

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-2-2890 through -2894

**COLORADO NO-CALL LIST RULES SECTION OF THE
RULES REGULATING TELECOMMUNICATIONS PROVIDERS,
SERVICES, AND PRODUCTS**

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Colorado No-Call List

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to implement the Colorado No-call List Act, §§ 6-1-901, C.R.S., et seq. including establishing procedures by which residential telephone subscribers and wireless telephone service subscribers can decide whether or not to receive telephone solicitations by phone or facsimile; establishing procedures for the Commission to contract with a designated agent for No-call services and to establish a No-call database; to set guidelines for the designated agent; and to set the annual registration fees charged by the designated agent to telephone solicitors.

The statutory authority for these rules is found in §§ 6-1-905(3) and 40-2-108, C.R.S.

2890. Applicability.

Rules 2890 through 2899 apply to the designated agent, wireless telephone service providers, and local exchange providers regulated by the Commission.

2891. Definitions.

The following definitions apply only in the context of rules 2890 through 2899.

- (a) "Colorado No-call List" means the database of Colorado residential subscribers and wireless telephone service subscribers that have given notice, in accordance with rules promulgated by the Commission, of such subscribers' objection to receiving telephone solicitations.
- (b) "Conforming list broker" means any person or entity that provides lists for the purpose of telephone solicitation, if such lists shall have removed, at a minimum of every 30 days, any phone numbers that are included on the Colorado No-call List.
- (c) "Designated agent" means the party with whom the Commission contracts to administer the Colorado No-call List program.
- (d) "Established business relationship" means a relationship that:
 - (I) Was formed, prior to the telephone solicitation, through a voluntary, two-way communication between a seller or telephone solicitor and a residential subscriber, or wireless service subscriber, with or without consideration, on the basis of an application, purchase, ongoing contractual agreement, or commercial transaction between the parties regarding products or services offered by such seller or telephone solicitor;
 - (II) Has not been previously terminated by either party; and
 - (III) Currently exists or has existed within the immediately preceding 18 months.
 - (IV) With respect to a financial institution or affiliate, as those terms are defined in § 527 of the federal Gramm-Leach-Bliley Act of 1999, an established business relationship includes any situation in which a financial institution or affiliate makes solicitation calls related to other financial services offered, if the financial institution or affiliate is subject to requirements regarding privacy of Title V of the Federal Gramm-Leach-Bliley Act of 1999, and the financial institution or affiliate regularly conducts business in Colorado.
- (e) "Internet" means the international computer network consisting of federal and non-federal, interoperable packet-controlled switched data networks.
- (f) "Residential subscriber" means:
 - (I) A person who has subscribed to residential telephone service with a local exchange provider, as defined in § 40-15-102(18), C.R.S., or
 - (II) Another person living or residing with the person described in subparagraph (I) of this paragraph.
- (g) "Residential telephone service" includes wireline transmission of voice or facsimile communication to residential telephone customers.
- (h) "Telephone solicitation":

- (I) "Telephone solicitation" means any voice, facsimile, graphic imaging, or data communications, including text messaging, communication over a telephone line or wireless telephone for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, whether such communication originates from a live operator, through the use of automated dialing and recorded message equipment, or by other means.
- (II) "Telephone solicitation" does not include communications:
 - (A) To any residential subscriber or wireless telephone service subscriber with that subscriber's prior express invitation or permission;
 - (B) By or on behalf of any person or entity with whom a residential subscriber or wireless telephone service subscriber has an established business relationship;
 - (C) For 30 days after a residential subscriber or wireless telephone service subscriber has contacted a business to inquire about the potential purchase of goods or services or until the subscriber requests that no further calls be made, whichever occurs first;
 - (D) By or on behalf of a charitable organization that is required to and that has complied with the notice and reporting requirements of § 6-16-104, C.R.S., or is excluded from such notice and reporting requirements by § 6-16-103(7), C.R.S.;
 - (E) Made for the sole purpose of urging support for or opposition to a political candidate or ballot issue; or
 - (F) Made for the sole purpose of conducting political polls or soliciting the expression of opinions, ideas, or votes.
- (i) "Telephone solicitor" means any person or entity that makes a telephone solicitation or that causes a telephone solicitation to be made.
- (j) "Wireless telephone" means a telephone that operates without a physical wireline connection to the provider's equipment. The term includes, but is not limited to, cellular and mobile telephone.
- (k) "Wireless telephone service subscriber" means a person who has subscribed to a telephone service that does not employ a wireline telephone, or that employs both wireline and wireless telephone equipment on the same customer account.

2892. Administrative Procedures.

- (a) Telephone solicitor registration fee. Persons or entities that wish to make telephone solicitations or otherwise access the database of telephone numbers and zip codes included in the Colorado No-call List database shall pay to the designated agent the annual registration fee set by the Commission. Persons or entities with fewer than five employees shall pay no fee. Conforming list brokers or nonprofit corporations, as defined in § 7-121-401(26), C.R.S., shall pay no fee. The maximum fee set by the Commission shall be charged only to persons or entities with more than 1,000 employees.

- (b) Determination of annual registration fee. The Commission will set the annual registration fee on a sliding scale. The sliding scale ranges from zero for persons or entities with fewer than five employees to the maximum fee of no more than \$500 for persons or entities with more than 1,000 employees. The sliding scale between five and 1,000 employees is directly related to the number of employees a particular entity has within that range. The designated agent shall use monies from such fees to cover the direct and indirect costs for the operation of the Colorado No-call List. Monies from such fees shall be collected and paid directly to the designated agent. The Commission may adjust the fees annually based on the revenue history of the fees received by the designated agent. The annually adjusted fees will become effective on January 1 of each year.
- (c) Audit and inspection of records. The designated agent shall permit the Commission to audit, inspect, examine, excerpt, copy or transcribe any of its records relating to the No-call List program. The designated agent shall make all requested information available to Commission Staff for audit on request including, but not limited to: salaries and benefits associated with both operators and managerial employees, local exchange access charges, operating expenses, building rent and utilities costs, equipment depreciation, corporate overhead allocations, advertising and marketing expenses, expenses for consultants and temporary employees, and expenses for account management.

2893. Designated Agent's Responsibilities.

- (a) Implementation. The designated agent shall update the database on an ongoing basis with information provided by residential subscribers and wireless service subscribers and local exchange providers as required in these rules.
- (b) Annual registration. The designated agent shall provide a means for on-line registration. The designated agent shall also accept payment by credit card, check, or money order for annual registration fees charged to any telephone solicitor that wishes to make telephone solicitations or otherwise access the database.
- (c) No-call database. The designated agent shall provide the No-call List database to all telephone solicitors who properly register with the No-call List program.
 - (I) The designated agent shall make the data in the No-call List database available online at the No-call List designated website.
 - (II) The designated agent shall allow telephone solicitors to select and sort the data for downloading by zip code and telephone area code.
 - (III) The No-call List shall be made available to registered telephone solicitors as a downloadable extract file from the Colorado No-call List website. This extract file must meet, at a minimum, the following requirements:
 - (A) The file created shall be a standard ASCII text file. The file must be operating system and applications program independent.
 - (B) The file shall be generated using, at a minimum, a standard comma-delimited file format. At the discretion of the designated agent, other format options (tab-

delimited, fixed-width, html, etc.) may also be provided to the registered telephone solicitor downloading the file.

- (C) Registered telephone solicitors shall have the option to download the No-call List file using zip code or telephone area code as the sort and selection criteria.
 - (D) For each extract file created, a separate informational or "Readme", file shall also be generated. This file shall include at least the following information: general information about the No-call List extract file created; the date the extract file was created; the user defined selection and sort criteria used to create the extract file; the number of records included in the extract file; the file layout used; and information about all fields included within the file and how they are delimited.
- (d) Use of existing data. Upon expiration of the designated agent's contract to operate and maintain the Colorado No-call List, the designated agent shall cooperate fully in the transfer of operations to any new designated agent selected by the Commission so that the No-call List program continues without interruption. Such cooperation shall include providing the new designated agent with the current No-call List in an electronic format such that the new designated agent can use the list immediately.
 - (e) Record maintenance. The designated agent shall maintain electronically the current business name, business address, e-mail address (if available), and telephone number of each person or entity registering to make telephone solicitations or otherwise accessing the No-call List. This information must be updated when changes occur.
 - (f) Toll free telephone number. The designated agent shall pay for and maintain a toll free statewide telephone number for use to register for the No-call list and to file complaints.
 - (g) Notice of objection. The designated agent shall provide the means by which each residential subscriber or wireless service subscriber of telephone service may give notice of objection to receiving telephone solicitations. The designated agent is required to provide two methods by which subscribers can provide notice of objection to receiving telephone solicitations:
 - (I) By entering the area code, phone number and zip code of the subscriber directly into the database using an Internet application housed on the designated website.
 - (II) By entering the area code, phone number and zip code of the subscriber directly into the database using the designated statewide toll free telephone number.
 - (h) Revocation of notice. The designated agent shall provide means by which each residential subscriber or wireless service subscriber of telephone service may revoke its No-call list registration. The designated agent is required to provide two means by which residential subscribers can revoke the registration.
 - (I) By entering the area code, phone number, and zip code of the subscriber directly into the database using an Internet application housed on the designated website.
 - (II) By entering the area code, phone number, and zip code of the subscriber directly into the database using the designated statewide toll free telephone number.

- (i) Transaction dates. The designated agent must record and maintain the date of each transaction identified in paragraphs (g) and (h).
- (j) No-call List updates. No later than the 10th day of every calendar quarter (i.e., January 10, April 10, July 10, and October 10) the designated agent shall electronically update the Colorado No-call List to include any additions, deletions, changes, and modifications made to the Colorado No-call List by residential and wireless telephone service subscribers. No later than the 10th day of every calendar quarter the designated agent shall remove all telephone numbers from the No-call List that have been disconnected or reassigned within the previous calendar quarter.
- (k) Information requirements.
 - (l) The designated agent shall submit quarterly to the Commission the following information in order for the Commission to accurately adjust the registration fees. The information shall be submitted no later than 30 days after the end of the quarter. The Commission will determine the exact format of this report which shall include:
 - (A) Revenues from registration fees for the previous quarter;
 - (B) Capital investment purchased for use in No-call List activities during the previous quarter;
 - (C) Operating expenses related to the administration of the No-call List for the previous quarter; and
 - (D) Such other information as the Commission shall request for purposes of determining the annual registration fees.
 - (l) Information distribution. Neither the designated agent nor any person or entity collecting information to be transmitted to the designated agent shall use or distribute subscriber information included in the No-call List except as expressly authorized by the Commission or by the No-call List Act.
- (m) Complaint system.
 - (l) The designated agent shall maintain an automated, on-line complaint system and a toll free statewide telephone complaint system for residential subscribers to report suspected violations of § 6-1-904, C.R.S.
 - (A) The on-line complaint system shall be a web-based system and shall have the capability to electronically collect, sort, and report suspected violations to the Colorado Attorney General.
 - (B) The telephone complaint system shall be a toll free statewide telephone number and the complaint information shall ultimately be transformed into an electronic format by the designated agent in order for the suspected violation to be sent to the Colorado Attorney General.

- (II) The designated agent shall collect from the complainant the following information: the complainant's name, address, telephone number, the date and time of the call, the name of the telemarketer, and the product or service being marketed. The designated agent shall collect such other information requested by the Colorado Attorney General upon approval by the Commission.
- (n) Federal No-call List program. The designated agent shall receive from and provide to the Federal Trade Commission (FTC) all No-call list data, if so directed by the Commission.
- (o) Help line. The designated agent shall provide mechanisms on both its website and its statewide toll free telephone number to assist residential subscribers in placing their telephone number and zip code on the Colorado No-call List.

2894. Local Exchange Carriers' Responsibilities — Notification of Designated Agent.

Not later than the 5th day of every calendar quarter (*i.e.*, January 5, April 5, July 5, and October 5) LECs shall provide electronically to the designated agent a list including all changed, transferred, and disconnected telephone numbers for residential subscribers from the previous calendar quarter. Data shall be in the format defined by subparagraph 2893(c)(III) such that the designated agent can use this information to amend the No-call List.