

BUREAU OF LAND MANAGEMENT
LEWISTOWN FIELD OFFICE/UPPER MISSOURI
RIVER BREAKS NATIONAL MONUMENT

Commercial Outfitter and Guide Policy



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**Commercial Outfitter and Guide Policy
Bureau of Land Management
Lewistown Field Office**

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COMMERCIAL OUTFITTING AND GUIDING POLICY
Bureau of Land Management
Lewistown Field Office

I. LOCATION AND SETTING

The Lewistown Field Office (LFO) is responsible for the management of approximately 1.6 million acres of public land in Central Montana and along the Rocky Mountain Front (RMF). The BLM's land pattern is primarily broken and scattered throughout the LFO, with blocks of BLM lands in Fergus, Choteau, Teton, Lewis and Clark, and Petroleum Counties. The Upper Missouri River Breaks National Monument (UMRBNM) has large blocks of public land, however, and includes 377,000 acres in Fergus, Choteau, Blaine and Phillips Counties. General physical and geographic features of the field office's public lands are primarily plains topography, with isolated pine covered hills rising from the plains and stream valleys forming a dissected and rolling prairie. Within the area is a major river, the Missouri, and several lesser rivers including the Judith, Sun, Teton, and Dearborn. Vegetation is typical of the plains, dominated by grasses and shrubs, or in higher elevations such as the Judith Mountains timber such as ponderosa pine and Douglas fir are predominate, while the river valleys support stands of cottonwoods.

The region's major recreational attractions include hunting, fishing, hiking, horseback riding, sightseeing, bird watching, and Off Highway Vehicle (OHV) use. The Charles M. Russell (CMR) National Wildlife Refuge and the Lewis and Clark National Forest lie contiguous to BLM lands and offer an additional range of recreational opportunities.

II. THE NEED FOR AN OUTFITTING & GUIDING OR SPECIAL EVENT POLICY

Special Recreation Permits (SRPs) are authorizations which allow specified recreational uses of the public lands and related waters. They are issued as a means to manage visitor use, protect natural and cultural resources, and as a mechanism to authorize the types of recreational uses listed below:

- (1) Commercial Use
- (2) Competitive Use
- (3) Vending
- (4) Special Area Use
- (5) Organized Group Activity and Event Use

* Note: See BLM Manual 2930 for further description of these types of public lands uses.

The outfitting industry provides guided hunting and fishing experiences to the public on the diverse lands managed by the LFO and UMRBNM. The different recreational opportunities provided by outfitters are important to the public's enjoyment as well as

providing a significant component to the tourism economy of Montana. It has also become obvious that there is also an increase in non-guided recreation activity. Public events such as horseback endurance rides, OHV competitions, and organized activities that are advertised to the public are also covered under this policy. For the purposes of this document, the terms outfitter and permittee may be used interchangeably.

BLM's major recreation resource management objective is to provide safe, high quality recreational experiences for both guided and non-guided sectors. This policy furnishes guides and outfitters with the information and direction needed to meet the expectations of BLM for accomplishing this objective. This policy will be used in the outfitter selection and approval process.

This policy also explains how Special Recreation Permits will be managed by the LFO and UMRBNM. There is a need to provide effective and systematic management of recreational use, both guided and non-guided, on BLM lands. This policy will reduce potential user conflicts, provide the quality recreational opportunities desired by the public, and protect the natural resources of the area.

III. PURPOSE OF THE POLICY

The purpose for issuing an SRP Policy is to:

- 1) Clarify requirements and timeframes of the permit system
- 2) Minimize conflicts between user groups through coordinated planning between BLM specialists, public land users, and cooperating agencies including Montana Department of Fish, Wildlife, and Parks (FWP), Montana Department of Natural Resources and Conservation (DNRC) and the Montana Board of Outfitters.
- 3) Ensure fair market value return on the use of public lands
- 4) Provide protection of lands, resources, public interest and safety
- 5) Assist in the outfitter authorization process
- 6) Assist in outfitter rating evaluations

IV. POLICY CONSISTENCY

The policy is consistent with the requirements in the 43 Code of Federal Regulations 2930, and BLM Handbook 2930-1, as well as the Montana State Office, Guiding and Outfitting on BLM Administered Public Lands. The policy includes some special requirements for the LFO and UMRBNM as outlined in Montana State Office IM MT-2005-053 (attached).

V. OUTFITTER REQUIREMENTS

An outfitter must complete the following items to receive a Special Recreation Permit (SRP) to conduct a commercial outfitting operation on BLM lands managed by the LFO and UMRBNM.

A. Application

Applications are processed on a first-come, first-served basis with no current restrictions on the number of outfitters in the LFO. SRPs are exempted in Block Management Areas (BMAs) in accordance with FWP policy. The Chain Buttes BMA has limited the number of SRPs to four in accordance with the Crooked Creek Watershed Plan. Limits may be invoked in other areas to resolve user or resource conflicts, at the discretion of the Field Manager.

Applicant must complete, sign and date, a "Special Recreation Application and Permit" (Attachment 1, Form 2930-1). This includes additional documents required by the BLM. The permit will not be approved by the authorized officer until the application and other requirements (as listed below) are received and the NEPA documentation has been completed. Applications will be date stamped upon being received and processed when **all** the required information is received by the LFO or Monument.

Outfitters operating on public lands in adjacent field offices will have separate permits with each office unless their operations utilize ranches that border adjacent Field Office boundaries and combining the permits is agreed upon by both BLM offices involved.

Factors for BLM to consider before issuing a Special Recreation Permit include conformance with laws and land use plans, public safety, conflicts with other users of the public lands, resource protection, serving the public interest, and past compliance with terms and conditions.

Required with the Applications are the following:

- 1) An Operating Plan (General outline Form 5 attached)
- 2) Signed copy of BLM General Terms and Conditions Form
- 3) Brochure including customer rates
- 4) Copies of all landowner agreements for those allotments containing BLM lands. These are known as Land Use Approval (L-1) forms for private land leases *as required by the Montana Board of Outfitters*. Before a permit is issued the applicant **must** provide the LFO a copy of the signed

agreement(s) allowing for legal access to all of the private lands within the boundaries of the ranch or ranches grazing allotment(s).

- 5) Copy of Montana Board of Outfitting License
- 6) A copy of an approved Montana Outfitter and Guide License
- 7) A map clearly identifying the proposed hunting area (legal descriptions required on operating plan
- 8) Copy of insurance showing BLM as additional insured party, with a minimum of \$600,000 in liability. *Note: A copy of the insurance shall have in force, at a minimum, liability insurance covering: (a) damage to property in the amount of \$30,000.00; (2) damage to persons (bodily injury or death) in the amount of \$300,000.00 per occurrence. The policy shall have a minimum aggregate limit of \$600,000.00. The coverage shall extend to property damage, bodily injury or death arising out of the permittee's operations under the permit, including, but not limited to, the occupancy or use of the lands, structures, facilities, or equipment authorized by the permit. The insurance shall name the United States as additionally insured and provide for the specific coverage for the permittee's contractually assumed obligation to indemnify the United States. The policy shall also contain a specific provision or rider to the effect that the policy shall not be cancelled or its provision changed or deleted before 30 days written notice by the insurance company to the BLM. The permittee shall indemnify and hold harmless the United States against any liability for personal injury, loss of life, or property damage arising in any way from activities under the permit.

* Note: An application is not considered complete until all of the above information is received.

In addition to the standard requirements listed above, the LFO and UMRBNM requires:

- 1) Pre-season Meeting
- 2) First year permit holders are required to submit a list of references and have the initial pre-season meeting in person with the BLM representative.
- 3) Telephone contact or an office visit by all renewing permittees.
- 4) End-of-the-Season Close-out
 - a. This meeting must be done in person or telephone prior to February 1st.
 - b. The meeting will cover fees paid or owed; the previous outfitting season, and discuss any real or potential problems with the season in general.

* Note: If conflicts have occurred, BLM reserves the right to modify permit conditions; including time of use, area of use, or additional special stipulations.

B. Deadlines

1) The deadline for all applications and supplemental material for commercial outfitting for hunting is February 28th for archery and April 30th for general rifle season. Special event (competitive or organized group activities where a fee is charged or public advertisement is used) applications fall under the six month processing time as well, or at the authorizing officer's discretion depending upon staff workloads. This means that applications must be received six months in advance of the date of the proposed activity.

Additionally, all commercial uplands outfitting SRPs will be issued for one year for new applicants to ensure their awareness of, and conformance with regulations and additional stipulations. If satisfactory performance is achieved, permit renewal may be issued for up to 10 years for commercial outfitting and guiding operations.

2) The post-use form is due 30 days after the last day of hunting season, and no later than January 1 by mail. Season close out meetings are preferred and January 15th is the deadline in this instance. The Post-Use Report (See Appendix Form 2) is filled out by the outfitter. The outfitter must report all income to their outfitting operation that occurred on public lands, including activities within ranches that contain BLM lands. BLM does not collect fees for private ranches that contain no BLM.

3) Deadline for final payment is 30 days after billing.

C. Fees

1) There is a minimum nonrefundable yearly fee for commercial permits. Overall, the use fee for a commercial permit is 3% of the gross income or the minimum fee, whichever is greater.

2) The 3% figure may be further reduced for the percentage of acres of private land held and utilized collectively in the permitted area. Total ranch acreages for private, state, and BLM lands are found in the BLM grazing case file and from this BLM determines percentage of public lands. All of the acreage within the permitted area that is not public land (a ranch or ranches for which the outfitter has Land Use Approval agreements called L-1's) are averaged together.

3) Presently, a discount is given for the percentage of the public lands *not* used within an operation area. It is the amount of private lands, under LFO/Monument policy that inadvertently determines what the total fee reduction percentage is for a permittee's gross income. In simple terms, calculation of the SRP holder's fees in the LFO and Monument is based on a time-on, time-off method (difficult to verify).

4) The discount percentage **may** change each time a ranch is added or dropped from the outfitting operation or a supplemental BLM area authorization is approved. The bureau-wide schedule (See Table 1) is the basis for calculation of fees and is outlined in the *Outfitting and Guiding on BLM Administered Public Lands* issued by BLM (this schedule would not change under the LFO/Monument policy). Form 2 shows an example of a Post-Use Report Form and how BLM fees are calculated in the LFO based on percentage of BLM land **not** used by the permittee.

5) This policy allows the LFO and Monument to adopt a fee collection system utilizing the reverse of the method described above—meaning that LFO and Monument SRPs could be assessed fees on the percentage of BLM public lands within their authorized areas. When a mixed or broken land status prevails or the permittee has accumulated large tracts of BLM lands in his SRP over a wide area in the Field Office incorporating this fee collection system could curtail or eliminate variations in fees (fee reduction percentages) from year to year.

Calculating the percent public land in an SRP and charging fees eliminates the need for the outfitter to fill out the difficult time-on, time-off computation sheet required for operations conducted (but seldom used) in the Field Office or Monument (Form 3). MSO IM MT-2005-053 is the policy giving the LFO/Monument authority to assess fees based on percent of public land within their operations area.

*Note: A change of fee structure would take effect only when an SRP is renewed or when a new application is approved. (Attached as Form-4).

Table 1

Percent of Total Acres Of Public Lands	Fee Reduction	Multiplication Factor
Less than 5%	80%	.20
5-60%	40%	.60
61-100%	None	None

D. Special Hunt Authorizations/Transfers/Hunter Use Days

Special license hunting area authorizations, such as big horn sheep in the UMRBNM will be authorized on a case-by-case basis for new SRP applicants. Certain conditions would apply, such as private landowner permission and other policy requirements such as limits on SRPs within the UMRBNM. Monument SRP transfers, if authorized, would restrict hunter use days based on the average of five years of commercial use of public lands by the previous owner. The current moratorium on new river outfitters also limits guided

boating trips, whether they are uplands hunting or not. (ie. a guided sheep hunt on the Upper Missouri River would require an SRP under the river's boating/floating policy).

E. Consultation with Cooperating Agencies

The BLM, at their discretion, would consult with Montana Fish, Wildlife and Parks, the U.S. Fish and Wildlife Service, USFS, and/or the Department of Natural Resources and Conservation and the Montana Board of Outfitters if the level of controversy with the applicant's proposal deems it necessary to do so. In cases such as these an ID team and alternative(s) would be developed, resulting in a 30 day public comment period for the EA before a decision is made by the authorized officer. An example of a case such as this would be if several outfitters were already in an area where a big game outfitter has applied for an SRP. These consultations would help to ensure there are no conflicts between the permittee(s) and other land management or wildlife agencies affected by the new permit application. The BLM also has a current Memorandum of Understanding that allows for sharing pertinent records of mutual permittees.

F. Terms and Conditions

In addition to the terms included on SRP Form 2930-1, the following general terms are applicable to and made part of all commercial special recreation permits.

- 1) The permittee shall comply with all Federal, State and local laws, ordinances, regulations, orders, postings, or written requirements applicable to the area or operations covered by the special recreation permit.
- 2) The permittee shall ensure that all persons operating under the authorization have obtained all required Federal, State and local licenses or registrations. The permittee shall make every reasonable effort to ensure compliance with these requirements by all agents of the permittee and by all clients and customers under the permittees supervision.
- 3) A special recreation permit authorizes special uses of public lands and waters, and should circumstances warrant, the permit may be modified by the BLM at any time, including the amount of use. The authorized officer may suspend a SRP as necessary to protect public resources, health, safety, the environment, or noncompliance with permit stipulations.
- 4) The SRP does not create an exclusive right of use of an area by the permittee. The permittee shall not interfere with other valid users of the public land. The United States reserves the right to use any part of the area for any purpose.
- 5) The permittee cannot, unless specifically authorized, erect, construct or place any building, structure, or other fixture on public lands. Upon

leaving, the lands must be restored as nearly as possible to pre-existing conditions.

6) The permittee must present or display a copy of the SRP to an authorized officer's representative, or law enforcement personnel upon request.

7) The authorized officer, or duly authorized representative of the BLM, may examine any of the records or other documents related to the permit, the permittee or permittees operator, employee, or agent for up to three years after expiration of the permit.

Note: Failure to abide by regulations, permit stipulations or policy will result in the cancellation of the permit. After three consecutive years of non-use a permit will be cancelled.

G. Appeals

Appeals to a decision regarding a permit or application may be made to the Interior Board of Land Appeals. Information on this appeals process is included in Appendix 1.

VI. Special Management Areas

There are presently several areas in the Lewistown Field Office with special requirements for outfitting.

Block Management Areas (BMAs)

- a. The number of outfitters in a BMA will be limited to those with pre-existing use in the area at the time of the BMA's establishment.
- b. If a permitted outfitter suspends operations in a BMA, the permit may be left vacant or transferred at the discretion of the Lewistown Field Manager.
- c. Private landowners who drop out of the block management program, and who also lease BLM public land adjacent to a particular BMA are not guaranteed a BLM SRP for commercial hunting and guiding. Moreover, a contract with an outfitter to provide these services on private land does not automatically guarantee them an SRP. BLM will, however, accept applications if they are made within the required timeframes (see Deadlines).
- d. The BLM permit is only valid for use of BLM lands within the permitted area. Consistent with Montana law, private landowner permission will be required in the form of an L-1 for use of any private lands.

An active permit holder may claim non-use (i.e. outfitter didn't guide in the LFO or UMRBNM) of BLM lands for one year but must pay the current minimum fee to keep the permit active.

e. Once an SRP expires, and before a permittee is allowed to continue use of BLM lands, a Land Use Plan (LUP) provision or an activity plan/ environmental assessment (NEPA) will analyze the impacts. BLM requires, also mentioned above, that an operations plan be submitted before being considered for commercial, competitive, or other organized uses of public lands.

Furthermore, on public lands within a Block Management Area (BMA), BLM must adhere to its agreement(s) with the Montana Department of Fish, Wildlife, and Parks Block Management Area Public Access Program. This program was developed to promote public access and, therefore, restricts outfitters. Some activity plans, such as watershed analysis plans, have incorporated "grandfather clauses or provisions" to allow outfitters continued use of these BMAs for the duration of their ownership of the business. These clauses are also provided for under the National Environmental Policy Act of 1969 (NEPA), and the Federal Land Policy and Management Act of 1976 (FLPMA).

Wilderness Study Areas (WSAs)

Outfitters using WSAs will follow all the restrictions of the WSA interim management policy for those areas which include no off road vehicle travel, vehicle traffic on existing roads is permitted unless otherwise posted. A copy of the interim management policy is available at the LFO upon request.

Upper Missouri River Breaks National Monument

The UMRBNM Proclamation currently is the guiding policy document for National Conservation Area lands designated under the Antiquities Act of 1906. A Resource Management Plan (RMP) is currently being developed and Monument uplands big game outfitting policy will be based upon it pending the final EIS/ROD. Among the issues being addressed are total number of outfitters allowed in the Monument, geographic areas of use, and special authorizations for big horn sheep in hunt areas 680 and 482.

Outstanding Natural Areas (ONAs) and Areas of Critical Environment Concern (ACECs)

The LFO and UMRBNM have within their boundaries several ONAs and ACECs. An activity plan has been developed for the Rocky Mountain Front ONAs. It provides for recreation use such as outfitting and guiding, but prohibits the use of motorized vehicles. The ACECs within the Monument and the LFO are protected in the Proclamation (RMP

under development) and the Judith-Valley-Phillips RMP and Headwaters RMP for lands along the RMF. Motorized use in all ACECs is restricted or prohibited.

VII. BLM Land Accessibility

Where scattered or blocked parcels of public lands occur within ranch boundaries and these public lands are not legally accessible to the public, they may be considered for outfitting operations within an SRP.

However, as outfitting permits expire on public lands within private land boundaries, and prior to new permits being issued in the area, a review would be conducted on the number of SRPs currently utilizing adjoining BLM public lands where there is legally accessible land to hunt. Where public land is legally accessible to the hunting public, issuing a BLM Special Recreation Permit for uplands outfitting will be at the discretion of the Field Manager.

VIII. Outfitter and Guide Files

Files containing each outfitter's previous records and current permit will be maintained at the LFO. BLM will send a copy of the signed permit to the Montana Board of Outfitters when applications are approved. Names of all authorized BLM outfitters authorized to operate will be forwarded to the Montana Board of outfitters annually.

Files will be assigned a case number, a case file established as follows, and then input into the Recreation Management Information System (RMIS).

- page 1 copy of signed permit and EA, copy of brochure showing fees charged
- page 2 copy of all maps and L-1s outfitter authorized to operate on
- page 3 copy of current insurance listing BLM as co-insured
- page 4 copy of current MT Board of Outfitters license
- page 5 preseason deposit and yearly billing information
- page 6 all letters and communications with permittee

IX. Summary

BLM's major recreation resource management objective is to provide safe, high quality recreational experiences for both guided and non-guided sectors. This policy furnishes the outfitter with the information and direction needed to meet the expectations for accomplishing this objective within the LFO and Monument. The policy will be used for the outfitter application process. Permittee compliance with the policy will be used for outfitter rating evaluations. Each permittee accepts responsibility to meet the terms of this policy and will work as a partner with BLM to provide safe, high quality recreational experiences.

X. Forms

1. Special Recreation Application and Permit (2930-1)
2. Post-Use Report
3. Fee Calculations Sheet
4. MSO Memo IM MT-2005-053
5. Operating Plan
5. L-1 Forms (Board of Outfitter Landowner Permission)