

BEFORE THE BOARD OF OUTFITTERS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT,  
ARM 24.171.401, 24.171.405, ) ADOPTION, AND REPEAL  
24.171.407, 24.171.408, 24.171.410, )  
24.171.412, 24.171.413, 24.171.501, )  
24.171.502, 24.171.507, 24.171.508, )  
24.171.512, 24.171.520, 24.171.601, )  
24.171.701, and 24.171.2301, the )  
adoption of NEW RULES I and II, and )  
the repeal of ARM 24.171.104, )  
24.171.404, 24.171.602, 24.171.2101, )  
24.171.2104, and 24.171.2305 )  
pertaining to the board of outfitters )

TO: All Concerned Persons

1. On July 26, 2024, the Board of Outfitters (agency) published MAR Notice No. 24-171-43 regarding the public hearing on the proposed changes to the above-stated rules, at page 1642 of the 2024 Montana Administrative Register, Issue No. 14.

2. On August 20, 2024, a public hearing was held on the proposed changes to the above-stated rules via the videoconference and telephonic platform. Comments were received by the deadline.

3. The agency has thoroughly considered the comments received. A summary of the comments and the agency responses are as follows:

Comment 1: Numerous commenters support the board's rulemaking proposals.

Response 1: The board appreciates all comments received during the rulemaking process.

Comment 2: One commenter disagreed with the board's proposed changes to guide advertising, stating that guides are independent contractors and that outfitters should not be controlling how guides work.

Response 2: The board is charged with protecting the public and is responding to many concerns from stakeholders that guides advertising to the general public caused confusion as to what services a guide was allowed to provide, and who clients were allowed to contract with.

Comment 3: Several commenters supported the idea to allow the board to abate fees when necessary.

Response 3: The board's adoption of the department's fee abatement rule does not preclude the board from abating its fees if the board determines fee abatement is necessary.

Comment 4: Several commenters requested the board eliminate fees for review and processing and equipment inspection.

Response 4: The board cannot make these changes as part of this rules package but may consider the commenters' request in a future rules package.

Comment 5: Several commenters opposed the elimination of board-issued watercraft identification tags.

Response 5: The board is amending the rule to state that the department will provide the template and form of the tags but will require licensees to print and affix the tags.

Comment 6: Several commenters noted they had provided the board with extensive comments about guide advertising violations and potential solutions to the advertising issues, including a guide examination, prohibiting advertising by guides, and holding the endorsing outfitters responsible for guide advertising.

Response 6: The board has proposed to prohibit guides from advertising to the general public. The board will not be imposing a new examination on applicants. The board will consider disciplining endorsing outfitters if the board receives complaints about guide advertising violations. The commenters are encouraged to file complaints with the board if the commenters are aware of potential violations.

Comment 7: Several commenters opposed the requirement that licensees print and affix the watercraft identification tags, suggesting the board continue to provide the tags.

Response 7: The board disagrees with the commenters but can revisit the issue if complaints about identification increase.

Comment 8: Numerous commenters support the board requiring a guide applicant to have an endorsing outfitter.

Response 8: While the board understands the commenter's concern, the legislature passed 37-47-303, MCA, requiring the board to set guide qualifications other than an outfitter's endorsement. The board may not alter the statute.

Comment 9: Several commenters requested the board make a third class of endorsement for outfitters by separating "boat or other floating craft" and "motorized watercraft" into separate endorsements.

Response 9: The board considered the commenters' suggestions when proposing the rule and elected not to make the requested change at this time but may consider the request in the future.

Comment 10: Several commenters opposed language in ARM 24.171.502 that revised language to read "within a three-year period, 120 days of verified experience . . ." as inconsistent with the original language that required an outfitter applicant attaining any watercraft endorsement to have at least three years and at least 120 days experience.

Response 10: The board agreed with the commenters and reinserted the original language in the proposal notice.

Comment 11: Several commenters opposed the elimination of the successorship rule.

Response 11: The board determined not to repeal the successorship rule, and the rule was not included in the proposal.

Comment 12: Several commenters requested the board create a new examination for a new class of endorsement as identified in Comment 9.

Response 12: See Response 9.

Comment 13: Several commenters believe the amendments to ARM 24.171.508 remove the applicant's ability to know their application is incomplete.

Response 13: The department, which processes license applications on behalf of the board, has standardized processes for communicating with applicants, including notification that an application is incomplete and the specific items missing from that application. It is unnecessary to restate this process in rule.

Comment 14: Several commenters supported the repeal of ARM 24.171.2101 - Renewals as the board maintains authority to waive late fees for licensed guides under ARM 24.101.403.

Response 14: The board appreciates all comments received during the rulemaking process.

Comment 15: Several commenters requested the board prohibit advertising by guides.

Response 15: The board has amended the rules to prohibit guide advertising to the general public in ARM 24.171.405.

4. The agency has amended ARM 24.171.401, 24.171.405, 24.171.407, 24.171.408, 24.171.410, 24.171.412, 24.171.413, 24.171.501, 24.171.502,

24.171.507, 24.171.508, 24.171.512, 24.171.520, 24.171.601, 24.171.701, and 24.171.2301 as proposed.

5. The agency has adopted NEW RULES I (24.171.415) and II (24.171.416) as proposed.

6. The agency has repealed ARM 24.171.104, 24.171.404, 24.171.602, 24.171.2101, 24.171.2104, and 24.171.2305 as proposed.

BOARD OF OUTFITTERS,  
JOHN WAY, CHAIR

/s/ JENNIFER STALLKAMP  
Jennifer Stallkamp  
Rule Reviewer

/s/ SARAH SWANSON  
Sarah Swanson, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State August 27, 2024.