

# Idaho Outfitters and Guides Licensing Board

## Board Members:

- Lori Thomason, Executive Director
- Bob Barowsky, Board Chairman – Payette – Idaho Fish and Game Commission representative
- Wayne Hunsucker, Board Vice Chairman– Public Member - Lucile
- Tom Long, Board Treasurer– Eagle
- George McQuiston, Board Member– Challis
- Louise Stark, Board Member– Challis

**Board Composition:** The Board consists of five (5) members: three (3) licensed outfitters and guides with five (5) or more years of experience in the business of outfitting in Idaho; one (1) member of the Idaho fish and game commission or a person selected by the Commission; and one (1) member of the public. Idaho Code [§ 36-2106](#).

**Application cost per applicant:** The Board has a policy to refund any portion of the application fee that is not used, but the Board has not encountered this circumstance in the last 11 years. The Board does not have a standard or easily ascertainable cost per applicant. The amount of time that the Board staff must devote to processing each application may vary widely depending on the circumstances of the applicant or the area and/or activities sought to be licensed. The Board is committed to providing excellent customer service and does not reject incomplete applications. Rather, the staff works with the applicant to help them through the process and obtain all the information necessary to complete an application. The time spent on applications is also impacted by the complexity and nuances of the area and activities sought in the application and may even involve time working with federal, state, and county agencies or assisting licensees with gathering the necessary information needed to obtain permits from the various state and/or federal land managers for the areas sought to be licensed.

**Time to process an application:** During the past year, the **shortest time** from a complete application to issuing a license was **instantaneous** for a single-trip temporary guide license or the **same day** for a regular outfitter, guide license, and some amendments. The **longest time** from a complete application to the Board issuing a license was **60 days**, which was the next Board meeting after the application was completed. A complete application is only deferred until a Board meeting when the applicant has serious felony convictions, extensive criminal convictions or fish, and game violations, or because of the complexity or substantial nature of what is being sought for a license or amendment. Those applicants are given 21 days notice of the Board meeting and will appear in person or telephonically. The Board usually meets between four and six times per year.

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### A. Index of Statute, Rule, and Policy Requirements for Licensure and Renewal

		Statute <a href="#">Title 36, Chapter 21</a>	Rule <a href="#">IDAPA 25.01.01</a>	Policy	Application <a href="http://oglb.idaho.gov/licensing/forms">oglb.idaho.gov/ licensing/forms</a>	Basis to Deny Application	Basis to Refuse Renewal	Fees
Outfitter	Issuance Requirements	<a href="#">36-2102</a> ; <a href="#">36-2107</a> ; <a href="#">36-2108</a> ; <a href="#">36-2109</a> ; <a href="#">36-2113</a>	003; 04.02; 007; 016 <sup>1</sup> 018; 020 021; 064	2000 <sup>2</sup> 2002 <sup>3</sup> 2003 <sup>4</sup>	OG-1/OG-2	<a href="#">36-2108</a> ; <a href="#">36-2109</a> ; <a href="#">36-2113</a> Rule 010 Rule 064.02	<a href="#">36-2108</a> ; <a href="#">36-2109</a> ; <a href="#">36-2113</a> Rule 010 Rule 064.02	\$400 Application \$450 License
	Renewal Requirements	<a href="#">36-2108</a> ; <a href="#">36-2109</a>	015; 017 025	2000 2002				\$400 (online) \$450 (offline)
*Guide	Issuance Requirements	<a href="#">36-2102</a> ; <a href="#">36-2107</a> ; <a href="#">36-2108</a>	003;004.03 034; 036-048* 061	2000 2002	OG-4.1	<a href="#">36-2108</a> ; <a href="#">36-2109</a> ; <a href="#">36-2113</a> Rule 064.02	<a href="#">36-2108</a> ; <a href="#">36-2109</a> ; <a href="#">36-2113</a> Rule 064.02	\$20 Application \$105 License (online) \$115 (offline) <sup>5</sup>
	Relicensure Requirements	<a href="#">36-2107</a> ; <a href="#">36-2108</a> ; <a href="#">36-2109</a>	015; 017	2000 2002	OG-4			\$105 (online) \$115 (offline)

\* Guide licenses also designate the specialized activities for which the individual is qualified to guide, such as hunting, boating (differentiated based on hazardousness of whitewater river and type of craft use (power or float), back-country skiing (differentiated based on hazardousness of terrain), and technical mountaineering/rockclimbing. Each type of activity that has differentiated activities has options for trainees so that a person can gain qualifications through on the job training.

<sup>1</sup> Only for applicants who have not been licensed for five (5) years.

<sup>2</sup> Policy 2000: application procedures; scoring of exam; emergency procedures for issuance of license by Executive Director for a single trip

<sup>3</sup> Policy 2002: scoring of convictions and violations; delegating authority to Executive Director to issue a license under a certain score

<sup>4</sup> Policy 2003: considerations for determining territorial limits of a licensed operating area; clarifying when an outfitter needs separate licenses and when a single bond can be used for an outfitter with multiple licenses.

<sup>5</sup> A licensed outfitter who is qualified to guide will be issued a guide license with no additional fee, and if an outfitter who is qualified to guide and employed to guide by another outfitter only needs a minor amendment to the license. I.C. § 36-2112; IDAPA 25.01.01.07.03.

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Designated Agent	Issuance Requirements	<a href="#">36-2102</a> ; <a href="#">36-2108</a> ; <a href="#">36-2109</a>	019 020	2000 2002	OG-3	<a href="#">36-2108</a> ; <a href="#">36-2109</a>		\$50 Application \$140 (online) \$120 (offline)
	Renewal Requirements	<a href="#">36-2109</a>	015	2000 2002				
Major Amendment - Outfitter	Issuance Requirements	<a href="#">36-2102</a> ; <a href="#">36-2109</a> <a href="#">36-2110</a>	<a href="#">002.27</a> 018 026 065	2000	OG-9			\$200
Minor Amendment - Outfitter	Issuance Requirements	<a href="#">36-2102</a> ; <a href="#">36-2109</a> <a href="#">36-2110</a>	<a href="#">002.24</a> 018 065	2000	OG-9			\$35
Amendment -Agent	Issuance Requirements	<a href="#">36-2102</a> ; <a href="#">36-2109</a> <a href="#">36-2110</a>	See outfitter	2000				\$20
Amendment - Guide	Issuance Requirements	<a href="#">36-2102</a> ; <a href="#">36-2108</a> ; <a href="#">36-2109</a>	065	2000	OG-9.1			\$20

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**B. Applications and Renewals Denied** (*May 19, 2017 through May 19, 2018*)

Refusal to Issue Initial License [Total Number: 0]

	Application Number	Basis in Law/Rule	Factual Summary

Refusal to Renew License [Total Number: 0]

	License Number	Basis in Law/Rule	Factual Summary

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### C. Disciplinary Actions *(May 19, 2017 through May 19, 2018)*

Case No	Date of Final Action	Action Taken	Legal Basis	Factual Basis
2017-016	12/19/2017	Fine and General Probation	36-2113 (a)(5), (6)	Unethical or Unprofessional Conduct and Conviction of any violation of any state or federal fish and game or outfitting and guiding law
2017-018	06/06/2017	Fine and General Probation	36-2113 (a)(5), (6)	Unethical or Unprofessional Conduct and Conviction of any violation of any state or federal fish and game or outfitting and guiding law
2017-046	11/27/2017	Fine	36-2113 (a)(1), (5)	For supplying false information or for failure to provide information required to be furnished by the license application and unethical or unprofessional conduct
2017-047	10/25/2017	Fine and General Probation	36-2113 (a)(1), (5)	For supplying false information or for failure to provide information required to be furnished by the license application and unethical or unprofessional conduct
2017-048	10/20/2017	Fine	36-2113 (a)(5), (6)	Unethical or Unprofessional Conduct and Conviction of any violation of any state or federal fish and game or outfitting and guiding law
2017-052	11/7/2017	Fine and General Probation	36-2113 (a)(5), (6)	Unethical or Unprofessional Conduct and Conviction of any violation of any state or federal fish and game or outfitting and guiding law
2017-054	12/5/2017	Fine and General Probation	36-2113 (a)(5), (6)	Unethical or Unprofessional Conduct and Conviction of any violation of any state or federal fish and game or outfitting and guiding law

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<b>Case No</b>	<b>Date of Final Action</b>	<b>Action Taken</b>	<b>Legal Basis</b>	<b>Factual Basis</b>
2017-067	12/5/2017	Fine and General Probation	36-2113 (a)(1), (5)	For supplying false information or for failure to provide information required to be furnished by the license application and unethical or unprofessional conduct
2017-069	02/02/2018	Fine and General Probation	36-2113 (a) (1), (5)	For supplying false information or for failure to provide information required to be furnished by the license application and unethical or unprofessional conduct
2017-070	02/12/2018	Fine and General Probation	36-2113 (a)(1), (5)	For supplying false information or for failure to provide information required to be furnished by the license application and unethical or unprofessional conduct
2017-071	04/09/2018	Fine and Restricted Probation	36-2113 (a)(1), (5)	For supplying false information or for failure to provide information required to be furnished by the license application and unethical or unprofessional conduct
2018-005	03/27/2018	Fine	36-2113 (a)(5)	Unethical or Unprofessional Conduct
2018-022	04/18/2018	Fine and General Probation	36-2113 (a)(5)	Unethical or Unprofessional Conduct
2018-025	04/23/2018	Fine and General Probation	36-2113 (a)(5), (6)	Unethical or Unprofessional Conduct and Conviction of any violation of any state or federal fish and game or outfitting and guiding law.

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### D. Changes or Attempted Changes in Last Five (5) Years to Eliminate Barriers to Entry

#### Law and Rule

Session	Legislation or Rule	Summary

#### Policy

Date	Policy	Summary
2017	Background Check	Prior to 2017, applicants also had to pay \$20 to obtain a criminal history background check. The Board is now able to conduct a sufficient background check through iCourts and the Fish and Game Department repository for applicants to verify the applicant's self-reported criminal convictions and violations of Idaho's Fish and Game laws. This reduced the burden and cost on the applicant.

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### **E. Assessment of Public Interest**

Outfitters and guides provide services to the public, including many non-residents of the state of Idaho, to assist them in participating in various outdoor recreational activities involving Idaho's mountains, deserts, lakes, rivers, streams, and includes hunting and fishing of Idaho's wildlife. Many of these recreational activities take place in areas that are remote and far removed from ordinary modes of transportation, emergency services, or other sources of help. There are inherent risks to the public, outfitters, and guides participating in these activities, including the risk of serious injury and death. Additionally, these recreational activities impact Idaho's natural resources and fish and game. Therefore, the statutes governing outfitters and guides charge the Board with "safeguarding the health, safety, welfare and freedom from injury or danger of those persons utilizing the services of outfitters and guides, and for the conservation of wildlife and range resources."

Currently, the licensing structure and requirements serve the public interest by ensuring that outfitters and their guides have the minimum training, experience, and knowledge necessary to safely as possible direct, guide, and assist members of the public in engaging in recreational activities in Idaho's terrain and wilderness for which the outfitter and guides are licensed. Additionally, the requirements enable guides without formal training or extensive experience to work for an outfitter as a trainee or apprentice and gain the necessary experience for each level of guiding. In all, the licensing of outfitters and guides safeguards the health, safety, and welfare of the public, ensures that opportunities to engage in outfitted activities are made available to the public, and ensures good stewardship of Idaho natural resources and wildlife.

### **F. Response to Comments**

The Board received comments from four different people, including one which it received after the deadline. All comments are attached. Three commenters identified issues over which the Board has authority and are addressed below.

- Individual issue regarding difficulty in completing his relicensure application because he could not remember details of his past issues that he had previously reported to the Board.

Response: The Board does not require applicants for relicensure to report all past criminal convictions and Fish and Game violations, and only requires a licensee to report any new convictions or violations since the last license was issued. This is stated on the application. However to further assist applicants, the Board has requested Access Idaho change the relicensure application form to



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emphasize this statement and add additional clarifying wording. *The Board also directly corresponded with the licensee about his application.*

- Request to change the license year for a guide license from the current license year (all licenses issued by the Board expire March 31) to the anniversary day of the issuance of the guide license or for multi-year licenses.

Response: Guides offer their services on behalf of an outfitter and are required to be employed by a currently licensed outfitter. Therefore, the activities that a guide is currently licensed to engage in must be within the activities that the outfitter is licensed to provide. Accordingly, the guide license is concurrent with the outfitter's license. Creating different license years for guide licenses and outfitter licenses creates a circumstance where the guide license is current but not valid because the outfitter license has expired. Although there may be a one-time increased cost for an outfitter who hires a guide near the end of the license year, the Board believes the legal and administrative difficulties incurred with this type of change outweigh the benefit to the industry.

- Request for a part-time guide license or a pro-rated license fee.

Response: The employment dates for a guide or whether the guide works on a full-time, seasonal, part-time, or occasional basis are decisions between the outfitter and the guide. The duration and validity of the license are the same for all guides, regardless of an individual's employment agreement with the outfitter. This also provides consistency, predictability, and uniformity for the industry and for administration and enforcement of the licensure act.

- Request to make a guide license independent from the employing outfitter.

Response: Guides offer their services on behalf of an outfitter and the currently licensed activities for a guide must within the activities that the outfitter is licensed to provide. In other words, a guide cannot guide for patrons for a rafting trip when the outfitter is only licensed to provide hunting services; the guide and the patrons would need work through a rafting outfitter. A guide license can include more than one employing outfitter, and an outfitter can be added to a guide license at any time through the amendment process, which is a \$20 fee.

Requiring the outfitter to certify the guide application often reduces barriers to obtaining a guide license because the outfitter certifies that the guide has current first-aid and meets the qualifications and training requirements for licensure, such as familiarity with the

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terrain. Therefore, the guide is not required to obtain a particular type of formal education<sup>6</sup> or produce proof of the guide's qualifications.

### **G. Recommendations for Improvement, Modification, or Elimination of Requirements**

1. Increasing the number of times that an outfitter or designated agent can fail the open book examination and/or shorten the amount of time that an applicant must wait until attempting the test for the third time.
2. Implementation of the planned new database will allow a licensee to reprint a copy of their own license rather than having to pay for and request a reprinted license from the Board. This improvement reduces the burden on the licensees to comply with requirements to be in possession of their license while engaging in licensed activities and produce it on request to Fish and Game, Board, or federal officials.
3. Implementation of the planned new database will also enable a licensee to obtain and print a verification of licensure rather than having to pay for and request a verification of licensure from the Board.
4. Create online applications that can be completed entirely online so that an applicant will not have to submit physical copies of paperwork to the Board.

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<sup>6</sup> A Level I & Level II Ski Operators are required to submit proof of completion of formal avalanche training.