
BOARD OF OUTFITTERS RULES

AS OF JUNE 30, 2021

This version of the Administrative Rules of Montana is provided as a tool for board members and department staff. In case of inconsistencies, the rule text in the Montana Administrative Register is the official rule text and will prevail.

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
(REPEALED)

24.171.403 Nonroutine Applications

24.171.404 Military Training or Experience

24.171.405 Booking Agents and Advertising

Rule 24.171.406 reserved

24.171.407 Inspection

24.171.408 Outfitter Records

DEPARTMENT OF LABOR AND INDUSTRY

Rule	24.171.409	Guide to Hunter Ratio (REPEALED)
	24.171.410	Outfitter's Assistants
		Rule 24.171.411 reserved
	24.171.412	Safety and First Aid Provisions
	24.171.413	Watercraft Identification
	24.171.414	Applicants With Criminal Convictions
		Subchapter 5
		Outfitter Licensing
Rule	24.171.501	Application for Outfitter License
	24.171.502	Outfitter Qualifications
	24.171.503	Outfitter Application (REPEALED)
	24.171.504	Successorship
	24.171.505	Fishing Outfitter Operations Plan
		Rule 24.171.506 reserved
	24.171.507	Outfitter Examination
	24.171.508	Incomplete Outfitter and Guide License Applications
	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	Operations Plans and Amendments

OUTFITTERS

Subchapter 6

Guide Licensing

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	24.171.604	Emergency Guide License (REPEALED)
	24.171.605	Provisional Guide License (REPEALED)

Subchapter 7

Net Client Hunter Use and River-Use Days

Rule	24.171.701	NCHU Categories, Transfers, and Records
	24.171.702	Transfer of River-Use Days (REPEALED)

Subchapters 8 through 20 reserved

DEPARTMENT OF LABOR AND INDUSTRY

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
- Rules 24.171.2302 through 24.171.2304 reserved
- 24.171.2305 Web Site Posting of License Discipline

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 use of outfitter assistants 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	210
(ii) outfitter inactive status	100
(d) New operations plan	
(i) review and processing	125
(ii) equipment inspection	375
(e) Fee per outfitter assistant employed or contracted	25
(f) Renewal guide license	50
(g) Initial guide application	150
(h) Fee for transfer of NCHU from each outfitter involved in the transfer	50

(i) Fee for each set of two replacement watercraft identification tags	5
------------------------------------------------------------------------	---

(j) Additional standardized fees are specified in ARM 24.101.403. (History: 37-1-131, 37-1-134, 37-47-201, 37-47-306, MCA; IMP, 37-1-134, 37-1-141, 37-47-304, 37-47-306, 37-47-307, 37-47-308, 37-47-310, 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; AMD, 2011 MAR p. 2149, Eff. 10/14/11; AMD, 2013 MAR p. 671, Eff. 4/26/13; AMD, 2015 MAR p. 58, Eff. 1/30/15; AMD, 2016 MAR p. 1960, Eff. 10/29/16; AMD, 2019 MAR p. 850, Eff. 6/22/19.)

24.171.402 EFFECT OF FEE FOR EXPANSION OF NET CLIENT HUNTER USE (REPEALED) (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; REP, 2015 MAR p. 58, Eff. 1/30/15.)

24.171.403 NONROUTINE APPLICATIONS (1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued.

(3) Applications that are nonroutine for an outfitter license for the same reason that they were nonroutine as a guide license are also nonroutine for the outfitter license, which is a privilege to practice at a higher level of public trust. (History: 37-1-131, MCA; IMP, 37-1-101, 37-1-131, MCA; NEW, 2015 MAR p. 58, Eff. 1/30/15; AMD, 2021 MAR p. 556, Eff. 5/15/21.)

24.171.404 MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as an outfitter or guide.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as an outfitter or guide. Satisfactory evidence includes:

(a) a copy of the applicant's military discharge document (DD 214 or other discharge documentation);

(b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and

(c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements. (History: 37-1-145, MCA; IMP, 37-1-145, MCA; NEW, 2014 MAR p. 2653, Eff. 10/24/14.)

24.171.405 BOOKING AGENTS AND ADVERTISING (1) Any person authorized by the outfitter may schedule trips, provide clients with information regarding refunds and services, receive client fees on behalf of the outfitter, secure a guide who is employed by or with whom the outfitter has an existing contractual relationship, and take other steps to establish contracts for services, as long as these activities are at the direction of the outfitter and as long as the terms and conditions of the contracts are directly between the outfitter and the client.

(2) Outfitters may enter into an arrangement with a person whereby the outfitter's services are advertised by or at the direction of that person or whereby clients are referred to the outfitter, but the outfitter is accountable to the board for the appearance and propriety of all such advertising and for all interactions between the other person and the clients and potential clients. All advertising regarding outfitting services must comply with the rules applicable to outfitters.

(3) Guides advertising to outfitters using media or methods that the general public may also view shall include a clear and conspicuous disclaimer that advises the general public that the advertisement is for outfitters only, not the general public. (History: 37-1-131, 37-47-201, MCA; IMP, 37-47-201, 37-47-301, MCA; NEW, 2015 MAR p. 269, Eff. 1/30/15.)

Rule 24.171.406 reserved

24.171.407 INSPECTION (1) Inspections of outfitter and 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; AMD, 2015 MAR p. 58, Eff. 1/30/15.)

24.171.408 OUTFITTER RECORDS (1) Outfitters shall maintain current, true, complete, and accurate records, submit the records to the board as required by administrative rule, and make the records available at all times at the outfitter's main base camp or business office:

(a) to enforcement or investigative personnel authorized or appointed by the board;

(b) upon subpoena or order of a court;

(c) upon written request of the board; or

(d) upon written request of a state or federal agency for law enforcement purposes.

(2) Outfitter records shall be maintained on forms prescribed by the department and shall contain information as required by the board. The information required, in addition to information for operations plans under ARM 24.171.520 and employment records relative to outfitter assistants under ARM 24.171.410, shall include:

(a) the outfitter's name and license number;

(b) each client's name and/or unique identifier assigned to the client by the Department of Fish, Wildlife and Parks;

(c) dates of service to clients;

(d) big game animals taken by clients, specifying the species and sex of each big game animal and stating for each big game animal whether it was taken on public or private land within the outfitter's operations plan;

(e) districts hunted and water bodies, including section of a river or stream, fished by clients;

(f) category of NCHU applicable for each client; and

(g) the name of the outfitter assistant or the name and license number of the guide who accompanied the client.

(3) Amendments to records shall be made immediately when errors are discovered. Amendments that only supplement records with information that arose after license renewal are always proper. However, cases of amendments to records for any other reason shall be brought to the screening panel for a decision as to whether an investigation should follow.

(4) In general, outfitter records, including, but not limited to the operations plans, shall be maintained as confidential information and shall not be released to any person or organization without written permission of the outfitter, subpoena or order of a court, or written request of a state or federal agency for law enforcement purposes. A specific outfitter's number of NCHU is confidential information, but whether an outfitter has NCHU of a particular category is public information. Also, while total acreage of private lands where any outfitter is authorized to operate is a matter of public record, where a particular outfitter is authorized to operate is a confidential matter between the landowner and the outfitter. The Department of Fish, Wildlife and Parks or the Private Land/Public Wildlife Council may use board data to create a map depicting all private land where any outfitter is authorized to operate, excluding private lands that allow unrestricted public access and are managed under cooperative agreements with adjacent public lands. All inquiries for outfitter records shall be reviewed and considered in relation to this rule and the competing interests between the public's right to know and the rights of privacy involved in the particular records requested. (History: 37-1-131, 37-47-201, MCA; IMP, 37-1-131, 37-47-201, 37-47-301, 37-47-304, 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; AMD, 2011 MAR p. 2149, Eff. 10/14/11; AMD, 2013 MAR p. 671, Eff. 4/26/13; AMD, 2015 MAR p. 58, Eff. 1/30/15; AMD, 2016 MAR p. 1960, Eff. 10/29/16; AMD, 2019 MAR p. 850, Eff. 6/22/19; AMD, 2020 MAR p. 1157, Eff. 6/27/20.)

24.171.409 GUIDE TO HUNTER RATIO (REPEALED) (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; REP, 2013 MAR p. 671, Eff. 4/26/13.)

24.171.410 OUTFITTER'S ASSISTANTS (1) An outfitter may only employ or contract with an outfitter's assistant in an emergency. Emergency, as defined in 37-47-101, MCA, includes unforeseen staffing shortages, not caused by the outfitter's action or inaction, for which employing or contracting with an outfitter's assistant is necessary to protect the public health, safety, and welfare while serving a client.

(2) Before an outfitter's assistant serves a client, the outfitter shall:

- (a) disclose to each client that the outfitter's assistant is not a licensed guide or outfitter;
- (b) explain the emergency causing the need to employ or contract with the outfitter's assistant; and
- (c) disclose whether the outfitter's assistant has received first aid certification.

(3) For each outfitter's assistant employed or contracted with by an outfitter, the following documentation procedures shall be followed:

(a) An outfitter shall document the employment or retention of each outfitter's assistant. The outfitter's assistant shall keep a copy of the employment documentation at all times during the service period. Within 15 days of the first date the outfitter's assistant serves a client, the outfitter shall submit to the department a copy of the employment documentation and fee required in ARM 24.171.401. The employment documentation shall include:

- (i) the name, license number, address, phone number, and, if available, e-mail address of the outfitter;
- (ii) the signature of the outfitter;
- (iii) the name, date of birth, address, telephone number, and, if available, e-mail address of the outfitter's assistant; and
- (iv) the beginning and ending dates of the service period.

(b) Within 15 days of the first date the outfitter's assistant serves any client, the outfitter shall submit the following information to the department:

- (i) an explanation of the emergency causing the need to employ or contract with the outfitter's assistant;
- (ii) an explanation for why the outfitter's assistant could not obtain a guide license before serving a client;
- (iii) a statement indicating whether the outfitter's assistant has applied for a guide license;
- (iv) confirmation that the outfitter properly disclosed to the client information required by this rule; and
- (v) an affidavit by the outfitter that the outfitter has complied with all laws and rules relating to outfitter's assistants.

(c) Outfitters shall maintain a copy of this documentation and make the records available at all times in accordance with ARM 24.171.408 following the provision of services by the outfitter's assistant.

(4) Unless otherwise authorized under ARM 24.171.405, regarding booking agents and advertising, an outfitter's assistant may not:

- (a) make agreements with participants concerning monetary consideration of services provided; or
- (b) advertise outfitting services.

(5) Except where an outfitter's assistant's conduct is further limited by statute or rule, the standards of conduct set forth in ARM 24.171.2301 applicable to guides shall also be observed by the outfitter's assistant. (History: 37-1-131, 37-47-201, MCA; IMP, 37-1-131, 37-47-101, 37-47-201, 37-47-301, 37-47-325, 37-47-404, 37-47-405, MCA; NEW, 2015 MAR p. 58, Eff. 1/30/15; AMD, 2018 MAR p. 1731, Eff. 8/25/18.)

Rule 24.171.411 reserved

24.171.412 SAFETY AND FIRST AID PROVISIONS (1) Outfitters and guides are required to hold a current basic first aid card at all times actively licensed.

(2) Basic first aid certification must be obtained through a provider and course approved by the department based upon the following minimum criteria:

(a) The provider must require written and practical tests and participants are to receive completion certificates.

(b) The provider program must include, at a minimum, universal precautions for self-protection and training specific to the following types of injuries:

- (i) shock;
- (ii) bleeding;
- (iii) poisoning;
- (iv) burns;
- (v) temperature extremes;
- (vi) musculoskeletal injuries;
- (vii) bites and stings; and
- (viii) medical emergencies.

(c) Instruction in the principles and first aid intervention of injuries must refer to body extremities.

(3) For purposes of initial licensure, only basic first aid certification that involves the direct, hands-on application of first aid materials and techniques is acceptable. An applicant for an outfitter license who was previously licensed as a guide must hold current certification from a hands-on first aid course.

(4) A list of approved providers and courses shall be maintained on the board web site.

(5) An applicant may also meet basic first aid certification if the applicant provides proof of a certification, license, or other credential that is equivalent to or greater than basic first aid certification, approved on a case-by-case basis by the department. The board may also maintain on its web site a list of certifications, licenses, and other credentials that will be routinely accepted as equivalent to or greater than basic first aid.

(6) Whenever guests are present, each watercraft; vessel; vehicle; primary, secondary, and temporary base of operations must possess a serviceable basic first aid kit.

(7) Each watercraft or vessel shall contain a serviceable U.S. Coast Guard approved personal floatation device for each person onboard and a rescue throw line measuring at least 55 feet in length. 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. Personal floatation devices must be readily accessible at all times.

(8) All watercraft or vessels are required to carry onboard 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; AMD, 2011 MAR p. 2149, Eff. 10/14/11; AMD, 2015 MAR p. 58, Eff. 1/30/15; AMD, 2017 MAR p. 1900, Eff. 10/14/17; AMD, 2019 MAR p. 850, Eff. 6/22/19; AMD, 2020 MAR p. 1157, Eff. 6/27/20.)

24.171.413 WATERCRAFT IDENTIFICATION (1) A person holding a valid outfitter or guide license who utilizes any type of watercraft while providing services shall prove evidence of licensure by displaying, at all times services are being provided, board-issued watercraft identification tags.

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

(3) An unlicensed outfitter assistant shall display board-issued watercraft identification tags on each watercraft to be occupied by the outfitter assistant.

(4) One tag shall be affixed to each side of the watercraft at the bow, oarlock, or stern of the watercraft and be of a size approved by the board so that they may be easily seen from another watercraft or from shore.

(5) Each tag shall be affixed to the watercraft or 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) Licensees may be provided with one set of two watercraft identification tags at the time of application for licensure or renewal, at no charge, upon request. A fee will be assessed for any replacement 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, 37-47-325, 37-47-405, MCA; NEW, 1998 MAR p. 740, Eff. 3/27/98; TRANS, from Commerce, & AMD, 2006 MAR p. 324, Eff. 2/10/06; AMD, 2015 MAR p. 58, Eff. 1/30/15; AMD, 2016 MAR p. 1960, Eff. 10/29/16; AMD, 2017 MAR p. 1900, Eff. 10/14/17.)

24.171.414 APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with the following modifications:

(a) Nonviolent misdemeanor and felony convictions in (5) involving violations of laws relative to fish, wildlife, and parks are nonroutine if those convictions:

(i) ever resulted in the loss of privileges to hunt or fish; or

(ii) totaled two or more for which the conviction date is more than five years before the board received the application.

(b) Violent misdemeanor or felony convictions in (6) are routine if the conviction date is more than ten years before the application date, unless the applicant is still in custody due to the conviction or staff otherwise determines the applicant engaged in egregious conduct implicating risk to public safety. (History: 37-1-131, MCA; IMP, 37-1-101, 37-1-131, MCA; NEW, 2021 MAR p. 556, Eff. 5/15/21.)

Subchapter 5

Outfitter Licensing

24.171.501 APPLICATION FOR OUTFITTER LICENSE (1) An application for an outfitter license shall be on forms prescribed by the department and shall be accompanied by the required fee.

(2) A complete application, which is required prior to being allowed to take the examination, shall consist of two parts:

(a) the department's license application form, including all supporting documentation as required by that form; and

(b) an operations plan application form, accompanied by a NCHU transfer request form, if applicable.

(3) 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.

(4) 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) filed an outfitter license application with the board office;

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

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

(e) received an approved equipment inspection. (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; AMD, 2015 MAR p. 58, Eff. 1/30/15.)

24.171.502 OUTFITTER QUALIFICATIONS (1) An applicant for an outfitter license shall have the qualifications to provide all services and use all equipment necessary to provide the functions of an outfitter that the license will authorize the applicant to provide. In addition, the applicant shall have:

(a) for a fishing outfitter applicant:

(i) a minimum of three years and 120 days of verified experience as a licensed guide working for a licensed outfitter in this state, guiding clients and using methods for pursuing fish, reduced by no more than 50 experience days for any waiver or combination of waivers; or

(ii) a minimum of three years and 120 days of verified experience as a licensed outfitter, a licensed guide, or equivalent experience in another state guiding clients and using methods for pursuing fish reduced by no more than 50 experience days for any waiver or combination of waivers. All experience in this subsection is subject to board approval; or

(b) for all other applicants:

(i) 100 days of verified experience as a licensed 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; or

(ii) 100 days of verified experience as a licensed outfitter, a licensed guide, or equivalent experience in another state guiding clients in pursuing the types of game and using the methods for which licensure is sought by the applicant. All experience in this subsection is subject to board approval.

(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, 37-1-131, 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; AMD, 2015 MAR p. 58, Eff. 1/30/15; AMD, 2015 MAR p. 1756, Eff. 10/16/15; AMD, 2016 MAR p. 1960, Eff. 10/29/16; AMD, 2017 MAR p. 1900, Eff. 10/14/17.)

24.171.503 OUTFITTER APPLICATION (REPEALED) (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; REP, 2015 MAR p. 58, Eff. 1/30/15.)

24.171.504 SUCCESSORSHIP (1) A successorship is the permission granted to a person to renew the license of a deceased or incapacitated outfitter for a limited period of time for the purposes of operating or selling the business. Only a successor may renew the license of an outfitter who has deceased.

(2) A successor acceptable to the board must be designated by the family of a deceased outfitter within six months of the date that the outfitter becomes deceased. If a successor for a deceased outfitter is not designated within those six months, then no successor will be approved.

(3) The family of an outfitter designates a proposed successor by submitting an application completed by the proposed successor on a form provided by the department; a sworn statement by the proposed successor explaining how the proposed successor has been involved with the outfitting industry, in general, and how the successor has been involved with the outfitting business for which the successorship is sought, in particular; and a sworn statement by someone on behalf of the family of the deceased or incapacitated outfitter, affirming the person's authority and how the authority was obtained to designate a successor on behalf of the family, and that the person so acting is at least 18 years of age. A successorship application must specify whether the successor will operate the business or will only seek to sell it.

(4) When a successorship is approved for the purpose of selling the business, the outfitter license is placed on inactive status and may be renewed only on inactive status and only until the successorship terminates or until the business sells, whichever occurs earlier. No clients may be contracted with or served under authority of an inactive license. All requests for successorship for the sole purpose of selling the business shall be routinely approved by staff upon the board's receipt of all the required information.

(5) An application for the purpose of operating the business shall require the same information that is required of an outfitter applicant. The decision of whether to approve a successorship for the purpose of operating the business shall be processed by the department unless the application is nonroutine under ARM 24.171.403, in which case the matter will be brought to the board.

(6) Prior to approval, a successor must meet all qualifications for licensure aside from the experience and testing requirements. Approval may be granted upon the condition that documentation of licensure requirements will be received by the board no later than a specified date. If the documentation of licensure requirements is not received in a timely manner, board staff shall immediately place the license on inactive status and all outfitting under that license shall immediately cease until the board is able to reconsider the approval.

(7) A successor stands in the shoes of the outfitter for purposes of the board's power to administer and enforce the statutes and rules applicable to outfitters. Notwithstanding any agreement to the contrary, a successor and the original licensee, or the estate if the original licensee is deceased, are jointly and severally liable and responsible for all conduct affecting the outfitter license occurring during that successor's service as the successor. The successor may operate the license subject to the authority of the board to the same extent as if the successor were the outfitter. An action addressing unprofessional conduct may be taken against an outfitter license regardless of the status of the successorship, and regardless of whether the conduct was that of the deceased or incapacitated outfitter or of one or more successors. Each living outfitter and successor who is alleged to be responsible for misconduct may be made a party to the action.

(8) A successor shall report to the board each year at the next regularly scheduled meeting following the renewal period. To report, the successor shall either personally appear for the meeting or shall submit a written report to the board no less than 15 days before the meeting. The report shall inform the board of the progress made toward licensure of an outfitter for the business, or of the progress made toward sale of the business.

(9) If the board wishes to revoke a successorship for unprofessional conduct or for failing to appear or report, the public health, safety, or welfare is more likely to imperatively require emergency action because a successor is presumed to be less qualified than an outfitter and to be less invested in the protection of the public. If a successorship is revoked, then the outfitter license status becomes the status applicable to it as if the original licensee had deceased or become incapacitated on the date of the revocation. A successor shall not perform any outfitter functions if the successorship or the license is suspended or revoked.

(10) A successorship terminates the earlier of the date that is five years from the date that the successorship was approved under this rule, or the date that the successorship is revoked or voluntarily surrendered, or the date that the successor becomes a licensed outfitter.

(11) While operating the business as a successor, the successor may accumulate verified experience days in the same manner that a guide accumulates experience days to satisfy the requirements of ARM 24.171.502. In the discretion of the board, and in addition to all other waivers that a successor may qualify for, a successor may request a waiver of up to 50 days of experience for each license function (hunting and fishing) by sufficiently documenting the successor's past experience and involvement with the particular outfitting business that occurred prior to the date the successorship was approved. (History: 37-1-131, 37-47-201, MCA; IMP, 37-1-131, 37-47-310, MCA; NEW, 2011 MAR p. 2149, Eff. 10/14/11; AMD, 2015 MAR p. 58, Eff. 1/30/15; AMD, 2017 MAR p. 1900, Eff. 10/14/17.)

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 restricting commercial use 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)(c)(ii), 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)(c)(ii), MCA. Description and submission of private land access permission and permit(s) issued by the appropriate state or federal agency(ies) shall be governed by ARM 24.171.520. (History: 37-1-131, 37-47-201, MCA; IMP, 37-1-131, 37-47-201, 37-47-304, MCA; NEW, 2009 MAR p. 1406, Eff. 8/14/09; AMD, 2016 MAR p. 1960, Eff. 10/29/16; AMD, 2017 MAR p. 1900, Eff. 10/14/17.)

Rule 24.171.506 reserved

24.171.507 OUTFITTER EXAMINATION (1) Applicants for the outfitter examination shall submit a completed license application accompanied by the required fee.

(2) 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 include:

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

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

(4) 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.

(5) Before taking the outfitter examination, an applicant must submit a complete application, as defined in ARM 24.171.501. An applicant may not repeat any failed portion of the outfitter examination sooner than 30 days from the date of failing. (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; AMD, 2015 MAR p. 58, Eff. 1/30/15; AMD, 2016 MAR p. 1960, Eff. 10/29/16.)

24.171.508 INCOMPLETE OUTFITTER AND GUIDE LICENSE APPLICATIONS (1) Applications received by the board will be reviewed for completeness. If an application is not complete when first received by the board, the applicant will be mailed a letter stating that the application is incomplete. The board may indicate which documents or information is missing in this letter. However, the applicant remains responsible for ensuring all required information and documents are timely submitted. If the application is not completed within one year from the date the incomplete application first arrived, the application expires, and the applicant shall be required to submit a new application and fees before being considered for licensure. (History: 37-1-131, 37-47-201, MCA; IMP, 37-1-131, 37-47-201, 37-47-304, MCA; NEW, 2013 MAR p. 671, Eff. 4/26/13.)

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. Liability insurance must cover bodily injury to clients at all times services are being provided, including while the outfitter or employed or retained guides are transporting clients. Minimum amounts of liability insurance shall meet or exceed minimum requirements of state or federal regulator agencies for outfitters operating on state or federal lands, but in no case may minimum amounts be less than \$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, 37-47-301, 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; AMD, 2019 MAR p. 850, Eff. 6/22/19.)

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. (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; AMD, 2011 MAR p. 2149, Eff. 10/14/11.)

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 OPERATIONS PLANS AND AMENDMENTS (1) An operations plan is prepared by the outfitter and submitted to the board and consists of the following:

(a) an affidavit by the outfitter to the board that the amount and kind of equipment that is owned, leased, or contracted for by the applicant is sufficient and satisfactory for the services advertised or contemplated to be performed by the applicant;

(b) for fishing outfitters, a summarization of the boundaries of the outfitter's operation, provided in the following terms, except as otherwise provided in ARM 24.171.505:

(i) the name of each water body, including the section of each river or stream, that may be utilized by the applicant while providing services;

(ii) a description of private land, by name of ranch and county where located, over which access is allowed; and

(iii) an affidavit by the outfitter to the board that the outfitter is in possession of any public land permits or licenses properly executed for federal or state public property where the outfitter is authorized to operate;

(c) for hunting outfitters a summarization of the locations and boundaries of the outfitter's operation, which is where the outfitter is authorized to operate, provided in the following terms:

(i) the name of each public land agency, and owners of private lands that allow unrestricted public access and are managed under cooperative agreements with adjacent public lands;

(ii) all information necessary to fulfill statutory requirements for reporting of private land acreage;

(iii) total acreage on a per-owner basis of the private land where the outfitter is authorized to operate for any duration of time and for any species of game;

(iv) the legal description of the private acreage where the outfitter is authorized to operate, either by geo-code number assigned by the Montana Department of Revenue, or by aliquot parts. If less than the entire section or parcel is reported, then the boundary shall be described down to the quarter-quarter section or the government lot number; and

(v) with respect to (ii) through (iv), outfitters are not required to report private lands that allow unrestricted public access and are managed under cooperative agreements with adjacent public lands;

(d) the number of NCHU per category; and

(e) an affidavit by the outfitter to the board that the outfitter possesses public land permits or licenses properly executed for federal or state public property where the outfitter is authorized to operate.

(2) An outfitter may amend the operations plan on record by adding or subtracting any additional or replacement information and submitting the updated plan to the board, except that when adding a service identified in (5), the outfitter must apply for an amendment to the outfitter's operations plan by stating in writing the proposed changes and submitting it to the board, along with the fee required in ARM 24.171.401.

(3) As part of renewal, each outfitter shall attest that all lands information required as part of the outfitter's operations plan on file with the board is current and accurate.

(4) Whenever the outfitter gains permission to use additional private or public property, the outfitter shall update the operations plan the earlier of:

(a) the end of the license year during which the outfitter first became authorized to use it, and

(b) before actually using it.

(5) 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, 37-1-131, 37-47-201, 37-47-304, 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; AMD, 2015 MAR p. 58, Eff. 1/30/15; AMD, 2016 MAR p. 1960, Eff. 10/29/16; AMD, 2017 MAR p. 1900, Eff. 10/14/17; AMD, 2020 MAR p. 1157, Eff. 6/27/20.)

Subchapter 6

Guide Licensing

24.171.601 GUIDE QUALIFICATIONS (1) An applicant for a 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 outfitter whose license is currently suspended or revoked is not qualified for a 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; AMD, 2015 MAR p. 58, Eff. 1/30/15.)

24.171.602 GUIDE LICENSE (1) An applicant may apply for a guide license on forms provided by the department, 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 meets all the qualifications of a guide.

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

(3) Each outfitter who uses the services of the guide during the license year shall sign and date the guide's license before allowing the guide to accompany a client.

(4) An applicant for a guide license who delivers a completed application and application fee to the board office will receive the license at that time. (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; AMD, 2011 MAR p. 2149, Eff. 10/14/11; AMD, 2015 MAR p. 58, Eff. 1/30/15; AMD, 2019 MAR p. 850, Eff. 6/22/19.)

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 (REPEALED) (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; REP, 2013 MAR p. 671, Eff. 4/26/13.)

Subchapter 7

Net Client Hunter Use and River-Use Days

24.171.701 NCHU CATEGORIES, TRANSFERS, AND RECORDS

(1) NCHU categories are as follows:

- (a) Category 2, consisting of all clients served in the pursuit of upland game birds and big game under combination licenses or in the pursuit of big game; and
- (b) Category 3, consisting of all clients served in the pursuit of upland game birds, water fowl, and turkeys.

(2) In cases where a federal agency limits an outfitter's use of federal lands by some means other than NCHU, an outfitter is not required to have NCHU to perform services on those lands.

(3) NCHU owned by a licensee is part of the operations plan and may be transferred only with notice to the board. Transfers between or among licensees are routinely processed by the department unless the department has received a complaint against the licensee who is the transferor in a NCHU transfer request. If the transferor is a respondent to a complaint, the request will not be processed until after the case is resolved. In addition, a license that has expired may not be part of a NCHU transfer, and any NCHU that is recorded as part of the operations plan of a license that terminates or is revoked ceases to exist upon termination or revocation.

(4) Each outfitter entering into a transfer of NCHU with one or more other outfitters must do so by completing a transfer request form prescribed by the department. Prior to being processed by the department, a NCHU transfer request is not complete or valid for any purpose and may be cancelled by any licensee that is a party to it.

(5) The records of the board comprise the official records of NCHU and each purported transfer of NCHU is invalid and void that is not reflected in the board's records.

(6) NCHU allocated to a deceased outfitter may be transferred only by a successor if an approved successorship has not terminated under ARM 24.171.504. NCHU will expire and shall not be revived if it is not transferred the earlier of the date that the license terminates from nonrenewal, or the date that a successorship terminates, or, if no successor has been designated, the date that is one year following the death of the outfitter unless an extension is approved by the board based upon good cause appearing in a written request received by the board within one year. In cases where the outfitter dies and no successor is designated, someone authorized by the estate or the family of the outfitter must submit a NCHU transfer request form to the board within one year following the death of the outfitter. Authorization by the estate is shown by a certified copy of letters of appointment as a personal representative or by any other procedure allowed under Title 72, MCA, for the transfer of intangible personal property. (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; AMD, 2011 MAR p. 2149, Eff. 10/14/11; AMD, 2013 MAR p. 671, Eff. 4/26/13; AMD, 2015 MAR p. 58, Eff. 1/30/15.)

24.171.702 TRANSFER OF RIVER-USE DAYS (REPEALED) (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; REP, 2016 MAR p. 1960, Eff. 10/29/16.)

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 department and shall be accompanied by:

- (a) the required renewal 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) an attestation that all lands information required as part of the outfitter's operations plan on file with the board is current and accurate as required by ARM 24.171.520.

(3) An outfitter or guide must submit a completed renewal application with the required fee 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 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.

(5) License renewal applications for guides shall be made on forms provided by the department and shall be accompanied by:

- (a) the required renewal fee; and
- (b) a copy of the licensee's valid and current first aid certification. (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; AMD, 2011 MAR p. 2149, Eff. 10/14/11; AMD, 2015 MAR p. 58, Eff. 1/30/15; AMD, 2016 MAR p. 1960, Eff. 10/29/16; AMD, 2017 MAR p. 1900, Eff. 10/14/17.)

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) or (3) by an outfitter, or (2) or (3) by a guide or outfitter's assistant 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. Unprofessional conduct by an outfitter's assistant is grounds for disciplinary action against the outfitter who employed or contracted with the outfitter's assistant. 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 outfitter's assistant 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 outfitter's assistant to clients outside the boundaries of the outfitter's approved operations plan;
- (d) not endorse a guide license until the outfitter has made reasonable inquiry and determined that the 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 contract 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;
- (l) make all client records available at the outfitter's main base camp or business office in accordance with ARM 24.171.408;

(m) obtain and maintain a reasonable degree of supervision over each guide and outfitter's assistant 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 without first confirming that the 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;

(r) comply with all laws and rules relating to outfitter's assistants; and

(s) when advertising services, clearly designate the outfitter's registered business name or personal name and the outfitter's license number.

(2) Guides shall:

(a) not advertise services to the general public, but may advertise their services directly to outfitters;

(b) only make agreements with clients concerning monetary consideration or services offered, or collect fees from clients, with the express consent of the supervising outfitter, and only as expressly provided in ARM 24.171.405;

(c) not provide services to clients who have not been specifically referred to the guide from the endorsing outfitter; and

(d) 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.

(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, guide, and outfitter's assistant laws of which they have knowledge;

(e) not use alcohol or any other controlled substance as defined in Title 50, chapter 32, MCA, including marijuana and marijuana derivatives, 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 outfitter's assistants, or members of the general public, verbally or otherwise;

(h) not abuse livestock;

- (i) produce their current license or employment documentation required by ARM 24.171.410 at the request of law enforcement or a representative of the board;
 - (j) carry the licensee's current license at all times when providing services;
 - (k) not have hunting or fishing privileges or a wildlife conservation license suspended, revoked, placed on probation, or voluntarily surrendered in the state of Montana or any other jurisdiction;
 - (l) have a valid wildlife conservation license before providing guiding services;
 - (m) not act beyond the scope of activities for which the individual is licensed;
 - (n) not offer for use by an unlicensed individual any watercraft identification identifying another licensee as the occupant of the watercraft;
 - (o) not intentionally misrepresent board laws or rules;
 - (p) not fail to respond to board inquiries and requests;
 - (q) not remit a "nonsufficient fund check" or a check on a closed account for board fees or fines; and
 - (r) comply with the statutes and rules applicable to licensees of the board.
- (History: 37-1-131, 37-1-319, 37-47-201, MCA; IMP, 37-1-312, 37-1-316, 37-1-319, 37-47-201, 37-47-325, 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; AMD, 2015 MAR p. 58, Eff. 1/30/15; AMD, 2016 MAR p. 1960, Eff. 10/29/16; AMD, 2018 MAR p. 1731, Eff. 8/25/18; AMD, 2020 MAR p. 1157, Eff. 6/27/20.)

Rules 24.171.2302 through 24.171.2304 reserved

24.171.2305 WEB SITE POSTING OF LICENSE DISCIPLINE (1) For purposes of ARM 24.101.404, each first-time violation of the following acts constitutes a failure to file or complete in a timely manner a minor administrative requirement that is in rule or law:

- (a) lack of first aid card if no client is served during the lapse;
- (b) an outfitter's failure to ensure that a guide has a first aid card if no client is served during the lapse;
- (c) failure to display required information on a water vessel;
- (d) incomplete or faulty log book entries;
- (e) failure to maintain insurance if no client is served during the lapse;
- (f) use of a nonsufficient funds check;
- (g) failure to carry current guide or outfitter license while providing services;
- (h) failure to carry a current fishing license; and
- (i) failure to have a current conservation license.

(2) No conduct is a failure to file or complete in a timely manner a minor administrative requirement that is in rule or law if the board determines that the conduct constitutes fraud, dishonesty, or a careless or intentional disregard for the rules, statutes, or standards applicable to the licensee.

(3) If an applicant is denied a license only because of an incomplete application or because the applicant lacks the required days of verified experience, a first aid card, an ALS number, the proper amount of fees, or other similar item or requirement, then the denial is based solely on the applicant's failure to meet minimum licensure qualifications, and not based on competence to practice issues.

(4) No license denial is based solely on the applicant's failure to meet minimum licensure qualifications, and not based on competence to practice issues if the board determines the application involves the applicant's fraud, dishonesty, or a careless or intentional disregard for the rules, statutes, or standards applicable to the applicant. (History: 37-1-131, 37-47-201, MCA; IMP, 37-1-131, 37-1-311, MCA; NEW, 2011 MAR p. 2149, Eff. 10/14/11.)