



ADMINISTRATIVE RULES OF MONTANA



12.14.120 COMMERCIAL USE PERMITS

- (1) A permit is required in advance to conduct commercial use on department lands and restricted waterbodies.
- (2) The department may issue a commercial use permit to a person as an individual, or as a representative of an entity or business. When authorizing water-based fishing outfitting or guiding, the department may only issue the permit to a licensed outfitter or guide. The applicant must obtain all other licenses or permits required by state or federal law in order to receive a commercial use permit.
- (3) A commercial use permit authorizes the permittee to conduct commercial use subject to the conditions designated on the permit.
- (4) A commercial use permit is valid for the time period specified on the permit, not to exceed five years. The permit holder may request changes to a multi-year permit through submission of an updated plan of operation or other material.
- (5) The department may place conditions on the commercial use permit, including but not limited to the type, timing, location, duration, volume of the use, and any other conditions the department deems necessary. The department's statewide river recreation rules shall govern the development of conditions for water-based outfitters and guides on rivers and fishing access sites.
- (6) The department may require commercial users to report their use of department land. The department may require commercial users to maintain and have on their person for department inspection a logbook for recording commercial use. The department shall include specific reporting requirements as permit or contract stipulations.
- (7) A commercial use permit may only be used by the holder of the permit. The permit holder may not sell, lease, or rent the permit, or otherwise receive compensation from another person for the opportunity to use the permit. The permit holder may hire or contract persons to provide authorized services provided that said persons do not recruit clients, make agreements with clients concerning monetary consideration or services provided, or advertise any business other than the permitted business when conducting the permitted use. The permit holder is responsible for ensuring that the persons hired or contracted comply with the terms of the permit.
- (8) A guide hired or contracted by an outfitter to provide authorized services may collect payment on behalf of the outfitter for services provided. Any and all payments must:
 - (a) be collected only with the express consent of the supervising outfitter; and
 - (b) name the outfitter that hired or contracted the services.

- (9) The requirements in (8) do not prohibit the person hired or contracted from receiving a tip that is separate from the payment received for services provided as authorized by the sponsoring outfitter.
- (10) The permit holder may pay an agent to recruit clients, make arrangements with clients concerning monetary consideration or services provided, and collect fees from clients provided that the agent does not conduct the authorized services.
- (11) A commercial use permit is not transferable and is void when a business is sold or transferred. Upon the sale or transfer of a permitted business, the person selling the business shall notify the new owner that the new owner is required to obtain a new commercial use permit pursuant to this subchapter.
- (12) If the recipient of a commercial use permit sells or transfers in entirety the part of his/her business that is operated under that commercial use permit, the department shall issue a new commercial use permit to the new owner so long as the seller has remitted all fees due to the department and so long as the buyer has obtained all other licenses or permits required by state or federal law and agrees to the terms of the permit. The new permit shall have the same expiration date as the seller's permit.
- (13) If the recipient of a commercial use permit sells or transfers in entirety the part of their business that operated under that commercial use permit, any rationed units of use that were previously allocated to the seller shall be reallocated to the new owner of that business. Upon the sale or transfer of a permitted business, the person selling or transferring the business shall notify the new owner that the use of rationed units of use is subject to change pursuant to rules adopted by the commission and that no property right attaches to the rationed units of use.
- (14) The recipient of a commercial use permit may not sell, lease, rent, or otherwise receive compensation from another person for the opportunity to use client days or other allocated units of use, temporarily, or permanently except that Smith River outfitters may lease, rent, or otherwise receive compensation from another Smith River outfitter for the opportunity to use a Smith River outfitter launch within a single use season.

Authorizing statute(s): 23-1-105, 23-1-106, 23-1-111, 87-1-301, 87-1-303, MCA

Implementing statute(s): 23-1-105, 23-1-106, 87-1-303, MCA

History: NEW, 2007 MAR p. 88, Eff. 1/26/07; AMD, 2009 MAR p. 2245, Eff. 11/26/09; AMD, 2014 MAR p. 2648, Eff. 10/24/14; AMD, 2015 MAR p. 18, Eff. 1/16/15.