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Attachment 2

ARCHIVES DIVISION
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NOTICE OF PROPOSED RULEMAKING INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 635
DEPARTMENT OF FISH AND WILDLIFE

FILED

10/20/2021 2:43 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Provide No-charge Daily Angling Licenses to Organizations for Excursions with Veterans and Service Members

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/17/2021 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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4034 Fairview Industrial Dr SE
Salem, OR 97302

Filed By:
Lisa Kingsley
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 12/17/2021

TIME: 8:00 AM - 5:00 PM

OFFICER: Oregon Fish and Wildlife Commission
ADDRESS: Oregon Department of Fish and Wildlife
4034 Fairview Industrial Dr SE
Salem, OR 97302

SPECIAL INSTRUCTIONS:

Note: Because of the rapidly changing situation with COVID-19, all or portions of this hearing may be conducted virtually. Information will be posted on our website at <https://www.dfw.state.or.us/agency/commission/minutes/>

NEED FOR THE RULE(S)

This rule is needed to implement the Enrolled Senate Bill 320 (SB 320 A) providing that the State Fish and Wildlife Commission may authorize nonprofit organizations serving veterans or certain armed forces members to conduct excursions during which veterans or armed forces members may angle or take shellfish with no-charge daily licenses, tags or permits.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

1. 2021 Oregon Legislature Enrolled Senate Bill 320 (SB 320 A)
2. Staff report prepared for the Oregon Fish and Wildlife Commission hearing on 12/17/2021.

A copy of the rules and the other documents relied upon for this rulemaking [the above document(s)] are available from the Oregon Department of Fish and Wildlife, Wildlife Division, 4034 Fairview Industrial Drive SE, Salem, Oregon 97302-1142, between the hours of 8:00 a.m. and 4:30 p.m., on normal working days, Monday through Friday.

FISCAL AND ECONOMIC IMPACT:

There is a potential for a fiscal impact to the Oregon Department of Fish & Wildlife, as discussed in further detail below. There are no major economic impacts anticipated from these rule changes.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s).

The proposed rules will affect state agencies, units of local government and the public, respectively, as discussed below:

State agencies that could be affected by the changes in regulations to implement the no-charge daily angling licenses to non-profits organizations program (program) are the Oregon Department of Fish and Wildlife (ODFW) and the Oregon State Police (OSP). ODFW impacts include administrative program implementation costs and any potential reduction in agency revenues from reduced license sales, while OSP impacts are from enforcement costs. These proposed rule changes are not expected to result in significant changes to current levels of costs for OSP.

For ODFW, administrative costs would include additional time spent on license approval and verification activities. A non-profit requesting a no-charge daily license to angle and or shellfish must be an Oregon based registered non-profit organization that serves veterans/warrior transition units. Nonprofits will be required to self-certify that they held fishing or shellfishing excursions before January 2021. The commission could suspend or revoke the authorization to the non-profit to participate in the program. It is unclear how many non-profit organizations will participate at this time. While these verification activities are expected to present an additional workload to ODFW's License Services, a significant increase in additional staff or supplies beyond current operating costs is not anticipated.

This program may reduce agency revenues in two ways. There would be a direct loss of license revenue from each participant, associated with the no-cost opportunities for angling and shellfishing. There would also be loss of federal funding from the United States Fish and Wildlife Service (USFWS). ODFW receives funding from USFWS based on the number of unique paid license holders. Each participant in the program who receives a free daily angling license, but does not purchase any additional angling permits, tags, or endorsements cannot be counted to obtain this federal funding. ODFW must make a \$2 profit on a license identifiable to a unique individual to receive funding through the Wildlife and Sport Fish Restoration Program. For each free participant ODFW would lose the potential for approximately \$14 in USFWS federal funding. While the exact amount of customers who will utilize this opportunity instead of purchasing an individual license is unknown, a ballpark estimate can be made through the following assumptions to illustrate the potential loss of ODFW revenues:

Estimated eligible program participants:

~50,000 veterans in Oregon

Every veteran that participates in these group outings:

-Would go on three trips per year

-Half would have purchased an annual angling license

-Half would have purchased a shellfish license

Using these assumptions, we can get a range of veteran's participation over a license year.

Assuming 5% of all OR veterans participate:

50,000 x 5% = 2,500 Veterans

1,250 Veterans x \$44.00 (angling licenses) = \$55,000

1,250 Veterans x \$10.00 (shellfish licenses) = \$12,500

Total direct revenue impact: \$67,500

Potential lost federal funding: 1,250 Veterans* x \$14 = \$17,500

*note: shellfish licenses are not counted towards federal funding

Total lost revenue under these assumptions is estimated at \$85,000 per year. This program was created with a sunset date to be January 2, 2027, so if the sunset is not extended, any revenue impacts would be expected to be annual from the date of implementation until the sunset. This sunset was added so the true revenue impact could be evaluated in the future. Any potential changes in ODFW revenues from license sales because of this program could vary from this estimate, as it depends substantially on changes to participation rates and purchases from the sport angling veteran community.

Units of local government which have the potential to be affected by changes in levels of participation in sport fishing include port authorities and county governments. Port authorities and county governments may derive revenues and experience costs related to the provision of moorage and other support facilities for sport fishing. However, no major changes from the current levels of these agencies' operations or expenditures are expected as a result of this program.

The public is affected by the issuance of free daily angling and shellfish licenses to resident and non-resident veterans and armed service members stationed in a warrior transition unit. This provides benefits to those who participate in the program and potentially to any businesses supported by non-profits carrying out events that garner additional participation through the incentive of a no-charge license. It is difficult to estimate this impact at this time and determine the size of any economic benefit and where it would be distributed across the state, as it is not known whether this new program would translate into actual change in net angler trips and participation levels. If additional angler trips were to occur, this would mean more spending by anglers and participating non-profits, which can have the potential for positive impacts on local communities near fishing areas.

(2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s);

Small businesses that would be directly impacted are vendors who sell daily angling and or daily shellfish licenses; agents issuing the free licenses cannot receive an agent fee, which is \$2 per license sold. Vendors will no longer collect these revenues from those who qualify for the program and receive no-charge daily angling/shellfish licenses. Information is not currently available to estimate the exact number of agents that will be impacted.

Other small businesses that could be indirectly affected include gas stations, tackle shops, sporting-goods stores, charter boat owners, restaurants/cafes/bars, food stores, and places of lodging (hotels, campgrounds, etc.). There is potential for these businesses to be impacted in a positive manner if additional angling trips come to fruition resulting from this no-charge daily angling/shellfish license program. Information is not available to estimate accurately the number of those types of small businesses affected and whether this program will effectively increase participation levels.

(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);

No significant changes in these costs are expected.

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

No significant changes in these costs are expected.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

These concepts were presented in the 2021 Legislative Session through the measure SB 320 and went through the legislative process.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The proposed rules were developed without the Administrative Rule Advisory Committee. These concepts were presented in the 2021 Legislative Session through the measure SB 320 and went through the legislative process. At the Commission hearing, public correspondence and testimony is accepted into the record as part of the rulemaking process.

ADOPT: 635-010-0159

RULE SUMMARY: This new rule implements the Enrolled Senate Bill 320 (SB 320-A) which authorizes ODFW to authorize nonprofit organizations serving veterans or certain armed forces members to conduct excursions during which veterans or armed forces members may angle or take shellfish with no-charge daily licenses, tags or permits.

CHANGES TO RULE:

635-010-0159

Free Daily Licenses for Veterans

Effective January 1, 2021 through January 2, 2027, pursuant to ORS 497.162, a non-profit organization may request a daily license at no charge for an angling or shellfish harvest program for veterans or certain armed forces members.

(1) For the purposes of this rule, unless context requires otherwise, the following definitions apply:

(a) "Organization" means a non-profit organization

(A) Qualified under Internal Revenue Code section 501(c)(3);

(B) Registered in Oregon;

(C) Serves veterans or armed forces members whose duty station is a warrior transition unit; and

(D) Provides a program of angling or shellfish harvest.

(b) "Program" includes excursions with the principle purpose of providing participants with angling and outdoor experiences:

(A) Established on or before January 1, 2021

(B) Includes angling or shellfish harvest activities.

(c) "Participants" include veterans or members of the uniformed services of the United States, as defined in ORS 497.006, whose duty station is a warrior transition unit.

(2) A program participant is entitled to a daily license at no charge to use while participating in excursions. The daily license includes all licenses, tags, and endorsements necessary for angling and harvesting shellfish.

(3) The organization is responsible for all daily prepaid licenses provided to them by Oregon Department of Fish and Wildlife (ODFW). The organization will:

(a) Request from the ODFW Licensing Department a Prepaid Daily Angling License for each participant at least 10 business days prior to scheduled excursions.

(b) Maintain a record in either physical or electronic format of each participant provided with a prepaid daily angling license including:

(A) Name

(B) Date of Birth

(C) ODFW ID Number (if license recipient has one)¶

(D) Veteran or Service Member ID Number¶

(E) Unique License Serial Number issued to license recipient¶

(c) Maintain all prepaid license documents and records in a secure manner making records and prepaid daily angling licenses in either physical or electronic format available for inspection and audit at all times by the Oregon State Police (OSP) or by an authorized employee or agent of the Oregon Fish and Wildlife Commission.¶

(d) Immediately Notify ODFW and the local State Police office of any lost prepaid license or other program documents. ¶

(e) Within 15 days, upon completion of the program or request by ODFW, return all unused prepaid daily licenses to ODFW Licensing Department.¶

(f) Within 15 days, upon completion of the scheduled excursions, ensure that all participant information has been entered into the Electronic Licensing System.¶

(4) ODFW Licensing Department will run reports against the entered participant data and flag any possible enforcement concerns for notification to the OSP, Wildlife Enforcement section.

Statutory/Other Authority: ORS 496.497

Statutes/Other Implemented: ORS 496.497