

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 30 WILDLIFE ADMINISTRATION
PART 8 GUIDE AND OUTFITTER REGISTRATION

19.30.8.1 ISSUING AGENCY: New Mexico Department of Game and Fish.
[19.30.8.1 NMAC - Rp, 19.30.8.1 NMAC, 11/30/2011]

19.30.8.2 SCOPE: Hunting outfitters, guides, and hunters for New Mexico.
[19.30.8.2 NMAC - Rp, 19.30.8.2 NMAC, 11/30/2011]

19.30.8.3 STATUTORY AUTHORITY: Sections 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected species. Additional authority may be found in Sections 17-2A-1, 17-2A-3 and 17-3-16, NMSA 1978.
[19.30.8.3 NMAC - Rp, 19.30.8.3 NMAC, 11/30/2011]

19.30.8.4 DURATION: Permanent.
[19.30.8.4 NMAC - Rp, 19.30.8.4 NMAC, 11/30/2011]

19.30.8.5 EFFECTIVE DATE: November 30, 2011, unless a later date is cited at the end of a section.
[19.30.8.5 NMAC - Rp, 19.30.8.5 NMAC, 11/30/2011]

19.30.8.6 OBJECTIVE: To register, regulate and set professional standards for guides, outfitters and their operations within New Mexico.
[19.30.8.6 NMAC - Rp, 19.30.8.6 NMAC, 11/30/2011]

19.30.8.7 DEFINITIONS:

A. "Agent" shall mean anyone employed or contracted in writing by a landowner to oversee the hunting operations or to outfit or guide for a landowner on the landowner's deeded property or, pursuant to a landowner's permit, on a shared public or private unit.

B. "Department" shall mean the New Mexico department of game and fish.

C. "Director" shall mean the director of the department of game and fish.

D. "Guide" shall mean any person employed or contracted by a registered outfitter to furnish personal services for the purpose of hunting or taking game animals except a 'guide' does not include a person who only cooks, cuts wood, wrangles horses or escorts clients between camp and vehicle, retrieves downed game, or otherwise solely provides services not directly related to hunting or taking of game animals.

E. "History of violation" shall mean any one court conviction or multiple convictions or one or multiple citations issued from any natural resource agency for violation(s) of hunting, outfitting or guiding rules that have been satisfied by the paying of fines of any related federal laws or land-use regulations related to outfitting, guiding or hunting, during the three-year period immediately preceding the application for registration, provided that the violation committed, if committed in New Mexico, would equal or exceed the 20-point equivalent. It shall also include any conviction for any felony, no matter when the felony was committed or any conviction(s) as an accessory for the described crimes.

F. "Hunter-client" shall mean an individual that contracts or wishes to utilize the hunting services of a registered outfitter or is taken into the field by an outfitter or guide.

G. "Landowner permit" shall be a license issued pursuant to landowner authorization.

H. "License year" shall mean that period beginning April 1 and ending March 31 each year for the purposes of hunting or outfitter and guide registration.

I. "New Mexico outfitter" shall mean an outfitter that is qualified by the department to participate in the special drawing pool by utilizing their outfitter number as established 17-3-16 NMSA, comp.

J. "Outfitter" shall mean any person who advertises or holds himself out for hire to the public or accepts compensation for providing, within a game management unit where a hunt occurs, equipment or services for hunting activities.

K. "Registered outfitter" shall be an outfitter who has met all the requirements described herein and has been issued a registration number by the department.

L. "Supervision" shall mean that outfitters are required to ensure all guides employed by them are informed of all pertinent geographic hunt boundaries and statutes and regulations regarding lawful hunting, guiding and outfitting.

M. "Special drawing pool" shall refer to the 10 percent allocation of special draw licenses available to the public who have contracted with a qualified New Mexico outfitter to provide professional guide services. [19.30.8.7 NMAC - Rp, 19.30.8.7 NMAC, 11/30/2011]

19.30.8.8 GENERAL REGISTRATION PROCEDURES AND REQUIREMENTS:

A. Application form: Applications to guide and outfit as defined in Section 17-2A-3 NMSA 1978 and 19.30.8 NMAC, shall be made on forms provided by the department as prescribed by the director.

B. Application deadlines: An outfitter or guide may register at any time by completing and submitting the proper application form. No one shall be a registered outfitter or guide until they successfully complete all requirements and are issued a valid registration number by the department.

C. Unlawful guiding or outfitting: It shall be unlawful for any person to guide or outfit in New Mexico without completing all requirements and receive a valid registration number from the department.

D. Examinations for guiding and outfitting:

(1) Exams will be conducted during posted testing periods at department offices or by appointment, at any location approved by the outfitter guide registrar.

(2) An applicant shall only be allowed to take the examination once per day.

(3) Applicant must successfully pass a department approved examination with a minimum passing grade of 70 percent.

(4) If an applicant fails to renew their registration for two or more years, all registration requirements must be completed, including successfully passing a department approved exam prior to being registered.

E. Registration fees:

(1) The annual registration fee for an outfitter or guide is required prior to registration as established in 17-2A-3 (NMSA, 1978).

(2) All registration fees, except a fifty dollars (\$50.00) administrative fee, may be refunded if an applicant is rejected or fails to complete the registration process. No other refunds shall be permitted.

(3) Emergency fee and criteria: In an emergency situation, a temporary guide registration may be issued by the department. The temporary registration is only valid for seven days and may be renewed only once per emergency situation. The fee shall be ten dollars (\$10.00). A guide registered pursuant to the emergency situation may only be used once in a license year by the registered outfitter requesting the replacement of a registered guide who has become ill, injured or has a bona fide emergency, and may not be used to accommodate additional hunters.

F. Registration exemption: A landowner or his agent who is guiding and outfitting on the landowner's property or pursuant to a landowner permit, is exempt from the registration process. Nothing in this exemption shall prevent a landowner or his agent from registering, if they choose. It shall be unlawful for a landowner or his agent to submit another person's application in the special drawing pool unless the landowner or his agent is a registered New Mexico outfitter.

[19.30.8.8 NMAC - Rp, 19.30.8.8 NMAC, 11/30/2011]

19.30.8.9 GENERAL OUTFITTER REGISTRATION REQUIREMENTS:

A. Outfitter registration:

(1) Applicant must be at least 21 years of age.

(2) Applicant cannot be a convicted felon or have a history of violation of any related federal land-use or state game and fish laws or regulations or guide and outfitter licensing or registration laws.

(3) An applicant must have operated as a New Mexico registered guide for three years, or have been granted an interim outfitter's registration, or must submit evidence, as approved by and to the satisfaction of the department, of three years of outfitting experience or other substantial knowledge of guiding or outfitting. The evidence must be submitted with the application and may consist of federal land use permits, business records, etc.

(4) Applicant must provide acceptable proof of commercial liability insurance of at least five hundred thousand dollars (\$500,000) for the registration period April 1 through March 31 of the following year. Failure to provide proof of coverage during the registration period shall result in suspension of the registration for the period in which such insurance is required to be maintained.

(5) Applicant shall register with the taxation and revenue department and provide proof of registration to the department.

(6) Applicant shall not have had a guide or outfitter license, registration, permit or certificate suspended (if not reinstated) or revoked in any state.

(7) Applicant shall not have had his/her outfitter's license, permit or registration revoked or denied for cause by any controlling government land management agency. The applicant shall not be registered by the state during the term of the revocation or pendency of the denial.

(8) Applicant for an outfitter registration shall not submit any materially false statements or fail to disclose any material facts requested in connection with an application for registration.

(9) Effective September 1, 1997, applicant must pass a department approved examination with a minimum passing grade of 70 percent.

(10) Applicant 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.

(11) Insurance: An outfitter applicant shall submit with their application a copy of a certificate from an insurance company stating they will insure the applicant for a minimum of five hundred thousand dollars (\$500,000) when the applicant is registered for the current license year beginning April 1.

(a) A copy of the insurance certificate that indicates who is insured, effective dates, policy number and amounts of coverage, must be provided to the department upon issuance by the insurer and prior to engaging in any outfitting activity.

(b) If an outfitter applicant or a registered outfitter fails to submit a copy of a valid insurance certificate before the insurance certificate on file with the department expires, the non-compliance notice will be sent to the outfitter by the department. The outfitter shall be required to submit a copy of a valid insurance certificate and a fifty dollars (\$50.00) administrative fee. No outfitter will be registered until the administrative fee has been paid in full.

(c) If the outfitter fails to comply with the non-compliance notice; the department shall issue the outfitter a notice of contemplated commission action. The outfitter shall then be required to submit a copy of a valid insurance certificate and a two hundred and fifty dollars (\$250.00) administrative fee. No outfitter will be registered until the administrative fee has been paid in full.

(d) If the insurance is not in effect, at any time while conducting any outfitting activity as defined herein, the outfitter's registration will be declared void and the outfitter's registration shall be suspended until a valid insurance certificate and administrative fees are satisfied.

(12) Inactive status:

(a) Registered outfitters shall request in writing to place their registration on "inactive" status and must do so prior to the expiration of their current registration by March 31.

(b) An outfitter shall only be returned to active status by submitting the appropriate fees and by completing the following:

(i) Submit renewing application on the forms provided by the department.

(ii) A copy of the insurance certificate that indicates who is insured, effective dates, policy number and amounts of coverage.

(iii) Any outfitter placed on inactive status by the department for four or more years shall also be required to successfully pass the guide and outfitting exam as specified above.

B. New Mexico outfitter qualifications for special draw hunts:

(1) Deadline date to qualify as a New Mexico outfitter: All new and renewing applicants must apply by February 15 to be eligible to participate in the special drawing pool of resident/nonresident hunter applicants for the next hunting season. New and renewal applications received after February 15 but before the close of business on March 15 will be eligible to have a hunter-client in special draw hunts.

(2) New Mexico outfitter late fee: An applicant for a New Mexico outfitter who renews after February 15 will be subject to an administrative fee of one hundred dollars (\$100.00), in addition to the normal application fees.

(3) New Mexico outfitter ineligibility: An applicant for a New Mexico outfitter that fails to successfully complete the department's process by March 15 will be ineligible to have a hunter-client use their registration number for the special drawing pool established in 17-3-16 NMSA, 1978.

(4) Hunter-client contract: A New Mexico outfitter shall execute a signed contract with each special draw applicant prior to the applicant applying for any special drawing pool licenses.

(a) Each contract shall be retained by the New Mexico outfitter for a period of not less than three years.

(b) A New Mexico outfitter shall provide any contract for hunting to the department upon request.

(c) A New Mexico outfitter shall ensure that the hunter-client is accompanied by the outfitter or their registered guide for at least two days in the area where the hunter-client's license is valid. There is no specific time requirement per day, but shall be specified per the outfitter's contract with the hunter-client. Failure for an outfitter to specify this allotted time requirement in their contract with a hunter-client shall be considered misconduct.

(5) An applicant shall successfully complete and submit all required forms by the department's deadline prior to becoming or renewing as a New Mexico outfitter.

C. Audit requirements:

(1) A New Mexico outfitter, including a renewing outfitter applicant, shall submit to the department any additional documentation requested by the department.

(2) Failure to submit requested documents by the department's deadline shall make an outfitter applicant ineligible to participate as a New Mexico outfitter.

D. Code of conduct: All regulating procedures and code of conduct established in 19.30.8 NMAC shall apply to a New Mexico outfitter.

[19.30.8.9 NMAC - Rp, 19.30.8.9 NMAC, 11/30/2011]

19.30.8.10 ADDITIONAL QUALIFICATIONS FOR GUIDE REGISTRATION: Applicants for a guide's registration shall be at least 18 years of age and meet all the qualifications set forth 19.30.8.8 NMAC and in Section 17-2A-3 NMSA 1978.

[19.30.8.10 NMAC - Rp, 19.30.8.10 NMAC, 11/30/2011]

19.30.8.11 REGULATING CONDUCT FOR ALL REGISTERED OUTFITTERS:

A. Contracts:

(1) An outfitter shall execute a signed contract with all hunter-clients before the hunt begins (except as further specified in Subsection B of 19.30.8.9 NMAC). The contract must be dated, signed by all parties to the contract and shall designate the terms, the compensation charged and the services to be provided. An outfitter that executes a multi-year contract shall be required to sign an updated contract with the hunter-client every three years from the initial signature date.

(2) An outfitter may release a contracted hunter-client to another qualified registered outfitter provided that the original contract was valid, in place prior to the application deadline and only if it is mutually agreed upon by all parties. The release shall be in writing and shall be signed by all parties. A record shall be retained by the outfitter for a period of not less than three years. A hunter-client may enter into a new contract with a qualified registered outfitter provided it is in place and signed by all parties prior to hunting.

B. Guides provided: Outfitters shall provide one registered guide or outfitter in the field for every four or fewer hunters who are contracted for guided hunting services with the outfitter.

C. Guide supervision: Outfitters shall responsibly supervise each registered guide working under the outfitter's direction.

[19.30.8.11 NMAC - Rp, 19.30.8.11 NMAC, 11/30/2011]

19.30.8.12 OUTFITTER MISCONDUCT:

A. Misrepresentation: An outfitter shall not engage in fraud, deceit, misrepresentation or concealment of any material fact in advertising, soliciting or providing professional services to the public.

B. Unregistered services: An outfitter shall not allow or use an unregistered person to perform outfitting or guiding services for the outfitter.

C. Failure to report illegal activity: An outfitter shall report illegal hunting activities or any violation of local, state or federal law that he has witnessed, or is made aware of to any commissioned conservation officer or to the appropriate agency.

D. Failure to comply: An outfitter shall comply with all local, state and federal laws and regulations pertaining to outfitting, hunting, fishing and wildlife.

E. Aiding or concealing: An outfitter shall not condone or willfully allow a violation of applicable conservation and game and fish laws by their hunter-client.

F. Breach of contract: An outfitter shall not breach a contract, as determined by a court of competent jurisdiction, with any person using outfitting or guiding services of the outfitter.

G. Violation of terms: An outfitter shall not violate the terms and conditions under which the license, permit or registration is issued.

H. Failure to specify: A New Mexico outfitter shall not fail to specify the time a hunter-client is accompanied in the field on each contract.

I. Failure to disclose: An outfitter or outfitter applicant shall not submit false or fraudulent documentation or knowingly omit material facts to the department relating to their registration.
[19.30.8.12 NMAC - Rp, 19.30.8.11 NMAC, 11/30/2011]

19.30.8.13 GUIDE MISCONDUCT:

- A. Misrepresentation: A guide shall not engage in fraud, deceit, misrepresentation or concealment of any material fact in advertising, soliciting or providing professional services to the hunter-client or the public.
- B. Failure to report illegal activity: A guide shall report illegal hunting activities or any violation of local, state or federal law that he has witnessed, to any commissioned conservation officer or to the appropriate agency.
- C. Failure to comply: A guide shall comply with all local, state and federal laws and regulations pertaining to outfitting, guiding, hunting, fishing and wildlife.
- D. Aiding or concealing: A guide shall not condone or willfully allow a violation of applicable conservation and game and fish laws by their hunter-client.
- E. Violation of terms: A guide shall not violate the terms and conditions under which the license, permit or registration is issued.
- F. Failure to disclose: A guide or guide applicant that submits false or fraudulent documentation or knowingly omits material facts to the department relating to their registration.
- G. Mandatory supervision: A guide shall not work with any hunter-client except under the supervision of a New Mexico registered outfitter and shall follow the direction of the outfitter while working with the hunter-client.
[19.30.8.13 NMAC - N, 11/30/2011]

19.30.8.14 ADDITIONAL PROHIBITIONS:

- A. It is unlawful to apply for or receive an outfitter or guide registration while on revocation.
- B. It is unlawful for a guide to book or service a hunter-client unless employed or contracted to do so by a registered outfitter.
- C. It is unlawful to use an outfitter or guide registration issued to another.
[19.30.8.14 NMAC - Rp, 19.30.8.13 NMAC, 11/30/2011]

19.30.8.15 APPLYING IN THE SPECIAL DRAWING POOL:

- A. It is unlawful to apply in the special drawing pool using a New Mexico outfitter number prior to having a valid, signed contract with the same New Mexico outfitter.
- B. It is unlawful to hunt with a license obtained through the special drawing pool designated for New Mexico outfitters without having a valid, signed contract with the same New Mexico outfitter prior to making the application. A hunter-client shall be allowed to transfer to another qualified outfitter as permitted by 19.30.8.11 NMAC.
[19.30.8.15 NMAC - N, 11/30/2011]

19.30.8.16 REVOCATION POINT SYSTEM: Any person in violation of this section is subject to revocation and point assessments pursuant to 19.31.2 NMAC.
[19.30.8.16 NMAC - Rp, 19.30.8.14 NMAC, 11/30/2011]

19.30.8.17 CRIMINAL PENALTY PROVIDED: A violation of any criminal provision of this rule or Section 17-2A-3 (NMSA 1978) that is a criminal violation, shall be punished in accordance with the provisions of Section 17-2-10 (NMSA 1978).
[19.30.8.17 NMAC - Rp, 19.30.8.15 NMAC, 11/30/2011]

19.30.8.18 HEARING REQUESTED: A registration revocation hearing may be requested and will be provided in accordance with 19.31.2 NMAC.
[19.30.8.18 NMAC - Rp, 19.30.8.16 NMAC, 11/30/2011]

HISTORY OF 19.30.8 NMAC:

History of Repealed Material:

19.30.8 NMAC, Guide and Outfitter Registration, filed 4/16/2003 - Repealed effective 11/30/2011 and replaced by 19.30.8 NMAC, Guide and Outfitter Registration, effective 11/30/2011.