

OUTFITTERS AND GUIDES LICENSING BOARD
Division of Occupational and Professional Licenses
P.O. Box 83720
Boise, ID 83720-0063

Board Meeting Minutes of 4/26/2022

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BOARD MEMBERS PRESENT: Brad Compton - Chair
Tammy Overacker
Louise Stark

DIVISION STAFF: Anne Lawler, Bureau Chief
Susan Knapek, Licensing Specialist
Cesley Metcalfe, Board Support Supervisor
Christian Runnalls, Board Support Specialist

OTHERS PRESENT: Joan Callahan, Legal Counsel
Jeff Bitton, Idaho Outfitters and Guides Association
Aaron Lieberman, Idaho Outfitters and Guides Association

The meeting was called to order at 8:30 AM MDT by Brad Compton.

Ms. Overacker made a motion to approve the First Amended Agenda. It was seconded by Ms. Stark. Motion carried.

PUBLIC COMMENT

Mr. Lieberman addressed the Board regarding the recent tag designations. He stated that he believes outfitter reported use of zero tags for 2020 should not have been used in designation formulas. He pledged that the Idaho Outfitters and Guides Association (IOGA) would help the Board correct the mistake and prevent a similar outcome in the future.

Mr. Bitton stated that he has spoken with outfitters across the state who are concerned with their tag designations. He stated that the designation process has not been smooth, which has shaken outfitter confidence in the Board. He stated that IOGA is here to help the Board.

Mr. Compton addressed the public comments, stating that he sympathizes with the industry. He stated that a lot of time was spent applying the law to the tag designations. The Board will work with legal counsel to fix the problems encountered this year.

Ms. Stark made a motion to amend the agenda to address the designation petitions, objections, and exemptions. It was seconded by Ms. Overacker. Motion carried.

LAWS AND RULES

Ms. Lawler informed the Board of ZBR deadlines and provided dates for the scheduled listening sessions and negotiated rulemaking meetings. The Board discussed changes to the rules listed below:

Rule 026 – Operating Area Adjustments:

The Board discussed combining this rule with rules 051 and 053 for continuity. Rule 051 would be added as a new subsection titled Hot Pursuit and Rule 053 would be added as a new subsection titled Controlled Hunts Outside Operating Area. The Board also discussed moving the detail in subsections 02, 03, and 04 into policy. Division staff will revise the language for conciseness and present to the Board at a future meeting.

Rule 051 – Placement of Hunting Camps and Leaving Outfitter's Operating Area, Big Game Hunting, and Incidental Trapping:

The Board discussed moving subsection 01 to Rule 026, moving subsection 02 to a new Rule 019 titled Outfitter or Designated Agent Responsibilities, and moving subsection 03 to Rule 02.12 as part of the Hazardous Excursions definition. Division staff will revise the language for conciseness and present to the Board at a future meeting.

Rule 053 – Controlled Hunts Outside Outfitter's Operating Area:

The Board discussed moving this to Rule 026. Division staff will update language and present to the Board at a future meeting.

Rule 046 – Technical Mountaineering/Rock Climbing Guide:

The Board discussed changing the requirements for applicants to appear before the Board. Applicants would instead be required to "provide evidence to the Board" detailing their qualifications. The Board also discussed moving Rule 061 into this rule for continuity. The Board discussed whether subsection 10 is necessary for all guides. The Board would like feedback from the industry before changes are made.

Rule 057 – Designation of allocated Deer and Elk Tags:

The Board stated that it wants changes made to this rule that will resolve any potential conflicting interpretations when tag numbers are set at a different time than the rest of the season. The Board will continue the discussion at a future meeting.

Rule 059 – River, Lake and Reservoir Power and Float Outfitter Limits:

Ms. Lawler proposed leaving in the rule a limited list of waterways with primary jurisdiction vested in the State. The remainder of the list would be moved to policy and posted on the Board's website. The Board and Ms. Callahan expressed concern over moving this rule into policy. No changes were made to the rule.

Rule 068 – Administrative Fine/ Probation/Restrictions:

The Board deleted this rule as unnecessary due to authority granted in statute.

SPECIAL MEETING DATE

Ms. Lawler stated that the Board needs a meeting to address the pending requests, objections, and petitions. A meeting was scheduled for Friday, April 29th, at 10:00 AM MT.

LAWS AND RULES CONTINUED

Ms. Lawler presented comments from the Idaho Outfitters and Guides Association (IOGA) on the proposed rule changes. The Board discussed the rules below. Unless otherwise stated, no changes were made to these rules during this meeting.

Rule 002.09 – First Aid Card:

IOGA suggested requiring CPR certification for an outfitter, in addition to completion of a first aid course. Ms. Overacker stated that she believes this change would be widely accepted.

Rules 002.10 and 002.11 – Fishing and Float Boats:

IOGA suggested defining float boats and motorboats, and the allowable horsepower, to resolve conflicts with state and federal permitting agency definitions. Mr. Compton questioned if it makes more sense for the permitting agencies to define these items. Mr. Lieberman stated that the lack of definition in the Board's rules may create confusion for the bodies of water where the Board is the only management authority. Ms. Stark stated that there have been discussions about drift boats needing the ability for downstream steerage on certain rivers. She suggested that boat limitations could be added to the tables in Rule 059. IOGA also suggested deleting the definition of downstream steerage because it varies depending on the waterway.

Rule 002.12 – Hazardous Excursions:

IOGA suggested replacing the reference to municipal limits with language regarding activities that are known to include inherent risk. IOGA also suggested adding additional examples of hazardous excursions. The Board approved these changes.

Rule 002.20 – Operating Area:

IOGA suggested adding the language “For hunting activities, the area is defined by the Fish and Game Unit or Zone” to clarify use reporting areas for licensees. Ms. Stark suggested leaving this rule as is and making this clarification in Rule 024. The Board approved this change.

Rule 002. 23 – Power Boats:

IOGA suggested using the Coast Guard definition of power boats. The Board directed Division staff to determine the Coast Guard definition for discussion at a future meeting.

Rule 002.25 – Trainee:

IOGA asked if there is a legal basis for the requirement that a trainee be a minimum of 16 years old. Mr. Lieberman stated that there is nothing in the Fair Labor Standards Act that addresses this type of requirement. The Board approved removing the reference to the age requirement. IOGA also suggested adding the definition of an intern to recognize that trainees and interns should not count toward the number of guests on a guided activity. Ms. Callahan asked the Board to consider if these individuals need to have a license, and what they can do with or without a license. She suggested that this may be best addressed in a statute change as an exemption from licensure. Ms. Stark stated that there is language in the guide definition in statute that could be useful in this situation. Division staff will craft language for discussion at a future meeting.

Rule 002.26 – Training Log:

IOGA suggested a requirement for outfitters to provide guide trainees with a copy of their training log. The Board approved this change.

Rule 002.27 – Unprofessional Conduct:

IOGA expressed concern over the subjectivity and enforceability of some of the items listed as unprofessional conduct. Mr. Lieberman also stated that some items listed may not be appropriate for the Board to enforce as they are more related to business practice than public safety. The Board authorized Division staff to send this section of the current draft rules, with previously discussed revisions, to IOGA for further review and comment.

Rule 59 – River, Lake, and Reservoir Power and Float Outfitter Limits:

IOGA suggested adding language stating that the Board can make licensing and permit changes to Idaho bodies of water without engaging in negotiated rulemaking if

it has licensing authority over those bodies, or if it obtains permission from the relevant resource management authorities. IOGA also suggested deleting from the table any bodies of water for which the Board does not have licensing authority. Mr. Compton stated that it is a challenge in the time available in the ZBR process to determine over which bodies of water the Board has authority, and which bodies are managed by other entities. The Board will continue the discussion on this rule at a future meeting.

Rule 41 – Float Lead Boatman Qualifications:

IOGA suggested deleting the requirement that one trip must have been completed within sixty months preceding the date of the application on each classified river applied for. Mr. Compton stated concern over situations where applicants haven't completed a trip within twenty years of the application date. Mr. Lieberman stated that there are some expert boatmen who can read and run any river, regardless of how long ago they last ran it. Ms. Stark stated that rivers can change annually, and that she would like additional arguments from the float-boating industry before relaxing the rule. The Board will continue the discussion on this rule at a future meeting.

ADJOURNMENT

Mr. Compton adjourned the meeting at 12:20 PM MDT.