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736-040-0071

Deschutes River Scenic Waterway Boater Pass System Rules

(1) Policy:

(a) The Oregon Parks and Recreation Commission finds that in order to carry out the intent of Chapter 798, Oregon Laws 1981, monies collected from the sale of the Deschutes River Scenic Waterway Boater Pass shall be used for the following purposes:

(A) For operation of the pass system;

(B) For providing river-user oriented law enforcement services;

(C) For providing river recreation information and education;

(D) For developing and maintaining river oriented recreation facilities; and

(E) For any other purposes the Department considers appropriate for the maintenance, enhancement or protection of the natural and scenic beauty of the Deschutes River Scenic Waterway consistent with ORS 390.805 to 390.925.

(b) As provided by the statute, monies collected from this program shall be used exclusively within the Deschutes River Scenic Waterway;

(c) It shall further be the policy of the Commission that these monies shall be used first, to operate the pass system; and secondly, to provide as directly as possible, education, information and rule enforcement services to those river users who contribute directly to this fund. When in the judgment of the State Parks and Recreation Department Director, these priority needs can be continually met, additional uses of these funds shall be allowed consistent with paragraphs (1)(a)(D) and (E) of this rule;

(d) In determining the future use of these funds for purposes other than those listed in paragraphs (1)(a)(A), (B), and (C) of this rule, the State Parks and Recreation Department Director may consider input from the various local, state, and federal agencies involved with managing resources within the Deschutes River Scenic Waterway, the Confederated Tribes of Warm Springs Reservation of Oregon, and the general public;

(e) The Oregon Parks and Recreation Commission, by adoption of this rule, delegates the administration of this Deschutes River Scenic Waterway Boater Pass program and the funds derived from it as authorized by Chapter 798, Oregon Laws 1981, to the State Parks and Recreation Department Director or the Director's designed;

(f) The Commission encourages all local, state and federal agencies involved in resource management of the Deschutes River Scenic Waterway and the river users themselves, to give their full cooperation to this program;

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(g) The Commission recognizes that the Deschutes River Scenic Waterway Boater Pass program is experimental in nature. It will endeavor to annually adjust the program as new information about visitation, river user needs and trends become apparent.

(2) Definitions: For purposes of this rule, the following definitions shall apply:

(a) "Deschutes River Scenic Waterway" - That portion of the Deschutes River designated in ORS 390.825 as a State Scenic Waterway. The portion of the Deschutes River Scenic Waterway that is affected by this rule (736-040-0071) covers approximately 100 miles from Pelton Re-regulating Dam to the Columbia River, excluding the city limits of Maupin as established on October 4, 1977. The Scenic Waterway area includes all water and lands within 1/4 mile of the bank on either side of the river;

(b) "Boat" - Every watercraft or device used as a means of transport on the water of the Deschutes River Scenic Waterway;

(c) "Deschutes River Scenic Waterway Boater Pass" - A receipt for a fee paid pursuant to Section 2, Chapter 798, Oregon Laws 1981;

(d) "In Possession" - Possessed in such a manner as to be readily available, nearby, or in close proximity to the passholder and able to be easily and quickly produced on the site in the event the passholder is requested to do so by an authorized agent or law enforcement officer, or State Park and Recreation Department employee authorized to issue citations pursuant to Section 2, Chapter 692, Oregon Laws 1981;

(e) "Day" - Any part of a 24-hour period running from 12:01 a.m. to the following midnight;

(f) "Group" - A boating party [~~of 2-~~] **not to exceed 16 persons[;] in segments 1, 3 and 4 and not to exceed 24 persons in segment 2; the group leader(s) of which possess a properly signed and valid boater pass(es) for not fewer than the total number of persons in the group;**

(g) "Group Leader" - A person who [~~purchases~~] **obtains and signs a Deschutes boater pass via the Internet application process or an authorized boater pass** vendor [~~as the representative~~] **on behalf of a boating group. By signing the boater pass, the group leader accepts legal responsibility for the leader's and group members' compliance with all applicable Oregon Parks and Recreation Department, Oregon Marine Board, State of Oregon Liquor, Controlled Substance, Juvenile and Criminal laws and Deschutes River Scenic Waterway rules;**

(h) "Passholder" - Any individual person or person within a group for which the appropriate fee has been paid and that individual or a member of the group is in possession of a Deschutes River Scenic Waterway Boaters Pass;

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(i) "Immediate Family" - The spouse and any natural or adopted children of a property owner or the property owner's spouse who reside with the owner of property which immediately abuts the Deschutes River Scenic Waterway.

(j) "Boat Accessed Presence" - A person's or group's physical presence in the Deschutes River Scenic Waterway in conjunction with being transported in or on a boat; which presence shall be covered by a valid Deschutes boater pass from the time of initial transport by boat until the person or group leaves the Deschutes River Scenic Waterway by boat regardless of whether or not the person or group uses a boat during each day of their presence in the Deschutes River Scenic Waterway.

(3) When Pass is Required:

(a) No person shall launch, operate or ride in any boat or engage in any camping, fishing or other activity in connection with being transported by a boat on those portions of the Deschutes River designated as scenic waterways under ORS 390.825, during the time period established in section (4) of this rule, without having first obtained a valid Deschutes River Scenic Waterway Boater Pass (hereinafter referred to as "pass") for the days during which these activities are conducted. A person will be issued, upon payment of the appropriate fee and completion of the pass form, either an individual pass, annual pass, a group pass, or a special pass as specified in section (10) of this rule;

(b) Every person landing, operating or riding in a boat or engaging in any camping, fishing or other activity in connection with being transported by a boat on that portion of the Deschutes River Scenic Waterway specifically described in subsection (2)(a) of this rule, shall display his/her individual, annual, group or special pass upon the demand of any law enforcement officer or employee of the State Parks and Recreation Department who is authorized to enforce these rules.

(4) Time Period of Pass: The time period for which a valid pass is required is year round.

(5) Requirements for Valid Pass:

(a) The pass will consist of the following information to be placed on a form provided by the State Parks and Recreation Department and completed at the time of purchase:

(A) Calendar date(s) pass will be used;

(B) Number of days pass will be valid;

(C) Total fee paid for issuance of the pass;

(D) Number of persons authorized by pass;

(E) Signature of passholder or group leader;

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(F) A summary of appropriate river use rules;

(G) Driver's license number;

(H) Date of birth.

(b) In order for a pass to be valid in subsection (a) of this section, the recipient must:

(A) Provide all of the above information as requested;

(B) Have the completed pass in possession while boating within the Deschutes River Scenic Waterway;

(C) Be boating within the Deschutes River Scenic Waterway only on the calendar days authorized for on the recipient's completed pass; and

(D) Have paid the appropriate fee.

(c) A passholder may also be issued with the pass, informational and educational material designed to encourage an appreciation of the scenic waterway and promote minimum impact recreation use.

(6) Cost of Pass:

(a) The fee for issuance of a pass, either individual or group, shall be \$2 per person per day, except that the fee for individuals or groups using only that portion of the Deschutes River Scenic Waterway from the Heritage Landing launch ramp, or the bank moorage adjacent to Deschutes River State Recreation Area, downstream to the Columbia River solely for boat access to the Columbia River, shall be \$1 per person per day. Use of the \$1 pass, also known as the Heritage to Columbia pass, for boating recreation on or access to the Deschutes River, or access to islands in the Deschutes River is prohibited.

(b) The fee for issuance of an individual annual pass shall be \$15 per person per year. **Except as provided in subsection (c) of this section,** ~~[E]~~each annual pass will be valid only for a single calendar year beginning on January 1 and ending on December 31 of each year a pass is required under section (4) of this rule.

(c) Effective January 1, 2004, an annual pass shall not be valid on Saturdays and/or Sundays from May 15 through September 15 in segments 1, 2 and 3, and from May 15 through October 15 in segment 4. Annual pass holders who engage in boating, or activities involving boating, within the Deschutes Scenic Waterway during these periods, shall be required to obtain a daily boater pass for those days the annual pass is not valid.

(7) Group Pass:

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(a) No group shall exceed the number of persons shown on the pass. In the event the number of persons in the group exceeds the number shown on the pass, the group leader shall be in violation of this rule;

(b) Group passes will be issued only for 16 persons or less for segments 1, 3 and 4, and 24 persons or less for segment 2;

(c) The daily pass shall be in the possession of the group leader at all times while within the Deschutes River Scenic Waterway.

(8) Sale of Pass:

(a) The pass will be available for purchase **on the Internet**, at selected state park offices, certain cooperating businesses and selected public agency locations throughout the state. Selection of vendors will be based on location, days and hours of operation, past performance in similar governmental sales and the ability to provide service to a large number of potential Deschutes River Scenic Waterway boaters;

(b) Private vendors and cooperating agencies must comply fully with the terms of the Department/Vendor agreement and the Department's policies for vending the Deschutes River Scenic Waterway Boater Pass. Private vendors and cooperating agencies may charge a \$.50 handling fee for dispensing each pass or duplicate pass. Such fee will be in addition to any fee charged under section (6) of this rule;

(c) Passes will be available for purchase year-round. The State Parks and Recreation Department will publish and make available to the public, at no cost, a listing of all vendors of the Deschutes River Scenic Waterway Boater Pass. The list will include location of vendors and days and hours the pass will be available for purchase.

(d) The annual pass shall be available for purchase in person or by mail only from the Parks and Recreation Department office in Salem and such other outlets as the Department may determine necessary. The Department may require that annual pass holders submit periodic reports detailing the use of their annual pass during any calendar year. The frequency and format of such reports shall be as prescribed by the Department. The Department may require that the issuance of an annual pass to any person be contingent on that person having submitted annual pass use reports for the previous season, if applicable.

(9) Refunds, Replacements:

(a) No cash refunds will be permitted in the event a pass is not used;

(b) The passholder may get a duplicate pass to replace one that is lost or destroyed by applying for a duplicate from the same vendor from which he purchased the original pass. A duplicate pass may only be issued prior to the effective date of the original pass. The

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passholder must provide to the vendor all information necessary to permit the vendor to confirm the original pass sale.

(10) Special Exceptions:

(a)(A) Pursuant to Section 2(3), Chapter 798, Oregon Laws 1981, the State Parks and Recreation Director shall issue without charge annual passes to comply with the requirements of this rule to persons who own ranch, farm, or residential property immediately abutting those portions of the Deschutes River designated as a Scenic Waterway under ORS 390.825 and more particularly described in subsection (2)(a) of this rule and to members of the immediate family of such persons. This rule does not authorize the issuance, without charge, of passes to persons holding less than a majority interest in a firm, corporation or cooperative organization which owns land immediately abutting the Deschutes River designated as a scenic waterway under ORS 390.825;

(B) Free annual passes shall be issued by the State Parks and Recreation Department to persons who qualify under this section and have contacted the State Parks and Recreation Department or the Department's designated contractor. All passes issued under this section are nontransferable. They are for the sole use of the person(s) to whom they are issued;

(C) Persons who believe they qualify for a free annual pass must contact in person or by mail: River Programs, State Parks and Recreation Department, 1115 Commercial St. N.E., Suite 1, Salem, OR 97301-1002 (Attn: Free Annual Pass), or the Department's designated contractor, and present for the Department's review evidence that substantiates the applicant's claim to a free annual pass. Evidence may consist of property tax information, deeds, birth certificates or similar legal or real estate devices.

(b)(A) The State Parks and Recreation Director may issue a \$5 annual access pass to persons who own, either wholly or in partnership, farm, ranch or residential land within the specific reach of the Deschutes River Scenic Waterway described in subsection (2)(a) of this rule, and whose sole or customary means of access to their farm, ranch or residential facilities is by boat. The purpose of this pass is to permit unrestricted access to private property not reasonably or traditionally accessible by any means other than by boat. Each annual access pass will be valid for up to four persons;

(B) Prior to the issuance of this pass, an individual must submit a written request to the Director or the Department's designated contractor, clearly stating the reasons, factors or circumstances requiring the issuance of the annual access pass.

(c) The Director, or the Department's designated contractor, may issue a \$5 annual occupational pass to persons or employees of farm, ranch or residential property owners and lessees of farm, ranch or residential property. The farm, ranch or residential property must be immediately abutting that portion of the Deschutes River Scenic Waterway more particularly described in subsection (2)(a) of this rule. The annual occupational pass shall be for those persons engaged in boating in order to access, supervise, or maintain

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property immediately abutting the Deschutes River Scenic Waterway. This pass will not be valid for boating in connection with any recreational activity. The pass is transferable among employees and caretakers of a single property-owner or organization; the pass is also transferable among leaseholders of a particular parcel of property. Proof of employment or lease agreement will be required prior to the issuance of this pass;

(d) Pursuant to Section 3(2), Chapter 798, Oregon Laws 1981, no Deschutes River Scenic Waterway boater pass will be required of:

(A) Peace officers, members or employees of a governmental body, or their agents, while engaged in the discharge of official duties; or

(B) Any member of the Confederated Tribes of the Warm Springs Indian Reservation.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 390.124 & ORS 390.848

Stats. Implemented: ORS 390.124, ORS 390.848 & ORS 390.851

Hist.: PR 2-1982, f. 2-3-82, ef. 5-15-82; PR 2-1983, f. & ef. 3-11-83; PR 15-1992, f. & cert. ef. 11-12-92; PR 5-1994, f. 4-22-94, cert. ef. 6-1-94; PRD 2-1999, f. & cert. ef. 4-15-99; PRD 5-1999, f. 5-14-99, cert. ef. 6-1-99; Administrative correction 12-27-99; PRD 6-2002, f. 5-15-02, cert. ef. 6-1-02