

DEPARTMENT OF LABOR AND INDUSTRY

CHAPTER 171

OUTFITTERS

Subchapter 1

Organizational Rule

Rule 24.171.101 Board Organization

Subchapter 2

Procedural Rules

Rule 24.171.201 Procedural Rules

24.171.202 Public Participation Rules

Subchapter 3 reserved

Subchapter 4

General Provisions

Rule 24.171.401 Fees

24.171.402 Effect of Fee for Expansion of Net Client Hunter Use

Rules 24.171.403 through 24.171.406 reserved

24.171.407 Inspection

24.171.408 Outfitter Records

24.171.409 Guide to Hunter Ratio

Rules 24.171.410 and 24.171.411 reserved

24.171.412 Safety Provisions

24.171.413 Watercraft Identification

DEPARTMENT OF LABOR AND INDUSTRY

Subchapter 5

Outfitter Licensing

Rule	24.171.501	Application for Outfitter License
	24.171.502	Outfitter Qualifications
	24.171.503	Outfitter Application
		Rule 24.171.504 reserved
	24.171.505	Fishing Outfitter Operations Plan
		Rule 24.171.506 reserved
	24.171.507	Outfitter Examination
		Rule 24.171.508 reserved
	24.171.509	Insurance for Outfitters
		Rules 24.171.510 and 24.171.511 reserved
	24.171.512	Inactive License
	24.171.513	Outfitter Acting as Guide
		Rules 24.171.514 through 24.171.519 reserved
	24.171.520	Amendment to Operations Plan

Subchapter 6

Guide Licensing

Rule	24.171.601	Guide or Professional Guide Qualifications
	24.171.602	Guide or Professional Guide License
		Rule 24.171.603 reserved
	24.171.604	Emergency Guide License (REPEALED)
	24.171.605	Provisional Guide License

OUTFITTERS

Subchapter 7

Net Client Hunter Use and River-Use Days

- Rule 24.171.701 Determination of Net Client Hunter Use and Review of New Operations Plan and Proposed Expansion of Net Client Hunter Use Under Existing and New Operations Plan(s)
- 24.171.702 Transfer of River-Use Days

Subchapters 8 through 20 reserved

Subchapter 21

Renewal

- Rule 24.171.2101 Renewals
- Rules 24.171.2102 and 24.171.2103 reserved
- 24.171.2104 Active Duty Status for Licensees in the Military

Subchapter 22 reserved

Subchapter 23

Unprofessional Conduct

- Rule 24.171.2301 Unprofessional Conduct and Misconduct

Subchapter 1

Organizational Rule

24.171.101 BOARD ORGANIZATION (1) The Board of Outfitters hereby adopts and incorporates the organizational rules of the Department of Labor and Industry listed at chapter 1 of this title of the Administrative Rules of Montana.

(2) It is the policy, intent, and purpose of the Board of Outfitters to provide quality regulatory functions and services to the profession it regulates and the public in order to promote, maintain, and preserve an ever-improving high degree of competence in the profession, satisfaction in the public, and an everlasting environment in which the profession operates. (History: 2-4-201, MCA; IMP, 2-4-201, MCA; NEW, 1988 MAR p. 46, Eff. 1/15/88; AMD, 1988 MAR p. 1666, Eff. 7/29/88; TRANS, from Commerce, 2006 MAR p. 324.)

Subchapter 2

Procedural Rules

24.171.201 PROCEDURAL RULES (1) The Board of Outfitters hereby adopts and incorporates the procedural rules of the Department of Labor and Industry as listed in chapter 2 of this title of the Administrative Rules of Montana. (History: 2-4-201, 37-47-201, MCA; IMP, 2-4-201, 37-47-201, MCA; NEW, 1988 MAR p. 46, Eff. 1/15/88; AMD, 1988 MAR p. 1666, Eff. 7/29/88; TRANS, from Commerce, 2006 MAR p. 324.)

24.171.202 PUBLIC PARTICIPATION RULES (1) The Board of Outfitters hereby adopts and incorporates the citizen participation rules of the Department of Commerce as listed in chapter 2 of Title 8.

(2) Dates, times, and places for meetings and other activities of the Board of Outfitters may be obtained by contacting the board office.

(3) Communications to the Board of Outfitters may be made to: Board of Outfitters, Department of Labor and Industry, 301 S. Park, P.O. Box 200513, Helena, Montana 59620-0513.

(4) In addition to any other means provided by law or rule, a person wanting to receive notice of board activities of significant interest to that person may contact the board office, in writing, and request that his or her name, address, and phone number be placed on the board's "mailing list" and designate those activities of interest. The request shall be effective until January 1 of the following year, at which time it may be renewed by written request annually. (History: 2-3-103, 37-47-201, MCA; IMP, 2-3-103, 37-47-201, MCA; NEW, 1988 MAR p. 46, Eff. 1/15/88; AMD, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 1996 MAR p. 668, Eff. 3/8/96; TRANS, from Commerce, 2006 MAR p. 324.)

Subchapter 3 reserved

Subchapter 4

General Provisions

24.171.401 FEES (1) Fees for outfitters, operations plan, guide, or professional guides shall be as set forth below. The following fees are nonrefundable.

(a) New outfitter application and license.	\$1300
This fee includes the following costs, but does not include fees related to operations plan.	
(i) application processing	350
(ii) examination	150
(iii) investigation	400
(iv) license	400
(b) Application for amendment to outfitter license.	450
This fee includes the following costs:	
(i) application processing	300
(ii) examination	150
(c) Renewal of outfitter license	
(i) outfitter annual license	375
(ii) outfitter inactive status	200
(d) New operations plan	
(i) review and processing	125
(ii) equipment inspection	375
(e) Fee per hunting client served per year	2
(f) Annual fee for each additional hunting camp meeting the criteria in 37-47-318, MCA	5000
(g) Amendments to operations plan proposing an increase in net client hunter use (NCHU)	2000
(h) Fee for each new client added to operations plan by NCHU expansion request	500
(i) Guide license	
(i) initial and renewal guide license	150
(ii) initial processing of inactive guide license	50
(iii) activation of inactive guide license	100
(iv) renewal of inactive guide license	50
(j) Professional guide license	
(i) initial license (inclusive of application processing)	250
(ii) renewal of license	150
(k) Fee for transfer of NCHU from each outfitter involved in the transfer	50
(l) Fee for replacement watercraft identification	5
(m) Fee for audit of river-use days	50
(n) Additional standardized fees are specified in ARM 24.101.403.	

(2) The initial \$5000 fee for each additional hunting camp approved for inclusion in the outfitter's operations plan pursuant to 37-47-318, MCA must be paid before the camp is used and in no event later than ten business days after written notice to the outfitter of the board's approval. Thereafter the annual fee is due on December 31. Inclusion of the camp in the outfitter's approved operations plan and the outfitter's authority to use the camp terminate automatically on December 31 of each year unless renewed for the following year by payment of the \$5000 annual fee by that date. (History: 37-1-131, 37-1-134, 37-1-319, 37-47-201, 37-47-306, MCA; IMP, 37-1-134, 37-1-141, 37-1-319, 37-47-304, 37-47-306, 37-47-307, 37-47-308, 37-47-310, 37-47-316, 37-47-317, 37-47-318, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 1994 MAR p. 2823, Eff. 10/28/94; AMD, 1995 MAR p. 2388, Eff. 11/10/95; AMD, 1996 MAR p. 909, Eff. 3/8/96; AMD, 1997 MAR p. 1178, Eff. 7/8/97; AMD, 1998 MAR p. 2560, Eff. 9/25/98; AMD, 2000 MAR p. 730, Eff. 3/17/00; AMD, 2001 MAR p. 843, Eff. 5/25/01; TRANS, from Commerce, & AMD, 2006 MAR p. 324, Eff. 2/10/06; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2007 MAR p. 298, Eff. 3/9/07; AMD, 2008 MAR p. 2055, Eff. 9/26/08; AMD, 2009 MAR p. 1406, Eff. 8/14/09; AMD, 2010 MAR p. 1889, Eff. 8/27/10; AMD, 2010 MAR p. 2384, Eff. 10/15/10.)

24.171.402 EFFECT OF FEE FOR EXPANSION OF NET CLIENT HUNTER USE (1) Upon approval by the board of an expansion on net client hunter use, the expansion will not become effective until the date payment is received pursuant to the provisions of 37-47-318, MCA. (History: 37-1-131, 37-47-201, MCA; IMP, 37-1-131, 37-47-201, 37-47-316, MCA; NEW, 2003 MAR p. 1193, Eff. 6/13/03; TRANS, from Commerce, 2006 MAR p. 324.)

Rules 24.171.403 through 24.171.406 reserved

24.171.407 INSPECTION (1) Inspections of outfitter, guide and professional guide operations may be made by a representative of the board at all reasonable times. The purpose of the inspection is to periodically examine the premises, equipment and/or procedures of a licensed individual to determine whether the individual's practice is being conducted in a manner consistent with the laws and rules of the board, and the public health, safety and welfare. (History: 37-47-201, MCA; IMP, 37-47-301, 37-47-302, MCA; NEW, 1996 MAR p. 668, Eff. 3/8/96; TRANS, from Commerce, 2006 MAR p. 324.)

24.171.408 OUTFITTER RECORDS (1) Outfitters shall maintain current, true, complete and accurate records at all times, submit the records to the board with application to renew license and make the records available at all times at the outfitter's main base camp or business office to enforcement or investigative personnel authorized or appointed by the board.

(2) Outfitter records shall be maintained on forms prescribed by the board and shall contain information as required by the board. The information required shall include, but not be limited to:

- (a) names and addresses of clients;
- (b) dates of service to clients;
- (c) game animals, except fish, taken by clients;
- (d) clients' hunting or fishing license numbers;
- (e) districts hunted and rivers and lakes fished by clients;
- (f) the actual leased acreage actively used by clients during that year;
- (g) the actual leased acreage unused by clients during that year;
- (h) tally sheets reflecting the number of clients served per NCHU category as defined in ARM 24.171.701 each year shall be maintained and submitted to the board during the renewal of the license or when the outfitter's license is lapsed; and
- (i) the name and license number of the guide who accompanied the client.

(3) Submitted outfitter client records shall be maintained as confidential information and shall not be released to any person or organization without approval of the board, written permission of the outfitter, subpoena or order of a court, or written request of a state or federal agency for the purpose of furthering investigation of criminal activities. (History: 37-1-131, 37-47-201, MCA; IMP, 37-47-301, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 1989 MAR p. 1192, Eff. 8/18/89; AMD, 2000 MAR p. 730, Eff. 3/17/00; TRANS, from Commerce, & AMD, 2006 MAR p. 324, Eff. 2/10/06.)

24.171.409 GUIDE TO HUNTER RATIO (1) When a licensed outfitter is providing guiding services to clients that hold outfitter-sponsored B-10 or B-11 licenses, the outfitter shall not exceed a ratio of one guide to four hunters. (History: 37-1-131, 37-47-201, MCA; IMP, 37-1-131, 37-47-201, 37-47-402, MCA; NEW, 2010 MAR p. 651, Eff. 3/12/10.)

Rules 24.171.410 and 24.171.411 reserved

24.171.412 SAFETY PROVISIONS (1) Outfitters are required to hold a current basic first aid card at all times licensed.

(2) Guides and professional guides are required to hold a current basic first aid card while actively licensed.

(3) Each watercraft, vessel, vehicle, primary, secondary and temporary base of operation with guests present will possess a serviceable basic first aid kit.

(4) Each watercraft or vessel shall contain a serviceable U.S. Coast Guard approved personal floatation device for each person on board. Children under 12 are required to wear a personal floatation device. Watercraft 16 feet and longer are required to be equipped with a throwable Type IV floatation device.

(5) All watercraft or vessels are required to carry on board a supplementary means of power, such as an extra motor or extra oar that will adequately motivate the craft. (History: 37-47-201, MCA; IMP, 37-47-201, MCA; NEW, 1992 MAR p. 439, Eff. 3/13/92; AMD, 1996 MAR p. 668, Eff. 3/8/96; AMD, 1999 MAR p. 809, Eff. 4/23/99; AMD, 2000 MAR p. 730, Eff. 3/17/00; TRANS, from Commerce, & AMD, 2006 MAR p. 324, Eff. 2/10/06; AMD, 2010 MAR p. 1889, Eff. 8/27/10.)

24.171.413 WATERCRAFT IDENTIFICATION (1) A person holding a valid outfitter, professional guide, or guide license who utilizes any type of watercraft while providing services shall prove evidence of licensure by displaying a Montana Board of Outfitters issued watercraft identification on each watercraft to be occupied by the licensee.

(2) The tag shall display the outfitter, professional guide or guide license number for identification purposes.

(3) The tag shall be effective for one calendar year.

(4) The tag shall be affixed to either side of the bow or at the oarlock or stern of the watercraft and be of a size so that it may be easily seen from another watercraft or from shore.

(5) The tag shall be affixed to the watercraft on a removable plaque or in such a way that if the craft is sold or is not being used by the licensee while the licensee is providing services, the tag may be removed or concealed to prevent misidentification of the occupant(s) as licensees.

(6) Requests for watercraft identification shall be made as part of the annual license and renewal application.

(7) Improper use of watercraft identification shall be considered misconduct under ARM 24.171.2301.

(8) Licensees shall be provided with one set of watercraft identification at the time of application for licensure or renewal. A fee will be assessed for any replacement or additional sets of identification needed, in accordance with ARM 24.171.401. (History: 37-1-131, 37-47-201, MCA; IMP, 37-1-134, 37-47-201, 37-47-301, 37-47-302, 37-47-303, 37-47-304, MCA; NEW, 1998 MAR p. 740, Eff. 3/27/98; TRANS, from Commerce, & AMD, 2006 MAR p. 324, Eff. 2/10/06.)

Subchapter 5

Outfitter Licensing

24.171.501 APPLICATION FOR OUTFITTER LICENSE (1) The license issued shall designate, and thereby authorize the outfitter to conduct those functions of an outfitter that the applicant has qualified for. Functions of an outfitter to be indicated on the license application and license issued, if qualified for, shall be one or more of the following:

(a) hunting services (big game);
(b) hunting services (upland game birds, waterfowl, and non-big game);
(c) fishing services; and
(d) if applicable to the services provided in (1)(a) through (c), and qualified for, one or more of the following:

- (i) saddle or pack animal; or
(ii) boat or other floating craft, or motorized watercraft.

(2) An outfitter license shall be issued to an applicant who has demonstrated to the board that he or she has:

(a) met the qualifications to provide those services of an outfitter indicated on the license application;

(b) successfully passed the required examinations pertaining to those categories described in ARM 24.171.507;

(c) filed an operations plan that has been approved by the board;

(d) filed a completed outfitter license application with the board office;

(e) received an approved equipment inspection; and

(f) if applicable, filed a NCHU application that has been approved by the board. (History: 37-1-131, 37-47-201, MCA; IMP, 37-47-101, 37-47-201, 37-47-301, 37-47-302, 37-47-305, 37-47-307, 37-47-308, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 2000 MAR p. 730, Eff. 3/17/00; TRANS, from Commerce, & AMD, 2006 MAR p. 324, Eff. 2/10/06.)

24.171.502 OUTFITTER QUALIFICATIONS (1) An applicant for an outfitter license shall have:

(a) 100 days of verified experience as a licensed guide or professional guide working for a licensed outfitter in this state, guiding clients in pursuing the types of game and using methods for which licensure is sought by the applicant (hunting or fishing); or

(b) 100 days of verified experience as a licensed outfitter in another state guiding clients in pursuing the types of game and using the methods for which licensure is sought by the applicant (hunting or fishing), subject to approval by the board; and

(c) the qualifications to provide all services and use all equipment necessary to provide the functions of an outfitter that the license will authorize the outfitter to provide.

(2) For purposes of this rule, verified experience includes:

(a) an affidavit by the outfitter attesting to the guiding experience claimed by the applicant and subject to confirmation by the outfitter client logs;

(b) client logs submitted by the applicant, signed by the sponsoring outfitter for whom services were provided;

(c) outfitter log book entries; or

(d) sources of information with board acceptable guarantees of reliability which may include, but are not limited to, federal land agency records, client affidavits or letters.

(3) Three days of experience may be waived by the board for every day of training completed by the applicant at an outfitter or guide school approved by the board provided that the training was in the category of licensure being sought (e.g., hunting or fishing). The maximum number of days of experience that may be waived is 30. All experience waivers shall be contingent upon the applicant completing the board's one-day education program at the time specified by the board.

(4) The board may waive up to 50 days of experience for an applicant purchasing an existing outfitter operation provided that:

(a) the applicant receives preapproval from the board for a training and instruction plan documenting how and in what capacity the applicant will work with the licensed outfitter from whom the business is obtained;

(b) the applicant has entered into a sales agreement with the selling outfitter for the purchase of the operation and the sales agreement provides supervision of the applicant by the selling outfitter during the 12-month period following board approval of the application;

(c) the selling outfitter has a current, approved operations plan on file with the board;

(d) the applicant files an operations plan that is approved by the board; and

(e) the applicant has completed the board's one-day education program.

History: 37-1-131, 37-47-201, MCA; IMP, 37-47-201, 37-47-302, 37-47-304, 37-47-307, 37-47-308, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 1991 MAR p. 999, Eff. 6/28/91; AMD, 1992 MAR p. 2376, Eff. 10/30/92; AMD, 1996 MAR p. 668, Eff. 3/8/96; AMD, 2000 MAR p. 730, Eff. 3/17/00; TRANS, from Commerce, & AMD, 2006 MAR p. 324, Eff. 2/10/06; AMD, 2009 MAR p. 1406, Eff. 8/14/09.)

24.171.503 OUTFITTER APPLICATION (1) Application for an outfitter license shall be on a form provided by the board and shall be accompanied by the required fee.

(2) Application shall consist of three parts:

(a) a license application form which shall require information the board needs in order to determine the basic abilities and qualifications of the applicant and to verify those functions of an outfitter the applicant is applying for;

(b) an operations plan application form which shall be considered under the guidelines of 37-47-304, MCA, and ARM 24.171.701; and

(c) a NCHU application which shall be considered under the guidelines of 37-47-316, 37-47-317 and 37-47-318, MCA, if operating on land or property other than federal land that regulates hunter use.

(3) An applicant who receives approval of a proposed operations plan and license application must take and pass the licensing examination prior to licensure. (History: 37-1-131, 37-47-201, MCA; IMP, 37-47-201, 37-47-304, 37-47-307, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 1996 MAR p. 668, Eff. 3/8/96; AMD, 1998 MAR p. 2560, Eff. 9/25/98; TRANS, from Commerce, & AMD, 2006 MAR p. 324, Eff. 2/10/06.)

Rule 24.171.504 reserved

24.171.505 FISHING OUTFITTER OPERATIONS PLAN (1) A fishing outfitter may include in a proposed or an existing operations plan, a general reference to "all surface waters governed by the Montana Stream Access Law, §23-2-302, MCA and accessible by public access points not requiring a permit issued by a state or federal agency(ies)". Alternatively, the outfitter may include in a proposed or existing operations plan specific surface waters governed by the Montana Stream Access Law and accessible by public access points not requiring a permit issued by a state or federal agency, by including detailed descriptions of those specific waters as provided in 37-47-304(2)(h) and (i), MCA.

(2) Surface waters accessible only by private land or access points requiring a permit issued by a state or federal agency(ies) may only be included in a fishing outfitter's proposed or existing operations plan by describing the waters in detail as provided in 37-47-304(2)(h) and (i), MCA. A copy of the permit(s) issued by the appropriate state or federal agency(ies) must be submitted to the board office with the outfitter's proposed operations plan or any amendment to an existing operations plan. (History: 37-1-131, 37-47-201, MCA; IMP, 37-47-304, MCA; NEW, 2009 MAR p. 1406, Eff. 8/14/09.)

Rule 24.171.506 reserved

24.171.507 OUTFITTER EXAMINATION (1) Application to take the outfitter examination shall be by completed license application accompanied by the required fee no later than 30 days prior to the examination date.

(2) The examination shall be given in Helena, Montana, on the second Tuesday of January, April, July, and October of each year.

(3) The following list is not intended to be exhaustive in detail. A wide range of issues and subtopics exist within each broad topic. The examination categories are:

- (a) general knowledge of outfitting and guiding;
- (b) hunting;
- (c) fishing; and
- (d) packing.

(4) All applicants must obtain a passing score of 75 percent or more on each examination category taken.

(5) An applicant who fails the written examination may, within 15 days of notification of failure, review his or her examination at the board office. During this review, the applicant may review only questions answered incorrectly. Correct answers to those questions will be furnished to the applicant. No representative of the board shall discuss the substance of the examination with the applicant. The applicant will not be allowed to record any information from examination during the review.

(6) An applicant who has failed the examination shall be eligible to take the next scheduled examination, after submitting an updated application and new examination fee. (History: 37-1-131, 37-47-201, MCA; IMP, 37-47-201, 37-47-305, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 1991 MAR p. 999, Eff. 6/28/91; AMD, 1993 MAR p. 343, Eff. 3/12/93; AMD, 2000 MAR p. 730, Eff. 3/17/00; TRANS, from Commerce, & AMD, 2006 MAR p. 324, Eff. 2/10/06.)

Rule 24.171.508 reserved

24.171.509 INSURANCE FOR OUTFITTERS (1) An outfitter, other than an outfitter licensed on inactive status, shall have liability insurance, as a named insured, in effect at all times during the license year, and shall submit proof of such insurance with an application for renewal. Minimum amounts of liability insurance shall be \$10,000 for property damage, \$100,000 for personal injury to one person and a total of \$300,000 for personal injury to more than one person. (History: 37-47-201, MCA; IMP, 37-47-201, 37-47-304, MCA; NEW, 1996 MAR p. 668, Eff. 3/8/96; TRANS, from Commerce, & AMD, 2006 MAR p. 324, Eff. 2/10/06.)

Rules 24.171.510 and 24.171.511 reserved

24.171.512 INACTIVE LICENSE (1) An outfitter may submit a written request to have the outfitter's license placed on inactive status at the time of renewal. Such request must be submitted with a completed application for renewal and all required renewal fees.

(2) Outfitters whose licenses are inactive more than three years and who choose to become active must take the parts of the outfitter test related to outfitter laws and rules and fish and game laws and rules. An inactive outfitter who wishes to reactivate his or her license must update their operation plan.

(3) Outfitters on inactive status may not book or serve clients, and are subject to all requirements applicable to outfitters licensed on active status, other than those relating to insurance and current basic first aid card.

(4) An inactive outfitter who wishes to reactivate his or her license and has not previously established net client hunter use shall establish net client hunter use pursuant to 37-47-201(5)(d), MCA. (History: 37-1-319, MCA; IMP, 37-1-319, MCA; NEW, 1996 MAR p. 668, Eff. 3/8/96; AMD, 1997 MAR p. 1178, Eff. 7/8/97; AMD, 2000 MAR p. 730, Eff. 3/17/00; TRANS, from Commerce, 2006 MAR p. 324; AMD, 2007 MAR p. 298, Eff. 3/9/07.)

24.171.513 OUTFITTER ACTING AS GUIDE (1) A licensee holding a current and valid outfitter's license may act as a guide without a guide's license if such licensee:

- (a) possesses the qualifications of a guide under these rules;
- (b) works for only one outfitter at any given time;
- (c) acts as a guide only within the services and area of operation of this particular outfitter; and
- (d) is reported as a guide in the client logs of the outfitter whose clients are being served. (History: 37-1-131, 37-47-201, MCA; IMP, 37-47-301, 37-47-302, 37-47-303, MCA; NEW, 1996 MAR p. 668, Eff. 3/8/96; AMD, 2000 MAR p. 730, Eff. 3/17/00; TRANS, from Commerce, & AMD, 2006 MAR p. 324, Eff. 2/10/06.)

Rules 24.171.514 through 24.171.519 reserved

24.171.520 AMENDMENT TO OPERATIONS PLAN (1) An outfitter may apply for an amendment to the outfitter's operations plan by stating in writing the proposed changes and submitting it to the board.

(2) All amendments will be considered by the board using the same criteria as new applicants, including being required to take those parts of the outfitter examination that apply to the proposed amendment, if an outfitter is applying to add the following to the operations plan:

- (a) hunting;
- (b) fishing;
- (c) watercraft used for fishing or hunting;
- (d) upland game bird;
- (e) waterfowl; or
- (f) saddle or pack animal use. (History: 37-1-131, 37-47-201, MCA; IMP, 37-47-201, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 2000 MAR p. 730, Eff. 3/17/00; TRANS, from Commerce, & AMD, 2006 MAR p. 324, Eff. 2/10/06.)

Subchapter 6

Guide Licensing

24.171.601 GUIDE OR PROFESSIONAL GUIDE QUALIFICATIONS (1) An applicant for a guide or professional guide license shall have:

(a) not less than one season of experience of hunting or fishing for the type of game for which the applicant will guide or have worked for the outfitter that signs the license for a period of at least six weeks and in the area to be guided in, or have successfully completed a school licensed by a state, approved by the board, and that trains persons to be a guide or professional guide;

(b) knowledge of hunting and fishing techniques to provide the particular services contracted to the client by the endorsing outfitter; and

(c) knowledge of equipment, terrain and hazards to competently provide a safe experience for those persons he or she guides.

(2) An applicant for a professional guide's license shall meet the following qualifications in addition to the qualifications in (1):

(a) have held a guide license in the state of Montana for at least three years;

(b) have not had disciplinary action taken against the applicant's guide license in this or any other state; and

(c) have spent at least 300 days guiding clients in the field as evidenced by:

(i) employment records, or

(ii) client report logs of endorsing outfitters.

(d) The applicant shall produce, on a form provided by the board, character references from:

- (i) three clients the guide has guided,
- (ii) one licensed outfitter, and
- (iii) one licensed guide.

(e) A professional guide shall present evidence of 15 hours of training or education obtained in the year previous to application in addition to guiding experience, in topics relevant to guiding as approved by the board.

(3) An outfitter whose license is currently suspended or revoked is not qualified for a guide or professional guide license. (History: 37-1-131, 37-47-201, MCA; IMP, 37-47-101, 37-47-201, 37-47-303, 37-47-307, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 1996 MAR p. 668, Eff. 3/8/96; AMD, 1998 MAR p. 2560, Eff. 9/25/98; TRANS, from Commerce, & AMD, 2006 MAR p. 324, Eff. 2/10/06.)

24.171.602 GUIDE OR PROFESSIONAL GUIDE LICENSE (1) An applicant may apply for a guide or professional guide license on forms provided by the board, and accompanied by the required fee. The application must include a signature of the endorsing outfitter confirming that, to the knowledge of the outfitter, the guide or professional guide meets all the qualifications of a guide or professional guide.

(2) An applicant must submit proof of current basic first aid certification with the application.

(3) Except as provided below, when issued, the license shall be mailed to the endorsing outfitter retaining or employing the guide or professional guide. Thereafter, each additional outfitter who uses the services of the guide during the license year shall sign the guide's license, and, following completion of the guide's service on behalf of the outfitter, shall specify dates on which the guide or professional guide provided service for the outfitter.

(4) An applicant for a guide or professional guide license who delivers a completed application and application fee to the board office will receive the license at that time, providing the endorsing outfitter has furnished the board office with written notice authorizing release of that guide's license to the guide.

(5) An outfitter may not endorse an application or a license for a guide or professional guide in the same license year that the outfitter sponsors the applicant or licensee for an outfitter-sponsored license issued by the Montana Department of Fish, Wildlife and Parks. (History: 37-1-131, 37-47-201, MCA; IMP, 37-47-101, 37-47-201, 37-47-301, 37-47-303, 37-47-307, 37-47-308, MCA; NEW, 2006 MAR p. 324, Eff. 2/10/06; AMD, 2010 MAR p. 651, Eff. 3/12/10.)

Rule 24.171.603 reserved

24.171.604 EMERGENCY GUIDE LICENSE (REPEALED) (History: 37-1-131, 37-47-201, MCA; IMP, 37-47-201, 37-47-301, 37-47-303, 37-47-307, MCA; NEW, 2006 MAR p. 324, Eff. 2/10/06; AMD, 2008 MAR p. 2055, Eff. 9/26/08; AMD, 2010 MAR p. 651, Eff. 3/12/10; REP, 2010 MAR p. 1889, Eff. 8/27/10.)

24.171.605 PROVISIONAL GUIDE LICENSE (1) An outfitter may endorse up to three additional guides each license year who are designated by the outfitter on the application form as "inactive guides" under this rule.

(2) An inactive guide license must be issued to the outfitter on behalf of a guide if the application is complete, routine, and accompanied by all supporting documentation required by the application, along with the initial processing or renewal fee for an inactive guide license. An inactive guide license will not be issued if the application is incomplete, nonroutine, or not accompanied by all supporting documentation required by the application, along with the initial processing or renewal fee.

(3) An inactive guide license is active only after the guide and the outfitter sign and date the guide license. The fee for activation of an inactive guide license must be sent to the board office within ten days of activation.

(4) An inactive license may be renewed under this process.

(5) Each inactive guide license issued by the board to an outfitter shall be either activated or returned to the board office on or before December 31 of the license year. (History: 37-1-131, 37-1-319, 37-47-201, MCA; IMP, 37-1-131, 37-1-319, 37-47-201, 37-47-301, 37-47-303, 37-47-307, MCA; NEW, 2010 MAR p. 1889, Eff. 8/27/10.)

Subchapter 7

Net Client Hunter Use and River-Use Days

24.171.701 DETERMINATION OF NET CLIENT HUNTER USE AND REVIEW OF NEW OPERATIONS PLAN AND PROPOSED EXPANSION OF NET CLIENT HUNTER USE UNDER EXISTING AND NEW OPERATIONS PLAN(S)

(1) An outfitter shall not expand net client hunter use without first applying for and receiving approval from the board for such expansion.

(2) Except as provided in (4) and (5), net client hunter use for outfitters shall be determined by taking the highest total number of hunting clients served by the outfitter and any guides working under the endorsement of the outfitter in a year during which the outfitter was licensed in the state of Montana, with a categorical breakdown of hunting clients served using licenses issued no later than December 31, 1995 as follows:

(a) Category 1, consisting of nonresident deer or elk clients holding B-10 or B-11 licenses ("big game outfitter sponsored");

(b) Category 2, consisting of all non-outfitter sponsored big game species clients; and

(c) Category 3, consisting of upland game bird and migratory game bird (waterfowl) clients ("non-big game").

(3) The outfitter shall designate net client hunter use for each of the categories, under affirmation by oath on a form provided by the board. The outfitter shall specify the year or years from which the use is designated. If use is designated from any year prior to 1988, the outfitter claiming such use must submit documentation of such use, which shall be subject to approval of the board. The use designated by the outfitter shall be subject to random audit by the board's investigators. Submission of false information regarding net client hunter use is specifically designated as unprofessional conduct, and may result in revocation of the outfitter's license.

(4) When an existing outfitter purchases an outfitting business or any portion thereof in the state of Montana and makes application to the board for an expansion, the outfitter may designate net client hunter use in an amount equal to his or her historical use, plus the net client hunter use transferred from the selling outfitter to the applicant outfitter. For proposed new use by a newly licensed outfitter, net client hunter use shall be determined by the board as part of its order under this rule.

(5) In cases where a federal agency limits use on federal lands, hunter use of the outfitter providing authorized services on such lands shall be regulated by such federal agency. In all other cases, net client hunter use on federal lands shall be determined under either (2), (3) or (4) as applicable.

(6) Net client hunter use of each outfitter must be specific as to the category designated by the outfitter (big game outfitter sponsored, big game non-outfitter sponsored and non-big game). An outfitter may, in any one year which the outfitter has unserved Category 1 clients (outfitter sponsored), serve the unserved clients under Category 2. An outfitter shall not exchange, trade or substitute between any other category of net client use.

(7) An application for proposed expansion in net client hunter use under an existing operations plan, and applications by license applicants proposing new operations plans involving hunting use, shall be made on forms provided by the board. The board shall maintain a copy of the proposal in the board's office.

(8) The board shall issue an order, in accordance with the provisions set forth in 37-47-316 and 37-47-317, MCA, supported by findings of fact and conclusions of law, either granting, denying or modifying the proposal. A copy of the order shall be provided by regular mail to the individual submitting the request and any persons, associations or agencies submitting comments.

(9) Any party aggrieved by the board's decision may appeal such decision to the district court in the county affected by the proposal, within 30 days following the date of service by regular mail of the final order. (History: 37-1-131, 37-47-201, MCA; IMP, 37-1-131, 37-47-201, 37-47-316, MCA; NEW, 1996 MAR p. 145, Eff. 3/15/96; AMD, 1998 MAR p. 2267, Eff. 8/28/98; AMD, 2000 MAR p. 730, Eff. 3/17/00; AMD, 2003 MAR p. 1193, Eff. 6/13/03; TRANS, from Commerce, 2006 MAR p. 324.)

24.171.702 TRANSFER OF RIVER-USE DAYS (1) If requested by either the outfitter-owner transferring the river-use days or the prospective new owner receiving them, board staff shall determine the outfitter-owner's record of river-use days to ensure accuracy of the allocation of river-use days to be transferred.

(2) When board staff conducts such an audit, all expenses for the audit shall be billed to the outfitter who is transferring the river-use days. The fee for the audit has been established by the board and set forth in ARM 24.171.401. (History: 37-1-131, 37-47-201, MCA; IMP, 37-47-201, 37-47-310, MCA; NEW, 2006 MAR p. 324, Eff. 2/10/06; AMD, 2007 MAR p. 298, Eff. 3/9/07.)

Subchapters 8 through 20 reserved

Subchapter 21

Renewal

24.171.2101 RENEWALS (1) The provisions of ARM 24.101.408 and 24.101.414 apply.

(2) License renewal applications for outfitters shall be made on forms provided by the board and shall be accompanied by:

- (a) the required fee;
- (b) a copy of the licensee's valid and current first aid certification;
- (c) a copy of the licensee's current insurance certificate with the licensee as the named insured;
- (d) complete client report logs; and
- (e) fishing and/or hunting statistical outfitter use level sheets, depending on the services provided by the outfitter in the preceding license year.

(3) An outfitter must submit a completed renewal application with the required fee in accordance with (2) on or before the date set by ARM 24.101.413 of each license year.

(4) Outfitters who provide services during the late hunt seasons may submit amended client logs and statistical use level sheets reflecting services from December 1st through December 31st separately as long as they are received by the board no later than January 31st of the following year. (History: 37-1-131, 37-47-201, MCA; IMP, 37-1-104, 37-1-141, 37-47-201, 37-47-302, 37-47-304, 37-47-306, 37-47-307, MCA; NEW, 1988 MAR p. 1666, Eff. 7/29/88; AMD, 1992 MAR p. 2376, Eff. 10/30/92; AMD, 1996 MAR p. 668, Eff. 3/8/96; AMD, 1999 MAR p. 809, Eff. 4/23/99; AMD, 2000 MAR p. 730, Eff. 3/17/00; TRANS, from Commerce, & AMD, 2006 MAR p. 324, Eff. 2/10/06; AMD, 2006 MAR p. 1583, Eff. 7/1/06.)

Rules 24.171.2102 and 24.171.2103 reserved

24.171.2104 ACTIVE DUTY STATUS FOR LICENSEES IN THE MILITARY

(1) The board recognizes that the nation relies on members of the National Guard and the reserve branches of the armed forces for the nation's security, and that the members of the National Guard and reserve forces are subject to call to active duty on short notice. In consideration of that service to the nation, the board finds that it is appropriate to defer the licensing renewal obligations of such individuals called to active duty status, provided that the individual is not required by the armed forces to maintain current professional or occupational licensing as a condition of serving in the armed forces.

(2) An activated reservist, as defined in 37-1-138, MCA, upon submission of appropriate evidence, is entitled to the following privileges:

(a) The activated reservist is not required to timely pay a renewal fee for license renewal that comes due while the person is in active duty status. The renewal fee is payable within six months following the activated reservist's discharge from active duty status. Unless otherwise relieved from the renewal application requirements, the activated reservist must timely apply for license renewal.

(b) If the activated reservist provides proof to the board of the reservist's active duty status before the reservist's license expires, the reservist is relieved from having to timely submit a renewal application and any related documents or information during the period while the reservist is on active duty status. The reservist has six months following discharge from active duty status to submit to the board such renewal applications and any related documents or information that came due during the period of the reservist's active duty status.

(3) In order to gain the benefits of this rule, the activated reservist must provide the board with proof of active duty status, including the date upon which the reservist was called to active duty status. The board may require the activated reservist to periodically provide information to the board regarding the reservist's active duty status or the date of the reservist's discharge from active duty status.

(4) A license that has not lapsed continues in the same status as existed the day before the reservist was called to active duty status, and remains in that status until the reservist renews the license or six months have elapsed from the reservist's discharge from active duty status, whichever comes first. (History: 37-1-131, 37-1-138, 37-47-201, MCA; IMP, 37-1-138, 37-47-307, MCA; NEW, 2006 MAR p. 324, Eff. 2/10/06.)

Subchapter 22 reserved

Subchapter 23

Unprofessional Conduct

24.171.2301 UNPROFESSIONAL CONDUCT AND MISCONDUCT (1) A violation of (1)(a) through (p) or (3)(a) through (o) by an outfitter, or (2)(a) through (d) or (3)(a) through (o) by a guide or professional guide is misconduct, specified as a basis for disciplinary action under 37-47-341, MCA. Such violation is also determined by the board to be unprofessional conduct, as provided in 37-1-319, MCA, specified as a ground for disciplinary action under 37-1-312, MCA. A violation of this rule may result in any sanction provided by 37-1-312 or 37-47-341, MCA. An outfitter shall:

(a) not violate any law, rule, or policy of the Department of Fish, Wildlife, and Parks concerning the certification of nonresidents for procuring hunting licenses;

(b) not conduct any services or allow services to be conducted by a supervised guide or professional guide on private or public land, except legal transportation across such lands, without first having obtained written permission from the landowner or written authorization from the agency administering public land, unless the landowner or agency does not require such permission;

(c) not provide services or allow services to be conducted by a supervised guide or professional guide to clients outside the boundaries of the outfitter's approved operations plan;

(d) not endorse a guide or professional guide license until the outfitter has made reasonable inquiry and determined that the guide or professional guide is qualified for licensure;

(e) not interfere, by solicitation or otherwise, with a contract between another outfitter and client, including certifications for game license or permits, when it is known or reasonably should be known that a contract to provide services exists between that other outfitter and a client;

(f) furnish each client with a current and complete rate schedule, which shall include all charges, a deposit policy, and deposit refund policy, all in writing, for services offered;

(g) specify in writing, when offering services to a nonresident hunting client, the refund policy for failure by the prospective client to draw a license required to participate in the service offered;

(h) not change the rates and/or policies from those published without the written consent of the client after the outfitter receives and accepts the deposit from the client;

(i) set all terms and conditions with clients;

(j) personally collect, or designate an agent to collect, all fees from clients.

The outfitter is solely responsible for complying with the outfitter's deposit and deposit refund policy;

- (k) maintain current, true, complete, and accurate records at all times;
 - (l) make all client records available at the outfitter's main base camp or business office to enforcement or investigative personnel authorized or appointed by the board;
 - (m) obtain and maintain a reasonable degree of supervision over the guide or professional guide to ensure that the services offered are being provided in accordance with the laws and rules, with particular regard to those laws and rules pertaining to the health, safety, and welfare of the participants, the public, and landowners;
 - (n) not employ or retain a guide or professional guide without first confirming that the guide or professional guide has current basic first aid certification;
 - (o) not exceed the licensee's NCHU;
 - (p) not use a guide prior to ensuring that the guide license is fully signed and dated;
 - (q) not use a guide with an inactive license, unless the proper fee is mailed within the time provided by rule; or
 - (r) not fail to return any inactive guide license that is not activated during the license year.
- (2) A guide and professional guide shall:
- (a) not advertise outfitting services;
 - (b) not make agreements with clients concerning monetary consideration or services offered, or collect fees from clients, without the express consent of the supervising outfitter;
 - (c) not provide services to clients who have not been specifically referred to the guide or professional guide from the endorsing outfitter;
 - (d) not provide guiding services during the same license year in which an outfitter also sponsors the guide or professional guide for an outfitter-sponsored license issued by the Montana Department of Fish, Wildlife and Parks;
 - (e) not act as a guide under a guide license, unless and until the guide and the outfitter have first signed and dated the guide license evidencing that the license is active; and
 - (f) not act as a guide under a guide license, unless the proper fee is mailed within the time provided by rule.
- (3) All licensees shall:
- (a) provide services with respect for the rights of others, private and public property, and provide for the health, safety, and well-being of their clients, employees, and the general public;
 - (b) provide services on public land in a manner such that they do not interfere with the general public access to public land or waterways or access to wildlife on public land;
 - (c) provide their services in such a manner as not to be detrimental to the wildlife or the environment where they operate;

- (d) report to the board office, at their earliest opportunity, any violation of fish and game laws or outfitter and guide laws of which they have knowledge;
- (e) not use alcohol to the extent that the use impairs the user physically or mentally, while engaged by a client;
- (f) not charge any fee for certifying or aiding or assisting any nonresident in procuring or attempting to procure a hunting license;
- (g) not harass, assault, or abuse clients, employees, outfitters, guides, or professional guides, or members of the general public, verbally or otherwise;
- (h) not abuse livestock;
- (i) produce their current license at the request of a representative of the board;
- (j) clearly designate who the responsible outfitter is in any advertisement of outfitting, guiding, or professional guiding services;
- (k) carry the licensee's current license at all times when providing services;
- (l) not have hunting or fishing privileges suspended, revoked, placed on probation, or voluntarily surrendered in the state of Montana or any other jurisdiction;
- (m) not act beyond the scope of activities for which the individual is licensed;
- (n) clearly designate the business name and personal name, address, telephone number, and license number of the outfitter, when advertising outfitter and guide services. In cases where a guide owns the outfitting business, the guide must identify the endorsing and supervising outfitter in any advertisement for the business;
- (o) not offer for use by an unlicensed individual any watercraft identification identifying another licensee as the occupant of the watercraft;
- (p) not intentionally misrepresent board laws or rules;
- (q) not fail to respond to board inquiries and requests; or
- (r) not remit a "nonsufficient fund check" or a check on a closed account for board fees or fines. (History: 37-1-131, 37-1-319, 37-47-201, MCA; IMP, 37-1-312, 37-1-316, 37-1-319, 37-47-201, 37-47-341, MCA; NEW, 1996 MAR p. 668, Eff. 3/8/96; AMD, 1999 MAR p. 809, Eff. 4/23/99; AMD, 2000 MAR p. 730, Eff. 3/17/00; TRANS, from Commerce, & AMD, 2006 MAR p. 324, Eff. 2/10/06; AMD, 2007 MAR p. 347, Eff. 3/9/07; AMD, 2008 MAR p. 2055, Eff. 9/26/08; AMD, 2010 MAR p. 651, Eff. 3/12/10; AMD, 2010 MAR p. 1889, Eff. 8/27/10.)