

BEFORE THE FISH AND WILDLIFE COMMISSION  
OF THE STATE OF MONTANA

In the matter of the adoption of NEW ) NOTICE OF PROPOSED  
RULE I regarding state land access ) ADOPTION  
tax credit )  
) NO PUBLIC HEARING  
) CONTEMPLATED

TO: All Concerned Persons

1. On March 13, 2014, the Fish and Wildlife Commission (commission) proposes to adopt the above-stated rule.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than December 13, 2013, to advise us of the nature of the accommodation that you need. Please contact Jessica Snyder, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, Montana 59620-0701; telephone (406) 444-9785; fax (406) 444-7456; or e-mail jesssnyder@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I STATE LAND ACCESS TAX CREDIT (1) Pursuant to 15-30-2380 and 87-1-294, MCA, landowners may apply for a contract with the department to become eligible to receive a \$500 tax credit for qualified access to state land, as defined in 77-1-101, MCA.

(2) Landowners wanting to be considered for a contract must submit an application by March 15 in the tax year for which credit will be claimed.

(3) The department will award contracts no later than May 15 of the tax year in which the credit is to be claimed.

(4) The application must state the following and failure to include any one portion may result in denial of the application:

(a) legal land description of parcel of state land to which access will be provided;

(b) legal land description of parcel of private land through which access will be provided;

(c) description of the road or travel route providing public access to the state land parcel;

(d) map depicting state land parcel, adjacent private land through which public access will be provided, access point where public access on private land begins, and travel route proposed for public access;

(e) description of method permitted to access state lands;

(f) indication as to whether or not the landowner is lessee of the state land parcel to which public access will be provided; and

(g) indication as to whether or not hunting on the private land through which access will be provided is managed through outfitting or commercial hunting.

(5) The department must consider the following when awarding contracts:

(a) verification that the state lands are not restricted or closed to general recreational use by Department of Natural Resources and Conservation;

(b) verification that the state land will be available for a majority of the year to all general recreational use including hunting, fishing, hiking, wildlife watching, and other uses compatible with the use of state lands;

(c) access routes restricted to foot travel only must be capable of accommodating normal ambulatory travel and not exceed half a mile; and

(d) access routes available to vehicles must be capable of accommodating typical road use vehicles.

(6) A landowner may impose reasonable limitations through temporary closure of a public access route to address concerns related to high fire danger, weather-related impact to travel route, safety, or agricultural production activities such as livestock handling or harvest and planting of crops, so long as:

(a) the landowner notifies department regional headquarters at least 24 hours prior to the closure;

(b) the landowner posts notice to the public on-site; and

(c) the closure is not in effect:

(i) for more than seven days without department review and approval; or

(ii) until the natural environmental conditions no longer exist.

(7) Land enrolled in any other department program that secures public access to a state land parcel is not eligible for a contract through this program to provide access to that same state land parcel.

(8) To provide verification that the landowner is eligible to receive the tax credit pursuant to 15-30-2380 and 87-1-294, MCA, the department must provide:

(a) a copy of the contract to the landowner bearing a certification number that confirms the terms of the contract have been fulfilled no later than January 31 after the end of the tax year in which the credit is being claimed; and

(b) the contract certification number to the Department of Revenue no later than January 31 after the end of the tax year in which the credit is being claimed.

AUTH: 87-1-294, MCA

IMP: 15-30-2380, 87-1-294, MCA

Reasonable Necessity: The 2013 Legislature passed HB 444 establishing a program in which a private landowner who provides public access to a parcel of state land through a contractual agreement with the department can receive a \$500 tax credit, with a limit of \$2000 per year. The law requires the commission to adopt administrative rules that address the contracts and the duration of access, types of qualified access, and reasonable landowner-imposed restrictions. The law becomes effective Jan. 1, 2014 and terminates Dec. 31, 2018.

4. Concerned persons may submit their data, views, or arguments in writing to Fish, Wildlife and Parks, Attn: Alan Charles, PO Box 200701, Helena, MT,

59620-0701; fax 406-444-4952; e-mail fwpunlock@mt.gov, and must be received no later than December 27, 2013.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Alan Charles at the above address no later than December 27, 2013.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be more than 25 based on the number of landowners in Montana.

7. The Department of Fish, Wildlife and Parks maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the commission or department. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive the notices and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1712 9th Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the commission or department.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted in person on October 23, 2013.

9. With regard to the requirements of 2-4-111, MCA, the commission has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Dan Vermillion  
Dan Vermillion, Chairman  
Fish, Wildlife and Parks Commission

/s/ Rebecca Jakes Dockter  
Rebecca Jakes Dockter  
Rule Reviewer

Certified to the Secretary of State November 18, 2013