation Unit) functions:

The Board or Commission's primary function is that of a regulatory body that makes licensure decisions and monitors compliance with the statute and regulations governing the profession. The professional statutes and regulations are found in centralized statutes of Title 8, and also in the statutes and regulations specific to each board, commission, or occupational area.

Complaints:

All written complaints, or reports, alleging a violation of statute or regulations should provide a specific and detailed summary of the complaint; the complainant must include any documentation or witnesses they feel supports the allegation of wrongdoing and, in healthcare complaints, a release for patient records.

Upon receipt, the complaint and evidence are reviewed by investigators to ensure jurisdiction over the person named in the complaint and the alleged violation by that person. This review takes into account, informal guidelines established by the Board or Commission, and the statutes and regulations of that specific practice area. If the complaint does not appear to allege a violation that is within the Board's jurisdiction, the Division may close the complaint. If the complaint does center on a violation that is within the Board's jurisdiction, an initial letter may be sent to the licensee against whom the complaint is filed. This letter provides notice of the complaint and allegations and may request records, an interview, or other response by the licensee.

Complaints that present an immediate threat to public safety are given priority; however, all complaints are investigated as quickly as possible. The steps taken in the investigation are determined on a case by case basis by the specifics of the allegations. This portion of the investigative process may be quite lengthy and may require additional information or evidence from the complainant, licensee, businesses, other governmental agencies or state boards, witnesses, or related parties.

Inquiry and Investigation:

The Investigators conduct an inquiry into the complaint; generally, the steps for an inquiry include the following:

- obtaining records, documentation and evidence related to the complaint;
- locating and interviewing the complainant, the client, the subject and any witnesses;
- drafting and serving subpoenas for necessary information.

After investigators have gathered pertinent information or evidence to prove or disprove an alleged violation, the matter is reviewed with the Chief Investigator and, when appropriate, the Board or Commission's liaison, a panel of two Board Members, or an expert in the field. This review may result in a recommendation that more information be obtained, the case be closed, or that the case continue forward. The Board's liaison or review panel does not determine guilt or innocence; it simply reviews the complaint to determine whether the allegations, supported by un-contested or sufficient evidence, would warrant proceeding with disciplinary action even if contested by the licensee.

If the complaint is supported by evidence, it proceeds to a case, or investigation. Once an investigation is opened, the licensee is notified they are under official investigation by the Division on behalf of the Board or Commission. This distinguishes between allegations brought against a licensee and a matter where allegations were brought and it was determined the licensee committed a violation of statutes or regulations governing their license. This is an important step because complaints can be unfounded or determined to be unsupported by evidence, and they are closed before becoming an official investigation, protecting the subject of the complaint from unwarranted repercussions in the community or area of practice. If a violation is supported by evidence and the matter proceeds to an investigation, the next step is determining an appropriate result.

Disposition of Cases:

The majority of cases are resolved through a Consent Agreement, an amicable settlement of a case short of a public hearing; this Agreement spells out agreed upon disciplinary action between the Board and the licensee and allows more options in achieving a balanced resolution for both parties.

The Consent Agreement is written by the Division, in consultation with a Reviewing Board or Commission Member; they consider the nature of the violation, the standard in effect at the time it was violated, the effect of the violation on the public and the profession, whether the respondent was knowing and willful, previous violations, whether the licensee was cooperative and took responsibility for the violation, any mitigating circumstances, the disciplinary action's effect on improving the licensee's practices, precedents set by other cases for consistency from case to case, and if appropriate, a necessary deterrent for other practitioners to avoid a similar violation.

Consent Agreements may involve any of the following:

- reprimand
- revocation
- assessment of a civil penalty (fine)
- suspension (for a specific period of time)
- probation
- condition to take additional Continuing Education over and above the annual requirement
- restrictions on practice (some Boards)

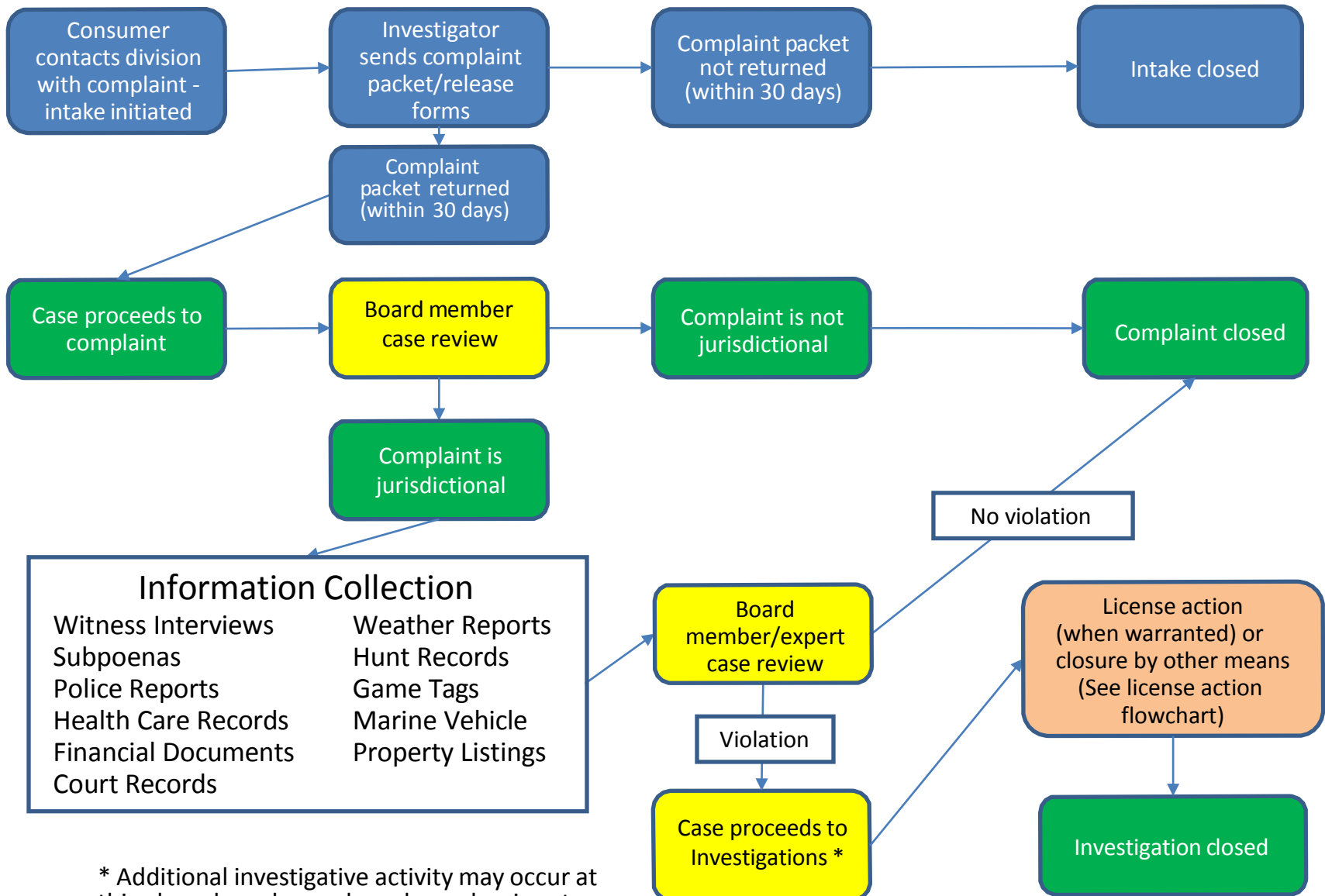
If an Agreement with the licensee is unsuccessful, the case is referred to the investigators' counsel, an Assistant Attorney General (AAG), for review and possible litigation, filing an Accusation charging the violations. If an Accusation is filed, the licensee is entitled to a hearing on the charges against them. After guidance from the Board or Commission and the Division, the AAG may approach the licensee to negotiate a settlement prior to a hearing. If a settlement cannot be reached, an administrative hearing will be held. All involved parties may be requested to appear and testify at the hearing, conducted by the Office of Administrative Hearings (OAH). After the hearing, OAH provides the Board or Commission with a proposed decision and order; the Board or Commission may adopt, amend, or reject the proposed decision and issue their own Decision and Order. Any Decision and Order adopted by the Board or Commission may be appealed to the Superior Court by the licensee.

The Division does not intervene in a dispute regarding the fees charged by a licensee. Disciplinary action is considered carefully on a case-by-case basis since the action may adversely affect the licensee reputation and ability to make a living. Therefore, it takes more than a claim of wrongdoing to file a complaint with the Board; the allegation must be substantiated and must be jurisdictional to the statutes and regulations of that Board or practice area.

Confidentiality:

Investigations are required by statute to be kept confidential. This often prevents the complainant, licensee, and the Board from obtaining progress reports or information that may disclose the current status of an open investigation. This also protects the reputation of licensees who may be accused of wrongdoing but the allegations against them are unproven. Cases often involve other agencies, businesses, and practices; disclosing information during an on-going case can compromise the investigation, create conflicts for reviewing Board members, or result in unnecessary hardship to the licensee.

Investigative Process



Board/Commission License Action Options

Circumstance

Response/Options

Cease and Desist Order

On notice of possible violation, the Commissioner may, if in public's interest, issue Cease and Desist Order. AS 08.01.087(b). The board is polled for objection.



Board can object.

Must be majority, within 10 days.

Summary Suspension

Investigation shows "clear and immediate threat to public health and safety", Division presents petition for summary suspension.



Board issues summary suspension; hearing to follow within 7 days.

AS 08.01.075(c)

Post-hearing there is a proposed decision (from a judge), requires adoption by board.

License Denial



Board issues or denies license based on Alaska statutes specific to the profession.

Possible hearing if license is denied, proposed decision, and final adoption by board.

Consent Agreement

Investigation Unit presents a Consent Agreement, either before or after an Accusation is filed.



Board may approve or reject.

If board rejects Consent Agreement, further negotiations may follow or a hearing may be held.

Accusation

Investigation informed by the professional opinion of a Reviewing Board Member leads to filing an Accusation; if requested, hearing follows, decision goes to board with proposals for action from both parties, if any.



Board determines whether to accept, reject, or modify proposed decision and determine which sanctions to impose.

AS 08.01.075

Violation of Consent Agreement: Automatic Suspension

Board is informed of violation warranting immediate suspension under terms of Consent Agreement.



Division initiates suspension (per delegated authority) within Consent Agreement. Hearing possible, after which the board considers proposed ALJ decision, and adopts, rejects or amends.