



The **FOAML**INE

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FISHING OUTFITTERS ASSOCIATION OF MONTANA
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FOAM ANNUAL MEETING INFORMATIVE, FUN

Many Speakers Bring News, Updates to Members

Ranging from FWP fisheries biologists talking about fish shocking, discussing the unfortunate dewatering on the Big Hole, a fish-tagging project on the Big Hole, to Board of Outfitter Executive Director Trudy Phippen updating our members on the new guide license application process, our members were almost overwhelmed with news and discussions at our annual meeting held in Bozeman.

If you missed it, talk to your fellow FOAM members to get the news, then plan on attending next year to keep up on developments that affect your business and your industry.

FOAM distributed newly-designed t-shirts, in white and grey, both short- and long-sleeved, with our FOAM logo front and back to members who turned up at the annual. If you'd like a shirt, contact FOAM at 406.763.5436 for details. We've got about 100 shortsleeved white and longsleeved grey in sizes XL and XXL still available.

We'll be planning the 2011 annual meeting next fall, so if you want to help or have suggestions, let us know.

MBO CHANGES GUIDE LICENSE PROCESSING

Review Standards Relaxed; Fewer Licenses Delayed

Frustrated with the Dept. of Labor & Industry's (DL&I) revamped guide license application, the MBO has set new, more relaxed standards for board review of licenses.

Discussing the application section called the "any crime, any time" portion that requests criminal or licensing history that requires review, the board agreed that only the most recent, most severe or troublesome criminal or disciplinary history should subject a guide license application to board review. Applications that don't require review will be processed within 10 days by board staff.

For example, the board proposes to review only license applicants 1) who have had their fishing and/or hunting privileges revoked in Montana or elsewhere, 2) who have 3 or more criminal misdemeanors, such as D.U.I.'s, within the last 5 years (though all felonies require review), 3) those with felony traffic violations and 'habitual offender' status (30 points against your driving license), and 4) applicants with occupational or profession licenses held in Montana or other states that have been subject to probation, suspension, revocation or restriction.

The board was concerned that applications awaiting supporting documentation from other states would be stalled pending receipt of the papers, but new DL&I attorney Pam Bucy ordered staff to process these applications and issue a license with a board 'reservation of rights' to review the license based on information

received from other licensing boards. And the board itself has set up conference calls to deal quickly with any license applications that do need to be reviewed by the board.

So, guide license applicants, breathe a little easier, fill out the form as completely as you can, and expect only the most serious violations or license discipline to stall your license as pending review by the MBO. We're all waiting for online annual re-licensing of guides to simplify this whole process and, once issued a guide license, reduce the re-licensing scrutiny to the last year rather than "any crime, any time."

PERMITTED RIVERS, OPERATIONS PLAN

Adding or Updating Op Plan for Permitted Rivers Explained

While taking advantage of the new fishing outfitter operations plan 'stream access' and 'statewide FAS' amendments, many newly-licensed and current outfitters are confused about how to add permitted rivers to their op plans.

Remember that the new amendments do not automatically allow access through private land without permission in the form of a land-use form, the L-1, nor do they include access to a permitted river administered by FWP, such as the Beaverhead, Big Hole, Blackfoot, Madison, or any portions of rivers administered by the BLM, USFS, or other federal agency. These permitted rivers need to be specifically added to your op plan if they are not included already. Additionally, the MBO is requesting that permittees send copies of these permits annually to keep their op plans up to date.

FOAM has asked the MBO staff to review past practice whereby staff receives an FWP 'master list' of permittees on any rivers administered by the department rather than requiring each permittee to submit an individual permit. We suggested that the staff also obtain similar lists from the federal agencies for the same purpose.

We'll keep you up to date on the progress of our request for this simpler method of op plan updating.

EMERGENCY GUIDE LICENSE REVIEWED

EGL Determined Illegal; Board Committee Seeks Alternative

Many hunting outfitters and some fishing outfitters have occasionally used the 'Emergency Guide License' (EGL) to designate a replacement guide in emergency situations. However, a lengthy review by the Dept. of Labor & Industry legal staff has determined that these EGL's are illegal because they don't 'vet' or check the background of the applicant and fail to properly qualify the guide for a license according to MBO criteria.

The MBO has assigned a committee to seek a replacement technique for the EGL. In backcountry situations like the Bob

Marshall Wilderness or the Smith river, far from easy access, FOAM has suggested outfitters simply license a camp cook, wrangler, or freighter as a 'spare' replacement guide.

This MBO committee is considering some kind of 'pre-vetted, pre-qualified' licensee who can be 'activated' in the field instantly. Payment of fees for this proposed EGL and swift notification of the MBO when the guide is activated are stumbling blocks right now, but may be resolved when the committee presents their recommendations to the full MBO. Again, we'll keep you informed.

MBO SHOWS TEETH FOR UNLICENSED ACT

Guide Disciplined For "Acting Beyond Scope of License"

FWP Warden Ryan Gosse intercepted a guide working on the Madison this summer, interviewed the guide and his clients, then sent a report to the MBO that resulted in disciplinary action taken against the guide for 1) acting as an outfitter without a license, 2) utilizing lands without a permit (Madison SRP), 3) providing services to clients not specifically referred to the guide by an outfitter, and 4) acting beyond the scope of the activities for which the individual is licensed.

The guide apparently was not charged under the new felony statute for unlicensed practice, but the MBO's resultant penalties and restrictions in this case show the board has the will and sufficient teeth to prosecute guide licensees for what we all call 'outfitting without a license.' This guide had his license

indefinitely suspended, paid a \$1000 fine to the MBO, must take the Advanced Outfitter/Guide Training course offered by the MBO, will face the MBO as a non-routine license applicant, cannot apply for an outfitter license until after four years acting as guide without significant violations, and must supply proof of suitability for licensure and comply with certain conditions as may be required by the MBO at the time of application for licensure.

While the association would have preferred the individual be charged with unlicensed practice under the new statute, FOAM members should be satisfied that an FWP warden acted quickly and properly with this on-the-water situation and followed through by notifying the MBO about a licensee who was plainly and admittedly acting as an outfitter without a license.

Of interest here is that these steep penalties are as close to the felony statute as the MBO can get within its own jurisdiction. Remember, the MBO cannot prosecute someone without a license for unlicensed practice; they only have jurisdiction over licensees, like this guide. Plus, the 'unlicensed outfitter' statute is part of FWP's code, not the MBO's. Still, the MBO suspended a guide's license, got a big fine, and conditioned application for an outfitter license for someone acting as an unlicensed outfitter. Yes, FWP might have successfully prosecuted this guide as a felon and he may have lost his hunting and fishing privileges, paid fines, etc., but knowing the MBO can and will successfully prosecute a guide acting as an outfitter is something we've sought for years. Good work, Warden Gosse, MBO members and staff!

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