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FISHING OUTFITTERS ASSOCIATION OF MONTANA

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BOARD OF OUTFITTERS REWRITING RULES OLD, UNUSED SECTIONS ARE OUT, NEW IDEAS IN

The Montana Board of Outfitters, taking advantage of their recent move from the Dept. of Commerce to the Dept. of Labor & Industry, is currently eliminating old, previously repealed rules and rewriting their regulations to parallel a new emphasis on consumer protection, simplicity, and improved compliance by licensees. Here's a complete listing of the proposed changes that will be sent out for public comment this fall.

Inspections are now termed "compliance checks," since the two MBO investigators spend time in the field and on the water contacting licensees to see if they've got the gear, animals, boat stickers, and such required by rule. Misuse of the watercraft ID (boat sticker) is listed as misconduct. Note: A new rule, copied from FWP boating regulations, states that "Watercraft 16 feet and longer are required to be equipped with a throwable type VI flotation device."

The rules will list license categories as "hunting services, big game," "hunting services, non-big game, upland game birds and waterfowl," and "fishing services." Additional services will be listed as "saddle or pack animals," and "boat or other floating craft or motorized watercraft."

To prove their 100 days experience, guides can use their outfitter's logs, their own personal logs signed by the sponsoring outfitter, or "sources of information with board acceptable guarantees of reliability," such as federal land agency records, client affidavits, or letters.

Outfitter tests available will be "general," including MBO rules and laws, and FWP's fish and game general statutes, "hunting," "upland game bird and waterfowl hunting," "fishing," and "motorized or nonmotorized watercraft." First aid questions will be dropped from the test, but an applicant will be required to have current first aid certification before they can take the test.

Outfitters acting as a guide for other outfitters can only work for one outfitter at a time, are bound by that outfitter's licensed services, operations plan and area or waters, and must be reported as a guide in the outfitter's log.

For those outfitters who provide late hunts or fishing services during December of their current license year after they've sent in their renewal applications will be allowed to send in amended client logs up until January 31st of the next license year.

First aid cards - not CPR cards - are again required for both outfitters and guides, not the affidavit used for the past several years. Guides applying for a license will need to show

a current first aid certificate, except if they are "temporary guides," good for "10 days or one excursion, whichever is less." If these temporary guides want to go on to be fully licensed, they will have 30 days to get a first aid certification card and must follow the regular guide application rules. Outfitters will be allowed to use these temporary guide licenses, one at a time, up to five times during a license year rather than the current one-per-outfitter-per year.

An outfitter may not sign a guide or professional guide license application until the guide has completed their portion of the application and the outfitter has made reasonable inquiry and determined that the guide or professional guide is qualified for licensure.

Guides may not advertise any *outfitting* services. Guides may advertise *guiding* services, but only when they clearly designate the license number of the outfitter they guide for, along with the outfitter's name, address, and phone number.

Finally, there's a new section on deposit refunds and booking agents. Outfitters must have on file with the MBO a "published rate and refund policy," then not change the rate and/or policy from those published with the client(s) after the client has made a deposit according to the policy. The section reiterates that outfitters are responsible for setting all terms and conditions with clients and that outfitters will personally collect, or use an agent to collect, all fees from clients, and that the outfitter is solely responsible for complying with his or her deposit and deposit refund policy.

The new section goes on to define a "booking agent" as "any individual, firm, business, partnership, or corporation that makes arrangements for the use of the services of a licensed outfitter and receives compensation therefor. A booking agent does not supply personnel, facilities, and/or services to outfitter clientele."

The MBO will meet in September to review the draft of these rules and vote to publish a notice of intent to adopt them, outlining justification for each change as required by the Montana Administrative Procedures Act (MAPA). Public comment will be taken, both in writing and possibly at a formal hearing. The board must then respond to all the comments and should adjust the rules according to the significance and appropriateness of public comment received. Look for the official rule-change notice in the mail this fall.



FWP HAND-BUILDS STATEWIDE RIVER RECREATION ADVISORY COUNCIL

Department Selects Facilitator and Picks Council Members

A statewide advisory council, similar to the Big Hole and Beaverhead advisory councils, has been designed by FWP. On the table are issues like recreationist displacement due to overcrowding, resident and nonresident access, distribution of commercial use, private property rights, recognition of streams and rivers as “public resources,” the river recreation management development process, and “stop gap” measures for dealing with existing problems while the statewide framework is being developed.

The department, urged by the FWP Commission via Commissioner Tim Mulligan, shunned a recommendation made during a March 12 meeting of representatives from major user categories (FOAM, Montana Wildlife Federation, Big Hole River Foundation, Blackfoot River Advisory Group, etc.) to employ Matt McKinney of the Montana Consensus Council. Instead, they selected Virginia (Ginny) Tribe to facilitate the council in their efforts to develop some statewide criteria and guidelines for river recreation planning.

The same 3/12 group recommended that “each stakeholder group” be allowed to select their own representative. FWP has half-stepped this process by seeking nominations for both stakeholder categories and representative individuals, but selecting the participants via FWP recommendation rather than letting each category pick their own personnel. FOAM’s E.D., Robin Cunningham, has been nominated for the outfitter category, as have David Decker, a lodge-owner on the Big Hole, and Russ Kipp, operating on the Beaverhead. FOAM wonders about wider geographic representation, but nominees were few in this category.

The 3/12 group also suggested including participants who may be inclined to “oppose or undermine” the process. We hope FWP doesn’t select representatives that only favor the department’s current outfitter-and-nonresident control theme.

This sense of top-down control, as well as FWP’s selection of the facilitator in contrast to the recommendation of the 3/12 group, may well set a tone of distrust among some of the selected participants. Ironically, Commissioner Mulligan rejected the Montana Consensus Council for the very same reason - he felt MCC’s participation in overseeing the facilitators for the Big Hole/Beaverhead councils was “too closely involved” and might have sparked “distrust” among the new council members.

Even with these current concerns, FOAM has advocated for just such a statewide discussion, and we’ve laid out a

management plan development process on our website (foamontana.org) in the “Currents” section of “FOAM News.” Participants at the 3/12 meeting agreed that science, not politics, should drive the decisions, while recognizing that personal or collective values will be part of the decision-making process. The FOAM board agrees. Our goal is coordinated management justified by hard data integrated with reasonable values administered within guidelines that promote equitable treatment through means that are the least disruptive socially, economically and can be easily managed or administered.

MBO MAY SIMPLIFY OUTFITTER TEST AND OFFER MORE COMPLETE STUDY MATERIALS

Rules, Laws, Safety Emphasized Instead of Practical Data

The Board of Outfitters is reviewing their outfitter test, looking to place new emphasis on knowledge of MBO and fish and game regulations and laws. The board reasons that in-the-field or on-the-water skills can and should be learned during the 100 days of experience a guide must complete to be eligible for an outfitter’s license. Copies of MBO laws and rules, along with abridged copies of FWP laws and rules and several supplementary booklets on boating and packing may be listed (or provided, if cheap enough) for applicants to review.

For fishing outfitter license applicants, MBO rules, laws, FWP general fishing rules, boating safety and rules, and, possibly, passing an FWP general boating take-home test, including some motorized watercraft safety and navigation questions, have been recommended as the sole requirements.

FOAM

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