

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

In the matter of the amendment of ARM ) NOTICE OF AMENDMENT  
24.171.401 fees, 24.171.512 inactive ) AND ADOPTION  
license, 24.171.702 transfer of river-use days, )  
24.171.2301 unprofessional conduct and )  
misconduct, and the adoption of NEW RULES )  
I - III pertaining to guide logs )

TO: All Concerned Persons

1. On November 9, 2006, the Board of Outfitters (board) published MAR Notice No. 24-171-25 regarding the amendment and adoption of the above-stated rules, at page 2769 of the 2006 Montana Administrative Register, issue no. 21.

2. On December 8, 2006, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. Several comments were received by the December 18, 2006, deadline.

3. The board has thoroughly considered the comments and testimony received. A summary of the comments received and the board's responses are as follows:

COMMENT 1: One comment was received regarding ARM 24.171.2301. The commenter suggested adding "when providing services as a licensed guide or licensed outfitter acting as a guide" to the beginning of (3)(t) to clarify who must submit a log book and to avoid disciplining outfitters who are not acting as guides on these rivers.

RESPONSE 1: The board decided that because the board is not adopting proposed New Rules I-III that would require guide log books on the Beaverhead and Big Hole rivers, it is not necessary to add failure to comply with these rules as unprofessional conduct. The board is amending ARM 24.171.2301 accordingly.

COMMENT 2: Numerous comments were received opposing the adoption of New Rules I-III. The commenters questioned how the rules could be enforced, whether the rules were necessary, whether the rules would effectively address the identified problem, whether the rules would create opportunities for guides to exploit outfitters' proprietary client information, and whether specific alternative approaches to the problem would be more effective.

RESPONSE 2: After careful consideration, the board decided not to adopt proposed New Rules I-III at this time and to further review the issues raised by the commenters before proceeding.

4. The board has amended ARM 24.171.401, 24.171.512, and 24.171.702 exactly as proposed.

5. The board has amended ARM 24.171.2301 with the following changes, stricken matter interlined, new matter underlined:

24.171.2301 UNPROFESSIONAL CONDUCT AND MISCONDUCT

(1) through (1)(q) remain as proposed.

(r) not fail to respond to board inquiries and requests; or

(s) not remit a "nonsufficient fund check" or a check on a closed account for board fees or fines; ~~or~~ .

~~(t) maintain a current, true, complete, legible, and accurate log book of all individuals guided on the Beaverhead and Big Hole rivers, and submit the log books to the board office postmarked by December 1 of each license year.~~

6. The board is not adopting New Rules I, II, or III.

BOARD OF OUTFITTERS  
KELLY FLYNN, CHAIRPERSON

/s/ DARCEE L. MOE  
Darcee L. Moe  
Alternate Rule Reviewer

/s/ KEITH KELLY  
Keith Kelly, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State February 26, 2007