**09-137 DEPARTMENT OF INLAND FISHERIES AND WILDLIFE**

**Chapter 24: LICENSED GUIDES**

**24.01 Scope of Rules**

 These rules shall be applicable only to guides and guiding as described in Title 12 M.R.S. §10001, subsection 28. Nothing in these rules shall in any way restrict or regulate the use of Maine's fields, forests, inland waters or ice by groups or individuals not associated with a guide.

**24.02 Definitions**

 A. **Guide**. “Guide” as defined in Title 12 M.R.S. §10001 subsection 28, means a person who receives any form of remuneration for that person’s services in accompanying or assisting a person in the fields or forests or on the waters or ice within the jurisdiction of the State while hunting, fishing, trapping, boating, snowmobiling, using an all-terrain vehicle or camping at a primitive camping area.

 B. **Inland Waters**. “Inland Waters” as defined in Title 12 M.R.S. §10001, subsection 35, means all waters within the State above the rise and fall of the tide and wholly or partially within the territorial limits of the State, except private ponds as defined in Title 12 M.R.S. §10001, subsection 51.

 C. **Licensed Guide**. "Licensed Guide" means a person who has satisfactorily completed a written and oral examination, has satisfied the safety standards established by the Commissioner, and holds a Maine license to guide in any classification.

 D. **Paddlesports**. “Paddlesports” means all competitive and recreational activities utilizing watercraft propelled by paddles.

 E. **Territorial Waters**: “Territorial Waters” as defined in Title 12 M.R.S. §6001 subsection 48-B, means all waters of the State within the rise and fall of the tide seaward to the 3‑nautical-mile line as shown on the most recently published Federal Government nautical chart, but does not include areas above any fishway or dam when that fishway or dam is the dividing line between tidewater and fresh water.

**24.03 Eligibility Requirements to Apply for a Guide's License**

A. A guide applicant may be denied a license to guide if that person:

1. Fails to meet the qualifications as provided within Title 12 M.R.S. §12853;

2. Fails to meet eligibility requirements as found within Chapter 24.03;

3. Fails to satisfactorily complete the application including any false statements or misrepresentation;

4. Fails to pass the written or oral examination;

5. Fails to pass the background check; or

6. Has a revoked or suspended license to engage in any of the activities for which classification is being sought.

B. First-time guide applicants must be currently certified in first-aid. Proof of certification may be established by submitting:

1. A current certification of American Red Cross Standard First Aid. (Current certifications beyond standard first-aid will also be recognized and accepted: Basic EMT, EMT, Paramedic, or equivalent course approved by the Department) or:

2. Written certification from an individual with a current instructor certification that the applicant has received training and demonstrated proficiency in the following areas:

a. Emergency action principles;

b. Primary and secondary surveys of the victim;

c. Procedures for clearing airway obstructions;

d. Shock;

e. Internal and external bleeding;

f. Burns, including heat, electrical and chemical burns;

g. Injuries to bones, muscles and joints, including open and closed fractures, dislocations, strains and sprains;

h. Medical emergencies, including heart attack, stroke, poisoning, insulin shock, diabetic coma and seizures;

i. Injuries from exposure to extreme heat and cold including heat stroke, heat exhaustion, hypothermia and frostbite;

j. Animal and human bites, insect bites and stings, and snakebites;

k. Specific injuries to the eyes and nose;

l. Bandaging and splinting techniques; and

m. Emergency rescues

C. First-time guide applicants must document field experience related to the license classification in which they are applying. This will be done by submitting a written summary on the application provided, that verifies a minimum of 100 hours within the past 4 years of field experience, training, job shadowing and/or apprenticeship for the discipline related to the classification in which they are applying.

D. New **and** renewal applicants must comply with a criminal history background check in accordance with Title 12 M.R.S. §12853 and provide verification that they have not been convicted of committing a crime as described within 12 M.R.S. §10908 (1)(D).

**24.04 First-time Applicant and Renewal Applicants for a Guide's License**

 A. **First-time applicants**

1. After submitting to the background check as described within section 24.03-B, the applicant must completely and satisfactorily fill out a Guide's License application on forms provided by the Commissioner and must submit the application to the Department with the examination fee of $100 for each classification as required by 12 M.R.S. §12855 sub-section 5.

 2. The examination fee is nonrefundable and covers the testing process for one classification.

 3. Beginning January 1, 2021, if a person is applying for the Specialized Hunting or Fishing classification they may pay an additional $100 for the Specialized Recreational classification.

* 1. This allows the applicant to take an oral and written test that combines two classifications;
	2. The testing process will be longer than if testing for one classification; and
	3. Once the applicant has passed the exam they will be certified as a recreational guide in addition to the other classification(s) for which they tested.

 4. If the applicant fails the exam he or she fails both license classifications and must retest.

B. **Renewal Applicants**

1. After submitting to the background check, renewal applicants must completely and satisfactorily fill out a Guide's License application on forms provided by the Commissioner and must submit the application to the Department together with the renewal license fee.

2. **Recreational Classification Upgrade for Hunting and Fishing Guides:** Beginning January 1, 2021, if a person is currently licensed with a Specialized Hunting or Fishing classification, or both, they may request to upgrade to obtain the Specialized Recreational classification. The upgrade requires that the applicant:

a. Schedule to take the modified written recreational test;

b. Pay the $100 test fee;

c. If this takes place at the time the guide is renewing their other Guide classification(s) they must submit to the background check before scheduling the exam;

d. If request to take the test does not occur at the time of renewal, they will only be required to submit to the background check upon renewal of the other classification(s) they currently hold;

e. This allows the applicant to take written test only that focuses on recreational guiding questions;

f. Once the applicant has passed the written exam they will be certified as a recreational guide in addition to the other classification(s) for which they hold;

g. The new recreational classification will expire the same year as any other classifications that are already held.

C. **Guide Failing to Provide Services as Agreed** **Upon**: Applicants who have previously been licensed as a guide must certify that they have never received and retained a fee from a client and then failed to meet that client as agreed or failed to provide the services agreed to as provided within 12 M.R.S. §12851 (2). Failure to provide services to a client shall be grounds for denial of license renewal.

**24.05 Classification of Guides**

 Guides shall be licensed in one or more specialized classifications.

 A. Specialized classification means that a person has met the qualifications to guide one or more specific types of activities as follows and allows that person holding a Specialized Fishing, Hunting, Sea Kayaking, Recreational or Tide-water Fishing license to conduct overnight camping trips while engaged in activities specific to that person’s specialized classification:

 1. Specialized Hunting classification~~s~~ means that a person has met the qualifications to guide hunting and trapping activities, including overnight camping trips in conjunction with those hunting and trapping activities. Beginning January 1, 2021, a person who has met the application qualifications to take the Specialized Hunting classification exam may choose to take a combined exam and purchase the Specialized Recreational classification endorsement.

 2. Specialized Fishing classification means that a person has met the qualifications to guide fishing activities*,* includingovernight camping trips in conjunction with those fishing activities on inland waters. Beginning January 1, 2021, a person who has met the application qualifications for the Specialized Fishing classification exam may choose to take a combined exam and purchase the Specialized Recreational classification endorsement.

 3. Specialized Recreational classification means that a person has met the qualifications to guide watercraft, all-terrain vehicles, snowmobiling and camping activities. This classification also qualifies a person to guide watercraft including paddlesports on inland waters as defined in 24.02 (B). A person wishing to guide paddlesports on the ocean as defined within this Chapter must have a current Specialized Sea-Kayaking classification.

 4. Specialized Sea-Kayaking classification means that a person has met the qualifications to guide sea-kayaking activities to include paddlesports on the State's territorial seas and tributaries of the State up to the head of tide and out to the three-mile limit.

 Beginning on March 31, 2015 a person wishing to guide paddlesports on the ocean as defined within this Chapter must have a current Specialized Sea-Kayaking classification.

 5. Specialized Tide-Water Fishing classification means that a person has met the qualifications to guide sport fishing activities on the State's territorial waters as defined within section 24.02 E. of this rule and tributaries of the State up to the head of tide and out to the three-mile limit. This license shall apply to any person engaged in guiding fishing activity for any species of fish, except those species harvested under the authority of a Department of Marine Resources license. This rule does not apply to activity occurring on board a vessel holding a valid and current certificate of inspection issued by the United States Coast Guard.

 **NOTE/U.S. COAST GUARD LICENSE**: Any person operating a motorboat on the State’s Territorial Seas and Tributaries for the purpose of guiding hunting and fishing activities must obtain a U.S. Coast Guard License authorizing the carriage of passengers for hire.

 B. Master certification means that a person has acquired experience in a Specialized classification that exceeds the minimum requirements necessary to be licensed as a guide in that classification.

 1. Persons licensed in one or more specialized classifications may apply for certification as a Master Guide in such classification(s) by filing an affidavit with the Department showing that the applicant has met the necessary qualifications and experience requirements outlined in Chapter 24.05(A) (1), (2), and (3) above. The necessary qualifications and experience requirements are as follows:

 a. The applicant must have been licensed as a Maine Guide in the specialized classification(s) for which Master Guide certification is sought each year during the ten-year period preceding the submission of the affidavit for certification; and

 b. A minimum of five years professional experiencein the specialized classification(s)must be documented within that ten-year period. One year of professional experience shall be credited for every 240 hours worked in a calendar year. Only actual time guiding will be credited. A description of guide’s specific duties and responsibilities and the amount of time spent guiding must be included with the affidavit. The applicant may estimate the amount of time devoted specifically to guiding activity. Experience shall be credited on an hour-for-hour basis.

 2. Upon receipt of an affidavit showing that the applicant has met the necessary qualifications and experience requirements outlined in Chapter 24.05(A) (1), (2), and (3) above, the Department will validate the applicant’s license with the certification that the applicant is eligible to work as a Master Guide. The applicant may not work as a Master Guide until the license certification has been validated by the Department.

 a. The certification will remain in effect as long as the guide’s license is renewed within three years ofexpiration.

 b. A determination, at any time, that any of the information contained in the affidavit is false, shall be grounds for revocation of the Master Guide certification.

**24.06 Written Examination**

 A. **Written:** Applicants must satisfactorily complete a written examination in each license classification for which that person applies. A passing score on the written examination is 70% or higher on each section of the examination. An applicant may schedule to take both the oral and written exam in the same day or on separate days.

 B. Applicants who fail the written examination, will be notified the same day and must wait a minimum of 14 days before retaking.

**24.07 Oral Examination**

A. **Oral:** Applicants must satisfactorily complete an oral examination in each license classification. Unsuccessful applicants must wait a minimum of 30 days before retesting on the section or sections of the oral examination they failed. A person who fails any portion of the exam only has to retake the portion of the exam failed, not the entire exam. Each classification exam has 3 parts:

* 1. a map and compass or navigation portion,
	2. a catastrophic eventportion and
	3. a portion of questions pertinent to the specific classification for which the test is being taken.

B. **For specialized classification in hunting, fishing or recreation** applicants must pass the map and compass and catastrophic event scenario portions of the oral examination in addition to questions specific to the classification for which they are testing.

C. **For specialized classification in tidewater fishing** applicants must pass the navigation and catastrophic event portions of the oral examination in addition to questions specific to the classification for which they are testing.

D. **For specialized classification in sea kayaking** applicants must pass the navigation and catastrophic event portions of the oral examination in addition to questions specific to the classification for which they are testing.

E. **Failure to show without notice:** Applicants who fail to appear for a scheduled oral examination without notifying the board of examiners in writing or telecommunication 24 hours prior to the scheduled examination will be ineligible for rescheduling for at least one year.

**24.08 Standards of Competency/Ethics**

The following standards of competency are established accordance with Title 12 M.R.S. §12851(3) The privilege to conduct a guiding business requires a level of field experience that enables the Guide to lead a person or group safely and legally in the outdoors, with professional conduct and the highest standards of ethics. Failure to comply with these standards of competency and ethics shall be grounds for license revocation, suspension or denial.

A. Guides must:

1. Be honest and trustworthy in business practices;

2. Have technical, safety and organizational skills in outdoor leadership to provide adequate accommodations and lead outdoor trips that are legal and safe;

3. Have experience based judgment that helps prevent unsafe situations;

4. Have problem solving skills to be creative, resourceful and analytical in order to recognize problems, anticipate outcomes and choose the safest direction possible;

5. Fully understand and abide by all state and federal laws and rules involving the activities in the classification(s) for which the Guide is licensed and report all fish and wildlife related or other violations that a client engages in, in accordance with 12 M.R.S. §12858 to the appropriate law enforcement dispatch center; and

6. Notify the Department of any conviction which is grounds for a license revocation under 12 M.R.S. §10908(1)(D) within 30 days of the date of the conviction.

STATUTORY AUTHORITY:

 12 MRS §§ 10104, 12851

EFFECTIVE DATE:

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