

Agenda Item #14a

Repeal/Replace Guide and Outfitter Rule 19.30.8 NMAC



Field Operations Division

Guide and Outfitter Rule

19.30.8 NMAC

Establishes methods to register, regulate and set professional standards for guides, outfitters and their operations within New Mexico.



Field Operations Division

Cooperative Work in Revamping of Guide and Outfitter Rule

- Department has worked diligently with the New Mexico Council of Outfitters and Guides.
- Department has worked with Outfitters and Guides outside of the NMCOG
- There have been numerous meetings and discussions during this rule development.
- The Rule has been posted on the web for public comment.
- There have been approximately 52 public comments



Overview of Changes

- Added new definitions
- Clarified language
- Consistent professional standards for Guides and Outfitters
- Restructured the rule for better flow and understanding
- Added all requirements to become a NM Outfitter in rule
- Addressed concerns:
 - Agent of Landowner designation
 - 2 day rule
 - Special Drawing pool saturation
 - Contracts
 - Misconduct violations



Definitions

- **Accompanied-** Shall mean that the outfitter or their registered guide physically escorts the hunter client in the field during the hunter clients license hunt dates.
- **Hunter-client-** shall mean an individual who contracts or utilizes the hunting services of a registered outfitter or is taken into the field by a person acting as an outfitter or guide regardless of their registration status.
- **Agent-** shall mean a person who is legally authorized by employment or written contract to act on behalf of a private landowner to oversee the landowner's hunting operation on their deeded property.



Definitions

- **Conviction**- shall mean any adjudication of guilt; plea of guilty or nolo contendere accepted by the court; or payment of a fine, court cost, court order, penalty assessment or forfeiture of collateral; regardless of whether sentencing or imposition of sentencing has been deferred or suspended.
- **Supervision**- shall mean that outfitters are required to ensure all guides employed or contracted by them are informed of all pertinent geographic hunt boundaries, any special restrictions which apply to their hunter-clients license and statutes and rules regarding lawful hunting, guiding and outfitting. Supervision also means that outfitters have provided all the guidance and oversight that a reasonable business person would provide to their employees.



Outfitter Definition

- **Outfitter**- shall mean any person who advertises or holds themselves out to the public for hire or is employed or accepts compensation for providing, within the unit where a hunt occurs, facilities, equipment or services for hunting activities; provided, however, that "outfitter" does not include a person who only cooks, cuts wood or performs other comparable or incidental duties not directly related to hunting activities. **Any person who purchases landowner permits or private land licenses for a hunter-client or pays for access onto a landowner's deeded property for a hunter-client in any way, shall be considered an outfitter.**



Additional Guide Requirements

- Guide applicants shall have successfully completed a certified hunter education course from the state of New Mexico or other similar qualifying hunter education course acceptable to the department prior to making application.
- Guide applicants cannot have a history of violation.



Registration Exemption

- A landowner or their agent who is guiding or outfitting on the landowner's deeded property or pursuant to a landowner permit is exempt from the department's registration process. Nothing in this exemption shall prevent a landowner or their agent from registering, if they choose. **Agents may not act independently from the landowner. A landowner or their agent must be in compliance with the registration requirements of any pertinent government land management agency when involved with commercial activities on lands controlled or administered by a government land management agency.**
- Any person who purchases landowner permits or private land licenses for a hunter-client or pays for access to a landowner's deeded property for a hunter-client in any way, shall be considered an outfitter. (As added to Outfitter def.)



Contracts All Outfitters

- All outfitters shall have a copy of the contract available for inspection by the department in the field during the hunt or they must submit an electronic copy to the department at least 48 hours prior to the scheduled hunt. A hunter-client who obtains a license through the special drawing pool, and chooses to hunt beyond their contracted hunt dates must carry a copy of the contract if it has not been submitted electronically to the registrar.



Special Drawing Pool Contracts

- A New Mexico outfitter shall ensure that each hunter-client who obtains a license through the special drawing pool is accompanied by the outfitter or their registered guide for at least two days during the contracted dates of the hunt in the area where the hunter-client's license is valid. An outfitter or guide cannot contract with themselves to apply in the special drawing pool or guide themselves during their hunt.



Outfitter or Guide Misconduct

- **“Breach of Contract”** and **“Misrepresentation”** must be determined by a court of competent jurisdiction before the Department assesses administrative points.
- **“Failure to report illegal activity”** and **“Failure to comply”** apply only to federal and state laws and regulations that pertain to hunting, fishing, trapping, outfitting, guiding or land management.
- **“Failure to comply with registration audit”**-an applicant must make a conscious decision to not supply the Department with the documentation required.
- **“Failure to disclose”**- an applicant must lie or submit false or fraudulent information in connection with their application.
- **“Failure to supervise guides”**-new definition gives better direction.
- All other misconduct violations were moved to Criminal so they could be decided in a court of competent jurisdiction before the Department will assess any points.



Questions?



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